

## AGENDA

REGULAR COUNCIL MEETING  
TUESDAY  
SEPTEMBER 18, 2012

COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
12:00 NOON AND 5:30 P.M.

### 12:00 NOON MEETING

*Individual Items on the 12:00 noon meeting agenda may be postponed to the 5:30 p.m. meeting.*

#### 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 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 telephonically or by other technological means.*

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER WOODSON

#### 3. PUBLIC PARTICIPATION

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

**4. BOARD AND COMMISSION APPOINTMENTS****A. Consideration of Appointments: Parks and Recreation Commission****RECOMMENDED ACTION:**

Make the two appointments to the Parks and Recreation Commission with terms expiring in August 2015

**B. Consideration of Appointments: Board of Adjustment****RECOMMENDED ACTION:**

Make the appointments as follows:

Approve two re-appointments to new terms of service which would expire May 2015

- (a) Phil Scandura
- (b) Dan Andersen

**C. Consideration of Appointments: Regional Plan Citizen Advisory Committee****RECOMMENDED ACTION:**

Discussion

**5. LIQUOR LICENSE PUBLIC HEARINGS****A. Consideration and Action on Liquor License Application: Lois Franz, "Sonesta ES Suites Flagstaff", 3440 N. Country Club Drive, Series 07, Person Transfer.****RECOMMENDED ACTION:**

Open the public hearing.  
Receive citizen input.  
Close the public hearing.

The City Council has the option to:

- 1) Forward the application to the State with a recommendation for approval;
- 2) Forward the application to the State with no recommendation; or
- 3) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

**6. CONSENT ITEMS**

**ALL MATTERS UNDER 'CONSENT AGENDA' ARE CONSIDERED BY THE CITY COUNCIL TO BE ROUTING AND WILL BE ENACTED BY ONE MOTION APPROVING THE RECOMMENDATIONS LISTED ON THE AGENDA. UNLESS OTHERWISE INDICATED, EXPENDITURES APPROVED BY COUNCIL ARE BUDGETED ITEMS.**

- A. Consideration and Approval of Construction Contract:** Switzer Canyon Trail FUTS (Flagstaff Urban Trails System) Improvement Project.

**RECOMMENDED ACTION:**

1. Approve the construction contract with Woodruff Construction in the amount of \$197,084.00 including an \$18,300.00 contract allowance and a contract time of 70 calendar days;
2. Approve Change Order Authority in the amount of \$17,880 (10% of contract amount, less allowance) for potential costs associated with unanticipated items of work; and
3. Authorize the City Manager to execute the necessary documents.

- B. Consideration and Approval of Utility Account Write-offs:** Delinquent and uncollectable accounts for Fiscal Year 2012.

**RECOMMENDED ACTION:**

Approve the write-off of delinquent and uncollectable utility accounts in the amount of \$97,198.35.

- C. Consideration and Approval of Miscellaneous Receivable Account Writeoffs:** Delinquent and uncollectable accounts for Fiscal Year 2012.

**RECOMMENDED ACTION:**

Approve the write-off of delinquent and uncollectable miscellaneous receivable accounts in the amount of ~~\$35,346.96~~ \$33,322.21.

- D. Consideration and Approval of Transaction Privilege (Sales) Tax Account Write-offs:** Delinquent and uncollectable accounts for Fiscal Year 2012.

**RECOMMENDED ACTION:**

Approve the write-off of delinquent and uncollectable transaction privilege (sales) tax accounts in the amount of \$113,481.22.

- E. Consideration and Approval of Non-sufficient Funds (NSF) Check Write-offs:** Delinquent and uncollectable accounts for Fiscal Year 2012.

**RECOMMENDED ACTION:**

Approve the write-off of delinquent and uncollectable Non-sufficient Funds (NSF) Checks in the amount of \$4,566.55.

- F. **Consideration and Approval of Acceptance of Grant Funding:** U.S. Department of the Interior, Bureau of Reclamation FFY 2012 North Central Arizona Water Supply Grant for the Red Gap Ranch Feasibility Study in the amount of \$300,000.

**RECOMMENDED ACTION:**

Authorize acceptance of grant funding in the amount of \$300,000 from U.S. Department of the Interior, Bureau of Reclamation for cultural, biological and groundwater resource assessments at Red Gap Ranch.

7. **ROUTINE ITEMS**

No items submitted

**RECESS**

**5:30 P.M. MEETING**

**RECONVENE REGULAR MEETING**

**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).

8. **PLEDGE OF ALLEGIANCE, INVOCATION, AND VISION STATEMENT**

**MISSION STATEMENT**

The mission of the City of Flagstaff is to protect and enhance the quality of life of its citizens.

9. **ROLL CALL**

*NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.*

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER WOODSON

**10. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS**

- A. Consideration of Minutes:** August 24-25, 2012, City Council Retreat; September 4, 2012, Special City Council Meeting (Executive Session); September 4, 2012, City Council Meeting; September 11, 2012, Special City Council Meeting (Executive Session); and the September 11, 2012, City Council Work Session.

**RECOMMENDED ACTION:**

Approve the minutes of the August 24-25, 2012, City Council Retreat; September 4, 2012, Special City Council Meeting (Executive Session); September 4, 2012, City Council Meeting; September 11, 2012, Special City Council Meeting (Executive Session); and September 11, 2012, City Council Work Session as submitted/corrected.

**11. PUBLIC PARTICIPATION**

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

**12. CARRY OVER ITEMS FROM THE 12:00 NOON AGENDA****13. PUBLIC HEARING ITEMS**

No items submitted

**14. REGULAR AGENDA**

- A. Consideration and Possible Adoption of Changes to Title 1, Chapter 14, Personnel System, of the Flagstaff City Code:**

i. Resolution No. 2012-33: A resolution of the City Council of the City of Flagstaff, Arizona declaring as a Public Record that certain document filed with the City Clerk and entitled "The 2012 Addendum 4 to the Flagstaff Employee Handbook of Regulations"

ii. Ordinance No. 2012-14: An ordinance of the City Council of the City of Flagstaff amending the Flagstaff City Code, Title 1, *Administrative*, Chapter 14, *Personnel System*, Section 1-14-001-0001, *Personnel System Adopted*; adopting the *Flagstaff Employee Handbook of Regulations* by reference, relating to policies and procedures concerning equal employment opportunity, affirmative action, non-discrimination and anti-harassment, Americans with Disabilities Act, complaints, grievances, probationary employees, performance evaluations and reductions in force; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections and establishing an effective date.

**RECOMMENDED ACTION:**

1. Read Resolution No. 2012-33 by title only.
2. Read Ordinance No. 2012-14 by title only for the first time

15. **DISCUSSION ITEMS**

16. **PUBLIC PARTICIPATION**

17. **INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, REQUESTS FOR FUTURE AGENDA ITEMS**

18. **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 \_\_\_\_\_, 2012.

\_\_\_\_\_  
Elizabeth A. Burke, MMC, City Clerk

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Elizabeth Anderson, Community Enrichment Services Director  
**Date:** 08/20/2012  
**Meeting Date:** 09/18/2012



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**TITLE:**

**Consideration of Appointments:** Parks and Recreation Commission

**RECOMMENDED ACTION:**

Make the two appointments to the Parks and Recreation Commission with terms expiring in August 2015

**Policy Decision or Reason for Action:**

By making the two (2) appointments, the Parks and Recreation Commission will continue full membership.

**Financial Impact:**

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

**Connection to Council Goal:**

Livability through good neighborhoods, affordable housing and varied recreational activities.  
Effective governance.

**Has There Been Previous Council Decision on This:**

None

**Options and Alternatives**

The Council could table the action to allow time for further discussion or to expand the list of candidates.

**Background/History:**

There are two (2) vacancies on the Parks and Recreation Commission. One vacancy addresses the term expiration of Gregory Kleiner who has served one and a half full terms and is eligible for reappointment. The other vacancy addresses the term expiration of John Fall who has completed his first term as Commissioner and is eligible for reappointment. Both Commissioners are seeking reappointment. There is one (1) additional applicant for these vacancies: Justin Talley.

Members of this commission serve three (3) year terms.

**Key Considerations:**

It is important to fill these vacancies as soon as possible since this commission meets each month.

**Community Benefits and Considerations:**

The Parks and Recreation Commission is an independent authority established by state law that supports and advises the City Council on subjects related to Parks and Recreation and subsequently provides an invaluable service to the community and stakeholders alike.

**Community Involvement:**

Vacancies are typically advertised in the media and/or at recreational facilities, by word of mouth on the part of the other Commissioners and staff, and posted on the City's website.

**Expanded Options and Alternatives:**

**COUNCIL INTERVIEW TEAM:**

Vice Mayor Evans  
Councilmember Oravits

**Date of Council Approval:**

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- Attachments:**    [P&R.Membership](#)  
                          [P&R.Applicants](#)  
                          [P&R.Applications](#)  
                          [P&R.Code](#)
- 

**Form Review**

Inbox	Reviewed By	Date
Community Enrichment Director (Originator)	Elizabeth Anderson	08/28/2012 08:55 AM
Deputy City Clerk	Elizabeth A. Burke	09/05/2012 03:22 PM
DCM - Jerene Watson	Jerene Watson	09/06/2012 08:59 AM
Form Started By: Elizabeth Anderson		Started On: 08/20/2012 02:43 PM
	Final Approval Date: 09/06/2012	



## City of Flagstaff, AZ

### PARKS AND RECREATION COMMISSION MEMBERS

<u>NAME</u>	<u>APPOINTED</u>	<u>TERM EXPIRES</u>	<u>TRAINING COMPLETED</u>
<b><u>Ambrose, Dulcie</u></b> Executive Director/Principal/Flagstaff Junior Academy 2351 N. Fremont Blvd. Flagstaff, AZ 86001 Home Phone: 928-4836 Term: 1st	10/04/2011	August 2014	10/20/2011
<b><u>Burley, Denise</u></b> Senior Manager/Coconino County 3135 W. Brenda Loop Flagstaff, AZ 86001 Cell Phone: 606-1558 Term: 2nd	10/04/2011	August 2014	10/20/2011
<b><u>Fall, John</u></b> Retired 2301 W. Constitution Blvd. Flagstaff, AZ 86001 Home Phone: 928-226-0031 Term: 1st (partial)	06/07/2011	August 2012	10/20/2011
<b><u>Hammersley, Charles</u></b> Park & Rec Professor/NAU 5950 E. Mountain Oaks Dr. Flagstaff, AZ 86004 Work Phone: 928-523-6655 Term: 1st	10/04/2011	August 2014	10/20/2011
<b><u>Kleiner, Gregory</u></b> Retired Dentist 2206 N. Twisted Limb Way Flagstaff, AZ 86004 Home Phone: 526-6567 Term: 2nd (1st-Partial 10/07 - 08/09)	08/18/2009	August 2012	12/03/2009



## *City of Flagstaff, AZ*

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<b><u>Outhwaite, Emily</u></b>	<b>06/05/2012</b>	<b>August, 2013</b>	<b>No</b>
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President & Owner/Med-Exec International  
2028 W. Fresh Aire St.  
Flagstaff, AZ 86001  
Home Phone: 928-556-0326  
Term: 1st-Partial

<b><u>Young, Brian</u></b>	<b>11/16/2010</b>	<b>August 2013</b>	<b>No</b>
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Clinic Manager/Community Medical Services  
3240 S. Trotter Lane  
Flagstaff, AZ 86001  
Cell Phone: 853-3004  
Term: 1st

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**Staff Representative: Elizabeth Anderson**

**As Of: September 05, 2012**



## City of Flagstaff, AZ

### PARKS AND RECREATION COMMISSION APPLICANTS

<u>NAME</u>	<u>APPOINTED</u>	<u>TERM EXPIRES</u>	<u>TRAINING COMPLETED</u>
<b><u>Fall, John M.</u></b> Retired 2301 W. Constitution Dr. Flagstaff, AZ 86001 Home Phone: 226-0031 Term: 1st			No
<b><u>Kleiner, Greg</u></b> Retired 2206 N. Twisted Limb Way Flagstaff, AZ 86004 Home Phone: 526-6567 Term: 1st			No
<b><u>Talley, Justin</u></b> Operator/W. L. Gore 3555 N. Tindle Drive, #B Flagstaff, AZ 86004 Cell Phone: 310-8263 Term: 1st			No

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**Staff Representative: Elizabeth Anderson**

**As Of: September 05, 2012**

**IMPORTANT NOTICE:** The City Council may consider appointments to boards and commissions in executive sessions which are closed to the public, and then make the appointments in a public meeting. You have the right, however, to have your application considered in a public meeting by providing a written request to the City Clerk.

**CITY OF FLAGSTAFF  
APPLICATION TO SERVE ON A BOARD/COMMISSION**

RETURN TO: CITY CLERK'S OFFICE, 211 WEST ASPEN AVENUE, FLAGSTAFF, AZ 86001

**PLEASE NOTE THAT THIS INFORMATION IS A PUBLIC RECORD.  
APPLICATIONS WILL BE KEPT ON FILE FOR ONE YEAR!**

DATE: 7-31-12

BOARD/COMMISSION YOU WISH TO SERVE ON: PARKS AND RECREATION

IF APPLICABLE, TYPE OF SEAT FOR WHICH YOU ARE QUALIFIED: \_\_\_\_\_

YOUR NAME: JOHN M. FALL

HOME PHONE: 226-0031

HOME ADDRESS: 2301 W. CONSTITUTION DR., FLAGSTAFF AZ ZIP: 86001

MAILING ADDRESS (if Different from Above): \_\_\_\_\_

EMPLOYER: RETIRED

JOB TITLE: \_\_\_\_\_

<sup>HOME</sup> BUS. PHONE: 226-0031

CELL: \_\_\_\_\_

E-MAIL jfall2301@AOL.COM

PLEASE INDICATE PREFERRED TELEPHONE:

HOME

WORK

CELL

**BACKGROUND INFORMATION:** Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.

I HAVE MANAGED RETIREMENT COMMUNITIES FOR 37 YEARS. I SERVED A TWO YEAR TERM AS CHAIRMAN OF THE UNITED METHODIST CERTIFICATION COUNCIL (THE ACCREDITING BODY OF UNITED METHODIST HOSPITALS, CHILD CARE AGENCIES AND RETIREMENT COMMUNITIES)

Why do you want to serve on the board or commission you listed? (Attach additional page if needed.)

I HAVE SERVED A ONE YEAR TERM ON THE PARKS AND RECREATION COMMISSION AND WOULD LIKE TO SERVE A SECOND TERM.

I understand that any information provided above is a public record and I certify that I meet the City Charter requirement of living within the Flagstaff City limits and have read and understand the right to have my application considered in a public meeting.

John M. Fall

Applicant Signature

**IMPORTANT NOTICE:** The City Council may consider appointments to boards and commissions in executive sessions which are closed to the public, and then make the appointments in a public meeting. You have the right, however, to have your application considered in a public meeting by providing a written request to the City Clerk.

**CITY OF FLAGSTAFF  
APPLICATION TO SERVE ON A BOARD/COMMISSION**

**RETURN TO: CITY CLERK'S OFFICE, 211 WEST ASPEN AVENUE, FLAGSTAFF, AZ 86001**

**PLEASE NOTE THAT THIS INFORMATION IS A PUBLIC RECORD.  
APPLICATIONS WILL BE KEPT ON FILE FOR ONE YEAR!**

DATE: 7/20/12

BOARD/COMMISSION YOU WISH TO SERVE ON: PARKS AND RECREATION

IF APPLICABLE, TYPE OF SEAT FOR WHICH YOU ARE QUALIFIED: COMMISSIONER

YOUR NAME: GREG KLEINER HOME PHONE: 526-6567

HOME ADDRESS: 2206 N TWISTED LIMB WAY ZIP: 86004  
FLAGSTAFF, AZ

MAILING ADDRESS (If Different from Above): \_\_\_\_\_

EMPLOYER: RETIRED JOB TITLE: NA

BUS. PHONE: NA CELL: NA E-MAIL: PENNIE.GREG@AZA.COM

PLEASE INDICATE PREFERRED TELEPHONE:  HOME  WORK  CELL

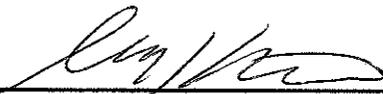
**BACKGROUND INFORMATION:** Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.

SERVED ON BOARD, ON BOARD PRESENTLY  
COMMISSION COMMISSION

Why do you want to serve on the board or commission you listed? (Attach additional page if needed.)

INSURE QUALITY OF SERVICES FOR PARKS AND RECREATION.

I understand that any information provided above is a public record and I certify that I meet the City Charter requirement of living within the Flagstaff City limits and have read and understand the right to have my application considered in a public meeting.

  
Applicant Signature

**IMPORTANT NOTICE:** The City Council may consider appointments to boards and commissions in executive sessions which are closed to the public, and then make the appointments in a public meeting. You have the right, however, to have your application considered in a public meeting by providing a written request to the City Clerk.

**CITY OF FLAGSTAFF**  
**APPLICATION TO SERVE ON A BOARD/COMMISSION**

**RETURN TO: CITY CLERK'S OFFICE, 211 WEST ASPEN AVENUE, FLAGSTAFF, AZ 86001**

PLEASE TYPE OR PRINT IN BLACK INK  
APPLICATIONS WILL BE KEPT ON FILE FOR ONE YEAR!

DATE: 10.12.10

BOARD/COMMISSION YOU WISH TO SERVE ON: PARKS & RES COMMISSION

IF APPLICABLE, TYPE OF SEAT FOR WHICH YOU ARE QUALIFIED: \_\_\_\_\_

YOUR NAME: Justin Talley HOME PHONE: 928-310-8263

HOME ADDRESS: 3535 N Tindle Dr Apt B ZIP: 86004

MAILING ADDRESS (If Different from Above): \_\_\_\_\_

EMPLOYER: W L Goro JOB TITLE: Operator

BUS. PHONE: \_\_\_\_\_ CELL: 928-310-8263 E-MAIL: justin.talleywacker@gmail.com

PLEASE INDICATE PREFERRED TELEPHONE:  HOME  WORK  CELL

**BACKGROUND INFORMATION:** Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.

I AM ALSO ON THE BOARD FOR FLAGSTAFF GIRLS SOFTBALL LITTLE LEAGUE.  
I HAVE A DAUGHTER THAT WILL BE PLAYING SPORTS & MY FATHER-IN-LAW IS ON THE COMMISSION

Why do you want to serve on the board or commission you listed? (Attach additional page if needed.)

JUST TO HELP OUT WHERE I CAN FOR THE COMMUNITY  
I AM ALSO INVOLVED WITH THE FLAGSTAFF SHERIFFS POSSE  
I LIKE TO VOLUNTEER.

I certify that I meet the City Charter requirement of living within the Flagstaff City limits and that I have read and understand the right to have my application considered in a public meeting.

Justin Talley  
Applicant Signature

CHAPTER 2-03  
PARKS AND RECREATION COMMISSION

SECTIONS:

<a href="#"><u>2-03-001-0001</u></a>	COMMISSION CREATED; MEMBERS:
<a href="#"><u>2-03-001-0002</u></a>	TERMS; VACANCIES; COMPENSATION:
<a href="#"><u>2-03-001-0003</u></a>	ORGANIZATION AND RULES:
<a href="#"><u>2-03-001-0004</u></a>	POWERS AND DUTIES:

SECTION 2-03-001-0001      COMMISSION CREATED; MEMBERS:

There is hereby created a Parks and Recreation Commission for the City, consisting of seven (7) members appointed by the City Council. In addition, the City council may designate a Councilmember representative as a non-voting, ex-officio member of the Commission.

(Ord. No. 2007-11, Amended 02/06/2007)

SECTION 2-03-001-0002      TERMS; VACANCIES; COMPENSATION:

Terms of the appointed members shall be for three (3) years.

The Council shall fill vacancies for the unexpired term of any of the members of the Commission and no member of the Commission shall receive compensation for services thereon. (Ord. 1475, 2-3-87)

SECTION 2-03-001-0003      ORGANIZATION AND RULES:

Upon the taking effect of this Chapter, and when appointed, the members shall meet and organize and elect a Chairman to serve for one year with a new Chairman being elected each succeeding year. The Commission may adopt by-laws, procedures and standards for the operation of the Commission not inconsistent with the provisions of this Chapter. A quorum shall consist of four (4) voting members. The Commission shall meet not less than four (4) times each year.

(Ord. No. 2007-11, Amended 02/06/2007)

SECTION 2-03-001-0004      POWERS AND DUTIES:

The duties of the Commission shall be to advise the Council, through periodic written reports to the Council, recommending policy direction on City lands, structures and facilities that are set aside or should be set aside or dedicated to recreational purposes, including but not limited to parks, swimming pools, playgrounds, playing and sports fields and golf courses. The scope of the activities of the Commission shall also include but not be limited to advising and recommending policy direction in activities involving recreational and cultural pursuits of the elderly and the young and to otherwise employ in constructive and wholesome manner and leisure time of the citizens.

The City Council may consider the advice and recommendation of the Commission and thereafter give direction through the City Manager to implement the recreational program as they see fit. (Ord. 865, 12-12-72)

The Commission shall review and make recommendation on the annual budget of the Parks Section and Recreation Section prior to the submittal thereof to the City Manager.

(Ord. 1335, 10-16-84)



**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Roger Eastman, Zoning Code Administrator  
**Date:** 09/01/2012  
**Meeting Date:** 09/18/2012



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**TITLE:**

**Consideration of Appointments:** Board of Adjustment

**RECOMMENDED ACTION:**

Make the appointments as follows:

Approve two re-appointments to new terms of service which would expire May 2015

- (a) Phil Scandura
- (b) Dan Andersen

**Policy Decision or Reason for Action:**

The current terms of the Board members have expired and it is important to ensure that the Board of Adjustment is operating with a full voting membership to act on matters that come before it.

**Financial Impact:**

None.

**Connection to Council Goal:**

Effective governance.

**Has There Been Previous Council Decision on This:**

Not on these specific appointments.

**Options and Alternatives**

The City Council could decide not to reappoint these members to the Board and could defer action until there is a wider applicant pool.

**Background/History:**

The Board of Adjustment includes two members--Messrs. Phil Scandura and Dan Andersen--whose first terms have expired. Both of them are eligible for reappointment and they have expressed a desire to continue serving on the Board of Adjustment.

**Key Considerations:**

The incumbent Board members, Messrs. Scandura and Andersen, have expressed a desire to continue to serve and are eligible for reappointment.

There is currently one application on file from Mr. Russ Yelton who is also interested on serving on the Board.

**Community Benefits and Considerations:**

Flagstaff residents benefit from having a Board of Adjustment that hears applications for variances from the Flagstaff zoning code and considers appeals of decisions of the Planning Director and/or Zoning Code Administrator.

**Community Involvement:**

Inform: Over the past few months staff has advertised the vacancies to Flagstaff community stakeholder organizations in an effort to generate a pool of applicants.

**Expanded Options and Alternatives:**

See Options and Alternatives on Page 1.

**COUNCIL INTERVIEW TEAM:**

Mayor Nabours  
Councilmember Brewster

**Date of Council Approval:**

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**Attachments:**    [BOA.Membership](#)  
                          [BOA.Applicants](#)  
                          [BOA.Code](#)

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**Form Review**

Inbox	Reviewed By	Date
Community Development Director	Roger Eastman	09/04/2012 11:04 AM
Zoning Code Administrator (Originator)	Elizabeth A. Burke	09/05/2012 01:15 PM
Community Development Director	Mark Landsiedel	09/05/2012 04:40 PM
DCM - Jerene Watson	Jerene Watson	09/06/2012 09:59 AM
Form Started By: Roger Eastman		Started On: 09/01/2012 02:47 PM
Final Approval Date: 09/06/2012		



## City of Flagstaff, AZ

### BOARD OF ADJUSTMENT MEMBERS

<u>NAME</u>	<u>APPOINTED</u>	<u>TERM EXPIRES</u>	<u>TRAINING COMPLETED</u>
<b><u>Andersen, Dan</u></b> Landscape Division Manager/Warner's Nursery & Landscape Co. 712 W. Old Territory Trail Flagstaff, AZ 86001 Work Phone: 774-5911 x26 Term: 1st	<b>03/16/2010</b>	<b>May 2012</b>	<b>03/18/2010</b>
<b><u>Dorsett, Stephen</u></b> PLANNING AND ZONING REPRESENTATIVE President/Architect/Shapes & Forms Architects, Inc. 1823 W. Heavenly Court Flagstaff, AZ 86001 Work Phone: 213-9626 Term: 1st	<b>06/06/2012</b>	<b>Indefinite</b>	<b>No</b>
<b><u>Henry, Don</u></b> President/Northland Windows & Doors, Inc. 530 E. Charles Flagstaff, AZ 86001 Work Phone: 779-5779 Term: 2nd	<b>11/04/2008</b>	<b>May 2014</b>	<b>04/24/2008</b>
<b><u>Naleski, Jerome</u></b> Realtor/Re/Max Peak Properties 717 W. Riordan Flagstaff, AZ 86001 Cell Phone: 225-9225 Term: 2nd	<b>08/07/2007</b>	<b>May 2013</b>	<b>10/17/2007</b>



## *City of Flagstaff, AZ*

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**Scandura, Philip**

**03/16/2010**

**May, 2012**

**03/18/2010**

AT LARGE

Staff Engineer/Honeywell

4853 S. Bright Angel Trail

Flagstaff, AZ 86001

Home Phone: 214-8194

Term: 1st

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**Staff Representative: Roger Eastman**

**As Of: September 05, 2012**



## City of Flagstaff, AZ

### BOARD OF ADJUSTMENT APPLICANTS

<u>NAME</u>	<u>APPOINTED</u>	<u>TERM EXPIRES</u>	<u>TRAINING COMPLETED</u>
<b><u>Andersen, Dan</u></b> Landscape Division Manager/Warner's Nursery and Landscaping 712 W. Old Territory Trail Flagstaff, AZ 86001 Home Phone: 853-3400 Term: 1st			No
<b><u>Scandura, Philip</u></b> 4853 S. Bright Angel Trail Flagstaff, AZ 86001 Home Phone: 214-8194 Term: 1st			No
<b><u>Yelton, Russ</u></b> President/CEO/NACET 3000 E. Matterhorn Dr. Flagstaff, AZ 86004 Cell Phone: 828-582-6323 Term: 1st			No

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**Staff Representative: Roger Eastman**

**As Of: September 05, 2012**

**CHAPTER 2-10  
BOARD OF ADJUSTMENTS**

**Sections:**

<u>2-10-001-0001</u>	<b>Establishment of the Board</b>
<u>2-10-001-0002</u>	<b>Membership</b>
<u>2-10-001-0003</u>	<b>Meetings</b>
<u>2-10-001-0004</u>	<b>Powers and Duties</b>
<u>2-10-001-0005</u>	<b>Appeals</b>
<u>2-10-001-0006</u>	<b>Restrictions</b>
<u>2-10-001-0007</u>	<b>City Council Authorized to Act as Board</b>
<u>2-10-001-0008</u>	<b>Hearing Officer</b>
<u>2-10-001-0009</u>	<b>Appeal from the Board of Adjustment.</b>

**Section 2-10-001-0001 Establishment of the Board**

There is hereby created a Board of Adjustment (the "Board").

**Section 2-10-001-0002 Membership**

The Board of Adjustment shall be composed of five (5) voting members.

- A. Four (4) members shall be appointed by the Mayor and City Council from the citizens of the City of Flagstaff.
- B. One (1) member shall be appointed by the City Council from the membership of the Planning and Zoning Commission.
- C. Terms shall be for three (3) years for members.
- D. The Board shall elect from its voting members a chairperson and a vice chairperson who shall serve for a term of one (1) year. The chairperson shall have the power to administer oaths and take evidence.

**Section 2-10-001-0003 Meetings**

The meetings of the Board of Adjustment shall be open to the public and held at the time and place adopted for the regular monthly meetings of the Board. Meetings shall be conducted in accordance with the Board and Commission Members' Handbook adopted by resolution of the Flagstaff City Council, and in compliance with all other local, state, and federal laws. The minutes of its proceedings, showing the vote of each member and records of its examinations and other official actions shall be kept by the City Clerk as a public record.

A quorum shall be one more than half the voting membership of the Board of Adjustment.

**Section 2-10-001-0004 Powers and Duties**

The Board of Adjustment ("Board") is a quasi-judicial administrative body established by the City Council that functions on the level between enforcement officers and the Courts. The Board interprets the meaning and spirit of City Code Title 10 (Zoning Code) as enacted by the City Council; it does not have authority to make or change zoning law. The Board of Adjustment shall have the powers and duties per A.R.S. § 9-462.06 to:

- A. Hear and decide appeals in which it is alleged there is an error in an order, requirement, or decision made by an administrative official in the enforcement of City Code Title 10 (Zoning Code).
- B. Hear and decide appeals for variances from the terms of the Zoning Code only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance is subject to such conditions as will ensure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
- C. Reverse or affirm, wholly or in part, or modify the order, requirement, or decision of an administrative officer appealed from, and make such order, requirement, decision, or determination as necessary.
- D. Adopt such rules of procedure necessary for the administration of responsibilities consistent with these regulations.

**Section 2-10-001-0005 Appeals**

Any person aggrieved by a decision of the Board of Adjustment may, at any time within thirty (30) days after the Board has rendered its decision, file a complaint for special action in the superior court to review the Board's decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.

**Section 2-10-001-0006 Restrictions**

The Board of Adjustment may not:

- A. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the Zoning Code provided the restriction in this paragraph shall not affect the

authority to grant variances pursuant to this Chapter and Division 10-20-70 (Variances).

- B. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.
- C. Grant a variance on an appeal for any of the following:
  - 1. Conditions or stipulations of a Zoning Map amendment.
  - 2. Conditions of a Subdivision Plat recommended for approval by the Planning and Zoning Commission or as approved by the City Council, or of a Land Split Map.
  - 3. Conditions of a Development Agreement.
  - 4. Conditions of an Annexation Agreement or ordinance.
  - 5. Conditions of a Conditional Use Permit.
  - 6. Conditions of a Resource Mitigation Case.
  - 7. Illegal or Prohibited Uses in any zoning district.
  - 8. Illegal or Prohibited Signs, as listed in Division 10-50.90 (Sign Regulations), in any district.
  - 9. Determination of a requirement for a General Plan Amendment by the Planning Director.
- D. Applications for any of the above-listed items shall not be accepted or processed, nor will the Board of Adjustment schedule or conduct meetings regarding the same.

**2-10-001-0007 City Council Authorized to Act as Board of Adjustment**

When a quorum of the Board of Adjustment cannot be achieved due to absence or disqualification, upon majority vote the City Council may act as the Board of Adjustment. (Amended, Ord. No. 2011-23, 09/06/2011)

**2-10-001-0008 Hearing Officer**

Pursuant to A.R.S. § 9-462.08, the City has the authority to establish administrative hearing officers and, pursuant to A.R.S. § 9-462.06, may delegate to a hearing officer the authority to hear and decide on matters within the jurisdiction of the Board of Adjustment.

- A. Appointment. The Hearing Officer shall be appointed by the City Manager on the basis of training and experience which qualifies him or her to conduct hearings and make findings and conclusions of the matters heard.

- B. Powers and Duties. The Hearing Officer shall have all the powers and duties granted to the Board of Adjustment pursuant to this Section and prescribed by law.
- C. Procedure. Public hearings conducted by the Hearing Officer shall be open to the public and conducted in accordance with the Rules of Procedure for the Board of Adjustment.
- D. Appeal. Any person aggrieved by a decision of the Hearing Officer may file an appeal to the Board of Adjustment within fifteen (15) calendar days after the Hearing Officer has rendered a decision. Appeals of the decisions of the Hearing Officer shall be heard by the Board of Adjustment or, if a quorum of the Board of Adjustment cannot be achieved, by the City Council acting as the Board of Adjustment, as applicable. If the Board of Adjustment, or the City Council acting as the Board of Adjustment pursuant to Section 10-09-004-0001.E.7., is unable to achieve a quorum due to absence or disqualification, the aggrieved party may file a complaint for special action directly in the Superior Court within thirty (30) days after the Board of Adjustment, or the City Council acting as the Board of Adjustment, issues an order declaring its inability to hear the appeal.

(Amended Ord. No. 2011-27, 11/18/2011)

**Section 2-10-001-0009      Appeal from the Board of Adjustment.**

Any person aggrieved by a decision of the Board of Adjustment may appeal the decision directly to the Superior Court by filing a complaint for special action within thirty (30) days after the Board has rendered its decision.

(Amended Ord. No. 2011-27, 11/18/2011)

(Adopted, 1978 Code; Amended, Ord. No. 2010-35, 11/16/2010; Amended, Ord. No. 2011-23, 09/06/2011; Amended Ord. No. 2011-27, 11/18/2011)

**CITY OF FLAGSTAFF**  
**STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Kimberly Sharp, Neighborhood Planner  
**Date:** 09/13/2012  
**Meeting Date:** 09/18/2012



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**TITLE:**

**Consideration of Appointments:** Regional Plan Citizen Advisory Committee

**RECOMMENDED ACTION:**

Discussion

**Policy Decision or Reason for Action:**

The City Council, during its September 11, 2012, work session, asked for further discussion of potential appointment(s) to the Regional Plan Citizen Advisory Committee (CAC). An attached memo provides the background information requested by Council, including:

1. Current Committee Roster with self-selected 'category' affiliation
2. Establishment of CAC categories by the Joint Board of Supervisors and City Council
3. City Ordinance No. 2008-34 – outlining the formation of the Citizen Advisory Committee
4. Steering Committee role and Organizational Chart

**Financial Impact:**

None

**Connection to Council Goal:**

The Regional Plan is a policy guide for the community and region, with 17 state-mandated elements and four additional elements according to the Arizona Growing Smarter Act. These elements, or subjects, provide insight into existing conditions, projected trends, and then state goals and policies developed by the community through a dedicated and thorough public process. This document is currently being edited and approved by the CAC. The complete policy document draft will be submitted to City and county Planning & Zoning Commissions, which will in turn recommend an amended Regional Plan to the City Council and the County Board of Supervisors for adoption. The goals and policies consider and implement all of Council's goals.

**Has There Been Previous Council Decision on This:**

The City Council and the County Board of Supervisors made the original CAC appointments at their respective January 20, 2009 meetings. The City Council and the County Board of Supervisors made replacement appointments to fill vacancies at their respective April 2010 (Board of Supervisors) and August 2010 (City Council) meetings after receiving advice from the Steering Committee. In all situations, appointments were made by respective elected officials after joint County Supervisor / City Council discussions and recommendations from a pool of community applicants.

## **Options and Alternatives**

Further Discussion

### **Background/History:**

The current Flagstaff Regional Land Use and Transportation Plan was adopted by City Council and the County Board of Supervisors in 2000. The Plan was ratified by the voters in 2001. State law mandates that a cities General Plan be updated every 10 years, with House Bill 2145 allowing communities to adopt and ratify an updated plan by July 1, 2015. This current process establishing a Citizen Advisory Committee (CAC) is dedicating to accomplishing said update through a thorough public process. The CAC is committed to producing a document outlining a community vision and how to accomplish that vision.

### **Key Considerations:**

The Ordinance establishing the Flagstaff Regional Plan Citizen Advisory Committee (CAC) states that the maximum number of committee members is 19. It further defines 10-12 members are to be city residents appointed by City Council, and 7-9 members are to be county residents appointed by the Board of Supervisors. The current roster of CAC members shows 10 city residents and 5 county residents.

### **Community Benefits and Considerations:**

The Citizen Advisory Committee (CAC) was established and appointed by elected officials to represent the broad diversity of the community at-large. The CAC has participated in the many open houses, focus groups, community design charrette process, and over 3 years of monthly or bi-monthly CAC meetings, discussing and debating policy language which has evolved from a public process. The Regional Plan provides policy language and informational and illustrative maps which will guide development patterns and conservation efforts over the next 20 years. The Regional Plan also provides an opportunity for elected officials to make important fiscal decisions based upon vast community input and vision.

### **Community Involvement:**

- Inform - [www.flagstaff.az.gov/regionalplan](http://www.flagstaff.az.gov/regionalplan) Main and east libraries hand-outs
- Consult - Community Values Survey (600 + respondents); on-line survey (900+ respondents); 25 open houses; 10 focus groups; 42 public presentations; 36 board & commissions discussions; Council, Supervisors, Chamber, NABA, Realtors, F3, NAU, CCC and FUSD updates
- Involve - Community Design Charrette - 4 days to establish three potential development scenarios - 300+ people
- Collaborate - appointed Citizen Advisory Committee; (5) working groups; City and County Planning & Zoning Commission hearings; City Council and Board of Supervisor public hearings
- Empower - voter ratification (March 2014)

### **Expanded Options and Alternatives:**

- Steering Committee recommendations
- Publish call for applicants
- Joint City/County discussion and recommendation for appointment to elected officials
- City Council and County Board of Supervisors appoint agreed upon city/county residents to fill CAC vacancies at respective meetings

### **Date of Council Approval:**

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**Attachments:** Memo  
Joint City/County Presentation Dec 2008  
Regional Plan process Jan 2009 Commissions Presentation

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**Form Review**

<b>Inbox</b>	<b>Reviewed By</b>	<b>Date</b>
Community Development Director	Elizabeth A. Burke	09/13/2012 12:02 PM
Deputy City Clerk	Elizabeth A. Burke	09/13/2012 12:15 PM
DCM - Jerene Watson	Jerene Watson	09/14/2012 11:05 AM
Form Started By: Kimberly Sharp		Started On: 09/13/2012 09:39 AM
	Final Approval Date: 09/14/2012	



## Comprehensive Planning Memo

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**September 12, 2012**

**TO:** Mayor Nabours and City Council

**FROM:** Kimberly Sharp, Acting Comprehensive Planning Manager

**VIA:** Jim Cronk, Planning Director  
Mark Landsiedel, Community Development Director

**RE:** City Council discussion to fill CAC Vacancies

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To assist in this discussion, please find attached:

1. Current CAC Roster, showing which members have resigned or moved, and which new members have been appointed. Also, the current self-selected 'category' affiliation has been noted. *See page 2.*
2. Establishment of CAC categories was made by the Joint Board of Supervisors and City Council members in December 2008, and finalized in January 2009, along with the adoption of the Public Participation Plan. *See page 3*
3. Original categories for CAC membership – these were self-selected during the application process. The goal was to have a balanced membership representing the community. *See pages 4.*
4. City Ordinance No. 2008-34 – outlining the formation of the Citizen Advisory Committee. *See pages 5 and 6.*
5. Steering Committee role and Organizational Chart, as defined by the Regional Plan Public Participation Plan, adopted by joint Council and Board of Supervisors on January 2009, and current membership. *See pages 7.*

## Current Regional Plan Citizen Advisory Committee Roster (August 2012)

City Residents			Category membership <i>*affirmed by phone call 9/12/12 and 9/13/12 - updated according to CAC members wishes.</i>
<b>Babbitt</b>	<b>Paul</b>		Property owner; Design/Plan/Build Consultant.
<b>Bousquet</b>	<b>Carol</b>		Design/Plan/Build Consultant.; Sustainable Economic Development
Chaveas	Michael	Resigned Oct. 2011	
<b>Leid</b>	<b>Julie</b>	Replacement appointed August 2010	Design/Plan/Build Consultant.
<b>Wright</b>	<b>Alex</b>		Academic; Business/Chamber/Realtor (small business owner)
Griego	Jean	Resigned August 2012	
<b>Putzova</b>	<b>Eva</b>		Academic; Business/Chamber/Realtor (small business owner)
<b>Henn</b>	<b>Richard</b>		Education, Youth & Family
<b>Herman</b>	<b>Maury</b>		Property owner;
<b>Louks</b>	<b>Judy</b>		Business/Chamber/Realtor (realtor)
<b>Naleski</b>	<b>Jerome</b>		Business/Chamber/Realtor (realtor)
Ring	William	Resigned September 2012	
Walker	David	Resigned December 2009	
<b>White</b>	<b>Nat</b>		Senior; Education, Youth & Family
City Residents - Alternates			
Stevens	Larry	Resigned January 2010	
Rensink	Trish	Replacement appointed August 2010 Resigned February 2012	
County Residents			
<b>Anderson</b>	<b>Ben</b>		Education, Youth & Family
<b>Hedwall</b>	<b>Shaula</b>		Property owner; Environment; Natural Resource Manager
Kaemmerle	Ken	Resigned August 2010	
<b>Lamb Bean</b>	<b>Susan</b>		Religious / Interfaith
<b>McLaughlin</b>	<b>Devonna</b>		Sustainable Economic Development; Developer / Builder ; Property Owner
Nesbitt	Mike	Resigned April 2012	
Tse	Eunice	Resigned July 2011	
		Replacement appointed April 2010	Property owner; Developer / Builder; Environment; Sustainable Economic Development
<b>Walters</b>	<b>Don</b>		
White	Cynthia	Resigned May 2009	
County Residents - Alternates			
Murray	JR	Resigned June 2010	
Lovely	Collis	Resigned Spring 2009	

- The Regional Plan Citizen Advisory Committee now has 15 members, down from the original 24 (19 members and 5 alternates).
- The Steering Committee decided to NOT fill vacancies at the June 2010 meeting, in which two replacements were recommended to Council. The thought process was that we are down to the wire in finalizing discussions and have been through all of the public meetings; any new members would not have this important background information.

**Original self-appointed membership categories as defined by Joint Supervisors / Council at the January 2009 Joint BOS / Council meeting.**

The categories were established as:

- Community members,
- Academic (NAU / CCC)
- Developer / builder
- Property Owner
- Renter
- Environmentalist
- Education – K-12 / Youth & Families
- Business / Chamber / Realtor
- Tourism / Sustainable Economic Development
- Cultural / Native American Tribal Representative
- Natural Resource Manager
- Design / Planner / Building Consultant
- Religious / Interfaith
- Senior

## ORDINANCE NO 2008 34

AN ORDINANCE AMENDING TITLE 2 BOARDS AND COMMISSIONS BY ADDING CHAPTER 2 23 CREATING A FLAGSTAFF AREA REGIONAL PLAN CITIZENS ADVISORY COMMITTEE AND DECLARING AN EMERGENCY

WHEREAS the Flagstaff Area Regional Land Use and Transportation Plan the Plan was Regional adopted by the Mayor and Council of the City of Flagstaff the City Council on November 13 2001 and ratified by the qualified electors of the City of Flagstaff the City on May 21 2002 and

WHEREAS Arizona Revised Statutes 9 9 461 06 K requires that Arizona cities readopt their existing general plan or adopt a new one altogether for an additional term of up to ten years prior to the tenth anniversary of the date the plan was initially adopted and ratified and

WHEREAS the City of Flagstaff desires to foster resident involvement in the preparation of an updated Regional Plan and

WHEREAS the creation of a Flagstaff Area Regional Plan Citizens Advisory Committee is an appropriate means to foster that involvement

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1 Flagstaff City Code Title 2 Boards and Commissions is hereby amended by adding the following chapter and section Chapter 2 23 Flagstaff Area Regional Plan Citizens Advisory Committee

### **Section 2 23 001 0001** Creation of Committee

A Flagstaff Area Regional Plan Citizens Advisory Committee is hereby created to serve as an ad hoc temporary advisory board to assist in the preparation and adoption of an updated Flagstaff Area Regional Plan

### **Section 2 23 001 0002** Members and Officers

The **Flagstaff Area Regional Plan Citizens Advisory Committee shall have no more than 19 members.** All members shall reside within the Flagstaff Metropolitan Planning Organization boundary and a majority shall be City of Flagstaff residents. The Flagstaff **City Council shall appoint at least ten 10 but no more than twelve 12 members.** The Coconino County **Board of Supervisors shall appoint at least seven 7 but no more than nine 9 members.** Three 3 alternates shall be appointed by the City Council which the Council shall designate as a first, second, and third alternate. Alternates shall have the same rights and roles as any other member of the Flagstaff Area Regional Plan Citizens Advisory Committee except that they shall not vote in the work of the Committee unless one or more members are absent in which case the first alternate shall vote in the absence of a single member. Both alternates shall vote in the absence of two members, and all three alternates shall vote in the absence of three or more members. The Committee shall during its first meeting elect a chairperson and a vice chair, which persons who shall serve for the duration of the Committee's tenure. In addition, the City Council may designate a councilmember representative as a nonvoting ex officio member of the Committee.

### **Section 2 23 001 0003** Eligibility

Any resident of the City of Flagstaff shall be eligible for appointment by the City Council to the Committee and shall serve at the pleasure of the City Council and without compensation

**Section 2 23 001 0004 Tenure**

The Committee shall cease to exist upon the ratification of the updated Flagstaff Area Regional Plan pursuant to A R S 9 9461 06 M

**Section 2 23 001 0005 Duties**

A The Flagstaff Area Regional Plan Citizens Advisory Committee shall provide policy input to City staff and to any consultant retained by the City for the preparation of an updated Regional Plan The Committee shall conduct such public hearings as it deems necessary and appropriate to its work and shall render its advice in the form of reports to City staff and other Committees and in the form of a recommended draft Regional Plan update or commentary on a draft Regional Plan update. The Community Development Director or his or her designee shall assist and coordinate with the Regional Plan Citizens Advisory Committee with technical matters in order to further assist the Committee in carrying out its duties the Committee may request the assistance of technical experts and or employees and agents of the City including but not limited to Community Development Engineering and Public Works applicable utility agencies the school district fire and police departments the Arizona Department of Transportation and other affected entities as defined by Arizona Revised Statutes S 9 461 06 0

**Section 2 23 001 0006 Meetings Attendance**

A The Committee shall meet monthly from the first month following the selection of Committee members to the expiration of the Committee s tenure as described in Section 2 23 001 0005  
ORDINANCE NO 2008 34 PAGE 3

B The Regional Plan Citizens Advisory Committee shall not conduct any business at a meeting unless a quorum is present A quorum shall consist of a simple majority of the voting membership of the Committee but in any event no official business shall be conducted without at least two 2 voting members appointed by the Coconino County Board of Supervisors present

C Official business shall be conducted pursuant to the Board and Committee Members Handbook adopted by Resolution No 2005 117 of the City Council and in accordance with meeting procedures if any adopted by the Committee insofar as they are not in conflict with the Board and Committee Members Handbook In the event of any such conflict the provisions of the Board and Committee Members Handbook shall prevail.

**SECTION 2 Emergency**

The immediate operation of the provisions of this Ordinance is necessary to meet a public emergency affecting life health property or the public peace time is of the essence in satisfying the City s obligations under A R S 9 9 461 06 et seq An emergency is hereby declared to exist and this Ordinance shall be in full force and in effect from and after its adoption by the City Council of the City of Flagstaff

PASSED AN ADOPTED by the Council and approved by the Mayor of the City of Flagstaff this 16<sup>th</sup> day of December 2008.

**12/2009 – Original Citizen Advisory Committee membership categories:**

Flagstaff Regional Plan  
Citizen Advisory Committee

Catagory Membership

		Regional Plan Citizen Advisory Committee Applicants															
Last Name	First Name	Address	Comm Member	Academic	Develop/Build	Prop Owner	Renter	Environment	Educ/ Youth, Family	Bus/ Chamber/Reator	Tourism/Sustainable Econ Dev	Cultural/Tribal	Natural Resource Manager	Design/Plan/Build Consultant	Relgious/Interfaith	Seniors	Medical
<b>City Residents</b>																	
1	Babbitt	Paul	303 N. Verde St	Flagstaff AZ 86001	x									x			
2	Bousquet	Carol	2395 N. Colter Dr.	Flagstaff AZ 86004	x									x			
3	Chaveas	Michael	5075 N. Hwy 89	Flagstaff AZ 86004	x			x					x				
4	Frawley	Alex	411 W. Cedar Ave.	Flagstaff AZ 86001	x					x							
5	Griego	Jean	2210 N. Izabel St.	Flagstaff AZ 86001	x				x								
6	Hatchner	Eva	3473 W. Lois Ln	Flagstaff AZ 86001	x					x							x
7	Henn	Richard	1916 W. University Ave.	Flagstaff AZ 86001	x				x								
8	Herman	Maury	2240 Fremont	Flagstaff AZ 86001	x					x							
9	Naleski	Jerome	2019 N. Crescent Dr.	Flagstaff AZ 86001	x					x							
10	Ring	William	220 W. Birch St	Flagstaff AZ 86001	x					x							
11	Walker	David	1500 E. Cedar Ave. #86	Flagstaff AZ 86004	x												
12	White	Nat	1120 N. Rockridge Rd.	Flagstaff AZ 86001	x												x
<b>City Residents - Alternates</b>																	
A1	Louks	Judy	2473 N. Oakmont	Flagstaff AZ 86004	x					x							
A3	Stevens	Larry	P.O. Box 1315	Flagstaff AZ 86002	x			x									
<b>County Residents</b>																	
13	Anderson	Ben	8850 Silver Valley Rd	Flagstaff AZ 86004	x				x								
14	Cooley	Beatrice	10885 N. Linda Lane	Flagstaff AZ 86004	x			x	x								
15	Hedwall	Shaula	604 Comanche Street	Flagstaff AZ 86001	x		x	x					x				
16	Kaemmerle	Ken	8080 Winchester Dr.	Flagstaff AZ 86004	x									x			
17	Lamb Bean	Susan	4680 Lake Mary Rd	Flagstaff AZ 86001	x												
18	McLaughlin	Devonna	4431 N. Deer Springs Rd	Belmont AZ 86015	x												
19	White	Cynthia	147 Cello Street	Flagstaff AZ 86001	x			x	x								
<b>County Residents - Alternates</b>																	
A2	Lovely	Collis	PO 16061	Belmont AZ 86015	x			x									x
			Total number of participants in categories														
			22	3	2	5	1	5	6	6	2	1	2	3	1	2	1

**Steering Committee Role and membership** *(updated June 2010)*

– as defined in the Public Participation Plan, adopted by Joint Board of Supervisors / City Council at the Joint BOS/ Council meeting December 2008.

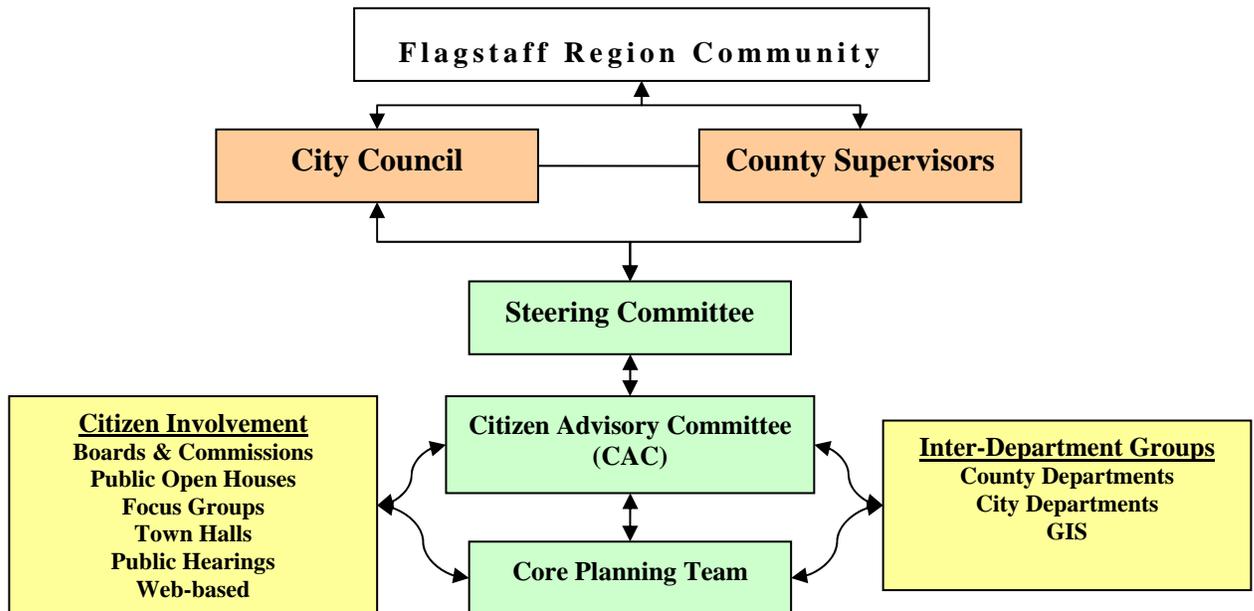
**Steering Committee**

The Steering Committee serves as the liaison between process management (staff) and City Council and Coconino County Board of Supervisors. The Steering Committee will meet quarterly with Core Planning Team representatives.

<b><u>Regional Plan Steering Committee</u></b>	
<b>City of Flagstaff</b>	<b>Coconino County</b>
Vice Mayor Coral Evans	Supervisor Matt Ryan
Councilmember Celia Barotz	Supervisor Mandy Metzger
Kevin Burke, City Manager	Mike Townsend, County Manager
CAC Chair Paul Babbitt	CAC Vice-Chair Carol Bousquet

**Organizational Chart**

– as defined in the Public Participation Plan, adopted by Joint Board of Supervisors / City Council at the Joint BOS/ Council meeting December 2008.





**FLAGSTAFF  
REGIONAL  
PLAN 2012**

## BIG KICKOFF IS FEBRUARY 2009!!

### Are we ready to begin the update process?

- Core Planning Team is working together – city & county staff
- Citizen Advisory Committee volunteers are filling out applications
- CAC Selection Team is being formed (*Councilmembers & Supervisors*)
- Steering Committee is being formed
- Stakeholder groups are being engaged
- Schedule is being solidified
- Website is set up – [www.flagstaff.az.gov/regionalplan](http://www.flagstaff.az.gov/regionalplan)



## GOALS of this process

- **PUBLIC PARTICIPATION** – This is ***YOUR*** plan Flagstaff!
- **CLEAR & REALISTIC DIRECTION** for Flagstaff's preservation & growth



## CITIZEN ADVISORY COMMITTEE

- Up to 19 Committee members
- Job Description:

To work with the Core Planning Team (City and County Planning staff); review and finalize public participation plan and schedule to ensure adequate outreach; attend most Focus Group and Town Hall meetings to understand public input; develop the framework of public questions, review survey analysis and public comments from all sources; help develop the draft document of each element; approval of draft plan for consideration by Planning & Zoning Commissions, Council and Board of Supervisors.

# CITIZEN ADVISORY COMMITTEE

## Committee Makeup:

<u>Original List</u>	<u>Supervisors Add:</u>	<u>Council Add:</u>
Community Members	Natural Resource Manager	
Academic – NAU/CCC	Design/Planning Consultant	
Developer/Builder		
Property Owner(s)		Renter
Environmental(s)		Water Resource
Education K-12		Youth & Families
Business/Chamber	Combine Bus. Chamber & Realtor	Religious/Interfaith
Realtor		Seniors
Tourism/Econ. Dev.	“Sustainable” ED	
Cultural	Native American Tribal Representative	



# CITIZEN ADVISORY COMMITTEE

*Up to 19 + 3 alternates*

- **Community Members [City & County]**
- **Academic – NAU / CCC**
- **Developer / Builder**
- **Property Owner**
- **Renter**
- **Environmentalist(s) [Water]**
- **Education – K-12 / Youth & Families**
- **Business/Chamber/Realtor**
- **Tourism / Sustainable Economic Development**
- **Cultural / Native American Tribal Representative**
- **Natural Resource Manager [Water]**
- **Design/Planner/Building Consultant**
- **Religious / Interfaith**
- **Seniors**



## CITIZEN ADVISORY COMMITTEE

- CAC Application available on website:  
[www.flagstaff.az.gov/regionalplan](http://www.flagstaff.az.gov/regionalplan)  
or from City or County planning staff
- Applications due **DECEMBER 17, 2008**
- CAC Selection Team will review applicants January 2009
- Council & Supervisors appoint **January 20, 2009**

## CITIZEN ADVISORY COMMITTEE

- CAC Application available on website:  
[www.flagstaff.az.gov/regionalplan](http://www.flagstaff.az.gov/regionalplan)  
or from City or County planning staff
- Applications due **DECEMBER 17, 2008**
- CAC Selection Team will review applicants January 2009
- Council & Supervisors appoint **January 20, 2009**



## Regional Plan Update Schedule

- **Core Planning Team & Citizen Advisory Committee** – meeting monthly; Feb. 2009 – May 2011
- **Steering Committee** – meets quarterly; March 2009 – May 2011
- **Boards & Commissions** – appropriate Board or Commissioned addressed according to element being worked on at the time
- **Focus Groups** – Feb. 2009; April 2009; August 2009; November 2009; Feb. 2010; April 2010; July 2010
- **Town Halls**: - March, June & September 2008; March, October 2010; April 2011
- **Public Hearings** – June – October 2011
- **Ballot Initiative to Voters** – May 2012



# Direction needed from Council & Board of Supervisors

- **Core Planning Team Selection Team**

*2 or 3 Councilmembers; 2 or 3 Supervisors*

- **Steering Committee** –

*2 Councilmembers; 2 Supervisors*

- **Citizen Advisory Committee**

*Up to 19 members + 3 alternates; chair, vice-chair; make-up*



## Questions or Comments

### Contact Information

**Bob Caravona, City of Flagstaff Comprehensive Planning Manager**

**(928) 779-7631 x 7239**

**[bcaravona@ci.flagstaff.az.us](mailto:bcaravona@ci.flagstaff.az.us)**

**Bill Towler, Coconino County Community Development Director**

**(928) 226-7456**

**[btowler@coconino.az.gov](mailto:btowler@coconino.az.gov)**



**FLAGSTAFF  
REGIONAL  
PLAN 2012**

## BIG KICKOFF IS FEBRUARY 2009!!

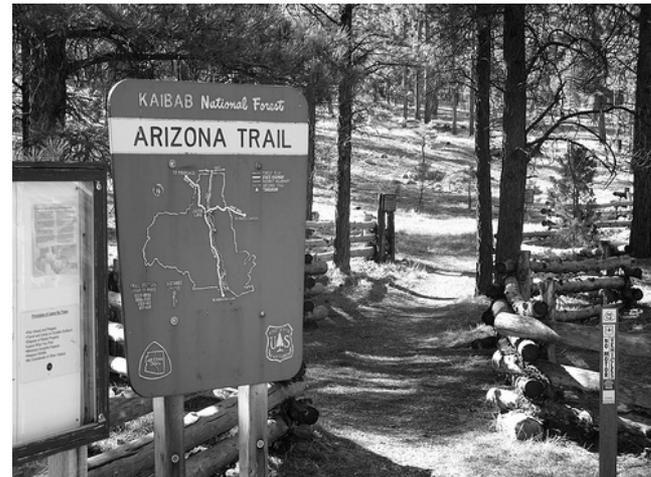
### Are we ready to begin the update process?

- Core Planning Team is working together – city & county staff
- Citizen Advisory Committee volunteers applications are in
- CAC Selection Team is formed (*Councilmembers & Supervisors*)
- Steering Committee is being formed
- Stakeholder groups are being engaged
- Schedule is being solidified
- Website is set up – [www.flagstaff.az.gov/regionalplan](http://www.flagstaff.az.gov/regionalplan)



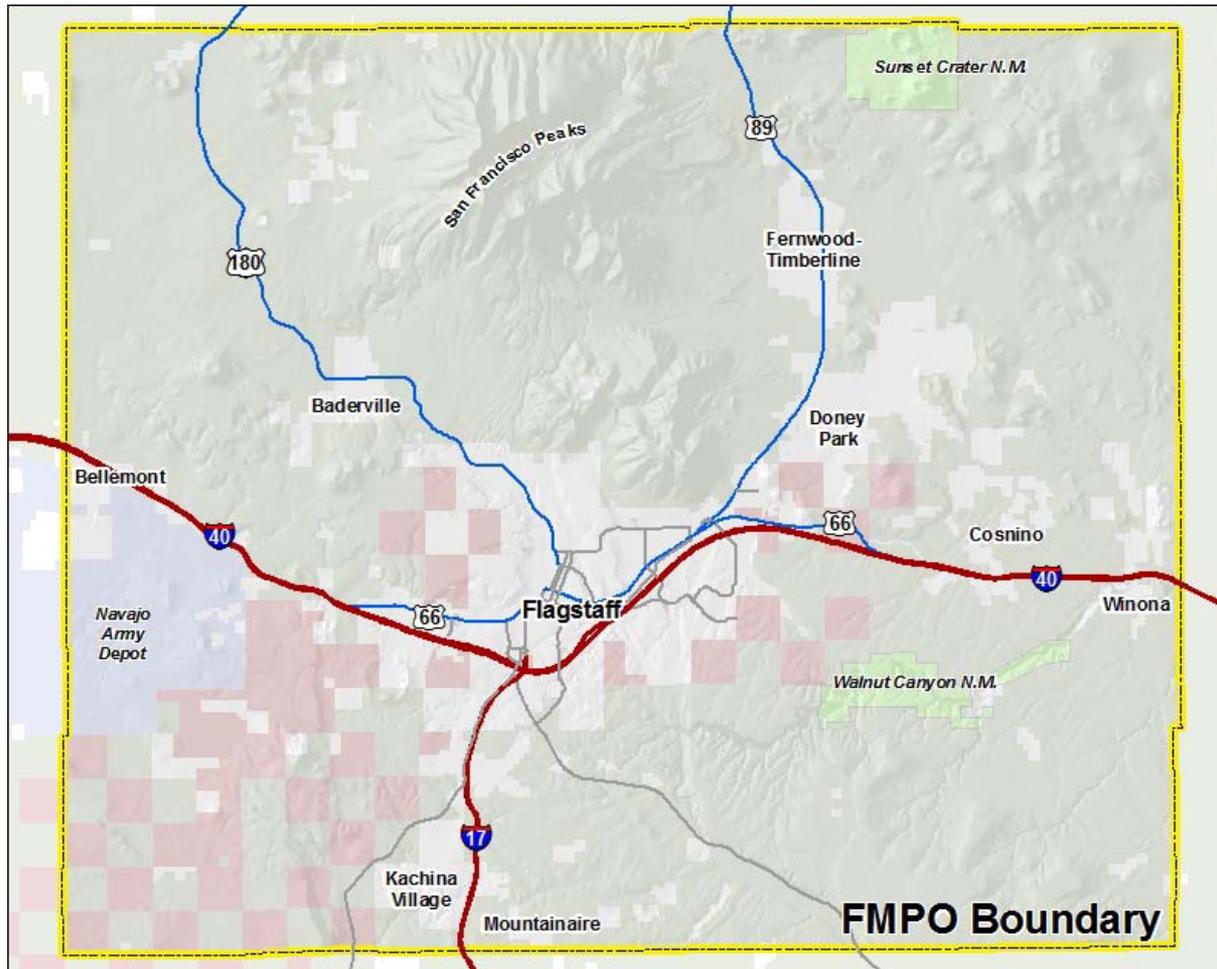
## **GOALS** of this process

- **PUBLIC PARTICIPATION** – This is ***YOUR*** plan Flagstaff!
- **CLEAR & REALISTIC DIRECTION** for Flagstaff's preservation & growth





# Boundaries of Regional Plan



# Regional Plan Requirements

Arizona Revised Statutes 9-461.05

- Prepare and adopt comprehensive, long-range **general plan** for the development of the municipality
- Provisions for modifications and **amendments**
- Include statement of **community goals** and development policies
- Include maps, diagrams and text setting forth objectives, principles, standards and plan proposals
- Specific **elements** must be addressed
- Plan administration



## Regional Plan Elements

### 17 Required elements:

- Land Use
- Circulation / **Bicycle**
- Open Space
- Growth Area
- Environmental Planning
- Cost of Development
- Water Resources
- **Energy**
- **Conservation**
- Recreation
- Public Facilities and Services / **Public Buildings**
- **Housing**
- **Conservation, Rehabilitation and Redevelopment**
- Safety
- **Neighborhood Preservation & Revitalization**

### 5 Optional elements:

- Community Character & Design
- Cultural Resources Planning
- Economic Development
- **Historic Preservation**
- **Social**



## Regional Plan Administration

### City and County may use the plan to:

- Make recommendations for future growth and development by way of (specific, area, neighborhood) plans, regulations, financial decisions, and capital budgets
- Make Departmental decisions for work program goals - Public Works / Capital projects
- Analyze development requests
- Produce an annual report
- Initiate Public education
- Make decisions regarding public property





## Regional Plan Update Teams & Schedule

- **Core Planning Team & Citizen Advisory Committee** – meeting monthly; Feb. 2009 – May 2011
- **Steering Committee** – meets quarterly; March 2009 – May 2011
- **Boards & Commissions** – appropriate Board or Commissioned addressed according to element being worked on at the time
- **Focus Groups** – Feb. 2009; April 2009; August 2009; November 2009; Feb. 2010; April 2010; July 2010
- **Town Halls**: - March, June & September 2008; March, October 2010; April 2011
- **Public Hearings** – June – October 2011
- **Ballot Initiative to Voters** – May 2012

## CITIZEN ADVISORY COMMITTEE

### – Job Description:

To work with the Core Planning Team (City and County Planning staff); review and finalize public participation plan and schedule to ensure adequate outreach; attend most Focus Group and Town Hall meetings to understand public input; develop the framework of public questions, review survey analysis and public comments from all sources; help develop the draft document of each element; approval of draft plan for consideration by Planning & Zoning Commissions, Council and Board of Supervisors.

- Council & Supervisors appoint **February 3, 2009**



# **CITIZEN ADVISORY COMMITTEE**

*Up to 19 + 3 alternates*

- **Community Members [City & County]**
- **Academic – NAU / CCC**
- **Developer / Builder**
- **Property Owner**
- **Renter**
- **Environmental(s) [Water]**
- **Education – K-12 / Youth & Families**
- **Business/Chamber/Realtor**
- **Tourism / Sustainable Economic Development**
- **Cultural / Native American Tribal Representative**
- **Natural Resource Manager [Water]**
- **Design/Planner/Building Consultant**
- **Religious / Interfaith**
- **Seniors**

## Where you fit in.....





## Questions or Comments

### Contact Information

**Bob Caravona, City of Flagstaff Comprehensive Planning Manager**

**(928) 779-7631 x 7239**

**[bcaravona@ci.flagstaff.az.us](mailto:bcaravona@ci.flagstaff.az.us)**

**Bill Towler, Coconino County Community Development Director**

**(928) 679-8850**

**[btowler@coconino.az.gov](mailto:btowler@coconino.az.gov)**

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Susan Alden, City Records Technician  
**Date:** 06/14/2012  
**Meeting Date:** 09/18/2012



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**TITLE:**

**Consideration and Action on Liquor License Application:** Lois Franz, "Sonesta ES Suites Flagstaff", 3440 N. Country Club Drive, Series 07, Person Transfer.

**RECOMMENDED ACTION:**

Open the public hearing.  
Receive citizen input.  
Close the public hearing.

The City Council has the option to:

- 1) Forward the application to the State with a recommendation for approval;
- 2) Forward the application to the State with no recommendation; or
- 3) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

**Policy Decision or Reason for Action:**

Series 07 licenses must be obtained through the person transfer of an existing license from another business. Lois Franz is acquiring the Series 07 liquor license held by Patricia Gaukel with Residence Inn by Marriott, the previous business at this location.

**Financial Impact:**

There is no budgetary impact to the City of Flagstaff.

**Connection to Council Goal:**

Effective governance - regulatory action.

**Has There Been Previous Council Decision on This:**

Not applicable.

**Options and Alternatives:**

1) Table the item if additional information or time is needed; 2) Make no recommendation; 3) Forward the application to the State with a recommendation for approval; 4) Forward the application to the State with a recommendation for denial, stating the reasons for such recommendation.

**Background/History:**

- An application for a person transfer Series 07 liquor license was received from Lois Franz for Sonesta ES Suites Flagstaff, 3440 N. Country Club Drive. The person transfer is from Patricia Gaukel with Residence Inn by Marriott, the business previously located at 3440 N. Country Club Drive.
- A background investigation performed by Sgt. Matt Wright of the Flagstaff Police Department resulted in a recommendation for approval.
- A background investigation performed by Gregory Brooks, Code Compliance Officer II, resulted in no active code violations being reported.
- Sales tax and licensing information was reviewed by Ranbir Cheema, Tax, Licensing & Revenue Manager, resulting in a recommendation for approval.

**Key Considerations:**

- Because the application is for a person transfer only, consideration may be given both only to the applicant's personal qualifications, not the location.
- A Series 07 beer and wine bar license allows a beer and wine bar retailer to sell and serve beer and wine, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.
- The deadline for issuing a recommendation on this application is October 9, 2012.
- The applicant is not required to provide the distance between the applicant's business and the nearest church or school for government (Series 05), hotel/motel (Series 11), or restaurant, (Series 12) liquor license applications; the State does not require a geological map or list of licenses in the vicinity for any license series.

**Community Benefits and Considerations:**

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

**Community Involvement:**

- The application was properly posted on August 27, 2012.
- No written protests have been received to date.

**Expanded Options and Alternatives:**

- (1) Table the item if additional information or time is needed.
- (2) Make no recommendation.
- (3) Forward the application to the State with a recommendation for approval.
- (4) Forward the application to the State with a recommendation for denial, stating the reasons for such recommendation.

**Date of Council Approval:**

---

**Attachments:**     [Sonesta ES Suites Letter to Applicant](#)  
                          [Hearing Procedures](#)  
                          [Series 7 Description](#)  
                          [Sonesta ES Suites Section 13](#)  
                          [Sonesta ES Suites Police Memo](#)  
                          [Sonesta ES Suites Code Memo](#)  
                          [Sonesta ES Suites Tax Memo](#)

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**Inbox**  
DCM - Jerene Watson

**Reviewed By**  
Jerene Watson

**Date**  
09/06/2012 10:15 AM  
Started On: 08/24/2012 03:39 PM

Form Started By: Susan Alden

Final Approval Date: 09/06/2012



# City of Flagstaff

OFFICE OF THE CITY CLERK

September 5, 2012

Sonesta ES Suites Flagstaff  
Attn: Lois Franz  
3440 N. Country Club Drive  
Flagstaff, AZ 86004

Dear Ms. Franz:

Your application for a Series 07 person transfer liquor license for Sonesta ES Suites Flagstaff at 3440 N. Country Club Drive was posted on August 27, 2012. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on Tuesday, September 18, 2012 which begins at noon.

It is important that you or your representative attend this Council Meeting to make a presentation on your application and to answer any questions that the City Council may have. Failure to make a presentation could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license and to make a presentation on that information, as well as stating whether or not you have attended the necessary training, whether or not you have had a business prior to this one, and, if so, the kinds of business(es) you have operated. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures.

The twenty-day posting period for your liquor license application will expire on September 16, 2012, and the application may be removed from the premises at any time.

If you have any questions, please feel free to call me at 928-213-2066.

Sincerely,

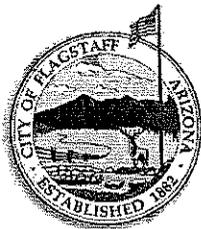
Susan Alden  
City Records Technician

Enclosure

Arizona Relay Service 7-1-1

211 West Aspen Avenue, Flagstaff, Arizona 86001  
Main & TDD (928) 774-5281 • Fax (928) 779-7696





# City of Flagstaff

## Liquor License Application Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will accept a motion to open the public hearing on the item.
2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.
3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.
4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.
5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.
6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
7. By motion, Council will then close the public hearing.
8. By motion, the Council will then vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

## License Types: Series 07 Beer and Wine Bar License

Transferable (From person to person and/or location to location within the same county only)

On & off-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the glossary.

### PURPOSE:

Allows a beer and wine bar retailer to sell and serve beer and wine, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

### ADDITIONAL RIGHTS AND RESPONSIBILITIES:

A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of **DELIVERY**. The retailer must complete a Department approved "Record of Delivery" form for each spirituous liquor retail delivery.

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

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

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

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

Off-sale ("To Go") package sales can be made on the bar premises as long as the area of off-sale operation does not utilize a separate entrance and exit from the one provided for the bar.

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

**SECTION 12** Location to Location Transfer: (Bars and Liquor Stores ONLY)

APPLICANTS CANNOT OPERATE UNDER A LOCATION TRANSFER UNTIL IT IS APPROVED BY THE STATE

- 1. Current Business: Name \_\_\_\_\_  
(Exactly as it appears on license) Address \_\_\_\_\_
- 2. New Business: Name \_\_\_\_\_  
(Physical Street Location) Address \_\_\_\_\_
- 3. License Type: \_\_\_\_\_ License Number: \_\_\_\_\_
- 4. If more than one license to be transferred: License Type: \_\_\_\_\_ License Number: \_\_\_\_\_
- 5. What date do you plan to move? \_\_\_\_\_ What date do you plan to open? \_\_\_\_\_

**SECTION 13** Questions for all in-state applicants excluding those applying for government, hotel/motel, and restaurant licenses (series 5, 11, and 12):

A.R.S. § 4-207 (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building. The above paragraph DOES NOT apply to:

- a) Restaurant license (§ 4-205.02)
- b) Hotel/motel license (§ 4-205.01)
- c) Government license (§ 4-205.03)
- d) Fenced playing area of a golf course (§ 4-207 (B)(5))

1. Distance to nearest school: 5808 ft. Name of school Thomas M. Knowles Elementary  
Address 4005 E. Butler Ave., Flagstaff, AZ 86004  
City, State, Zip \_\_\_\_\_

2. Distance to nearest church: 5808 ft. Name of church Grace Community Church  
Address 3950 E. Butler Ave., Flagstaff, AZ 86004  
City, State, Zip \_\_\_\_\_

3. I am the:  Lessee  Sublessee  Owner  Purchaser (of premises)

4. If the premises is leased give lessors: Name Cambridge TRS, Inc.  
Address 255 Washington St., Ste. 300, Newton, MA 02458  
City, State, Zip \_\_\_\_\_

4a. Monthly rental/lease rate \$ see below What is the remaining length of the lease 27 yrs. 4 mos.

4b. What is the penalty if the lease is not fulfilled? \$ 0 or other pages 20-23 of agreement enclosed  
(give details - attach additional sheet if necessary)

5. What is the total **business** indebtedness for this license/location excluding the lease? \$ 0  
Please list lenders you owe money to.

Last	First	Middle	Amount Owed	Mailing Address	City State	Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for (be specific)? To sell beer and wine at a hotel.

*\* Cambridge TRS, Inc. is the Tenant, leasing from HPTMI Properties Trust. Cambridge has hired Sonesta as manager of licensee. Cambridge's rental amounts are enclosed.*

**SECTION 13 - continued**

12 AUG 10 Lic. Lic. # 4 20

- 7. Has a license or a transfer license for the premises on this application been denied by the state within the past one (1) year?  
 YES  NO If yes, attach explanation.
- 8. Does any spirituous liquor manufacturer, wholesaler, or employee have any interest in your business?  YES  NO
- 9. Is the premises currently licensed with a liquor license?  YES  NO If yes, give license number and licensee's name:

License # 07030080 (exactly as it appears on license) Name: Patricia M. Gaukel

**SECTION 14 Restaurant or hotel/motel license applicants:**

- 1. Is there an existing restaurant or hotel/motel liquor license at the proposed location?  YES  NO  
 If yes, give the name of licensee, Agent or a company name:  
 \_\_\_\_\_ and license #: \_\_\_\_\_  
Last First Middle
- 2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.
- 3. All restaurant and hotel/motel applicants must complete a Restaurant Operation Plan (Form LIC0114) provided by the Department of Liquor Licenses and Control.
- 4. As stated in A.R.S. § 4-205.02.G.2, a restaurant is an establishment which derives at least 40 percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from all sales of food and spirituous liquor on the licensed premises. By applying for this  hotel/motel  restaurant license, I certify that I understand that I must maintain a minimum of 40 percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit (form LIC 1013) with this application.

\_\_\_\_\_  
applicant's signature

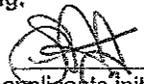
As stated in A.R.S. § 4-205.02 (B), I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing, specify why the extension is necessary, and the new inspection date you are requesting. To schedule your site inspection visit [www.azliquor.gov](http://www.azliquor.gov) and click on the "Information" tab.

\_\_\_\_\_  
applicants initials

**SECTION 15 Diagram of Premises: (Blueprints not accepted, diagram must be on this form)**

- 1. Check ALL boxes that apply to your business:  
 Entrances/Exits     Liquor storage areas    Patio:  Contiguous  
 Service windows     Drive-in windows     Non Contiguous
- 2. Is your licensed premises currently closed due to construction, renovation, or redesign?  YES  NO  
 If yes, what is your estimated opening date? \_\_\_\_\_  
month/day/year
- 3. Restaurants and hotel/motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Diagram paper is provided on page 7.
- 4. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spiritous liquor is to be sold, served, consumed, dispensed, possessed, or stored on the premises unless it is a restaurant (see #3 above).
- 5. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises, such as parking lots, living quarters, etc.

As stated in A.R.S. § 4-207.01(B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to boundaries, entrances, exits, added or deleted doors, windows or service windows, or increase or decrease to the square footage after submitting this Initial drawing.

  
applicants initials

**MEMORANDUM**

**Memo # 12-132-01**

**To** Chief Kevin Treadway  
**From** Sgt. M. Wright  
**Date** August 28, 2012  
**Ref** Series 7 Liquor License –Person Transfer-Application for Sonesta ES Suites

---

On August 28, 2012, I initiated an investigation into a series 7 (beer and wine) liquor license person to person transfer application filed by Lois Franz (Agent), Richard Pearl, Jacqueline Sonnabend, Stephanie Sonnabend and Jennifer Clark on behalf of Sonesta ES Suites previously known as the Residence in by Marriot. Sonesta ES Suites is located at 3440 N. Country Club Drive in Flagstaff. Sonesta ES Suites is located more than 300 feet from the nearest school and church. The series 7 license number being applied for is #070030080 a beer and wine license.

I conducted a local records query and public access check on Lois Franz, Richard Pearl, Jacqueline Sonnabend, Stephanie Sonnabend and Jennifer Clark which revealed no derogatory records. I found Lois Franz would be responsible for day to day operations of the business. I called and spoke with Lois who advised she had completed the liquor class provided by the Department of Liquor Licenses and Control and provided proof. Lois advised she has never owned a liquor license in the past. Lois advised the purchase of the license was included in the purchase of the Hotel by Sonesta ES Suites.

At this time the Flagstaff Police Department makes a recommendation for approval.



## Planning and Development Services Memorandum

August 31, 2012

TO: Susan Alden, City Records Technician

THROUGH: Mark Sawyers, AICP, Current Planning Manager

FROM: Tom Boughner, Code Compliance Mgr.

RE: Application for Liquor License #07030080  
3440 N. Country Club, Flagstaff, Arizona 86004  
Assessor's Parcel Number 111-01-001F  
Deanna Franz, Sonesta ES Suites Flagstaff

---

This application is a request for a Series 07 (Beer and Wine Bar) person transfer liquor license from Patricia Gaukel, Residence Inn through Lois Franz on behalf of Sonesta ES Suites Flagstaff, located in the Highway Commercial (HC) Zone. This district allows for beer and wine bars as an ancillary use.

This is a person to person transfer liquor license.

There are no active zoning code violations associated with Deanna Franz or the Sonesta ES Suites Flagstaff at this time.

This Liquor License is recommended for approval.

# Memo

To: Susan Alden, City Records Technician

From: Ranbir Cheema - Tax, Licensing & Revenue Manager *RC*

Date: August 30, 2012

Re: Series 07 Liquor License – Sonesta ES Suites Flagstaff

---

Cambridge TRS Inc DBA Sonesta ES Suites Flagstaff is properly licensed with the City of Flagstaff. They started operations in the City on August 11, 2012, their first tax return is not due at this time, but I do not foresee any issue related to their compliance with the Transaction Privilege Tax Code. Currently, they are in good standing with the Tax, Licensing and Revenue Section of the City.

/liquor licenses/Sonesta ES Suites Flagstaff.doc

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Randall Groth, Project Manager  
**Date:** 08/02/2012  
**Meeting Date:** 09/18/2012



---

**TITLE:**

**Consideration and Approval of Construction Contract:** Switzer Canyon Trail FUTS (Flagstaff Urban Trails System) Improvement Project.

**RECOMMENDED ACTION:**

1. Approve the construction contract with Woodruff Construction in the amount of \$197,084.00 including an \$18,300.00 contract allowance and a contract time of 70 calendar days;
2. Approve Change Order Authority in the amount of \$17,880 (10% of contract amount, less allowance) for potential costs associated with unanticipated items of work; and
3. Authorize the City Manager to execute the necessary documents.

**Policy Decision or Reason for Action:**

Award of the contract will authorize the construction of the Switzer Canyon Trail FUTS Trail project in accordance with the approved public improvements plans prepared by Shephard-Wesnitzer, Inc. Subsidiary Decisions Points: The project is scheduled in the Capital 5-year plan for Division 75 and is funded in the FY13 budget.

**Financial Impact:**

The project is funded through Division 75 by the 2000 Transportation Tax and the Parks and Recreation component of Bed, Board and Beverage revenues in the amount of \$282,552 for FY13 (acct. 051-7572-632).

**Connection to Council Goal:**

Livability through good neighborhoods, affordable housing and varied recreational activities. Maintain and deliver quality, reliable infrastructure.

**Has There Been Previous Council Decision on This:**

The Council adopted the budget at the June 5, 2012 meeting.

**Options and Alternatives**

1. Approve the award as recommended. This would allow the project to be initiated this season.
2. Reject bids and provide additional direction to staff. This option would likely delay the project delivery until 2013.

**Background/History:**

The project will complete two missing segments of FUTS (approx. 1,425 linear feet) to create a continuous trail along Turquoise Drive between Forest Ave. and Switzer Canyon Dr. and a short section of trail will be added to the west side of Switzer Canyon Drive. Sections of missing sidewalk (approx. 535 linear feet) will be added on the east side of Switzer Canyon Drive. The bid solicitation was published on the City website and twice in the Daily Sun on July 20 and July 27, 2012. Four bids were received on August 1, 2012 at the office of the City Purchasing Agent. A summary of bids received is below:

<b>Company</b>	<b>Base Bid</b>	<b>Add Alternate</b>	<b>Total</b>
<i>Consultant's Estimate</i>	208,407.00	19,075.00	227,482.00
Woodruff Construction	197,084.00	2,180.00	199,264.00
Eagle Mtn. Construction	203,064.20	4,905.00	207,969.20
TriCom Corporation	231,754.00	(1,362.50)	230,391.50
Kinney Const. Services	278,539.18	283.40	278,822.58

The base bid includes a stacked stone retaining wall. The additive alternate for segmented block retaining wall in lieu of the stacked stone wall was included to provide flexibility in the award of the contract. The stone wall (base bid) is recommended as the preferred option.

**Key Considerations:**

This section of trail is rated fourth highest on the 2011 FUTS priority ranking. FUTS priority rankings and the FUTS Master Plan are reviewed and discussed each year at the City's Bicycle Advisory Committee and Pedestrian Advisory Committee meetings. The project will create a link to the Buffalo Park area for the neighborhoods located in Switzer Canyon.

**Community Benefits and Considerations:**

The project will complete a section of the Switzer Canyon trail and will provide non-motorized access to the YMCA, Summit Center, Jay Lively Center, McPherson & Buffalo Parks, USGS and McMillan Mesa and will function as the public sidewalk along the west side of Turquoise Drive. The project will also add missing segments of public sidewalk along the east side of Switzer Canyon Drive from the Turquoise Drive intersection, north.

**Community Involvement:****COLLABORATE**

Easements have been acquired from impacted property owners. City staff worked with the Olivia White Hospice Director and staff to minimize impacts and to develop an acceptable trail alignment and easement through their site. The project has been endorsed by the Bicycle Advisory Committee and the Pedestrian Advisory Committee at their regularly scheduled public meetings. This trail has been an ongoing element of the city-wide urban trails plan, is shown on the Regional Land Use & Transportation Plan (2001) and the Growth Management Guide.

**Expanded Options and Alternatives:**

1. Approve the award as recommended.
2. Approve the award with base bid plus the additive alternate. This would add cost to the project.
3. Reject the bids and direct staff to re-advertise the project. This option would likely delay construction until 2013.

**Date of Council Approval:**

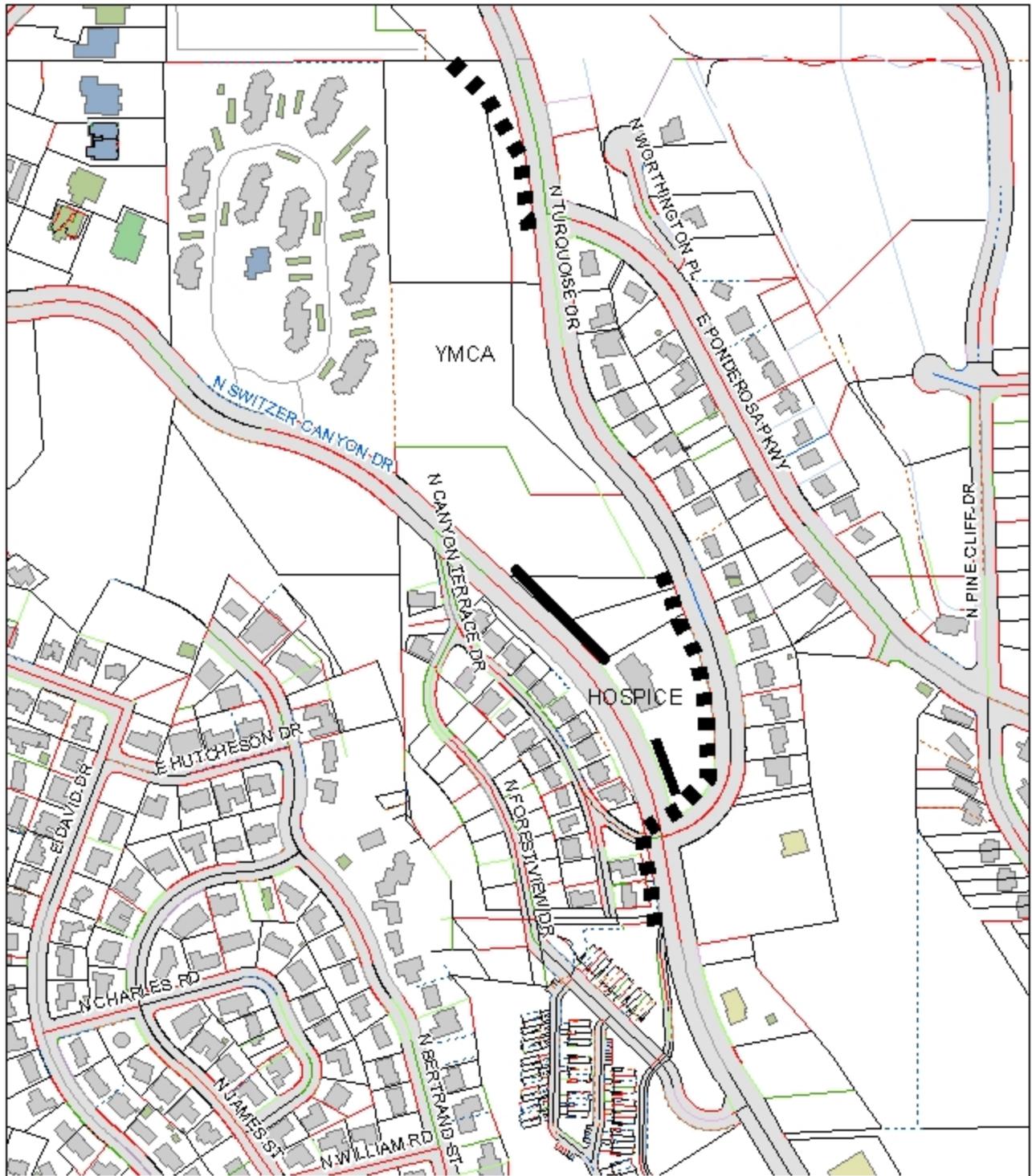
**Attachments:**     [Vicinity Map](#)

## Agreement

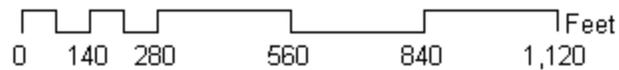
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### **Form Review**

<b>Inbox</b>	<b>Reviewed By</b>	<b>Date</b>
City Engineer	Rick Barrett	08/10/2012 11:10 AM
Senior Procurement Specialist - PB	Patrick Brown	08/14/2012 09:14 AM
Purchasing Director	Rick Compau	08/15/2012 01:25 PM
Finance Director	Rick Tadder	08/15/2012 03:55 PM
Community Development Director	Mark Landsiedel	08/23/2012 09:08 AM
Legal Assistant	Vicki Baker	08/23/2012 09:10 AM
Senior Assistant City Attorney JS	James Speed	08/27/2012 08:49 AM
DCM - Jerene Watson	Jerene Watson	08/28/2012 10:16 AM
Form Started By: Randall Groth		Started On: 08/02/2012 01:43 PM
	Final Approval Date: 08/28/2012	



## Switzer Canyon FUTS Vicinity Map



■■■■■ FUTS

————— SIDEWALK

# CONSTRUCTION CONTRACT

City of Flagstaff, Arizona

And

**BWC Enterprises, Inc. DBA Woodruff Construction**

This Construction Contract ("Contract") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2012, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona ("Owner") and BWC Enterprises, Inc dba Woodruff Construction ("Contractor") with offices at 2710 E. Lakin Drive, Flagstaff, Arizona. Contractor and the Owner may be referred to each individually as a "Party" and collectively as the "Parties."

## RECITALS

- A. Owner desires to obtain construction 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.** The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all work for the construction of the **Switzer Canyon FUTS Improvement Project** (the "Project"). 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 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 location, date and time of the Conference will be agreed upon between the Contractor and the Engineer. The purpose of the meeting is to outline specific construction items and procedures that the City of Flagstaff (the "Owner") feels require special attention on the part of the Contractor. The Contractor may also present any variations in procedures to improve the workability of the Project, reduce the cost or reduce inconvenience to the public. The Contractor shall submit a written proposal at this conference outlining intended plans for 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; 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 to the MAG Specifications for

Public Works Construction (“Exhibit A”); and any Arizona Department of Transportation (A.D.O.T.) 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 Construction Bids, 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:

2.1.1 Revisions of MAG Standard Specifications for Public Works Construction Exhibit A  
 (“Flagstaff Addendum to MAG”)

2.1.2 Special Provisions Exhibit B

**3. Payments.** In consideration of the faithful performance of the work described in this Contract, the Owner shall pay an amount not to exceed **\$197,084.00** to the Contractor for work and materials provided in accordance with the bid schedule, 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 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;

3.3 The City Engineer shall have the right to determine the final amount due to Contractor;

3.4 Monthly progress payments shall be made by the Owner, on or before fourteen (14) calendar days after the receipt by the Owner of an approved estimate of the work completed;

3.5 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;

3.6 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 20 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 **70 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 the Contractor and not caused by any wrongful act or negligence of the Contractor shall entitle the Contractor to an extension of time equal to the delay so caused. The 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 Section 13 below (Contract Violations).

**8. Failure to Complete Project in Timely Manner.** If Contractor fails or refuses to execute this Contract within the time specified in Section 3 above, or such additional time as may be allowed, the proceeds of Contractor's proposal 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 execution of this Contract, and bonds and the performance of work under this Contract, and the necessity of accepting a higher or less desirable bid from such failure or refusal to execute this Contract and bond as required. If Contractor has submitted a certified check or cashier's check as a proposal guaranty, the check shall be returned after execution of this Contract. The certified check or cashier's check of other Bidders shall be returned at the expiration of thirty (30) days from the date of opening of proposals or sooner, if this Contract is executed prior to that time.

**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, the 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 the Contractor shall be discharged by such termination, except the obligation to pay to the 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. The 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, the Contractor shall remove all temporary buildings and facilities and all equipment, surplus materials and supplies belonging to the 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 A, Section 107.2.1.)

**11. Assignment.** Contractor shall not assign this Contract, in whole or in part, without the prior written consent of the Owner.

**12. Notices.** All notices or demands required to be given, pursuant to the terms of this Contract, shall be given to the other Party in writing, delivered in person, sent by facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested 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.

**If to Owner:**

Patrick Brown, C.P.M.  
Senior Procurement Specialist  
211 West Aspen Avenue

**If to Contractor:**

Bud Woodruff  
Woodruff Construction  
2710 E. Lakin Drive

**13. Contract Violations.** In the event of any of the provisions of this Contract are violated by the Contractor or by any of Contractor's subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate such Contract (the "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 the Contractor, and the 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.

**14. Contractor's Liability and Indemnification.** To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Owner, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. Contractor's duty to defend, hold harmless and indemnify the Owner, its agents, representatives, officers, directors, officials and employees shall arise in connection with the claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable. The amount and type of insurance coverage requirements set forth in the Contract (Section 103.6 of Exhibit A) will in no way be construed as limiting the scope of the indemnity in this paragraph.

**15. 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.

**16. Amendment of Contract.** This Agreement may not be modified or altered except in writing and signed by duly authorized representatives of the parties.

**17. 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.

**18. Cancellation for Conflict of Interest.** This Contract is subject to the cancellation provisions of A.R.S. § 38-511.

**19. Compliance with All Laws.** Contractor shall comply with all applicable laws, statutes, ordinances, regulations and governmental requirements in the performance of this Contract.

**20. Employment of Aliens.** Contractor shall comply with A.R.S. § 34-301, which provides that a person who is not a citizen or ward of the United States shall not be employed upon or in connection with any state, county or municipal public works project.

**21. Compliance with Federal Immigration Laws and Regulations.** 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. Contractor acknowledges that pursuant to A.R.S. 41-4401 a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

**22. Business Operations in Sudan/Iran.** In accordance with A.R.S. § 35-397, the Contractor certifies that the Contractor and its affiliates and subsidiaries do not have scrutinized business operations in Sudan or Iran. If the City determines that the Provider's certification is false, the City may impose all legal and equitable remedies available to it, including but not limited to termination of this Agreement.

**23. 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.

**24. Jurisdiction and Venue.** This Agreement shall be administered and interpreted under the laws of the State of Arizona. The Contractor hereby submits itself to the original jurisdiction of those courts located within Coconino County, Arizona.

**25. Attorney's Fees.** If suit or action is initiated in connection with any controversy arising out of this Agreement, 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.

**26. Time is of the Essence.** Contractor acknowledges that the completion of the Contract by the dates specified final completion is critical to the Owner, time being of the essence of 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.

**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**

**Contractor, BWC Enterprises, Inc dba  
Woodruff Construction**

\_\_\_\_\_  
Kevin Burke, City Manager

\_\_\_\_\_  
Signature

Attest:

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Andy Wagemaker, Revenue Director  
**Date:** 08/13/2012  
**Meeting Date:** 09/18/2012



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**TITLE:**

**Consideration and Approval of Utility Account Write-offs:** Delinquent and uncollectable accounts for Fiscal Year 2012.

**RECOMMENDED ACTION:**

Approve the write-off of delinquent and uncollectable utility accounts in the amount of \$97,198.35.

**Policy Decision or Reason for Action:**

Generally accepted business practices allow for the write-off of uncollectable accounts. City staff has exhausted collection efforts on the eligible accounts and will no longer actively collect on them. Where possible, the amount owed has been applied against the credit of the debtor and may be collected in the future. Pursuant to federal consumer debt collection law, delinquent account information is not subject to public release.

Subsidiary Decisions Points: No subsidiary decision points.

**Financial Impact:**

None. Each year, the City anticipates that there will be uncollectable utility accounts and reserves an amount at year end for these accounts.

**Connection to Council Goal:**

Effective governance.

**Has There Been Previous Council Decision on This:**

No.

**Options and Alternatives**

- Authorize the write-off of uncollectable utility accounts.
- Do not authorize the write-off of uncollectable utility accounts and continue collection efforts.

**Background/History:**

Before any account is eligible for write-off, staff must initiate collection efforts on each account after it becomes delinquent. When collection efforts are exhausted, the account is eligible for write-off. If possible, any amounts due are applied to the customer's credit. If placed on the customer's credit, the amount owed remains active for 7 years after the delinquency date. Application against the credit of the debtor may lead to the recovery of some of the delinquent amounts in the future. This often occurs when customers apply for credit via other avenues (mortgages, car loans, apartment rentals, etc.).

Total utility billings in FY12 were approximately \$29.8 million. The write-offs are approximately 0.33% of the total amount. The uptick in collections for FY12 is attributable to a revised collections process that aims to begin the collections process more quickly. Below the history table is a table showing the breakdown of FY12 Utility Account Write-Offs.

Pursuant to federal consumer debt collection law, delinquent account information is not subject to public release.

*Utility Account Write-Offs (5 Year History)*

<i>Write-Off Year</i>	<i>Amt of Write-Off</i>	<i>Annual Amt Billed</i>	<i>% of Amt Billed</i>
<i>FY12</i>	<i>\$97,198.35</i>	<i>\$29.8 million</i>	<i>0.33%</i>
<i>FY11</i>	<i>\$41,508.08</i>	<i>\$26.1 million</i>	<i>0.16%</i>
<i>FY10</i>	<i>\$60,420.89</i>	<i>\$24.8 million</i>	<i>0.25%</i>
<i>FY09</i>	<i>\$60,569.03</i>	<i>\$24.2 million</i>	<i>0.25%</i>
<i>FY08</i>	<i>\$39,454.77</i>	<i>\$24.5 million</i>	<i>0.17%</i>

FY12 Utility Account Write-Off Breakdown

<u>Utilities</u>	<u>Public Works</u>	<u>Storm Water</u>	<u>Taxes</u>
<u>\$67,007.20</u>	<u>\$23,647.05</u>	<u>\$3,848.82</u>	<u>\$2,695.28</u>

**Key Considerations:**

Staff, using billing statements, letters and telephone calls, has worked the write-off accounts. When customers fail to make payments, they may be denied access to future City services and, when possible, the amount owed is applied to their credit.

**Community Benefits and Considerations:**

It is sound financial management practice to reduce assets to reflect their true valuation. Failure to write-off accounts deemed uncollectable overstates the asset value of the City.

**Community Involvement:**

Inform

**Date of Council Approval:**

\_\_\_\_\_

**Attachments:**

\_\_\_\_\_

**Form Review**

Inbox

Reviewed By

Date

Tax License & Revenue Manager	Ranbir Cheema	08/24/2012 07:31 AM
Revenue Director (Originator)	Andy Wagemaker	08/24/2012 07:31 AM
Utilites Director	Brad Hill	08/24/2012 08:48 AM
Management Services Director	Barbara Goodrich	08/30/2012 10:38 AM
DCM - Josh Copley	Josh Copley	08/31/2012 08:32 AM
Revenue Director (Originator)	Andy Wagemaker	09/12/2012 08:43 AM
Management Services Director	Barbara Goodrich	09/12/2012 08:55 AM
DCM - Josh Copley	Josh Copley	09/13/2012 01:26 PM
Form Started By: Andy Wagemaker		Started On: 08/13/2012 01:22 PM
Final Approval Date: 09/13/2012		

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Andy Wagemaker, Revenue Director  
**Date:** 08/15/2012  
**Meeting Date:** 09/18/2012



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**TITLE:**

**Consideration and Approval of Miscellaneous Receivable Account Writeoffs:** Delinquent and uncollectable accounts for Fiscal Year 2012.

**RECOMMENDED ACTION:**

Approve the write-off of delinquent and uncollectable miscellaneous receivable accounts in the amount of ~~\$35,346.96~~ \$33,322.21.

**Policy Decision or Reason for Action:**

Generally accepted business practices allow for the write-off of uncollectable accounts. City staff has exhausted collection efforts on the eligible accounts and will no longer actively collect on them. Where possible, the amount owed has been applied against the credit of the debtor and may be collected in the future. Pursuant to federal consumer debt collection law, delinquent account information is not subject to public release.

Subsidiary Decisions Points: No subsidiary decision points.

**Financial Impact:**

None. Each year, the City anticipates that there will be uncollectable miscellaneous accounts and reserves an amount at year end for these accounts.

**Connection to Council Goal:**

Effective governance.

**Has There Been Previous Council Decision on This:**

No.

**Options and Alternatives**

- Authorize the write-off of uncollectable utility accounts.
- Do not authorize the write-off off uncollectable utility accounts and continue collection efforts.

**Background/History:**

Before any account is eligible for write-off, staff must initiate collection efforts on each account after it becomes delinquent. When collection efforts are exhausted, the account is eligible for write-off. If possible, any amounts due are applied to the customer's credit. If placed on the customer's credit, the amount owed remains active for 7 years after the delinquency date. Application against the credit of the debtor may lead to the recovery of some of the delinquent amounts in the future. This often occurs when customers apply for credit via other avenues (mortgages, car loans, apartment rentals, etc.).

Examples of miscellaneous receivable write-offs may include, but are not limited to, the following possible types: landfill, airport, fire contract, retiree insurance, damage claims, among others. Total miscellaneous receivable billings in FY12 were approximately \$11.1 million. The write-offs are approximately 0.32% of the total amount. Write-offs may include the following possible types: landfill fees, airport fees, fire contracts, retiree insurance, damage claims, among others. This is a significant improvement over last year's write-off percentage.

Pursuant to federal consumer debt collection law, delinquent account information is not subject to public release.

*Miscellaneous Receivable Write-Offs (5 Year History)*

Write-Off Year	Amt of Write-Off	Annual Amt Billed	% of Amt Billed
FY12	<del>\$35,346.96</del> <u>\$33,322.21</u>	\$11.1 million	<del>0.32%</del> <u>0.30%</u>
FY11	\$77,420.61	\$12.5 million	0.62%
FY10	\$107,059.95	\$10.6 million	1.01%
FY09	\$7,081.09	\$8.6 million	0.08%
FY08	\$3,044.91	\$9.0 million	0.03%

**Key Considerations:**

Staff, using billing statements, letters, and telephone calls, has worked the write-off accounts. When customers fail to make payments, they are denied access to future City services and, when possible, the amount owed is applied to their credit.

**Community Benefits and Considerations:**

It is sound financial management practice to reduce assets to reflect their true valuation. Failure to write-off accounts deemed uncollectable overstates the asset value of the city.

**Community Involvement:**

Inform

**Date of Council Approval:****Attachments:****Form Review**

Inbox	Reviewed By	Date
Tax License & Revenue Manager	Ranbir Cheema	08/24/2012 07:31 AM
Revenue Director (Originator)	Andy Wagemaker	08/24/2012 07:31 AM
Utilites Director	Brad Hill	08/24/2012 08:48 AM
Management Services Director	Barbara Goodrich	08/30/2012 10:43 AM

DCM - Josh Copley  
Revenue Director (Originator)  
Management Services Director  
DCM - Josh Copley

Josh Copley  
Andy Wagemaker  
Barbara Goodrich  
Josh Copley

08/31/2012 08:33 AM  
09/12/2012 08:43 AM  
09/12/2012 08:57 AM  
09/13/2012 01:26 PM  
Started On: 08/15/2012 03:00 PM

Form Started By: Andy Wagemaker

Final Approval Date: 09/13/2012

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Andy Wagemaker, Revenue Director  
**Date:** 08/15/2012  
**Meeting Date:** 09/18/2012



---

**TITLE:**

**Consideration and Approval of Transaction Privilege (Sales) Tax Account Write-offs:** Delinquent and uncollectable accounts for Fiscal Year 2012.

**RECOMMENDED ACTION:**

Approve the write-off of delinquent and uncollectable transaction privilege (sales) tax accounts in the amount of \$113,481.22.

**Policy Decision or Reason for Action:**

Generally accepted business practices allow for the write-off of uncollectable accounts. City staff has exhausted collection efforts on the eligible accounts and will no longer actively collect on them. Where possible, the amount owed has been applied against the credit of the debtor and may be collected in the future. Pursuant to federal consumer debt collection law, delinquent account information is not subject to public release. Pursuant to state law, taxpayer information is confidential.

Subsidiary Decisions Points: No subsidiary decision points.

**Financial Impact:**

None. Each year, the City anticipates that there will be uncollectable transaction privilege (sales) tax accounts and reserves an amount at year end for these accounts.

**Connection to Council Goal:**

Effective governance.

**Has There Been Previous Council Decision on This:**

No.

**Options and Alternatives**

- o Authorize the write-off of uncollectable transaction privilege (sales) tax accounts.
- o Do not authorize the write-off of uncollectable transaction privilege (sales) tax accounts and continue collection efforts.

**Background/History:**

Before any account is eligible for write-off, staff must initiate collection efforts on each account after it becomes delinquent. When collection efforts are exhausted, the account is eligible for write-off. If possible, any amounts due are applied to the customer's credit. If placed on the customer's credit, the amount owed remains active for 7 years after the delinquency date. Application against the credit of the debtor may lead to the recovery of some of the delinquent amounts in the future. This often occurs when customers apply for credit via other avenues (mortgages, car loans, apartment rentals, etc.).

In FY12, the city received approximately \$33.0 million in transaction privilege (sales) taxes, transportation taxes, BBB taxes, and franchise fees. The write-offs are 0.344% of the total amount. Each of the write-off accounts no longer operates in Flagstaff.

Pursuant to federal consumer debt collection law, delinquent account information is not subject to public release. Pursuant to state law, taxpayer information is confidential.

*Transaction Privilege (Sales) Tax Account Write-Offs (5 Year History)*

Write-Off Year	Amt of Write-Off	Annual Amt Billed	% of Amt Billed
FY12	\$113,481.22	\$33.0 million	0.344%
FY11	\$109,121.32	\$31.1 million	0.350%
FY10	\$4,866.76	\$26.8 million	0.018%
FY09	\$10,345.93	\$29.3 million	0.035%
FY08	\$114,078.88	\$32.8 million	0.348%

**Key Considerations:**

Staff, using billing statements, letters, and telephone calls, has worked the write-off accounts. When customers fail to make payments, they are denied access to future City services and, when possible, the amount owed is applied to their credit.

**Community Benefits and Considerations:**

It is sound financial management practice to reduce assets to reflect their true valuation. Failure to write-off accounts deemed uncollectable overstates the asset value of the city.

**Community Involvement:**

Inform

**Date of Council Approval:****Attachments:****Form Review**

Inbox	Reviewed By	Date
Tax License & Revenue Manager	Ranbir Cheema	08/24/2012 07:31 AM
Revenue Director (Originator)	Andy Wagemaker	08/24/2012 07:31 AM
Utilites Director	Brad Hill	08/24/2012 08:48 AM
Management Services Director	Andy Wagemaker	08/24/2012 10:37 AM
Revenue Director (Originator)	Andy Wagemaker	08/24/2012 10:38 AM
Tax License & Revenue Manager	Ranbir Cheema	08/24/2012 10:42 AM
Utilites Director	Brad Hill	08/24/2012 10:53 AM
Management Services Director	Barbara Goodrich	08/30/2012 10:48 AM

DCM - Josh Copley  
Revenue Director (Originator)  
Management Services Director  
DCM - Josh Copley

Josh Copley  
Andy Wagemaker  
Barbara Goodrich  
Josh Copley

08/31/2012 08:36 AM  
09/12/2012 08:43 AM  
09/12/2012 08:58 AM  
09/13/2012 01:26 PM  
Started On: 08/15/2012 03:38 PM

Form Started By: Andy Wagemaker

Final Approval Date: 09/13/2012

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Andy Wagemaker, Revenue Director  
**Date:** 08/21/2012  
**Meeting Date:** 09/18/2012



---

**TITLE:**

**Consideration and Approval of Non-sufficient Funds (NSF) Check Write-offs:** Delinquent and uncollectible accounts for Fiscal Year 2012.

**RECOMMENDED ACTION:**

Approve the write-off of delinquent and uncollectable Non-sufficient Funds (NSF) Checks in the amount of \$4,566.55.

**Policy Decision or Reason for Action:**

Generally accepted business practices allow for the write-off of uncollectable checks. City staff has exhausted collection efforts on the eligible accounts and will no longer actively collect on them. Where possible, the amount owed has been applied against the credit of the debtor and may be collected in the future. [Pursuant to federal consumer debt collection law, delinquent account information is not subject to public release.](#)

Subsidiary Decisions Points: No subsidiary decision points.

**Financial Impact:**

None. Each year, the City anticipates that there will be uncollectable non-sufficient funds (NSF) checks and reserves an amount at year end for these accounts.

**Connection to Council Goal:**

Effective governance.

**Has There Been Previous Council Decision on This:**

No.

**Options and Alternatives**

- Authorize the write-off of uncollectable non-sufficient funds (NSF) checks.
- Do not authorize the write-off of uncollectable non-sufficient funds (NSF) checks and continue collection efforts.

**Background/History:**

Before any account is eligible for write-off, staff must initiate collection efforts on each account after it becomes delinquent. When collection efforts are exhausted, the account is eligible for write-off. If possible, any amounts due are applied to the customer's credit. If placed on the customer's credit, the amount owed remains active for 7 years after the delinquency date. Application against the credit of the debtor may lead to the recovery of some of the delinquent amounts in the future. This often occurs when customers apply for credit via other avenues (mortgages, car loans, apartment rentals, etc.).

In FY12, the city is writing off Insufficient Funds (NSF) Checks for the first time in at least a decade. Many of the checks are holdovers from an outside collection agency the City used from approximately 2004 to 2008. Given that the amounts are usually small, NSF check write-offs may not happen on a yearly basis. Instead, NSF check write-offs will happen on an "as needed" basis.

Pursuant to federal consumer debt collection law, delinquent account information is not subject to public release.

*Insufficient Funds (NSF) Checks History*

Write-Off Year	Amt of Write-Off
FY12	\$4,566.55

**Key Considerations:**

Staff, using billing statements, letters, and telephone calls, has worked the write-off checks. When customers fail to make payments, they are denied access to future City services and, when possible, the amount owed is applied to their credit.

**Community Benefits and Considerations:**

It is sound financial management practice to reduce assets to reflect their true valuation. Failure to write-off accounts deemed uncollectable overstates the asset value of the city.

**Community Involvement:**

Inform

**Date of Council Approval:**

**Attachments:**

**Form Review**

Inbox	Reviewed By	Date
Tax License & Revenue Manager	Ranbir Cheema	08/24/2012 07:31 AM
Revenue Director (Originator)	Andy Wagemaker	08/24/2012 07:31 AM
Utilites Director	Brad Hill	08/24/2012 08:48 AM
Management Services Director	Barbara Goodrich	08/30/2012 10:54 AM
DCM - Josh Copley	Josh Copley	08/31/2012 08:38 AM
Revenue Director (Originator)	Andy Wagemaker	09/12/2012 08:43 AM
Management Services Director	Barbara Goodrich	09/12/2012 08:58 AM
DCM - Josh Copley	Josh Copley	09/13/2012 01:26 PM
Form Started By: Andy Wagemaker		Started On: 08/21/2012 08:36 AM
Final Approval Date: 09/13/2012		

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Erin Young, Water Resources Manager  
**Date:** 08/21/2012  
**Meeting Date:** 09/18/2012



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**TITLE:**

**Consideration and Approval of Acceptance of Grant Funding:** U.S. Department of the Interior, Bureau of Reclamation FFY 2012 North Central Arizona Water Supply Grant for the Red Gap Ranch Feasibility Study in the amount of \$300,000.

**RECOMMENDED ACTION:**

Authorize acceptance of grant funding in the amount of \$300,000 from U.S. Department of the Interior, Bureau of Reclamation for cultural, biological and groundwater resource assessments at Red Gap Ranch.

**Policy Decision or Reason for Action:**

Acceptance of this grant will permit the City to receive Federal funds through the U.S. Department of the Interior, Bureau of Reclamation Rural Water Supply Program in order to continue conducting the Red Gap Ranch portion of the North Central Arizona Water Supply Feasibility Study.

**Financial Impact:**

The City is authorized to receive the \$300,000. The City has met its minimum required contribution of 59% cost-share with no further cash obligation because the City is pledging \$1,662,451.80 (which equals 85%) for work already completed at Red Gap Ranch.

**Connection to Council Goal:**

A sustainable community through economic vitality, environmental protection and social inclusion; Collaborating with our regional partners on this study effort will ensure the studies meet the guidelines of different entities.

**Has There Been Previous Council Decision on This:**

Yes. On August 23, 2011, Council approved an Agreement between Reclamation and other stakeholders to participate in and provide funds and in-kind services for the North Central Arizona Water Supply Feasibility Study.

## **Options and Alternatives**

1) Approve and accept the \$300,000 grant from Reclamation; 2) Do not accept the grant. The City could elect to not accept the Federal grant and pay its own way on the resources assessments, however, the City would miss an opportunity to meet its cost share obligation and accept grant funds as per the North Central Arizona Water Supply Feasibility Study Agreement.

## **Background/History:**

The Coconino Plateau Water Advisory Council completed the North Central Arizona Water Supply Appraisal Study in 2006. That study identified that the City of Flagstaff may experience a shortfall of water supplies at 8,027 AF/year by 2050. Scenario planning conducted by the City, as discussed in the Water Resources Master Plan (WRMP), estimates that under a normal climate scenario, and assuming a historical growth rate of 1.4%, the shortfall could be upwards of 12,100 AF/year at full development in 2080. The Appraisal Study identified numerous solutions to this long-term water supply shortfall. Reclamation is currently investigating the feasibility of the various projects that were identified in the Appraisal Study, one of which is the Red Gap Ranch project.

On August 23, 2011 City Council approved an Agreement between Reclamation, Coconino County, City of Flagstaff, City of Page and the Arizona Department of Water Resources to provide funds and in-kind services for the North Central Arizona Water Supply Feasibility Study (Attachment A). That Agreement permits the City to receive the \$300,000 in Federal funds by meeting the non-Federal cost share of 59%. The maximum cost share the City is liable to provide (in-kind or direct) for the Red Gap Ranch component of the Feasibility Study is \$1.18 million in accordance to Attachment B. The City pledged the following work to receive the \$300,000 grant (Attachment C), mostly funded by City Utilities through WIFA Federal loans, towards the cost share:

- 1) \$28,148 for the Red Gap Ranch Data Analysis Report by HydroSystems, Inc., in 2009
- 2) \$1,634,303.80 for the drilling of six shallow wells and setting surface casing at four additional sites at Red Gap Ranch by Layne Christensen Company, in 2011

In total, approximately \$1.66 million, was pledged in the grant application towards the cost share Agreement (Attachment C). While the City was required to match the \$300,000 at 59%, the dollar amount in excess of this will be applied towards future Reclamation and Rural Water Supply Program grants as they become available. By the City executing the grant, it is recognized by Reclamation that the City has also met its maximum cost share obligation of \$1.18 million.

As mentioned previously, the City is awarded the grant of \$300,000 to hire environmental and hydrologic consulting firms for cultural, biological and water resources assessments (EA). This effort will represent the start of the required Environmental Impact Statement (EIS) process pertaining to the future pumping of groundwater at Red Gap Ranch. This effort will also satisfy a provision in the Stipulation between the City and the Navajo Nation (see section on "Key Considerations") to work together to evaluate environmental impacts of pumping groundwater by the Navajo and by the City.

An EA, as described in Section 1508.9 of the Council of Environmental Quality's National Environmental Policy Act (NEPA) Regulations, is a concise public document which has three defined functions:

- 1) it briefly provides sufficient evidence and analysis for determining whether to prepare an EIS;
- 2) it aids an agency's compliance with NEPA when no EIS is necessary, i.e., it helps to identify better alternatives and mitigation measures; and
- 3) it facilitates preparation of an EIS when one is necessary - Section 1508.9(a).

Completion of each EA will be used to prepare a site-specific EIS proposal and scope consistent with NEPA and Reclamation policy.

**Key Considerations:**

Acceptance of these funds will be used to satisfy Provision No. 3 written in the 2011 Stipulation between the City and the Navajo Nation (Superior Court of the State of Arizona, Civil No. 6417), part of which states: "The Parties agree to work cooperatively and in good faith to evaluate environmental impacts, if any, from both the City's pumping of Underground Water at Red Gap Ranch and the Navajo Nation's pumping of Underground Water along the south-western portion of the Navajo Nation." The EA scope of work process involves collaboration of all stakeholders within the study group, which includes the Navajo, and it is through this relationship that the provision of the Stipulation is satisfied.

Additionally, Council approved in July of this year, a Joint Funding Agreement with the U.S. Geological Survey (USGS) for the monitoring of the C Aquifer over an area that includes Flagstaff to Red Gap Ranch and baseflow to the Little Colorado River, Clear Creek and Chevelon Creek. The Navajo Nation has been a financial contributor to this data collection effort since 2005 and Staff recognized this collaborative opportunity to support monitoring of the C Aquifer within a groundwater basin that both parties share. Data from this effort is necessary baseline information for the water resources assessment task of the Scope of Work.

**Community Benefits and Considerations:**

The community will benefit not only financially by receiving Federal funds with no further cash obligation, but also in that application of these funds as described herein support two objectives: the work necessary to start the Environmental Impact Statement process for wells and infrastructure at Red Gap Ranch, and to fulfill a provision in the 2011 Stipulation with the Navajo Nation to work collaboratively on evaluating any environmental impacts of pumping groundwater by either Party. Ultimately, the community will benefit through working in a collaborative manner to derive at a regional solution for a long-term, sustainable water supply.

**Community Involvement:**

The Coconino Plateau Water Advisory Council has been actively involved in the development of the North Central Arizona Water Supply Appraisal Level study and in developing the Scope of Work for the cultural, biological and water resources assessments. Moving forward with the environmental and hydrological assessments will involve collaboration with the Navajo Nation, U.S. Fish and Wildlife, U.S. Department of Interior, Bureau of Reclamation and others to ensure stakeholder concerns are represented and addressed.

**Date of Council Approval:**

- 
- Attachments:**     [Attachment A - USBR North Central AZ Water Supply Feasibility Study Agreement #11-GI-32-0030](#)  
                              [Attachment B - Non-Federal Partners Cost Breakdown Agreement](#)  
                              [Attachment C - Reclamation Grant Award](#)
- 

**Form Review**

Inbox	Reviewed By	Date
Grants Manager	Stacey Brechler-Knaggs	09/04/2012 03:33 PM
Finance Director	Rick Tadder	09/05/2012 07:52 AM
Utilites Director	Brad Hill	09/05/2012 08:34 AM
Legal Assistant	Vicki Baker	09/05/2012 08:48 AM
Senior Assistant City Attorney DW	David Womochil	09/05/2012 10:11 AM
DCM - Josh Copley	Josh Copley	09/06/2012 02:36 PM
Utilites Director	Brad Hill	09/10/2012 03:17 PM
DCM - Josh Copley	Josh Copley	09/13/2012 01:26 PM

Form Started By: Erin Young

Started On: 08/21/2012 09:26 AM

Final Approval Date: 09/13/2012

# Attachment A

AGREEMENT NO. 11-GI -32-0030

BETWEEN THE BUREAU OF RECLAMATION,  
COCONINO COUNTY,  
THE CITY OF FLAGSTAFF,  
THE CITY OF PAGE,  
AND THE ARIZONA DEPARTMENT OF WATER RESOURCES  
TO PROVIDE FUNDS AND IN-KIND SERVICES FOR  
THE NORTH CENTRAL ARIZONA WATER SUPPLY FEASIBILITY STUDY

1. THIS AGREEMENT is made and entered into by and among Coconino County, hereinafter referred to as "County"; the city of Flagstaff, hereinafter referred to as "Flagstaff", the city of Page, hereinafter referred to as "Page"; the Arizona Department of Water Resources, hereinafter referred to as "ADWR"; which at times are collectively referred to as "Non-Federal Partners"; and the Bureau of Reclamation, hereinafter referred to as "Reclamation; all of which are at times collectively referred to as "Parties," pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as Reclamation Law, the Act of March 4, 1921, referred to as the contributed Funds Act, (Public Law 105-749), the Rural Water Supply Act of 2006, (Public Law 109-451), which authorized the expenditure of funds to conduct the North Central Arizona Water Supply Feasibility Study (Study) and Arizona Revised Statutes (A.R.S.) § 11-952.

WITNESS TO

2. EXPLANATORY RECITALS

2.1 WHEREAS, Reclamation in the above mentioned Acts has been authorized by Congress for said Study; and

2.2 WHEREAS, Study activities shall include, but are not limited to, those shown in the attached Plan of Study hereto as Attachment **A and incorporated** herein by reference; and

2.3 WHEREAS, Reclamation has programmed funds under the Rural Water Supply Program to conduct said Study; and

2.4 WHEREAS, Reclamation seeks a 59 percent match-of-study costs by the Non-Federal Partners and other cost share participants through direct funding or in-kind services; and

2.5 WHEREAS, the Non-Federal Partners seek to support and participate in said Study; and

2.6 WHEREAS, a Reclamation "Study Manager", as described herein, has been selected to provide direction in the development and completion of said Study; and

2.7 WHEREAS, a "Technical Advisory Committee" (TAC), as described herein, shall provide expert peer review and consultation during the course of said Study.

2.8 WHEREAS, an Advisory Council (AC), as described herein has been formed to review and comment on the results of said study.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, Parties hereto agree as follows:

### 3. SERVICES TO BE PERFORMED

3.1 To the extent that funds are reimbursed or in-kind services are provided by the Non-Federal Partners, and that Federal funds are appropriated for this purpose, Reclamation shall, with its staff or by contract, use said funds and in-kind services to complete the tasks outlined by the TAC in the Plan of Study (Attachment A).

3.2 Upon completion, Reclamation shall transmit the draft Study report as defined in the Plan of Study (Attachment A) to the TAC and members of the AC. TAC and AC members shall review and comment on said draft Study report and supporting work products. Reclamation will, to the fullest extent possible, consider and incorporate TAC and AC member comments into the final Study report.

### 4. TERM OF AGREEMENT

This Agreement shall become effective upon execution by all parties, and shall remain in effect until the Study is completed, unless otherwise terminated as provided herein.

### 5. PROGRESS REPORTS

Reclamation will submit to the Non-Federal Partners on a bi-annual basis, a report of actual Study expenditures. A separate account will be maintained by Reclamation for all the work performed on the Study, with costs identifiable by Study task, as appropriate. This account and related records will be available for inspection, audit, and reproduction by the Non-Federal Partners without charge

during normal business hours. All financial records of either Reclamation or the Non-Federal Partners pertaining to this Study shall be open to inspection, review, and audit by authorized representatives of Non-Federal Partners or Reclamation, respectively and shall be maintained for a period of 5 years after completion of this Agreement. If work is not being done in a mutually satisfactory manner, either Party may terminate this agreement in accordance with Article 15.

## 6. STUDY MANAGER

- 6.1 The Parties hereby agree that Reclamation will provide a Study Manager to perform and carry out the duties and responsibilities required of the Study Manager under this agreement. The Study Manager shall pursue the work diligently, with an objective of meeting the schedule as found in the Plan of Study (Attachment A).
- 6.2 Subject only to the express limitations of this agreement, the Study Manager is authorized to incur costs, liabilities, and obligations up to the amounts approved and funded by the Parties to this agreement and to perform or arrange for the performance of Study investigations.
- 6.3 The Study Manager shall organize and coordinate a multi-disciplinary Technical Advisory Committee (TAC) to conduct the Study activities as described in the Plan of Study (Attachment A).

## 7. TECHNICAL ADVISORY COMMITTEE (TAC)

- 7.1 As a means of guiding the performance of the Study, securing effective cooperation and interchange of information, and providing consultation on a prompt and orderly basis among the Parties in connection with various administrative and technical matters which may arise from time to time in connection with this Agreement, the TAC is hereby established.
- 7.2 The TAC is comprised of representatives from Reclamation, the Non-Federal Partners, and other participating agencies, as appropriate, who are professionals in the fields of water resource planning, engineering, geology, surface and groundwater hydrology, economics, and social and environmental fields who represent the primary water demand participants and/or their representatives. The TAC provides expert peer review and consultation on the direction and results of the Study.

8. ADVISORY COUNCIL (AC)

The AC is comprised of a representative of each of the Parties. The AC shall serve in the capacity of a “steering committee” and will help facilitate local participation throughout the study schedule, provide logistical support during public meetings and provide peer review of the study. The Study Manager will provide updates to the AC, as requested, including TAC meeting notices and minutes.

9. STUDY FUNDING

9.1 Non-Federal funds provided to Reclamation, through direct funding or in-kind services by or through the Non-Federal Partners and other cost share participants will be 59 percent of the actual costs of the work performed under this Agreement. Reclamation will fund the balance of the study costs. Reclamation funding is subject to annual appropriation by Congress of the United States. If funds available to Reclamation are interrupted, or if the Non-Federal Partners and other cost share participants wish to accelerate the pace of the Study where feasible, the Non-Federal Partners and other cost share participants may advance additional funds for Study purposed. Such additional funds may, at the option of the Non-Federal Partners and other cost share participants, be counted as an increase in the cost share of study costs.

9.2 The total estimated cost of the Study is approximately \$15,000,000. The total payments and in-kind services by the Non-Federal Partners and other cost share participants under this Agreement shall not exceed \$8,850,000.

10. REIMBURSEMENT OF FUNDS

10.1 The Non-Federal Partners and other cost share participants shall reimburse Reclamation its share of the funds necessary to cover estimated expenditures for the work defined in the Plan of Study.

11. IN-KIND SERVICES

11.1 In-kind services provided by the Non-Federal Partners shall be comprised of tasks that would be otherwise performed by Reclamation in completing the Study. Allowability of these costs will be determined in accordance with the Office of Management and Budget (OMB) Circular A-87, revised May 10, 2004, “Cost Principles for State and Local Governments”. Allowability of costs for in-kind services provided by others on behalf of the Nation will be determined by either OMB Circular A-21, “Cost Principles for State and Local Governments” revised May 10, 2002, OMB Circular A-87. “Cost Principles for State and Local

Governments” revised May 10, 2004, or OMB Circular A-122, “Cost Principles for Non-Profit Organizations, “ revised May 10, 2004, as appropriate. Copies of OMB Circulars are available on the Internet at [http://www.whitehouse.gov/omb/grants/grants\\_circulars.html](http://www.whitehouse.gov/omb/grants/grants_circulars.html).

- 11.2 The value, as provided in the Plan of Study, of in-kind services provided by the Non-Federal Partners, or others on behalf of the Non-Federal Partners, shall be credited toward the Non-Federal cost share of the Study costs, as documentation is received that said in-kind services have been accomplished. Such documentation is required on at least a semi-annual basis. The value of those services will generally be compared to what it would have cost Reclamation to provide the same service and be in accordance with the OMB cost principle.
- 11.3 Credit given for in-kind services performed prior to the date of enactment of this agreement will be limited to 1) those costs incurred after September 1, 2010 for preparation of the Scope of this Study and the resulting cost-share Agreement and 2) those costs incurred after October 28, 2009 which focus on the availability of additional water supplies in the study area.
- 11.4 Source records supporting in-kind service credit will be retained for three years following completion of the Study.

## 12. CHANGES AND DISPUTES

- 12.1 It is recognized that the schedule of activities and costs of conducting the Study are estimates based on perceived requirements prior to initiation, and that changes are likely to occur. It is also anticipated that the Plan of Study will be revised from time to time as changes occur in the physical dimensions of the project plan and alternatives, the technical effort needed to complete the Study, and the cost of the Study. If and when the Non-Federal Partners, acting through their representatives on the TAC, and Reclamation agree that a change in the activities or costs described in the Plan of Study is necessary and feasible, the Plan of Study, and thereby this agreement, shall be modified in writing to reflect the change(s) by having all Parties sign as to the agreed upon. However, no amendment to this agreement shall be effective unless in writing and signed by all Parties.
- 12.2 Each year, representatives of the TAC will develop a work plan identifying tasks, outlined in the Plan of Study, to be completed based on that years appropriations of both Federal and Non-Federal funds.
- 12.3 Should disputes arise over the provisions of, or performance under this Agreement, representatives of the Non-Federal Partners and Reclamation will

attempt to resolve the situation. Should the dispute remain unresolved, termination of this Agreement will follow procedures described under Article 15.

### 13. LIABILITY

13.1 Reclamation shall perform its obligations under this Agreement in the capacity of a Federal agency. No Party to this agreement shall be considered co-venture, agent, employee, or a representative of the other. No Party assumes liability for claims or actions arising solely out of the performance of such work by the other.

13.2 Liability of the United States resulting from the negligence of its employees shall be governed by the Federal Tort Claims Act (28 U.S.C. 2671, et seq.). The Non-Federal Partners recognize that the Federal Tort Claims Act operates to provide liability coverage for the United States Government and its employees in lieu of ordinary insurance coverage.

### 14. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

The expenditure or advance of any money or the performance of any obligation by the United States under this Agreement shall be contingent upon appropriation or allotment of funds by Congress. Likewise, the expenditure or advance of any money or the performance of any obligation by the Non-Federal Partners shall be contingent upon appropriation or allotment of funds by their agency. Absence of appropriation or allotment of funds shall relieve either Reclamation or the Non-Federal Partners from any obligation under this Agreement. No liability shall accrue to either the United States or the Non-Federal Partners in case funds are not appropriated.

### 15. TERMINATION

15.1 The Non-Federal Partners or Reclamation may terminate work under this agreement by giving 30 days written notice of termination.

15.2 Pursuant to A.R.S. § 38-511, the state, its political subdivisions or any department or agency of either may, within three (3) years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. A cancellation made pursuant to this statutory

provision shall be effective when the other parties to contract receive written notice of the cancellation unless the notice specifies a later time.

- 15.3. In the event of termination prior to completion of the work, costs incurred by the Parties up to the effective date of the termination that could not be canceled under reasonable pursuit will be reimbursed as mutually agreed and documented. A concluding report, summarizing Plan of Study accomplishments at the time of termination, will be prepared by Reclamation and made available to the Non-Federal Partners and other interested Federal and State agencies.

## 16. AVAILABILITY OF INFORMATION

- 16.1 All information and data obtained or developed by Reclamation, in connection with development of the Study (exclusive of intra-governmental communications) shall be available upon request, except where prohibited by law, to the Non-Federal Partners without further charge. However, use of said reports, data, and information shall appropriately reference Reclamation as the source.
- 16.2 Data compiled and the results of studies performed under this Agreement will become public domain upon the completion of the investigation and project report, or upon completion of a concluding report under the provisions of Article 15.

## 17. DELAYS

- 17.1 To the extent that performance of an obligation under this Agreement is prevented or delayed by any cause which is beyond the reasonable control of any Party to the Agreement, the non-performing Party shall not be deemed to be in default.
- 17.2 Should the non-performing Party be deemed to be in default, the Non-Federal Partners and Reclamation will follow the procedures described in Article 12.

## 18. JURISDICTION

Federal law shall apply in the interpretation and enforcement of this Agreement. Exclusive jurisdiction shall be in the Federal courts.

## 19. JUDICIAL REMEDIES NOT FORECLOSED

Nothing herein shall be construed as: (a) Depriving the Non-Federal Partners from pursuing and prosecuting any remedy in any appropriate court of the United States

or appropriate venue which would otherwise be available to the Non-Federal Partners; or (b) Depriving the Non-Federal Partners of any defense thereto which would otherwise be available.

20. NOTICES AND AUTHORIZED REPRESENTATIVES

Notices given pursuant to the provisions of this Agreement, or which are necessary to carry out its provisions, must be in writing and delivered personally to whom the notice is to be given, or mailed, postage prepaid, addressed to that authorized representative. The Parties' authorized representatives and their addresses for this purpose are as follows:

To the County:

Ms. Sue Pratt,  
Coconino County  
2500 N. Fort Valley Road  
Flagstaff, Arizona 86001  
Phone: (928) 679-8867  
E-mail: [spratt@coconino.az.gov](mailto:spratt@coconino.az.gov)

To Flagstaff:

Mr. Brad Hill  
City of Flagstaff  
211 West Aspen Ave.  
Flagstaff, Arizona 86001  
Phone: (928) 213-2420  
E-mail: [bhill@flagstaffaz.gov](mailto:bhill@flagstaffaz.gov)

To Page:

John Kocjan  
City of Page  
Box 1180  
Page, Az. 86040  
Phone: (928) 691-6230  
Email: [Koc45@thebigpond.com](mailto:Koc45@thebigpond.com)

To ADWR:

Invoices to:

Ms. Marie Horn  
Arizona Department of Water Resources  
3550 North Central Avenue  
Phoenix, Arizona 85012  
Phone: (602) 771-8509  
Fax: (602) 771-8684  
Email: [mehorn@azwater.gov](mailto:mehorn@azwater.gov)

Correspondence, reports and inquiries regarding this Agreement to:

Mr. Tom Whitmer  
Arizona Department of Water Resources  
3550 North Central Avenue  
Phoenix, Arizona 85012  
Phone: (602) 771-8416  
Email: [tgwhitmer@azwater.gov](mailto:tgwhitmer@azwater.gov)

To Reclamation:

Ms. Leslie Meyers  
Phoenix Area Office  
6150 W. Thunderbird Rd.  
Glendale, AZ 85306  
Phone: (623) 773-6276  
Email: [lmeyers@usbr.gov](mailto:lmeyers@usbr.gov)

Any Party may change its authorized representative in the future by letter to the other Parties signed by the agency's responsible authority.

21. INTEGRATION

No representations or promises are binding on Reclamation or the Non-Federal Partners, except those representations and promises contained in this Agreement or in some future written representations or promises signed by all Parties.

22. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this Agreement, or to any benefit arising from it.

23. BOOKS, RECORDS AND INSPECTION

Pursuant to A.R.S. § 35-214, Reclamation shall retain and shall contractually require each contractor and subcontractor to retain all data, books, accounts, reports, files and other records ("records") relating to this Agreement for a period of five (5) years after completion of the Agreement. All records shall be subject to inspection and audit by the State of Arizona at reasonable times. Upon request, Reclamation shall produce the original of any or all such records.

24. NON-DISCRIMINATION

The Non-Federal Partners shall comply with Arizona State Executive Order No. 75-5 as modified by Executive Order 2009-9, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules and regulations, including the Americans with Disabilities Act.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the last date and year written below.

Coconino County

Coconino County

By: *Lena Fowler*  
Lena Fowler, Chairwoman  
Coconino County board of Supervisors

Date: October 21, 2011



APPROVED AS TO FORM and found to be within Powers of the County of Coconino under Arizona Law

*Jean Wilcox*  
Jean Wilcox, Deputy Coconino County Attorney

Date: 10-19-11

City of Flagstaff

By: *Sara Presler*  
Sara Presler  
Mayor  
City of Flagstaff

Date: 11-10-11

ATTEST:

*Margi Brown*  
City Clerk, City of Flagstaff

APPROVED AS TO FORM:

*[Signature]*  
City Attorney, City of Flagstaff

City of Page

By: Bill Diak

Bill Diak  
Mayor  
City of Page

Date: 11/01/11

Arizona Department of Water Resources

By: Sandra Fabritz-Whitney DEPUTY DIRECTOR

Sandra Fabritz-Whitney  
Director  
Arizona Department of Water Resources

Date: \_\_\_\_\_

Approved By: Kenneth C. Slowinski

Kenneth C. Slowinski  
Legal Counsel  
Arizona Department of Water Resources

Date: 10-3-2011

Bureau of Reclamation  
United States Department of the Interior

By:   
Randy Chandler  
Area Manager  
Phoenix Area Office

Date: 11/30/11



## ATTACHMENT A

### North Central Arizona Water Supply Feasibility Study Plan of Study

## 1.0 INTRODUCTION

### 1.1 PURPOSE OF THE PLAN OF STUDY

This Plan of Study (POS) is to be used as a guide for the preparation of a **feasibility study** of alternatives identified in the North Central Arizona Water Supply Study (Appraisal Study). The POS will:

- Chart the course of action that will be followed.
- Suggest the general extent of the activities related to preparing the study reports.
- Identify and define significant technical components.
- Develop an overall scope and cost for conducting the study and preparing the reports.

Each year, based on Federal Appropriations and non-Federal cost share commitments, an annual work plan will be developed as a portion of the overall scope. The FY2011 annual work plan is Appendix 1 to this document. Future work plans will likewise be added to this document as they are developed and approved by the cost share parties.

As the study progresses, modifications to the current identified items and proposed actions and this POS may be made through mutual agreement of the cost share parties.

### 1.2 PURPOSE OF THE STUDY

This feasibility study is a detailed investigation specifically authorized by law to determine the desirability of seeking congressional authorization for implementation. It will include the acquisition of primary data and participation of partners to develop a preferred plan from a range of alternative courses of action to meet recognized needs, problems and opportunities associated with the planning area.

### 1.3 AUTHORITY

Authority to conduct this study is found in Title I of the Rural Water Supply Act, P.L. 109-451.

#### 1.4 EVENTS LEADING TO STUDY INITIATION

The Coconino Plateau Water Advisory Council (CPWAC) is an organization consisting of 28 federal, state and local government entities, and Tribes with land and water use management responsibilities, as well as public and private interests. The CPWAC was established in 2000 to facilitate and implement sound water resource management and conservation strategies on the Coconino Plateau in Northern Arizona. Since 2000, numerous studies have been completed by or at the request of the CPWAC working in concert with the Bureau of Reclamation, US Geological Survey, and the Arizona Department of Water Resources. One such study is the 2006 Appraisal Study noted above.

The purpose of the Appraisal Study, completed by Reclamation in cooperation with the CPWAC, was to determine:

1. If there were unmet water demands projected in the Study area in the year 2050;
2. If demand was unmet, is there at least one regional alternative capable of meeting future demands; and
3. Is there a Federal objective in the alternatives to justify further s by Reclamation and the partners at the Feasibility Study level?

Reclamation's *North Central Arizona Water Supply Study, Report of Findings*, October 2006, concluded that by 2050 there will be an annual unmet water demand of 28,100 acre-feet in the Study area. Six regional alternatives were developed to meet the demands of the entire Study area. Based on analysis and evaluation of the six alternatives, four were deemed to be viable and to contain specific Federal objectives. In October 2006, the CPWAC voted unanimously to seek Feasibility authority to study the four viable alternatives identified in the Appraisal Study. The CPWAC believes that based on their leadership and facilitation of the Appraisal Study and the many diverse interest of the participants, Reclamation is uniquely qualified to perform this Feasibility Study.

#### 1.5 PROBLEMS AND NEED FOR THE STUDY

The Coconino Plateau encompasses an area that includes more than 12 Navajo Nation chapters, all of the Hopi Tribe villages, 12 non-tribal communities, and Grand Canyon National Park. The primary source of water for the region is groundwater. What little surface water does exist provides habitat for numerous listed and endangered species and/or is highly susceptible to drought which reduces its reliability and limits its use for domestic and municipal purposes.

The area's urgent and compelling need for water is based on the physical absence of available water and infrastructure; more than 50% of the Navajo Nation chapters and Hopi Tribe villages are required to haul water to meet their basic needs. The location of these sources of water for hauling are also limited and may require tribal community members to travel up to 60 miles one way in order to obtain water. Many of the available supplies they haul from also do not meet safe drinking water standards, which contribute to a reduction in public health and safety. Throughout the region there are pockets of contaminated groundwater that exceed the Safe

Drinking Water standards. The parameter most frequently exceeded in the well and spring sites measured is arsenic. There is a notable arsenic cluster in the vicinity of the several Hopi villages, all of which limits further development of groundwater resources without implementing costly water treatment facilities.

Groundwater mining is also occurring throughout the Coconino Plateau region, which will limit the availability of supplies even further as well as cause unacceptable impacts to both environmental and cultural resources. The Appraisal Study completed for the Coconino Plateau region in 2006 identified an unmet municipal water demand for the region of more than 28,100 acre-feet annually by the year 2050. The Appraisal Study also evaluated whether or not the projected unmet water demand for the region could be met by increasing conservation efforts. The results of this analysis indicated that there would still be an unmet water demand of more than 22,000 acre-feet annually by the year 2050 if an additional 20 percent reduction in water demands could be obtained through enhanced conservation activities over-and-above what is currently in place throughout the region.

Conservation practices are and have been emphasized and implemented extensively by non-tribal communities throughout the region. The members of the CPWAC recognize the importance of conservation in the management of all natural resources and have been actively involved in conservation education as well as developing a water ethic and sustainable water budget for the region. Flagstaff, the largest population center in the region as an example, has implemented extensive conservation measures over the past 20 years that have reduced its total gallons per capita per daily use (GPCD) from a high of 186 in 1989 to 114 last year. Flagstaff's 114 GPCD is a total GPCD, which is determined by dividing the total potable water delivered for all uses (municipal, commercial, industrial) by the total population and then dividing that number by the number of days in a year (365). As a comparison a study conducted by the American Water Works Association determined the average "residential" GPCD including outdoor use is about 170. Although Flagstaff's population has increased over the past 10 years, their strict conservation efforts have resulted in an actual decrease in total potable water use in that same time period.

For tribal communities, conservation is not a realistic option because of the currently limited availability of supply and infrastructure. As stated previously almost 50% of tribal members currently are required to haul water to meet their basic needs. The GPCD for tribal members that haul water is less than 10. For tribal members fortunate enough to have access to a water delivery system the average GPCD, which includes commercial and industrial uses, is around 89.

Without the implementation of a project that will augment and/or replace current supplies numerous tribal communities will be without any source of water to meet not only the legal requirements for drinking water standards, but their own basic needs. For the non-tribal communities continuation of groundwater mining will also result in reduced availability of supplies, contribute to the deterioration of water quality, and result in unacceptable impacts to the environment and ultimately to endangered species. Many of the springs that may be impacted by groundwater mining also serve as the water supply to the Havasupai Tribe located within the Grand Canyon.

Conducting a Feasibility Study of four water augmentation alternatives in the Appraisal Study is essential for determining the most efficient and cost effective course of action to pursue that will ensure the availability and sustainability of water resources to meet current and projected municipal water demands for all communities on the Coconino Plateau. The implementation of a rural water supply alternative on the Coconino Plateau will also mitigate issues with federal, tribal, state, and regional laws associated with, but not limited to, the Safe Drinking Water Act, Endangered Species Act, and water management.

## 1.6 OPPORTUNITIES, ISSUES AND CONSTRAINTS

The CPWAC is unique in that it brings together a diversity of interests (tribal, local, state, federal, environmental, etc.) representing the entire Coconino Plateau with a common goal and commitment to identify and develop one or more sustainable solutions that would ensure an adequate long term supply of water is available to meet the current and future long term needs of all people while preserving the environmental health on the Coconino Plateau. The uniqueness of this effort is a recognition and commitment by all members of the CPWAC that the water resource needs of all tribal and non-tribal communities and the surrounding environment on the Coconino Plateau are addressed equally and cooperatively.

Nearly 40 percent of tribal members live without any sort of plumbing and almost 50 percent haul water to meet their basic needs. Households that haul water are also subjected to an additional economic hardship associated with the total economic cost for hauling the water that has been estimated at nearly \$37,000 per acre-foot (\$113 per 1,000 gallons). The total economic cost includes the costs to purchase the water for the container, for the transportation, and for the opportunity cost of time (Merchant, 2005). To make matters worse, many of the water haulers rely on non-potable water sources for their supply and/or unsanitary tanks for the transport and storage of the water contributing to the reduced health and safety of tribal members. These sources and tanks are susceptible to microbial contamination (U.S. EPA, 2001; Ecosystems Management, Inc., 2004).

The unincorporated non-tribal areas receive water through a variety of means including hauling, small community or private systems, or shared or individual wells. In many cases the hauled water comes from a municipal provider from one of the incorporated communities, thus having an impact on their system demands. Addressing these demands on a regional basis creates an economy of scale, making this the most sensible approach. Given the limited options for augmenting supplies to meet future unmet demands, a regional approach to pursue a regional solution minimizes duplication of effort and imprudent use of limited resources.

Given the complex hydrogeology of the region, the significant depth to groundwater and limited surface water sources there is already great reliance on transporting water substantial distances in order to serve these dispersed areas. As some of these areas develop their own sources of water, the impacts of pumping from these deep wells (in excess of 3000' in some parts of the County) are felt by other communities including the Havasupai Tribe, and within the natural spring system of Grand Canyon National Park. The Feasibility Study will consider the different components of each of the identified alternatives not only for how they meet the needs of the demand centers, but also as they may impact the "downstream" communities.

1.7 DESCRIPTION OF THE STUDY AREA

The Study Area will consist of a large portion of Coconino County, AZ including 12 western Navajo Nation chapters, all of the Hopi villages, the cities of Flagstaff, Williams, Tusayan and the surrounding unincorporated communities and the Grand Canyon.

Figure 1 is a map of the North Central Arizona Water Supply Feasibility Study area.

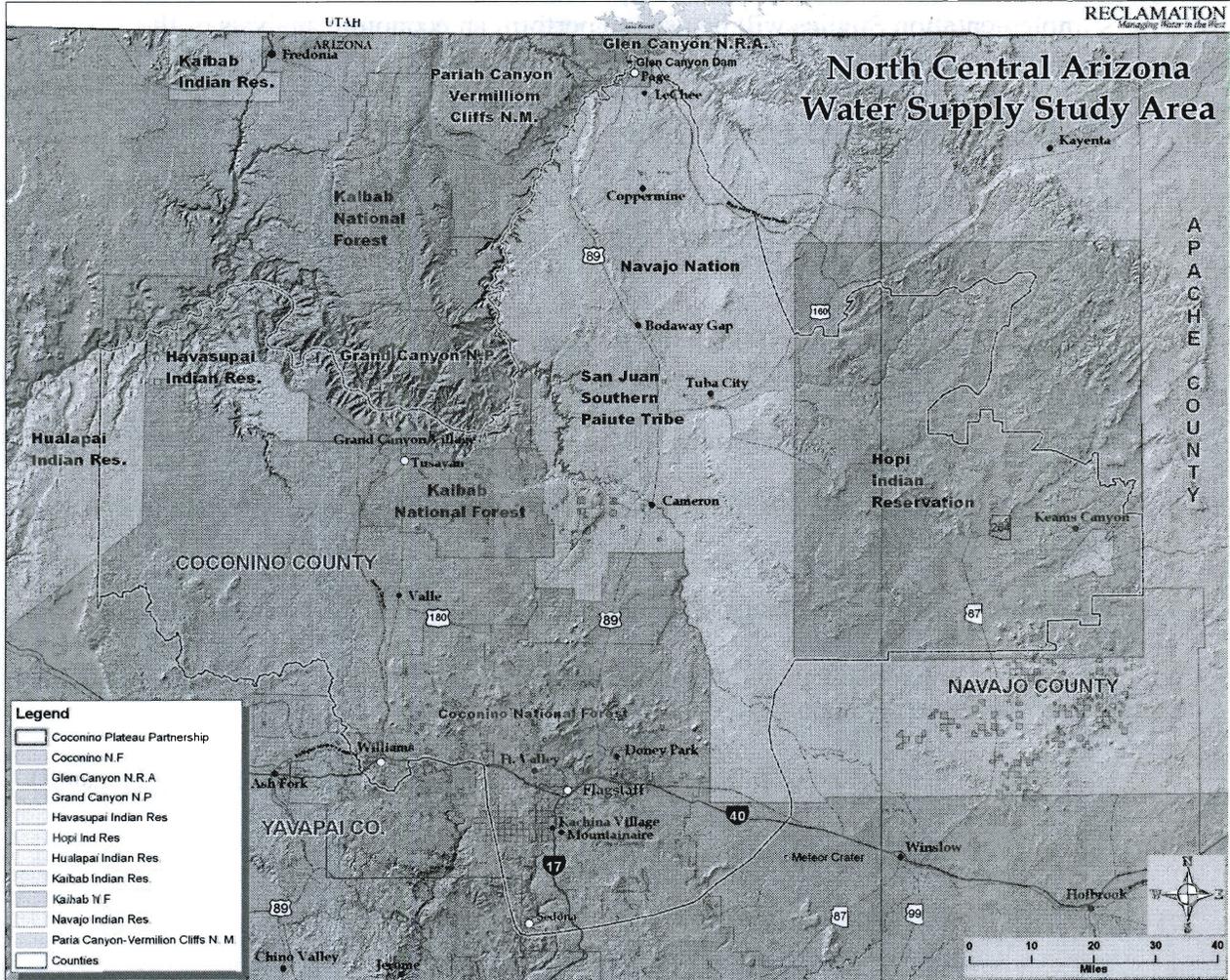


Figure 1: Map of the Study Area

## 2.0 STUDY APPROACH

### 2.1 METHODOLOGY

Reclamation and Rural Water Planning Program Guidelines will be used for the preparation of a Feasibility Design Report. Additionally, Reclamation will prepare a site-specific programmatic environmental impact statement (EIS), an Endangered Species Act Section 7 Consultation, and a National Historic Preservation Act Section 106 Consultation consistent with the National Environmental Policy Act (NEPA), and Department of Interior and Reclamation policy. And finally, the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies will be used to perform an economic analysis of the alternatives.

## 3.0 TECHNICAL EVALUATIONS

Four alternatives will be studied at the feasibility level. Each of the four alternatives include a common component – a pipeline from Page to Cameron (Component 1), and varying combinations of six additional components:

1. Pipeline from Page to Cameron (120 miles serving – Coppermine, LeChee, Bodaway Gap, Cameron, Tuba City, Moenkopi and Lower Moenkopi)
2. Pipeline from Moenkopi to Kykotsmovi (50 miles serving the Hopi Mesas)
3. Pipeline from Cameron to Flagstaff (53 miles serving Flagstaff, surrounding and dispersed communities)
4. Pipeline from Flagstaff to Williams (32 miles serving Williams and dispersed communities)
5. Pipeline from Cameron to Grand Canyon and Tusayan (59 miles serving Tusayan, Grand Canyon, and dispersed communities)
6. C Aquifer Well Field at Red Gap Ranch and Pipeline to Flagstaff (41 miles serving Flagstaff)
7. R Aquifer Wells at Williams (serving Williams)

### 3.1 FEASIBILITY DESIGN REPORT

A Feasibility Design Report will be prepared to:

- Identify and acquire data to support the design and evaluation of alternatives.
- Define criteria and design standards.
- Provide technically feasible and constructible alternatives.
- Provide drawings to show location and design of facilities
- Include quantity estimates
- Includes feasibility cost estimate

Work performed in preparation of the Feasibility Design Report, as described below, will be performed to analyze each of the seven components outlined above.

## GEOLOGY

### Technical Components

- a. **Identification of Rock Excavation**  
Geologic reconnaissance and mapping
- b. **Foundation at Pumping Plant and Tank Locations**  
Auger holes and test pits
- c. **Resistivity Surveys**

## ENGINEERING

### Technical Components

- a. **Confirm Pipeline Alignment**
- b. **Establish Design Criteria**  
Water Demands  
Turnout Locations
- c. **Surveying/Mapping**  
Survey control for mapping from aerial photographs  
Develop 2-foot contour mapping and ground surface profile along alignment  
Create plan-and-profile base drawings at 1"=200' horizontal and 1"=10' vertical
- d. **Aerial Photos**  
Aerial photography for mapping  
Rectifying aerial photographs for mapping
- e. **Utility Locations**
- f. **Right of Way**
- g. **Power Sources**
- h. **Intake Structure**
- i. **Hydraulic Analysis**  
Pipe Size

Head Class

**j. Civil Design**

Pipe Details/Types  
Earthwork  
Bedding

**k. Pumping Plants**

**l. Plan and Profiles**

**m. Scour Analysis**

**n. Electrical Systems**

Power  
Pumping Plants  
SCADA

**o. Mechanical**

Valves  
Air Chambers  
Steel Piping  
Tanks  
Pumping Plants  
Flow meters  
Blow offs  
Air valves  
Misc. Metal Work

**p. Corrosion and Coatings**

**q. Cost Estimating**

**3.2 EIS AND OTHER ENVIRONMENTAL WORK**

**a. National Environmental Policy Act (NEPA)**

**b. Endangered Species Act Section 7 Consultation (A preferred alternative must be identified in order to initiate section 7 consultation)**

**c. Federal Wildlife Coordination Act (FWCA)**

**d. National Historic Preservation Act Section 106 Consultation**

**e. Environmental Clearances**

### 3.3 ECONOMIC ANALYSIS

## 4.0 STUDY ORGANIZATION

### 4.1 LEAD ENTITY

Bureau of Reclamation - A Reclamation study manager will manage and direct Reclamation and cooperating parties activities and coordinate/facilitate the participation of other entities and interested publics.

### 4.2 OTHER ENTITIES AND PUBLICS

Other entities participating in the feasibility study include, but are not limited to:

#### 4.2.1 Government Sponsored Water Organizations

- (1) Coconino County Water Advisory Council

#### 4.2.2 Groups that address Water as a part of their mission

- (1) The Nature Conservancy
- (2) Sierra Club

#### 4.2.3 Water Providers

- (1) City of Flagstaff
- (2) Private Water Companies
- (3) Exempt Well owners

#### 4.2.4 Tribal, Federal and State Agencies involved with Water

- (1) Navajo Nation
- (2) Hopi Tribe
- (3) Arizona Department of Water Resources
- (4) Arizona Department of Environmental Quality
- (5) Arizona State Land Department
- (6) Arizona Game and Fish Department
- (7) US Geological Survey
- (8) US Bureau of Reclamation
- (9) US Fish and Wildlife Service
- (10) US Army Corps of Engineers
- (11) US Bureau of Land Management
- (12) US Forest Service

#### 4.2.5 Universities and Colleges

(1) Northern Arizona University

## 5.0 DELIVERABLES

### 5.1 PREPARATION OF REPORTS

- Draft and final reports will be prepared documenting the findings of the study, including Feasibility Design Report and the Feasibility Study Report.

### 5.2 PREPARATION OF SUPPORTING DOCUMENTS

All technical disciplines will generate supporting documents as appropriate to cover the details of their individual evaluations.

### 5.3 COORDINATION ACTIVITIES

Includes the coordination of study budget, scope and schedule. Additionally, includes the coordination of study meetings including agenda development, meeting minutes and assignment of action items.

## 6.0 PROGRAM ANALYSIS

The cost estimate presented below represents a very high level of stakeholder input and involvement. The schedule may be revised as information is obtained and the study progresses.

Draft 10/17/07  
 Feasibility Study Cost Estimate per Component (2007 dollars)

Component	Denver Engineering	PXAO Engineering (Includes Aerial Surveys)	Geology	Environment Complete EIS	Env. Clearances for Feasibility Field Work	Administration and Economics	Total
Lake Powell to Cameron (Page to Cameron, Bodaway Gap to Bitter Springs, Hwy 89 to Tuba City & Moenkopi - 120 miles)	\$1,367,000	\$804,000	\$542,000	\$1,402,000	\$60,000	\$400,000	\$4,575,000
Moenkopi to Kytotsmovi (50 miles)	\$665,000	\$335,000	\$170,000	\$38,000	\$23,000	\$50,000	\$1,281,000
Cameron to Flagstaff (53 miles)	\$817,000	\$355,000	\$176,000	\$186,000	\$33,000	\$50,000	\$1,617,000
Flagstaff to Williams (32 miles)	662,000	\$214,000	\$97,000	\$164,000	\$12,000	\$25,000	\$1,174,000
Cameron to Grand Canyon and Tusayan (59 miles)	**	\$395,000	\$227,000	\$152,000	\$32,000	\$10,000	\$816,000
Red Gap Ranch (41 miles)	618,000	\$275,000	\$129,000	\$174,000	\$29,000	\$10,000	\$1,235,000
Williams Wells	*	*	*	\$1,558,000	\$0	\$5,000	\$1,563,000
<b>Total</b>	<b>\$4,129,000</b>	<b>\$2,378,000</b>	<b>\$1,341,000</b>	<b>\$3,674,000</b>	<b>\$189,000</b>	<b>\$550,000</b>	<b>\$12,261,000</b>

\* Information associated with the development of wells in Williams has been developed by the city and does not require further geologic or engineering analysis.  
 \*\* Reclamation's engineering group in Denver is working on an estimate for the Cameron to the Grand Canyon and Tusayan alternative. This \$850,000 number is a place holding estimate.



## APPENDIX 1

### North Central Arizona Water Supply

Feasibility Study

Fiscal Year 2011

Annual Work Plan

July 12, 2011

This plan of study provides a description of the work activities to be performed by the Engineering Division in fiscal year 2011 associated with the North Central Arizona feasibility study. The estimated cost to perform this work is included.

This year's work will focus primarily on the Navajo and Hopi sections of the pipeline, with some preliminary effort directed toward the non-Indian portion from Grey Mountain to Flagstaff.

I. Mapping – In order to perform engineering, pipeline layout, geology, and EIS activities, the pipeline corridors need to be mapped. The reaches of pipeline that have only one reasonable location can be mapped at any time. This category fits most of the pipeline. Reaches that have alignment options should be delayed until the options are evaluated at an appraisal level.

The principle sections of pipeline follow. These sections will be mapped using FY 2011 funding.

- Lechee to The Gap
- Bitter Springs to Grey Mountain

Our investigations found that BIA Route 20 from Page to Gap has been recently mapped using ground-based Lidar. The BIA is willing to share this data with us at no cost. This will save about \$80,000. The route will still need to be flown for aerial photos for engineering and EIS purposes, as the ground-based Lidar does not generate aerial photos.

Lidar appears to be the most cost effective way to map the pipeline alignment, running about 80% of conventional mapping. Because Lidar does not use aerial photographs for identifying features like structures (planametrics), Lidar is better suited to less developed areas. Where the pipeline crosses through communities, conventional mapping will be used (estimated at less than 10% of the total pipeline corridor).

All mapping scopes of work will be developed in the Engineering Division. A more detailed description of mapping activities is attached. The actual contracts will be let using existing IQIC contracts either in LC or UC Regional offices. The mapping activities will likely be broken into pieces. The first reaches mapped will be sections with no reasonable alternative alignments. This category will likely be split into

manageable lengths. Once we have confidence in which alternative alignments will be pursued, those sections will be mapped.

2. Surveying - In order for mapping activities to commence, ground control needs to be researched and probably installed in specific areas. The coordinate system used will be NAD 83 (CORS96) using EPIC 2002 adjustment. The vertical control will be NAVD 1988.

Engineering's registered land surveyor will perform all research and install control as necessary. He may be involved with the installation of panels where required for aerial photography.

Once specific pipeline routes are developed, the alignment will be staked to ensure there are no interferences along the route.

3. Engineering - Engineer(s) and geologist(s) will perform on-site reconnaissance to identify pipeline alignments. The first of these trips is tentatively scheduled for January 2011. These activities will be performed using PXAO personnel. Alignments from Page to Grey Mountain, from The Gap to Bitter Springs, and from Tuba City to Kytotsmovi will be more specifically defined to limit interference from utilities, improvements, development, property ownership, and geologic features. The non-Indian reach from Grey Mountain to Flagstaff will be looked at for the first time for alignment options and surface geology.

4. Drafting – In-house drafting staff will be used to begin creating an estimated 358 plan-and-profile drawings. This method has been used successfully in the past, where PXAO creates the plan-and-profile drawings with alignments and turnout locations, and the TSC in Denver performs the remaining design activities. We are not proposing any TSC work this fiscal year.

5. Geologic Investigations – Surface geologic evaluations will take place during the pipeline alignment site visits, but subsurface investigations do not have funding this fiscal year. If funding becomes available, approximately \$150,000 would be applied to geologic investigations.

6. Environmental Impact Statement – Engineering will provide whatever assistance is necessary for the Environmental Division to begin developing the EIS scope of work.

<b>FEATURE:</b> FY 2011 Feasibility Study Activities Engineering Division Update July 6, 2011		<b>PROJECT:</b> North Central Arizona Project	
<b>WOID:</b>		<b>ESTIMATE LEVEL:</b> N/A	
<b>REGION:</b> LC, PXAO		<b>UNIT PRICE LEVEL:</b> N/A	
<b>FILE:</b> U:\studies\North Central\Feasibility\Final Cost Share Agreement\CostEstimateFeasibilityNCAWSS2011Rev1.xls]Template Sheet 1			

PLANT ACCOUNT	PAY ITEM	DESCRIPTION	CODE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
The estimated costs below summarize expected activities within the Engineering Division associated with the North Central Arizona project feasibility study, for Fiscal Year 2011. Updated June 22, 2011.							
		<b>Mapping</b>					
		Writing scopes of work					
		Photogrametric Technician		500	hr	\$88.00	\$44,000.00
		GIS Specialist		160	hr	\$111.00	\$17,760.00
		Mapping contracts					
		The Gap to Grey Mountain (41 miles)		1	LS	\$125,017.25	\$125,017.25
		Lechee-Copper Mine (lydar)-Gap (photos)(40 miles)		1	LS	\$94,000.00	\$94,000.00
		Hwy 89 to Tuba City (lydar)		10	mile	\$3,360.00	\$33,600.00
		Gap to Bitter Springs		26	mile	\$3,360.00	\$87,360.00
		<b>Surveying</b>					
		Research and office work		110	hr	\$78.00	\$8,580.00
		Control field work		200	hr	\$78.00	\$15,600.00
		Aerial photo panel layouts (conventional only)		210	hr	\$78.00	\$16,380.00
		Survey Tech assistance		320	hr	\$48.00	\$15,360.00
		<b>Engineering</b>					
		Site visits (assume 2 required in FY11)					
		Engineer		48	hr	\$119.00	\$5,712.00
		Geologist		96	hr	\$110.00	\$10,560.00
		Office work					
		Engineer		150	hr	\$101.00	\$15,150.00
		Geologist		60	hr	\$110.00	\$6,600.00
		638 Contract Mod for HKM Page Area study		1	LS	\$41,885.00	\$41,885.00
		<b>Drafting</b>					
		Plan-and-profile drawings					
		Photogrametric Technician		400	hr	\$88.00	\$35,200.00
		Draftsman		200	hr	\$40.00	\$8,000.00
		<b>Environmental Impact Statement</b>					
		Engineer		5	hr	\$119.00	\$595.00
		<b>SUBTOTAL THIS SHEET</b>					<b>\$581,359.25</b>

QUANTITIES		PRICES	
BY Jeff Riley, PE	CHECKED	BY Jeff Riley, PE	CHECKED
DATE PREPARED	PEER REVIEW / DATE	DATE PREPARED	PEER REVIEW / DATE
07/06/11			

<b>FEATURE:</b> FY 2011 Feasibility Study Activities Engineering Division		<b>PROJECT:</b> North Central Arizona Project	
<b>WOID:</b>		<b>ESTIMATE LEVEL:</b> N/A	
<b>REGION:</b> LC, PXAO		<b>UNIT PRICE LEVEL:</b> N/A	
<b>FILE:</b> U:\studies\North Central\Feasibility\Final Cost Share Agreement\CostEstimateFeasibilityNCAWSS2011Rev1.xls\Template Sheet 1			

PLANT ACCOUNT	PAY ITEM	DESCRIPTION	CODE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
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Geologic investigations shown below represent only the work to be performed in FY 2011 if funding becomes available.

		<b>Geologic Investigations</b>					
		Develop investigations plan					
		Geologist		40	hr	\$110.00	\$4,400.00
		Engineer		15	hr	\$119.00	\$1,785.00
		Prepare scope of work for contract					
		Geologist		40	hr	\$110.00	\$4,400.00
		Engineer		20	hr	\$119.00	\$2,380.00
		Obtain permits					
		Geologist		40	hr	\$110.00	\$4,400.00
		Engineering Technician		80	hr	\$77.00	\$6,160.00
		Environmental Clearances					
		NEPA Specialist (2 days field, 3 office)		40	hr	\$110.00	\$4,400.00
		Biologist (2 days field, 1 day office)		24	hr	\$110.00	\$2,640.00
		Archeologist (2 days field, 1 day office)		24	hr	\$110.00	\$2,640.00
		Engineering assistance		20	hr	\$119.00	\$2,380.00
		Clerical		4	hr	\$70.00	\$280.00
		Contract for test pits and lab work		1	LS	\$110,000.00	\$110,000.00
		Contract Specialist		24	hr	\$110.00	\$2,640.00
		Reclamation staff time associated with the the field investigations will be done in FY12. Estimated hours are shown below but are not included in SUBTOTAL.					
		Geologist, field work		200	hr		
		Geologist, report write-up		40	hr		
		<b>SUBTOTAL Geologic Investigations</b>					<b>\$148,505.00</b>
		Grant for Flagstaff EIS for Redgap Ranch		1	LS	\$220,000.00	\$220,000.00
		<b>GRAND TOTAL</b>					<b>\$949,864.25</b>

QUANTITIES		PRICES	
BY Jeff Riley, PE	CHECKED	BY Jeff Riley, PE	CHECKED
DATE PREPARED	PEER REVIEW / DATE	DATE PREPARED	PEER REVIEW / DATE
07/06/11			

ATTACHMENT B

**Non - Federal Partners Cost breakdown for North Central Arizona Feasibility Study**  
**Selected Alternate Scenario 3 - Costs broken down by Segments**

8/23/2011

Page 1

Cost Totals	SEGMENTS							Totals
	Segment 1	2	3	4	5	6	7	
Navajo	\$311,441							\$311,441
Hopi	\$12,662							\$12,662
Flagstaff	\$25,108					\$1,180,000		\$1,205,108
Williams	\$0							\$0
Grand Can.	\$0							\$0
Tusayan	\$0							\$0
Coconino Co. East	\$5,083							\$5,083
Page	\$58,010							\$58,010
Coconino co. Sub. West	\$2,002							\$2,002
State of Arizona - ADWR								\$540,502
							59% Non-Federal Cost Share	\$2,134,808

- Segment 1 Lake Powell to Cameron
- Segment 2 Moenkopi to Kykotsmovi
- Segment 3 Cameron to Flagstaff
- Segment 4 Flagstaff to Williams
- Segment 5 Cameron to Grand Canyon
- Segment 6 Red Gap Ranch to Flagstaff
- Segment 7 Williams Groundwater Wells

Alternate Scenario 3 Variable % Cost Share assigned to entities based upon who benefits: **\$3,618,320 Total Feasibility Costs**

16

# Attachment C

7-2279 (12-2011)  
Bureau of Reclamation

## UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION ASSISTANCE AGREEMENT

1A. AGREEMENT NUMBER R12AP32025		1B. MOD NUMBER N/A		2. TYPE OF AGREEMENT <input checked="" type="checkbox"/> GRANT <input type="checkbox"/> COOPERATIVE AGREEMENT		3. CLASS OF RECIPIENT City or Township Government			
4. ISSUING OFFICE  Bureau of Reclamation Lower Colorado Region P.O. Box 61470 Boulder City, NV 89006-1460				5. RECIPIENT  City of Flagstaff 211 West Aspen Avenue Flagstaff, AZ 86001					
				EIN #:		86-6000244		County: Coconino	
				DUNS #:		088302625		Congress. Dist: 01	
6. ADMINISTRATIVE POINT OF CONTACT  Shawna Thompson, LC-10101 Bureau of Reclamation P.O. Box 61470 Boulder City, NV 89006-1470 Phone: 702-293-8570, Email: smthompson@usbr.gov				7. RECIPIENT PROJECT MANAGER  Brad Hill, Project Manager 211 West Aspen Flagstaff, AZ 86001 Phone: 928-213-2420					
8. GRANTS OFFICER TECHNICAL REPRESENTATIVE  Deborah Tosline– PXAO 7000 Bureau of Reclamation 6150 West Thunderbird Road Glendale, AZ 85306 Phone: 623-773-6277, Email: dtosline@usbr.gov				9A. INITIAL AGREEMENT EFFECTIVE DATE:  See Block 17a		9B. MODIFICATION EFFECTIVE DATE:  N/A			
				10. COMPLETION DATE  September 30, 2014					
11A. PROGRAM STATUTORY AUTHORITY Reclamation Rural Water Supply Act of December 22, 2006 (Pub. L. 109-451, Title I, 120 Stat. 3346, 43 U.S.C. 2401, et seq.)						11B. CFDA Number 15.548			
12. FUNDING INFORMATION		<u>RECIPIENT/OTHER</u>		<u>RECLAMATION</u>		13. REQUISITION NUMBER 12320700025			
Total Estimated Amount of Agreement		\$1,662,451.80		\$300,000		14A. ACCOUNTING AND APPROPRIATION DATA Cost Authority: A10-1988-0009-002-01-0-0 Budget Org: 3207000 Object Class: 411G			
This Obligation		\$1,662,451.80		\$300,000					
Previous Obligation		\$0		\$0					
Total Obligation		\$1,662,451.80		\$300,000					
Cost-Share %		85%*		15%*					
14B. TREASURY ACCOUNT FUNDING SYMBOL 14X0680									
15. PROJECT TITLE AND BRIEF SUMMARY OF PURPOSE AND OBJECTIVES OF PROJECT Program Title: Red Gap Ranch Feasibility Study, Coconino Plateau Water Advisory Council North Central Arizona Water Supply Study Project: To collect hydrogeologic information for the RGR water supply alternative. *The overall cost share of the entire feasibility study will be 59% Recipient and 41% Reclamation, from costs incurred by all project participants dated from 10/1/2009 to project completion.*									
16a. Acceptance of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the above-named recipient  BY: _____  DATE: _____				17a. Award of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the United States of America, Department of the Interior, Bureau of Reclamation  BY: _____  DATE: _____					
16b. NAME, TITLE, AND TELEPHONE NUMBER OF SIGNER  Kevin Burke City Manager 928-779-7656  <input type="checkbox"/> Additional signatures are attached				17b. NAME OF GRANTS OFFICER  Shawna M. Thompson Grants Officer 702-293-8570					

## TABLE OF CONTENTS

I. OVERVIEW AND SCHEDULE .....	3
1. AUTHORITY .....	3
2. PUBLIC PURPOSE OF SUPPORT OR STIMULATION .....	3
3. BACKGROUND AND OBJECTIVES .....	4
4. PERIOD OF PERFORMANCE AND FUNDS AVAILABILITY .....	5
5. SCOPE OF WORK AND MILESTONES .....	5
6. RESPONSIBILITY OF THE PARTIES .....	10
7. BUDGET .....	10
8. KEY PERSONNEL .....	14
9. REPORTING REQUIREMENTS AND DISTRIBUTION.....	15
10. REGULATORY COMPLIANCE .....	18
II. RECLAMATION STANDARD TERMS AND CONDITIONS - STATES, LOCAL GOVERNMENTS, AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS .....	20
1. REGULATIONS.....	20
2. PAYMENT .....	21
3. PROCUREMENT STANDARDS (43 CFR §12.76) .....	23
4. EQUIPMENT (43 CFR §12.72) .....	33
5. SUPPLIES (43 CFR §12.73) .....	35
6. INSPECTION .....	35
7. AUDIT (31 U.S.C. 7501-7507) .....	35
8. ENFORCEMENT (43 CFR §12.83).....	36
9. TERMINATION FOR CONVENIENCE (43 CFR §12.84) .....	37
10. DEBARMENT AND SUSPENSION (2 CFR §1400).....	37
11. DRUG-FREE WORKPLACE (2 CFR §182 and §1401) .....	37
12. ASSURANCES AND CERTIFICATIONS INCORPORATED BY REFERENCE .....	37
13. COVENANT AGAINST CONTINGENT FEES .....	38
14. TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 CFR §175.15) .....	38
15. NEW RESTRICTIONS ON LOBBYING (43 CFR §18).....	40
16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (URA) (42 USC § 4601 <i>et seq.</i> ) .....	41
17. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS (2 CFR 25, APPENDIX A).....	42
18. PROHIBITION ON TEXT MESSAGING AND USING ELECTRONIC EQUIPMENT SUPPLIED BY THE GOVERNMENT WHILE DRIVING.....	43

**Grant Agreement  
Between  
Bureau of Reclamation  
And  
City of Flagstaff  
For  
Red Gap Ranch Feasibility Study**

## **I. OVERVIEW AND SCHEDULE**

### **1. AUTHORITY**

This Grant Agreement (Agreement) is entered into between the United States of America, acting through the Department of the Interior, Bureau of Reclamation, hereinafter referred to as “Reclamation,” and City of Flagstaff, hereinafter referred to as the “Recipient” or “Grantee,” pursuant to Reclamation Rural Water Supply Act of December 22, 2006 (Pub. L. 109-451, Title I, 120 Stat. 3346, 43 U.S.C. 2401, et seq.). The following section, provided in full text, authorizes Reclamation to award this financial assistance agreement:

The Secretary, in cooperation with non-Federal project entities and consistent with this title, may carry out a rural water supply program in Reclamation States to--

- (1) investigate and identify opportunities to ensure safe and adequate rural water supply projects for domestic, municipal, and industrial use in small communities and rural areas of the Reclamation States;
- (2) plan the design and construction, through the conduct of appraisal investigations and feasibility studies, of rural water supply projects in Reclamation States; and
- (3) oversee, as appropriate, the construction of rural water supply projects in Reclamation States that are recommended by the Secretary in a feasibility report developed pursuant to section 106 and subsequently authorized by Congress.

□

### **2. PUBLIC PURPOSE OF SUPPORT OR STIMULATION**

Development of the Red Gap Ranch (RGR) wellfield and construction of the associated delivery pipeline would provide an additional potable water supply to the Grantee to meet projected future water demands. The RGR groundwater pumping and pipeline alternative will provide a water supply of 8,000 acre-feet per year (AFY) with the potential to ultimately provide up to 12,000 AFY. To assess the potential impacts of RGR groundwater pumping and the associated infrastructure, the Grantee is conducting a feasibility study of the RGR alternative.

### **3. BACKGROUND AND OBJECTIVES**

In 1998, the Arizona Department of Water Resources (ADWR) organized a regional study to evaluate future municipal water demands for communities including the Navajo Nation, Grantee, City of Williams, Tusayan and the Grand Canyon National Park (GCNP). In October 2000, the United States Congress allocated funding to Reclamation to conduct an appraisal level regional water study as authorized by the Reclamation Act (Act of June 17, 1902, ch. 1093, 32 Stat. 388), as amended, titled "North Central Arizona Water Supply Study (NCAWSS) for the ADWR regional study area on the Coconino Plateau in northeastern Arizona. Reclamation's NCAWSS, Report of Findings, completed in October 2006, concluded that by 2050 there will be an annual unmet water demand of 28,100 acre-feet in the study area. In October 2009, the North Central Arizona Water Supply Feasibility Study (Study) was authorized and provided Federal funding through Reclamation's Rural Water Program, pursuant to Public Law 109-451, the Rural Water Supply Act of 2006 (Rural Water Supply Act). The Study is designed to determine the viability of water supply alternatives that were identified in the appraisal study. The Study will assess the feasibility of two water supply alternatives, the Western Navajo Pipeline and the Red Gap Ranch (RGR) Pipeline. Feasibility of the water supply alternatives will be assessed based on: engineering costs, an Environmental Impact Statement (EIS), and economic evaluations. Reclamation will complete all aspects of the Study for the Western Navajo Pipeline. The Grantee is conducting the feasibility study for the RGR groundwater pumping and pipeline alternative with tasks that include but are not limited to identification of proposed pipeline alignments and design, environmental resource evaluations, hydrogeologic investigations, and groundwater modeling. Reclamation will complete an EIS for the Western Navajo and the RGR pipelines.

When the Grantee acquired RGR, there were 18 groundwater wells on the property. In 2011, the Grantee drilled ten new shallow wells to obtain hydrogeologic information. To develop and deliver water from RGR to the Grantee the following infrastructure will be required: 13 or more groundwater wells, an on-site water treatment facility, a pipeline from RGR to east Flagstaff that is approximately 41-miles in length, secondary pipelines from each well to the treatment facility, four pumping lift stations, power transmission line, and maintenance roads. The Grantee plans to pump and deliver water from RGR to Flagstaff in 2021.

The RGR consists of 25,000 acres of land located about 40 miles east from Flagstaff at an elevation that is about 2,000 feet lower than Flagstaff. The RGR feasibility study will assess potential impacts of groundwater pumping; the preferred alignment for a 30-inch diameter, 41-mile long main pipeline from RGR to Flagstaff; secondary pipelines from groundwater wells to the treatment plant; four proposed pumping lift stations along the main pipeline with two pump stations in Segment 1 and one pump station each in Segments 2 and 3; power transmission lines; maintenance roads; the proposed treatment plant at RGR; collection of hydrogeologic information; groundwater well drilling and testing; groundwater modeling; and the biological and cultural resource evaluations.

#### **4. PERIOD OF PERFORMANCE AND FUNDS AVAILABILITY**

This Agreement becomes effective on the date shown in Block 17a of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. The Agreement shall remain in effect until the date shown in Block 10 of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. The period of performance for this Agreement may only be modified through written modification of the Agreement by a Reclamation Grants Officer (GO).

No legal liability on the part of the Government for any payment may arise until funds are made available, in writing, to the Recipient by the Grants Officer. The total estimated amount of federal funding for this agreement is \$300,000.00, of which the initial amount of federal funds available is limited to \$300,000.00 as indicated by “this obligation” within Block 12 of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. Subject to the availability of Congressional appropriations, subsequent funds will be made available for payment through written modifications to this agreement by a Reclamation GO.

#### **5. SCOPE OF WORK AND MILESTONES**

This approved rural water project has five associated tasks. For the purpose of this agreement, Federal funding is being provided for tasks 3-5 only. Refer to the proposal for a complete listing of tasks associated with the overall project. Non federal contribution was provided for tasks 1-2, below outlines the work from the tasks 3-5 being Federally funded.

As a part of this scope of work (SOW), the Grantee is submitting information for tasks to collect hydrogeologic information for the RGR water supply alternative and associated costs that were incurred after the pre-incurred Study cost share date of October 9, 2009 but prior to the Study cost share agreement signed by Reclamation and Partners in November 2011. Completed work (referenced as “pre-agreement” work under the budget sections and on the grant application documents) includes:

- A geologic analysis of RGR and data compilation and review
- Drilling of ten wells
- Development of the Flagstaff Groundwater Flow Model (Flagstaff Model). This involved updating, refining and recalibrating the USGS Northern Arizona Regional Groundwater Flow Model (NARGFM) and defining the hydrologic boundaries of the focused study area (including Flagstaff and RGR)

#### **Task 3 Groundwater Modeling**

##### **3.1 Update and Refine, Northern Arizona Regional Groundwater Flow Model (NARGFM)**

The groundwater flow modeling efforts conducted will be based on the existing regional calibrated groundwater flow model known as a Flagstaff Model. The Grantee’s new “Flagstaff Model,” is a finite-difference, three-dimensional groundwater model of the primary aquifers of the region, including the R and C aquifers of the Colorado Plateau, in MODFLOW computer code. The basis of the Flagstaff Model is the USGS Northern Arizona Regional Groundwater

Flow Model (NARGFM). Improvements and refinements to the NARGFM were made by AMEC Environment & Infrastructure, Inc. for the Grantee. The grid of the NARGFM was refined for an area termed “focused study area,” that includes RGR. This area represents the hydrologic extent within the Flagstaff Model where the hydrologic influence of model inputs and outputs were closely tracked, within an area of well understood hydrological boundary conditions. As part of the update completed by AMEC, the model was also recalibrated for a transient calibration period from 1910 through 2010. Use of this model will reduce the amount of effort required to characterize the general groundwater conditions in the area around the RGR.

### **3.2 Flagstaff Model Refinement Calibration**

Refinements include, but are not limited to:

- Parameterization of hydraulic conductivity values, using data from previously conducted aquifer tests (i.e., incorporate spatial discretization).
- Modify layer geometries, if necessary, based on the results of the shallow well installations
- Incorporate local surface waters (i.e., Raymond Ranch or any others) as discrete features in the model.
- Refine how water features were simulated in both the NARGFM or Flagstaff Model (e.g. East Clear Creek, Chevelon Creek, Little Colorado River).
- Calibrate the model to 2012 groundwater elevations, including those collected from RGR wells, and to information collected by the USGS as part of a cooperative data project, specific to groundwater levels and baseflow of the Little Colorado River, Chevelon Creek, and East Clear Creek.
- Refine how water features were simulated in both the NARGFM or Flagstaff Model (e.g. East Clear Creek, Chevelon Creek, Little Colorado River).

Where appropriate, the automated inverse optimization program PEST will be used to expedite the calibration process.

### **3.3 Groundwater Analysis of Proposed Pumping Alternative Effects**

The Grantee’s contractor will utilize the existing Flagstaff Model to evaluate the potential area of impact due to groundwater withdrawal by simulating groundwater pumping from the C Aquifer beneath Red Gap Ranch. Areas of concern include base flow to perennial streams such as Clear Creek and Chevelon Creek, and reduction of the water available to the Little Colorado River. The Contractor will also evaluate if withdrawal from the C Aquifer may impact surface water in the area of Raymond Ranch, owned by the Arizona Game and Fish Department. A maximum of three pumping alternatives will be evaluated. The potential impacts that will be assessed by the groundwater flow model for each alternative will include:

- Potential changes in groundwater levels and flow directions that may affect surrounding wells, streams and wetlands (if present)
- Changes to baseflow of any creeks, rivers, or springs within the area of influence
- Particle tracking to determine flow paths and travel time.
- Other impacts that may be defined through the scoping process.

### **3.4 Groundwater Analysis of Proposed No-Build Alternative**

The no-build alternative assumes the current grazing land use. For purposes of comparing and assessing impacts (and mitigation), simulation of this current condition will be included. Simulations of flow paths and travel times from the property to surrounding areas will be performed in order to compare the magnitude of the effects of the analyzed alternatives

### **3.5 Analysis of cumulative Impacts to Groundwater and Surface Water Resources**

Cumulative impacts of other groundwater withdrawal projects must be considered in the environmental review process. These will be identified during the Scoping process, but may include the development of a well field near Leupp and development by the City of Winslow.

#### **Deliverables**

- Update and refine Flagstaff Model
- Report detailing updates, calibration and refinement of the Flagstaff Model and the groundwater modeling and procedures used for evaluating the alternatives.

#### **Task 4 Biological Resource Evaluation**

The contractor will prepare a Biological Resource Evaluation (BRE) to document potential effects to the biological resources in the project area from implementation of the proposed project. The BRE will include effects to vegetation, sensitive or unique habitats, fish and wildlife resources, groundwater and surface water, as well as Federal, State and Tribal sensitive species. The BRE will document compliance with all relevant Federal laws including but not limited to the Endangered Species Act (ESA), Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act as well as the Arizona Native Plant law. The contractor should contact the Arizona Game and Fish Department (AGFD) to obtain Heritage Database information regarding recorded occurrences of listed and sensitive species in the project vicinity and beyond. Information and data collected as a part of the BRE must meet Reclamation's NEPA requirements.

Effects to the existing environment from groundwater withdrawals at RGR should be fully described. Affected aquatic resources may include but not be limited to: East Clear Creek, Chevelon Creek and the Little Colorado River (LCR). Clear Creek and Chevelon Creek, tributaries of the LCR, are located southeast of RGR. Both Creeks contain perennial and intermittent reaches. Regional pumping effects would be described and assessed in the Study EIS.

**4.1 Define the project Area** – Differentiate between on the ground features (well locations and pipeline) and areas affected by the indirect impacts associated with groundwater pumping.

#### **4.2 Describe the Existing Environment**

- a. Vegetation – Use Brown's 1994 Biotic Communities of SW US and NW Mexico to describe the common vegetation within each community. Include any disturbed and developed lands and give approximate acreage (or percentage) of each within project area. Describe any unique habitats such as wetlands, springs, riparian areas etc. Unique habitats should be more fully described in the "sensitive habitat" section below.

b. General Wildlife – Describe typical wildlife (large mammals, small mammals, birds and herps) that occur within the project area. Describe large mammal movement corridors, avian flyways, important wildlife areas etc.

c. Sensitive Species (Federal, State and Tribal listed species)

- 1) Provide a list of USFWS County list of listed, proposed and candidate species.
- 2) Provide a list of State Wildlife of Special Concern species
- 3) Provide sensitive species list for other Federal (National Park Service, Forest Service, Bureau of Land Management) or Tribal (Navajo and Hopi) lands if in the project area (this would include Management indicator species for FS lands).
- 4) Determine which species may be affected by the project.
- 5) Describe for each species: Federal, State, or Tribal status, physical description, historic range, current range, habitat type, food preference, threats and known locations within project area.
- 6) Once the preferred pipeline alignment, treatment plant, and pumping lift stations are finalized, conduct surveys for any federally listed, proposed, candidate or nonfederal sensitive species that may be required for implementation of the project only if the time gap between this grant and EIS work would not require that the surveys be repeated prior to the EIS. Coordinate with FWS and Reclamation prior to initiating any T&E surveys under this grant.

d. Sensitive Habitats

- 1) Fully describe existing conditions for any sensitive habitat that may be crossed by the pipeline (ie Walnut, Diablo, Yellow Jacket and Padre canyons) if the alignment is finalized.
- 2) Describe any riparian areas, springs or other unique habitat that may be impacted by the project either by a physical structure or reduced flows due to groundwater pumping.

#### **4.3 Environmental Consequences**

Describe in detail the impacts associated with project construction (including but not limited to wells, pipeline, water treatment plant, maintenance roads, transmission lines, pumping plants, and GW withdrawal) on vegetation, wildlife, federally listed and other sensitive species and sensitive habitats. Potential impacts may include but are not limited to: loss of vegetation and/or wildlife habitat from construction of pipelines, wells, transmission lines or pumping plants; potential disruption of breeding activity; disruption of large mammal movement corridors, fragmentation of wildlife habitat, impacts to avian species from transmission lines, etc; and most importantly impacts to vegetation or wildlife from reduced flows as a result of groundwater pumping.

#### **4.4 Mitigation**

Propose mitigation necessary to offset identified project impacts on fish, wildlife and vegetation resources.

#### **4.5 Report**

- a. The contractor will provide a copy of the draft report to Reclamation and the Coconino Plateau Water Advisory Council Technical Advisory Committee (CPWACTAC) for review and comment.
  
- b. Upon final approval by Reclamation and CPWACTAC the contractor will work with the Grantee representative to obtain signatures of approval. When all reports are approved, the contractor will provide up to 10 copies to Grantee for their use. If more copies are needed, the contractor may require a change order for these extra expenses.

#### **Deliverables**

- Description of existing environment (vegetation, wildlife and sensitive species and habitats).
- Description of environmental consequences to vegetation, wildlife and sensitive species and habitats.
- Description of proposed mitigation to offset project impacts.
- Above information presented in a format suitable for inclusion into Reclamation EIS with little modification.

#### **Task 5 Cultural Resources**

The National Historic Preservation Act (NHPA) requires Federal agencies to consider the potential effects of their actions on historic places of cultural or religious importance. The contractor will coordinate with the State Historic Preservation Office (SHPO) to identify any archaeological sites that could potentially be affected by the proposed project.

The contractor will conduct cultural resource surveys along the proposed pipeline route, pumping lift stations proposed new groundwater well locations, the on-site treatment plant, secondary pipelines from the wells to the treatment plant, maintenance roads, and all proposed alternatives. The contractor will prepare a Class 1 Cultural Resources Survey Report to document potential cultural resources in the project area.

#### **Deliverables**

The contractor will provide a copy of the draft report to Reclamation and the CPWACTAC for review and comment.

Upon final approval by Reclamation and CPWACTAC the contractor will work with the Grantee representative to obtain signatures of approval. When all reports are approved, the contractor will provide up to 10 copies to Grantee for their use. If more copies are needed, the contractor may require a change order for these extra expenses.

## 6. RESPONSIBILITY OF THE PARTIES

### 6.1 Recipient Responsibilities

**6.1.1** The Recipient shall carry out the SOW in accordance with the terms and conditions stated herein. The Recipient shall adhere to Federal, state, and local laws, regulations, and codes, as applicable, and shall obtain all required approvals and permits. If the SOW contains construction activities, the Recipient is responsible for construction inspection, oversight, and acceptance. If applicable, the Recipient shall also coordinate and obtain approvals from site owners and operators.

### 6.2 Reclamation Responsibilities

**6.2.1** Reclamation will monitor and provide federal oversight of activities performed under this Agreement. Monitoring and oversight includes review and approval of financial status and performance reports, payment requests, and any other deliverables identified as part of the Scope of Work. Additional monitoring activities may include site visits, conference calls, and other on-site and off-site monitoring activities. At the Recipient's request, Reclamation may also provide technical assistance to the Recipient in support of the SOW and objectives of this Agreement.

## 7. BUDGET

**7.1 Budget Estimate.** The following is the estimated budget for this Agreement. As federal financial assistance agreements are cost-reimbursable, the budget provided is for estimation purposes only. Final costs incurred under the budget categories listed may be either higher or lower than the estimated costs. All costs incurred by the Recipient under this agreement must be in accordance with any pre-award clarifications conducted between the Recipient and Reclamation, as well as with the terms and conditions of this agreement. Final determination of the allowability, allocability, or reasonableness of costs incurred under this agreement is the responsibility of the Grants Officer. Recipients are encouraged to direct any questions regarding allowability, allocability or reasonableness of costs to the Grants Officer for review prior to incurrence of the costs in question.

BUDGET ITEM DESCRIPTION	COMPUTATION		RECIPIENT FUNDING	OTHER FUNDING	RECLAMATION FUNDING	TOTAL COST
	Price/Unit	Quantity				
<b>CONTRACTUAL/ CONSTRUCTION</b> —Explain any contracts or sub-Agreements that will be awarded, why needed. Explain contractor qualifications and how the contractor will be selected.						
HydroSystem, Inc	1	LS	\$28,148.00			
Layne/HydroSystem – Well drilling	1	LS	\$1,634,303.80			
Ground Water Modeling	1	LS			\$213,877.00	
Biological/Cultural Eval	1	LS			\$66,000.00	
<b>TOTAL DIRECT COSTS--</b>	1	LS	\$1,662,451.80		\$279,887.00	\$1,942,338.80
<b>INDIRECT COSTS – 7.185%</b>						
					\$20,113.00	
<b>TOTAL PROJECT/ACTIVITY COSTS</b>					\$300,000.00	\$1,962,461.80

## **7.2 Cost Sharing Requirement**

In accordance with Sec. 105 & 106 of Public Law 109-451, Federal funding for appraisal investigations is 100 percent of the total cost of the investigation, up to \$200,000. If the cost of conducting an appraisal investigation is more than \$200,000, the non-Federal share of the costs in excess of \$200,000 shall be 50 percent.

This project was approved and funded through the Rural Water Project from the Denver Office of the Bureau of Reclamation. The proposal for the feasibility study was submitted by Coconino County, AZ on behalf of The Coconino Plateau Water Advisory Council. This group of partners, which includes the City of Flagstaff, will be contributing toward the overall project funding of a 59% Recipient share and a 41% Federal share. The funding for this specific agreement and the work that is outlined in section 5 is detailed in section 7.1.

## **7.3 Pre-Award Incurrence of Costs**

The Recipient shall be entitled to reimbursement for costs incurred on or after October 1, 2009, which if had been incurred after this Agreement was entered into, would have been allowable, allocable, and reasonable under the terms and conditions of this Agreement.

## **7.4 Allowable Costs (2 CFR Part §225)**

Costs incurred for the performance of this Agreement must be allowable, allocable to the project, and reasonable. The following Office of Management and Budget (OMB) Circular, codified within the Code of Federal Regulations (CFR), governs the allowability of costs for Federal financial assistance:

2 CFR Part 225 (OMB Circular A-87), "Cost Principles for State, Local, and Indian Tribal Governments"

Expenditures for the performance of this Agreement must conform to the requirements within this Circular. The Recipient must maintain sufficient documentation to support these expenditures. Questions on the allowability of costs should be directed to the GO responsible for this Agreement.

The Recipient shall not incur costs or obligate funds for any purpose pertaining to operation of the program or activities beyond the expiration date stated in the Agreement. The only costs which are authorized for a period of up to 90 days following the project performance period are those strictly associated with closeout activities for preparation of the final report.

## **7.5 Changes (43 CFR §12.70).**

(a) *General.* Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.

(b) *Relation to cost principles.* The applicable cost principles (see 43 §12.62) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.

(c) *Budget changes.*

(1) *Nonconstruction projects.* Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a nonconstruction award:

(i) Any revision which would result in the need for additional funding.

(ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.

(iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).

(2) *Construction projects.* Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.

(3) *Combined construction and nonconstruction projects.* When a grant or subgrant provides funding for both construction and nonconstruction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from nonconstruction to construction or vice versa.

(d) *Programmatic changes.* Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:

(1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).

(2) Need to extend the period of availability of funds.

(3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.

(4) Under nonconstruction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award, *unless included in the initial funding proposal.* This approval

requirement is in addition to the approval requirements of 43 §12.76 but does not apply to the procurement of equipment, supplies, and general support services.

(e) *Additional prior approval requirements.* The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.

(f) *Requesting prior approval.*

(1) A request for prior approval of any budget revision will be in the same budget format the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.

(2) A request for a prior approval under the applicable Federal cost principles (see §12.62) may be made by letter.

(3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

## **7.6 Modifications**

Any changes to this Agreement shall be made by means of a written modification. Reclamation may make changes to the Agreement by means of a unilateral modification to address administrative matters, such as changes in address, no-cost time extensions, or the addition of previously agreed upon funding. Additionally, a unilateral modification may be utilized by Reclamation if it should become necessary to suspend or terminate the Agreement in accordance with 43 CFR 12.83.

All other changes shall be made by means of a bilateral modification to the Agreement. No oral statement made by any person, or written statement by any person other than the GO, shall be allowed in any manner or degree to modify or otherwise effect the terms of the Agreement.

All requests for modification of the Agreement shall be made in writing, provide a full description of the reason for the request, and be sent to the attention of the GO. Any request for project extension shall be made at least 45 days prior to the expiration date of the Agreement or the expiration date of any extension period that may have been previously granted. Any determination to extend the period of performance or to provide follow-on funding for continuation of a project is solely at the discretion of Reclamation.

## **8. KEY PERSONNEL**

### **8.1 Recipient's Key Personnel**

The Recipient's Project Manager for this Agreement shall be:

Brad Hill, Project Manager  
211 West Aspen  
Flagstaff, AZ 86001  
Phone: 928-213-2420

Changes to Key Personnel require compliance with 43 CFR 12.70(d)(3).

### **8.2 Reclamation's Key Personnel**

#### **8.2.1 Grants Officer (GO):**

Shawna Thompson, LC-10101  
Bureau of Reclamation  
P.O. Box 61470  
Boulder City, NV 89006-1470  
Phone: 702-293-8570, Email: smthompson@usbr.gov

(a) The GO is the only official with legal delegated authority to represent Reclamation. The GO's responsibilities include, but are not limited to, the following:

- (1) Formally obligate Reclamation to expend funds or change the funding level of the Agreement;
- (2) Approve through formal modification changes in the scope of work and/or budget;
- (3) Approve through formal modification any increase or decrease in the period of performance of the Agreement;
- (4) Approve through formal modification changes in any of the expressed terms, conditions, or specifications of the Agreement;
- (5) Be responsible for the overall administration, management, and other non-programmatic aspects of the Agreement including, but not limited to, interpretation of financial assistance statutes, regulations, circulars, policies, and terms of the Agreement;
- (6) Where applicable, ensures that Reclamation complies with the administrative requirements required by statutes, regulations, circulars, policies, and terms of the Agreement.

## 8.2.2 Grants Officer Technical Representative (GOTR):

Deborah Tosline– PXAO 7000  
Bureau of Reclamation  
6150 West Thunderbird Road  
Glendale, AZ 85306  
Phone: 623-773-6277, Email: dtosline@usbr.gov

- (a) The GOTR's authority is limited to technical and programmatic aspects of the Agreement. The GOTR's responsibilities include, but are not limited to, the following:
- (1) Assist the Recipient, as necessary, in interpreting and carrying out the scope of work in the Agreement;
  - (2) Review, and where required, approve Recipient reports and submittals as required by the Agreement;
  - (3) Where applicable, monitor the Recipient to ensure compliance with the technical requirements of the Agreement;
  - (4) Where applicable, ensure that Reclamation complies with the technical requirements of the Agreement;
- (b) The GOTR does not have the authority to and may not issue any technical assistance which:
- (1) Constitutes an assignment of additional work outside the scope of work of the Agreement;
  - (2) In any manner causes an increase or decrease in the total estimated cost or the time required for performance; or
  - (3) Changes any of the expressed terms, conditions, or specifications of the Agreement.

## 9. REPORTING REQUIREMENTS AND DISTRIBUTION

**9.1 Noncompliance.** Failure to comply with the reporting requirements contained in this Agreement may be considered a material non-compliance with the terms and conditions of the award. Non compliance may result in withholding of payments pending receipt of required reports, denying both the use of funds and matching credit for all or part of the cost of the activity or action not in compliance, whole or partial suspension or termination of the Agreement, recovery of funds paid under the Agreement, withholding of future awards, or other legal remedies in accordance with 43 CFR §12.83.

**9.2 Financial Reports.** Financial Status Reports shall be submitted by means of the SF-425 and shall be submitted according to the Report Frequency and Distribution schedule below. All financial reports shall be signed by an Authorized Certifying Official for the Recipient's organization.

**9.3 Monitoring and reporting program performance (43 CFR §12.80)**

(a) *Monitoring by grantees.* Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) *Nonconstruction performance reports.* The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.

(1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.

(ii) The reasons for slippage if established objectives were not met.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(3) Grantees will not be required to submit more than the original and two copies of performance reports.

(4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.

(c) *Construction performance reports.* For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(d) *Significant developments.* Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(e) Federal agencies may make site visits as warranted by program needs.

(f) *Waivers, extensions.*

(1) Federal agencies may waive any performance report required by this part if not needed.

(2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

**9.4 Report Frequency and Distribution.** The following table sets forth the reporting requirements for this Agreement. Please note the first report due date listed for each type of report.

REQUIRED REPORTS	Interim Reports	Final Report
<b>Performance Report</b>		
Format	No specific format required. See content requirements within Section 9.3 (43 CFR 12.80) above.	Summary of activities completed during the entire period of performance is required. See content requirements within Section 9.3 (43 CFR 12.80) above.
Reporting Frequency	Quarterly	Final Report due upon completion of Agreement's period of performance
Reporting Period	<b>For Quarterly Reporting:</b> Federal fiscal quarters ending: December 31, March 31, June 30 September 30	Entire period of performance
Due Date*	Within 30 days after the end of the Reporting Period	Within 90 days after the completion date of the Agreement

First Report Due Date	The first performance report is due for reporting period ending December 31, 2012	N/A
Submit to:	GO at LCFA@usbr.gov	GO at LCFA@usbr.gov
<b>Federal Financial Report</b>		
Format	SF-425 (all sections must be completed)	SF-425(all sections must be completed)
Reporting Frequency	Quarterly	Final Report due upon completion of Agreement's period of performance
Reporting Period	<p><b>For Quarterly Reporting:</b> Federal fiscal quarters ending: December 31, March 31, June 30 September 30</p> <p><b>For Semi-Annual Reporting:</b> October 1 through March 31 and April 1 through September 30.</p> <p><b>For Annual Reporting:</b> The Federal Fiscal Year, October 1 through September 30.</p>	Entire period of performance
Due Date*	Within 30 days after the end of the Reporting Period	Within 90 days after the completion date of the Agreement
First Report Due Date	The first Federal financial report is due for reporting period ending December 31, 2012	N/A
Submit to:	GO at LCFA@usbr.gov	GO at LCFA@usbr.gov

\* If the completion date is prior to the end of the next reporting period, then no interim report is due for that period. Instead, the Recipient is required only to submit the final financial and performance reports, which will cover the entire period of performance including the last abbreviated reporting period.

## 10. REGULATORY COMPLIANCE

The Recipient agrees to comply or assist Reclamation with all regulatory compliance requirements and all applicable State, Federal, and local environmental and cultural and paleontological resource protection laws and regulations as applicable to this project. These may include, but are not limited to, the National Environmental Policy Act (NEPA), including the Council on Environmental Quality and Department of the Interior regulations implementing NEPA, the Clean Water Act, the Endangered Species Act, consultation with potentially affected Tribes, and consultation with the State Historic Preservation Office.

Certain environmental and other associated compliance are Federal responsibilities, and will occur as appropriate. Reclamation will identify the need for and will complete any appropriate environmental compliance requirements, as identified above, pertinent to Reclamation pursuant to activities specific to this assisted activity. Environmental and other associated compliance shall be completed prior to the start of this project. As such, notwithstanding any other provision of this Agreement, Reclamation shall not provide any funds to the Recipient for Agreement purposes, and the Recipient shall not begin implementation of the assisted activity described in this Agreement, until Reclamation provides written notice to the Recipient that all applicable

environmental and regulatory compliance analyses and clearances have been completed and that the Recipient may begin implementation of the assisted activity. If the Recipient begins project activities that require environmental and other regulatory compliance approval, such as construction activities, prior to receipt of written notice from Reclamation that all such clearances have been obtained, then Reclamation reserves the right to unilaterally terminate this agreement for cause.

## **II. RECLAMATION STANDARD TERMS AND CONDITIONS - STATES, LOCAL GOVERNMENTS, AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS**

### **1. REGULATIONS**

The regulations at 43 CFR, Part 12, Subparts A, C, E, and F, are hereby incorporated by reference as though set forth in full text. The following Office of Management and Budget (OMB) Circulars, as applicable, and as implemented by 43 CFR Part 12, are also incorporated by reference and made a part of this Agreement. Failure of a Recipient to comply with any applicable regulation or circular may be the basis for withholding payments for proper charges made by the Recipient and/or for termination of support.

**1.1** Colleges and Universities that are Recipients or sub-recipients shall use the following:

2 CFR Parts 215 and 220 (Circular A 21), "Cost Principles for Educational Institutions"

Circular A 110, as amended September 30, 1999, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (Codification by Department of Interior, 43 CFR 12, Subpart F)

Circular A-133, revised June 27, 2003, "Audits of States, Local Governments, and Non-Profit Organizations"

**1.2** State, Local and Tribal Governments that are Recipients or sub-recipients shall use the following:

2 CFR Part 225 (Circular A 87), "Cost Principles for State, Local, and Indian Tribal Governments"

Circular A 102, as amended August 29, 1997, "Grants and Cooperative Agreements with State and Local Governments" (Grants Management Common Rule, Codification by Department of Interior, 43 CFR 12, Subpart C)

Circular A-133, revised June 27, 2003, Audits of States, Local Governments, and Non-Profit Organizations"

**1.3** Nonprofit Organizations that are Recipients or sub-recipients shall use the following:

2 CFR Part 230 (Circular A 122), "Cost Principles for Non-Profit Organizations"

Circular A 110, as amended September 30, 1999, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (Codification by Department of Interior, 43 CFR 12, Subpart F)

Circular A-133, revised June 27, 2003, "Audits of States, Local Governments, and Non-Profit Organizations"

**1.4** Organizations other than those indicated above that are Recipients or sub-recipients shall use the basic principles of OMB Circular A-110 (Codification by Department of Interior, 43 CFR 12, Subpart F), and cost principles shall be in accordance with 48 CFR Subpart 31.2.

**1.5** 43 CFR 12.77 sets forth further regulations that govern the award and administration of subawards by State governments.

## **2. PAYMENT**

### **2.1 Payment Standards. (43 CFR §12.61)**

(a) *Scope.* This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will make payments to subgrantees and contractors.

(b) *Basic standard.* Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR part 205.

(c) *Advances.* Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

(d) *Reimbursement.* Reimbursement shall be the preferred method when the requirements in paragraph (c) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency's payments to the grantee or subgrantee will be based on the grantee's or subgrantee's actual rate of disbursement.

(e) *Working capital advances.* If a grantee cannot meet the criteria for advance payments described in paragraph (c) of this section, and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance basis. Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee's disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the subgrantee's actual cash disbursements.

(f) *Effect of program income, refunds, and audit recoveries on payment.*

- (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.
- (2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(g) *Withholding payments.*

- (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless—
  - (i) The grantee or subgrantee has failed to comply with grant award conditions, or
  - (ii) The grantee or subgrantee is indebted to the United States.
- (2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with §12.83(c).
- (3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(h) *Cash depositories.*

- (1) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.
- (2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State Agreement.
  - (i) *Interest earned on advances.* Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.

## **2.2 Payment Method**

**Requesting Payments** -- Requests for advance or reimbursement may be made by the following methods:

**(1) SF-270, Request for Advance or Reimbursement** - Recipients may submit an original and properly certified SF-270 form to the GO. Requests for reimbursement may be submitted on a monthly basis or more frequently if authorized by the (GO). Recipients may not request advance payments for anticipated expenses that are greater than one month in advance of the request.

**(2) SF-271, Outlay Report and Request for Reimbursement for Construction Programs** - The SF-271 shall be used for construction Agreements paid by the reimbursement method, letter of credit, electronic funds transfer, or Treasury check advance, except where the advance is based on periodic requests from the Recipient, in which case the SF-270 shall be used. This request may be submitted on a quarterly basis, but no less frequently than on an annual basis. Recipients may submit an original, properly certified SF-271 form to the GO.

**(3) Automated Standard Application for Payments (ASAP)** - Recipients may utilize the Department of Treasury ASAP payment system to request advances or reimbursements. ASAP is a Recipient-initiated payment and information system designed to provide a single point of contact for the request and delivery of Federal funds. Recipient procedures must minimize the time elapsing between the drawdown of federal funds and the disbursement for agreement purposes.

*Recipients interested in enrolling in the ASAP system, please contact Dee Devillier at 303-445-3461 or Sheri Oren at 303-445-3448.*

### **3. PROCUREMENT STANDARDS (43 CFR §12.76)**

(a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) *Procurement standards.*

(1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only—

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) *Competition.*

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §12.76. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) *Methods of procurement to be followed* —(1) *Procurement by small purchase procedures.* Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$150,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by *sealed bids* (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in §12.76(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by *competitive proposals*. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) *Contracting with small and minority firms, women's business enterprise and labor surplus area firms.* (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) *Contract cost and price.*

(1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is

performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §12.62). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

*(g) Awarding agency review.*

(1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) *A payment bond on the part of the contractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

- (2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
- (3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
- (4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)
- (5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
- (6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
- (7) Notice of awarding agency requirements and regulations pertaining to reporting.
- (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.
- (10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
- (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

#### **4. EQUIPMENT (43 CFR §12.72)**

(a) *Title.* Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) *States.* A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) *Use.*

(1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §12.65(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) *Management requirements.* Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property,

the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) *Disposition.* When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) *Federal equipment.* In the event a grantee or subgrantee is provided Federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) *Right to transfer title.* The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow 12.72(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

## **5. SUPPLIES (43 CFR §12.73)**

(a) *Title.* Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) *Disposition.* If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other Federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

## **6. INSPECTION**

Reclamation has the right to inspect and evaluate the work performed or being performed under this Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If Reclamation performs inspection or evaluation on the premises of the Recipient or a sub-Recipient, the Recipient shall furnish and shall require sub-recipients to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

## **7. AUDIT (31 U.S.C. 7501-7507)**

Non-Federal entities that expend \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133. Federal awards are defined as Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. They do not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in A-133,

§ \_\_\_.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

## **8. ENFORCEMENT (43 CFR §12.83)**

(a) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,
- (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,
- (3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,
- (4) Withhold further awards for the program, or
- (5) Take other remedies that may be legally available.

(b) *Hearings, appeals.* In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

- (1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,
- (2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to Debarment and Suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 ((2 CFR 29.5.12 and 2 CFR 1400, Subpart C).

## **9. TERMINATION FOR CONVENIENCE (43 CFR §12.84)**

Except as provided in 43 CFR §12.83 awards may be terminated in whole or in part only as follows:

(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §12.83 or paragraph (a) of this section.

## **10. DEBARMENT AND SUSPENSION (2 CFR §1400)**

The Department of the Interior regulations at 2 CFR 1400—Governmentwide Debarment and Suspension (Nonprocurement), which adopt the common rule for the governmentwide system of debarment and suspension for nonprocurement activities, are hereby incorporated by reference and made a part of this Agreement. By entering into this grant or cooperative Agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 1400, Subpart C, and agrees to include a similar term or condition in all lower-tier covered transactions. These regulations are available at <http://www.gpoaccess.gov/ecfr/>.

## **11. DRUG-FREE WORKPLACE (2 CFR §182 and §1401)**

The Department of the Interior regulations at 2 CFR 1401—Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), which adopt the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq, as amended) applicable to grants and cooperative agreements, are hereby incorporated by reference and made a part of this agreement. By entering into this grant or cooperative agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 182.

## **12. ASSURANCES AND CERTIFICATIONS INCORPORATED BY REFERENCE**

The provisions of the Assurances, SF 424B or SF 424D as applicable, executed by the Recipient in connection with this Agreement shall apply with full force and effect to this Agreement. All anti-discrimination and equal opportunity statutes, regulations, and Executive Orders that apply to the expenditure of funds under Federal contracts, grants, and cooperative Agreements, loans, and other forms of Federal assistance. The Recipient shall comply with Title VI or the Civil

Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any program-specific statutes with anti-discrimination requirements. The Recipient shall comply with civil rights laws including, but not limited to, the Fair Housing Act, the Fair Credit Reporting Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, the Age Discrimination in Employment Act, and the Uniform Relocation Act.

Such Assurances also include, but are not limited to, the promise to comply with all applicable Federal statutes and orders relating to nondiscrimination in employment, assistance, and housing; the Hatch Act; Federal wage and hour laws and regulations and work place safety standards; Federal environmental laws and regulations and the Endangered Species Act; and Federal protection of rivers and waterways and historic and archeological preservation.

### **13. COVENANT AGAINST CONTINGENT FEES**

The Recipient warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by the Recipient for the purpose of securing Agreements or business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement amount, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee

### **14. TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 CFR §175.15)**

Trafficking in persons.

(a) *Provisions applicable to a recipient that is a private entity.*

(1) You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not

(i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

(ii) Procure a commercial sex act during the period of time that the award is in effect; or

(iii) Use forced labor in the performance of the award or subawards under the award.

(2) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

(i) Is determined to have violated a prohibition in paragraph a.1 of this award term; or

(ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either

(A) Associated with performance under this award; or

(B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 *CFR part 1400*.

(b) *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—

(1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

(2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either

(i) Associated with performance under this award; or

(ii) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 *CFR part 1400*.

(c) *Provisions applicable to any recipient .*

(1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

(2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

(i) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

(ii) Is in addition to all other remedies for noncompliance that are available to us under this award.

(3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

(d) *Definitions .* For purposes of this award term:

(1) “Employee” means either:

- (i) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
- (ii) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

(2) “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(3) “Private entity”:

(i) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(ii) Includes:

(A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

(B) A for-profit organization.

(4) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

## **15. NEW RESTRICTIONS ON LOBBYING (43 CFR §18)**

The Recipient agrees to comply with 43 CFR 18, New Restrictions on Lobbying, including the following certification:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

(c) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (URA) (42 USC § 4601 *et seq.*)**

(a) The Uniform Relocation Assistance Act (URA), 42 U.S.C. § 4601 *et seq.*, as amended, requires certain assurances for Reclamation funded land acquisition projects conducted by a Recipient that cause the displacement of persons, businesses, or farm operations. Because Reclamation funds only support acquisition of property or interests in property from willing sellers, it is not anticipated that Reclamation funds will result in any "displaced persons," as defined under the URA.

(b) However, if Reclamation funds are used for the acquisition of real property that results in displacement, the URA requires Recipients to ensure that reasonable relocation payments and other remedies will be provided to any displaced person. Further, when acquiring real property, Recipients must be guided, to the greatest extent practicable, by the land acquisition policies in 42 U.S.C. § 4651.

#### **(c) Exemptions to the URA and 49 CFR Part 24**

(1) The URA provides for an exemption to the appraisal, review and certification rules for those land acquisitions classified as "voluntary transactions." Such "voluntary transactions" are classified as those that do not involve an exercise of eminent domain authority on behalf of a Recipient, and must meet the conditions specified at 49 CFR § 24.101(b)(1)(i)-(iv).

- (2) For any land acquisition undertaken by a Recipient that receives Reclamation funds, but does not have authority to acquire the real property by eminent domain, to be exempt from the requirements of 49 CFR Part 24 the Recipient must:
- (i) provide written notification to the owner that it will not acquire the property in the event negotiations fail to result in an amicable agreement, and;
  - (ii) inform the owner in writing of what it believes to be the market value of the property

**(d) Review of Land Acquisition Appraisals.** Reclamation reserves the right to review any land appraisal whether or not such review is required under the URA or 49 CFR § 24.104. Such reviews may be conducted by the Department of Interior's Appraisal Services Directorate or a Reclamation authorized designee. When Reclamation determines that a review of the original appraisal is necessary, Reclamation will notify the Recipient and provide an estimated completion date of the initial appraisal review.

## **17. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS (2 CFR 25, APPENDIX A)**

### *A. Requirement for Central Contractor Registration (CCR)*

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

### *B. Requirement for Data Universal Numbering System (DUNS) Numbers*

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

### *C. Definitions*

For purposes of this award term:

1. *Central Contractor Registration (CCR)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).

2. *Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
  - a. A Governmental organization, which is a State, local government, or Indian Tribe;
  - b. A foreign public entity;
  - c. A domestic or foreign nonprofit organization;
  - d. A domestic or foreign for-profit organization; and
  - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. *Subaward*:
  - a. 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.
  - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, *see* Sec. 11.210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).
  - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. *Subrecipient* means an entity that:
  - a. Receives a subaward from you under this award; and
  - b. Is accountable to you for the use of the Federal funds provided by the subaward.

## **18. PROHIBITION ON TEXT MESSAGING AND USING ELECTRONIC EQUIPMENT SUPPLIED BY THE GOVERNMENT WHILE DRIVING**

Executive Order 13513, *Federal Leadership On Reducing Text Messaging While Driving*, was signed by President Barack Obama on October 1, 2009 (ref: <http://edocket.access.gpo.gov/2009/pdf/E9-24203.pdf>). This Executive Order introduces a Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or rented vehicles, government-owned or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**Submitted By:** Elizabeth A. Burke, City Clerk  
**Date:** 08/28/2012  
**Meeting Date:** 09/18/2012



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**TITLE**

**Consideration of Minutes:** August 24-25, 2012, City Council Retreat; September 4, 2012, Special City Council Meeting (Executive Session); September 4, 2012, City Council Meeting; September 11, 2012, Special City Council Meeting (Executive Session); and the September 11, 2012, City Council Work Session.

**RECOMMENDED ACTION:**

Approve the minutes of the August 24-25, 2012, City Council Retreat; September 4, 2012, Special City Council Meeting (Executive Session); September 4, 2012, City Council Meeting; September 11, 2012, Special City Council Meeting (Executive Session); and September 11, 2012, City Council Work Session as submitted/corrected.

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**Attachments:**    08/24/2012 Council Retreat  
                          09/04/2012 Special Meeting  
                          09/04/2012 Council Meeting  
                          09/11/2012 Special Meeting  
                          09/11/2012 Council Work Session

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**Form Review**

Form Started By: Elizabeth A. Burke

Started On: 09/12/2012 07:49 AM

Final Approval Date: 09/12/2012

**MINUTES OF THE RETREAT OF THE FLAGSTAFF CITY COUNCIL HELD ON FRIDAY AND SATURDAY, AUGUST 24 AND 25, 2012, AT THE CITY OF FLAGSTAFF AQUAPLEX LOCATED AT 1702 NORTH FOURTH STREET, FLAGSTAFF, ARIZONA**

Friday, August 24, 2012 – 9:00 AM

I. Welcome

Mayor Nabours opened the Retreat at 9:08 a.m. and welcomed everyone.

Council present:

Council absent:

Mayor Nabours  
Vice Mayor Evans  
Councilmember Barotz  
Councilmember Brewster  
Councilmember Oravits  
Councilmember Overton  
Councilmember Woodson

None

II. Facilitation Structure and Rules

III. Mission Statement

IV. Vision Statement

V. Break

A break was taken between 10:30 a.m. and 10:55 a.m.

VI. Guiding Principles

VII. Lunch

A lunch break was taken between 12:25 p.m. and 1:10 p.m.

VIII. Converting Issues to Interests

IX. Break

An afternoon break was taken between 3:10 p.m. and 3:32 p.m.

X. Goals

Councilmember Barotz left the Retreat at 4:45 p.m. and the Friday session recessed at 4:50 p.m.

**Saturday, August 25, 2012 – 8:00 AM**

The Saturday session began at 8:05 a.m. with all Councilmembers present.

XI. Review and Select Goals & Objectives

XII. Wrap-up

XIII. Break

A morning break was held between 10:00 a.m. and 10:20 a.m.

XIV. June Retreat Follow-up

XV. October Retreat Discussion

The Retreat adjourned at 12:00 noon. Final outcomes of this Retreat are attached hereto and made a part hereof as Exhibit A.

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MAYOR

ATTEST:

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CITY CLERK

## **EXHIBIT A**

### **Mission Statement**

To protect and enhance the quality of life of its citizens

### **Vision Statement**

The City of Flagstaff is a safe, diverse, vibrant, and innovative community with a unique character and high quality of life. The City fosters and supports a balance of economic, environmental, educational and cultural opportunities.

### **Guiding Principles**

#### **Things to consider when making decisions**

- Should the City be providing this service? Can someone else do it?
- Is it the appropriate use of tax dollars?
- Does this best leverage city dollars, labor and commodities (in kind)?
- How will this affect fees and taxes?
- Can we use existing before creating new?
- Is this Council's role?
- Is this the appropriate time for this issue (political capital)?
- Are we planning for the future?
- Is this an issue we should be looking at in detail or big picture?
- Has there been appropriate public input?
- Is it equitable?
- What is the effect on predictability?
- Is this an appropriate regulation?
- Have we been provided enough information to make a decision?
- Does it empower employees?
- Will it improve the livability or quality of life for the community?
- How does it maintain small town charm?
- Is this an appropriate balance of economic, environmental and social considerations?
- Hyper-Understanding?
- Is it consistent with the Regional Plan?

### **Goals**

#### **Complete within next two years**

Evaluate, consider and possibly support the following:

1. **Repair Replace maintain infrastructure (streets & utilities)**
  - a. Reasonable level in 5 years
  - b. Staff to provide detail on specific conditions

- 2. Fund existing and consider expanded recreational services**
  - a. Get all parks to level 2 in 2 years
  - b. Maintain current level of recreation services, facilities, and programs – Staff provide details on specific conditions
  - c. Review and approve Parks master plan
- 3. Address Core Services Maintenance Facility**
  - a. Educational outreach
  - b. Staff to work on other issues not related to bond
  - c. Finalize contract
- 4. Complete Rio de Flag**
  - a. Complete Limited reevaluation report
  - b. Complete 100% plans
  - c. Legislative Advocacy to achieve continued funding
  - d. Repair Clay Ave basin
  - e. Construct Phase IIa
- 5. Retain, expand, and diversify economic base**
  - a. Support policies that support the goal
    - i. Need to define
  - b. Flag 40 STEM (Science, Technology, Engineering, & Math) initiative
  - c. ECONA
  - d. Economic Vitality Division and its programs
  - e. Secure 2<sup>nd</sup> Airline
  - f. Increase arts and culture tourism
    - i. Support arts incubator
    - ii. FCP
  - g. Development of adequate infrastructure to support current and expanding economic base
- 6. Complete Water Policy**
  - a. Implications of settlement vs. non-settlement of water policy
  - b. Red Gap
    - i. Delivery issues
    - ii. Funding
  - c. Reclaim water
    - i. Treatment options
    - ii. Water quality
  - d. Sale and use of water inside/outside city limits
    - i. Reclaim
    - ii. Potable
    - iii. Rates
  - e. Funding Sources
  - f. Separate out policy on reclaim and potable water
  - g. Set specific milestones in order to accomplish in 2 years
  - h. Coordination with regional partners
  - i. Stormwater Policy
    - i. LID
  - j. Water Conservation Policy
- 7. Review financial viability of pensions**
  - a. ASRS/PSPRS?
  - b. Legal framework
  - c. Define and analyze problem

- d. Study of options
  - i. Pros and cons of adjustments
- e. Define legislative position
- 8. Review all Commissions**
  - a. Number of commissions
  - b. Roles
  - c. Scope
  - d. Reports/Recommendations
  - e. Purpose
  - f. Use of Ad Hoc committees
    - i. Reestablish Citizen's Budget Committee?
    - ii. Establish Citizen Charter Committee?
  - g. Revise staff summary to note
    - i. What commissions have reviewed, when and result?
    - ii. Applicability of Regional Plan
- 9. Zoning Code check in and analysis of the process and implementation**
  - a. Recurring public input at Council work session
  - b. Written outreach to focus groups – prior participants
  - c. Evaluation of standard vs. process (matrix?)
  - d. System limitations
  - e. "Listening" Tour
    - i. Recurring?
  - f. How do we evaluate "is this working"?
    - i. Case studies – pro/con, size
- 10. Develop an ongoing budget process**
  - a. What is the frequency?
    - i. Not less than 1x per month
  - b. Timing considerations
    - i. Distance from budget retreat
  - c. Work Session budget topics
    - i. BBB update – joint meeting with commissions
    - ii. Funding outside agencies
    - iii. Prioritization exercise
    - iv. Review of tax code
    - v. Division Presentations at work session where all Council is present
    - vi. Budget University voluntary and open to the public
    - vii. Review of fees
  - d. Allocation decisions require full budget context (retreat)
  - e. Future budget retreats should be recorded and/or televised

**MINUTES OF THE SPECIAL MEETING (EXECUTIVE SESSION) OF THE FLAGSTAFF CITY COUNCIL HELD ON MONDAY, SEPTEMBER 4, 2012, IN THE STAFF CONFERENCE ROOM, SECOND FLOOR OF THE FLAGSTAFF CITY HALL, 211 WEST ASPEN, FLAGSTAFF, ARIZONA**

1. Call to Order

Mayor Nabours called the meeting to order at 4:00 p.m.

2. Roll Call

MAYOR NABOURS

VICE MAYOR EVANS

COUNCILMEMBER BAROTZ

COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS (arrived at 4:06 p.m.)

COUNCILMEMBER OVERTON

COUNCILMEMBER WOODSON

3. Recess into Executive Session

**Mayor Nabours moved to recess into Executive Session; seconded by Councilmember Overton; passed unanimously.**

The Flagstaff City Council recessed into Executive Session at 4:00 p.m.

A. Discussion or consultation for legal advice with the attorney or attorneys of the public body, pursuant to ARS §38-431.03(A)(3).

i. Flagstaff Employee Handbook of Regulations.

B. Discussion or consultation for legal advice with the attorney or attorneys of the public body; and discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS §38-431.03(A)(3) and (A)(4).

i. Regarding State and Local Public Safety Personnel Retirement System ("PSPRS") Boards' determination of eligibility for City airport personnel.

4. Adjournment

The Flagstaff City Council reconvened into Open Session at 5:15 p.m. at which time the Special Meeting of September 4, 2012, adjourned.

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MAYOR

ATTEST:

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CITY CLERK

# MINUTES

REGULAR COUNCIL MEETING  
TUESDAY, SEPTEMBER 4, 2012  
COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
12:00 NOON AND 5:30 P.M.

## 12:00 NOON MEETING

### 1. CALL TO ORDER

Mayor Nabours called the meeting of the Flagstaff City Council held on September 4, 2012, to order at 12:02 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 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 telephonically or by other technological means.

Councilmembers present:

Councilmembers absent:

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER  
COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER WOODSON

None

Others present: City Manager Kevin Burke; City Attorney Rosemary Rosales.

### 3. PUBLIC PARTICIPATION

#### A. Presentation on Fallen Officer Memorial

This item was moved to the evening portion of the meeting.

#### B. Public Participation enables the public to address the Council about an item that is not on the agenda. Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the

recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

None.

#### 4. BOARD AND COMMISSION APPOINTMENTS

##### A. Consideration of Appointments: Board of Adjustment.

###### RECOMMENDED ACTION:

Make one (1) appointment to a term expiring May 2013; one (1) appointment to a term expiring May 2014; and two (2) appointments to terms expiring May 2015.

It was noted that this item had errors on the staff report and would be coming back to Council at their September 18, 2012, meeting. The Council Interview Team members reported that both of those currently serving were happy to be reappointed and the other person they had interviewed was looking at other available vacancies.

#### 5. LIQUOR LICENSE PUBLIC HEARINGS

No items submitted

#### 6. CONSENT ITEMS

ALL MATTERS UNDER 'CONSENT AGENDA' ARE CONSIDERED BY THE CITY COUNCIL TO BE ROUTINE AND WILL BE ENACTED BY ONE MOTION APPROVING THE RECOMMENDATIONS LISTED ON THE AGENDA. UNLESS OTHERWISE INDICATED, EXPENDITURES APPROVED BY COUNCIL ARE BUDGETED ITEMS.

Items 6A, 6B, 6D and 6E were pulled from the Consent Agenda.

**Councilmember Overton moved to approve Consent Items 6C and 6F; seconded by Vice Mayor Evans; passed unanimously.**

##### A. Consideration and Approval of Job Order Contract thru Mohave Educational Services Contract: Cinder Lake Landfill, Cell D-Rock Coring Project

###### RECOMMENDED ACTION:

1. Approve the contract with Mohave Educational Services, through the Job Order Contract (JOC) project delivery method for site work with SDB Contracting Services, Inc. (ROC #070507) under the scope of work (attached), in the amount of \$62,932.83, with a contract time of 60 days: and
2. Authorize the City Manager to execute the necessary documents.

Staff gave some explanation as to how the contractor had been selected, noting that they were part of the Mohave Educational Services Contract, which is a cooperative purchasing arrangement, similar to purchasing through the State Contract. There are two methodologies for submitting proposals; one is via an RS Means Book and the other is through the Open Book process, wherein three quotes are obtained. In this case the Open Book method was utilized. This contractor had previously submitted a formal bid to the Mohave Educational Services, which process would be open to any local firms.

Staff noted that this could be pushed to a later time; however that would push the long-term development efforts out as well, which in the long run could produce higher costs. This would be paid for out of the Landfill Solid Waste fund.

**Councilmember Brewster moved to approve the contract with Mohave Educational Services, through the Job Order Contract (JOC) project delivery method for site work with SDB Contracting Services, Inc. (ROC #070507) under the scope of work, in the amount of \$62,932.83, with a contract time of 60 days; and authorize the City Manager to execute the necessary documents; seconded by Councilmember Woodson; passed 6-1 with Councilmember Oravits opposed.**

- B. Consideration and Approval of Second Amendment to Service Agreement: Residential curbside glass collection and prebaled cardboard revenue sharing.

RECOMMENDED ACTION:

1. Approve the amendment to the service agreement with Norton Environmental, Inc., to allow for the private collection of residential curbside glass only and a separate revenue sharing arrangement for large (approximately 1,000 lbs. or more) pre-baled cardboard; and
2. Authorize the City Manager to execute the necessary documents.

Staff noted that this did not alter the City's current collection structure for residential, and was a clean-up of the contract with Norton. If someone else wanted to come in to collect residential glass, they could do so.

**Councilmember Woodson moved to approve the amendment to the service agreement with Norton Environmental, Inc., to allow for the private collection of residential curbside glass only and a separate revenue sharing arrangement for large (approximately 1,000 lbs. or more) pre-baled cardboard; and authorize the City Manager to execute the necessary documents; seconded by Vice Mayor Evans; passed unanimously.**

- C. Consideration and Approval of Construction Contract: Pulliam Airport Concrete Ramp Joint Repair Project.

RECOMMENDED ACTION:

1. Approve the construction contract with Robert E. Porter Construction in the amount of \$186,284.26 for the base bid only, with a 30 day contract

- time, subject to approval from ADOT Multimodal Planning Division, Aeronautics Group;
2. Approve change order authority in the amount of \$18,628.43(10%) of the contract amount to cover potential costs associated with unanticipated items of work; and
  3. Authorize the City Manager to execute the necessary documents.
- D. Consideration and Approval of Acceptance of Grant Funding: Fiscal Year 2012/2013 Community Development Block Grant Funds (CDBG).

**RECOMMENDED ACTION:**

Authorize acceptance of grant funding in the amount of \$532,465 from the United States Department of Housing and Urban Development (HUD) for the FY 2012/2013 Community Development Block Grant (CDBG) Program.

Discussion was held on potential overspending on projects. It was suggested that further discussion be held in the future on what all CDBG funds may be used for and what the guidelines are for their use. Staff suggested that they have those discussions when they come back to put their application process together for next year. Staff was directed to include the CDBG caps and review the cause and effect of going in a different direction, as well as leveraging of the funds.

**Vice Mayor Evans moved to approve Item 6D (authorize acceptance of grant funding in the amount of \$532,465 from the United States Department of Housing and Urban Development (HUD) for the FY 2012-2013 Community Development Block Grant (CDBG) Program); seconded by Councilmember Brewster; passed unanimously.**

- E. Consideration and Approval of Intergovernmental Agreement: Housing Stabilization Program.

**RECOMMENDED ACTION:**

Approve the Intergovernmental Agreement with Coconino County for the administration of the Coconino County Housing Stabilization Program in the amount of \$52,000 in the 2012/2013 Community Development Block Grant (CDBG) Funds.

**Vice Mayor Evans moved to recess into Executive Session; seconded by Councilmember Brewster.** Mayor Nabours said that he was adverse to sudden moves into Executive Sessions to consult with the City's attorneys.

Councilmember Oravits recused himself from the vote due to a potential conflict of interest. **Vice Mayor Evans withdrew her motion; Councilmember Brewster withdrew her second.**

**Councilmember Woodson moved to approve Item 6E (approve the Intergovernmental Agreement with Coconino County for the administration of the Coconino County Housing Stabilization Program in the amount of \$52,000 in the 2012/2013 Community Development Block**

**Grant (CDBG) Funds); seconded by Vice Mayor Evans; passed 6-0 with Councilmember Oravits abstaining.**

- F. Consideration and Adoption of Resolution No. 2012-034: A resolution of the Flagstaff City Council repealing Resolution No. 2010-62 approving amendments to the City Council's Rules of Procedure, and approving new Rules of Procedure by motion.

RECOMMENDED ACTION:

1. Read Resolution No. 2012-034 by title only.
2. Adopt Resolution No. 2012-034.
3. Approve the Flagstaff City Council Rules of Procedure dated September 4, 2012.

7. ROUTINE ITEMS

- A. Consideration and Possible Adoption of Changes to Title 1, Chapter 14, Personnel System, of the Flagstaff City Code:

- i. Resolution No. 2012-33: A resolution of the City Council of the City of Flagstaff, Arizona declaring as a Public Record that certain document filed with the City Clerk and entitled "The 2012 Supplement 4 to the Flagstaff Employee Handbook of Regulations"
- ii. Ordinance No. 2012-14: An ordinance of the City Council of the City of Flagstaff amending the Flagstaff City Code, Title 1, Administrative, Chapter 14, Personnel System, Section 1-14-001-0001, Personnel System Adopted; adopting the Flagstaff Employee Handbook of Regulations by reference, relating to policies and procedures concerning equal employment opportunity, non-discrimination and anti-harassment, Americans with Disabilities Act, complaints, affirmative action, probationary employees, performance evaluation, reduction in force, and grievances; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections and establishing an effective date.

RECOMMENDED ACTION:

1. Read Resolution No. 2012-33 by title only
2. Adopt Resolution No. 2012-33
3. Read Ordinance No. 2012-14 by title only for the first time

This item was moved to discussion at the evening portion of the meeting.

It was reported that the City of Flagstaff had a team of 30 people participating in the recent Climb to Conquer Cancer which raised \$1400, and Stacey Brechler-Knaggs was their team captain.

**RECESS**

The Flagstaff City Council recessed their meeting of September 4, 2012, at 12:34 p.m.

## 5:30 P.M. MEETING

### 8. RECONVENE REGULAR MEETING

Mayor Nabours reconvened the Regular Meeting of September 4, 2012, at 5:35 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).

#### PLEDGE OF ALLEGIANCE, INVOCATION, AND MISSION STATEMENT

The Council and audience said the Pledge of Allegiance and Mayor Nabours read the City of Flagstaff's Mission Statement:

#### MISSION STATEMENT

*To protect and enhance the quality of life of its citizens.*

### 9. ROLL CALL

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

Councilmembers present:

Councilmembers absent:

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER  
COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER WOODSON

None

Others present: City Manager Kevin Burke; City Attorney Rosemary Rosales.

### 10. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

A. Consideration of Minutes: August 27, 2012, Special City Council Meeting (Executive Session) and August 27, 2012, City Council Meeting

#### RECOMMENDED ACTION:

Approve the minutes of the August 27, 2012, Special Council Meeting and August 27, 2012, City Council Meeting as submitted/corrected.

**Councilmember Oravits moved to approve the minutes of the August 27, 2012, Special Council Meeting and the August 27, 2012, City Council Meeting as submitted; seconded by Councilmember Woodson; passed unanimously.**

11. PUBLIC PARTICIPATION

A. Employee Recognition

Mayor Nabours invited Diana Lee forward and presented her with a Plaque of Special Recognition, on behalf of her mother, Peggy Lee, who was retiring today from the City after 22 years of service, thanking her mother for her service to the City.

Mr. Burke also read and presented a plaque from the City on behalf of her years of service with the City.

At this time Police Chief Kevin Treadway gave a brief presentation on the dedication of the Fallen Officers Memorial which will be held on Saturday, September 8, 2012, at 11:00 a.m. at the Police Station. He noted that the artist, Neal Logan, was home sick and unable to join them. He said that it was representing the four officers killed in the line of duty since 1908, three of which worked for Coconino County and one from the City, Officer Moritz.

B. Proclamation - September 2012 as Mental Health Recovery Month

Mayor Nabours invited Lisa Siffling forward, presenting her with the Proclamation after it was read.

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



Ann Marie Zeller addressed the Council regarding the Water Report.

12. CARRY OVER ITEMS FROM THE 12:00 NOON AGENDA

A. Consideration and Possible Adoption of Changes to Title 1, Chapter 14, Personnel System, of the Flagstaff City Code:

- i. Resolution No. 2012-33: A resolution of the City Council of the City of Flagstaff, Arizona declaring as a Public Record that certain document filed with the City Clerk and entitled "The 2012 Supplement 4 to the Flagstaff Employee Handbook of Regulations"

- ii. Ordinance No. 2012-14: An ordinance of the City Council of the City of Flagstaff amending the Flagstaff City Code, Title 1, Administrative, Chapter 14, Personnel System, Section 1-14-001-0001, Personnel System Adopted; adopting the Flagstaff Employee Handbook of Regulations by reference, relating to policies and procedures concerning equal employment opportunity, non-discrimination and anti-harassment, Americans with Disabilities Act, complaints, affirmative action, probationary employees, performance evaluation, reduction in force, and grievances; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections and establishing an effective date.

This item has been pulled and will come back to Council at the September 18, 2012, meeting.

### 13. PUBLIC HEARING ITEMS

No items submitted

### 14. REGULAR AGENDA

- A. Consideration of Ordinance No. 2012-13: An ordinance of the Mayor and Council of the City of Flagstaff amending Flagstaff City Code, Title 3, Business Regulations; Chapter 3, User Fees; Section 3-10-001-0005, Recreation, revising Jay Lively Activity Center fees.

#### RECOMMENDED ACTION:

Postpone to the October 2, 2012, City Council meeting to allow sufficient time to develop more detailed information and to complete community outreach and discussion with the public.

Staff noted that at the July 3, 2012, meeting Council had directed staff to bring this back to the September 4, 2012, meeting; however, more time was needed and they were requesting that it be postponed to the October 2, 2012, meeting.

Council requested that the following items be provided by staff when it came back to Council:

- ▶ Prices that the City charges for use of other facilities and fields
- ▶ Cost recovery percentages for other recreational facilities
- ▶ Copy of minutes from community outreach and input with user groups, along with sign-in sheets
- ▶ Cost of maintenance of fields, broken down as to what is being maintained, and how much is covered by BBB and General Funds
- ▶ Information on dasher board advertisement and why it is not being done now
- ▶ Information on concessions at the ice skating rink
- ▶ What the McPherson building is being used for, what repairs are needed, and if it could generate additional revenue
- ▶ Copy of any cost recovery policies

**Councilmember Overton moved to postpone this item to the October 2, 2012, Council meeting; seconded by Councilmember Woodson; passed unanimously.**

- B. Consideration and Approval of Lease of City-Owned Property: Snow play recreational area on the northeast portion of McMillan Mesa.

RECOMMENDED ACTION:

1. Approve the Lease Agreement with D&C Maintenance and Snow Plowing, L.L.C., for an annual lease fee of \$3,000 for the winter season of operation; revenue share, based on gross revenue less sales tax, of 5.5% up to \$400,000; 7.5% from \$400,001 to \$600,000; and 9.5% from \$600,001 and higher; with an initial term of ten (10) years and an option for two 5-year extensions upon mutual written agreement between both parties; and
2. Authorize the City Manager to execute the necessary documents.

Councilmember Woodson declared a conflict of interest and left the room (at 6:10 p.m.)

It was noted that there had been a lot of confusion and misunderstanding of where they were at with this proposal. About two years ago the Council identified a need for a snow play facility and set that as a goal. A little over a year ago the City requested an RFP, resulting in the current proposal. It was reviewed by five City departments and they believed that the proposal had enough validity and planning to move forward. To move forward, the Proposers need 1) a lease of the land; and 2) a conditional use permit.

The lease was never intended to address all of the details of the operation; that would come in the conditional use permit process. Before the lease came before Council the Proposer held two public information meetings and the proposal was presented to four commissions. Those presentations were to answer questions and provide feedback; they were not to receive a yes or no vote.

On May 8, 2012, the proposal came before Council and it was the conclusion of a majority of the Council that staff should move forward in preparing a lease. A proposed lease was discussed on July 10, and a lease was presented to Council on July 17. They have had several hours of public discussions and made amendments and format changes to the lease. It was now before the Council for adoption, amendment or neither. They were there to discuss the lease, and not the use permit.

Some questions have been raised and staff has answered them:

**Did the original RFP say that the snow play area could not be lighted?** The RFP stated that the projected hours were 9-4. It also stated that the Proposer would be given an opportunity for alternate revisions.

**Why can't the City provide for vacant parcels around town for sledding?** The City has chosen not to do that. An actual facility is safer and keeps the City

out of the snow play business. The City cannot provide impromptu sledding hills. They don't want the kids to get hurt.

**With the lease rent so low is it considered a gift?** With all factors considered, rent and other benefits, it is not considered a gift.

The Proposers gave a brief PowerPoint presentation that addressed:

- ▶ FLAGSTAFF SNO-PARK NIGHT TUBING
- ▶ WHAT IS BEING REQUESTED?
- ▶ WHY IS THIS BEING REQUESTED?
- ▶ LIGHT COMPARISONS
- ▶ REQUESTED CHANGES TO LEASE IF LIGHTS ARE NOT APPROVED
  - Remove reclamation bond requirement
  - Remove west side parking lot requirement
  - Simplify design of east side parking
  - Simplify landscape requirement
  - Leave greater portion of equipment on site for summer

They anticipate tickets to cost less than \$10 for City residents (between \$7 and \$9) and over \$10 for visitors. Additionally, they would have family pricing and free tickets (believed to be 600) given to the Parks and Recreation Department to assist disadvantaged individuals unable to pay.

Those from the public speaking in favor of the snow play area:

Cara Slaughter  
Jonathan Allen  
Randy Rhoton  
Jeff Kelly  
John Stigmon  
Gabe Valdes  
Tom Wyatt (Flagstaff Chamber of Commerce)  
Sarah Cockayne

Those from the public speaking against the snow play area:

Shana Fox  
Bryan Bates  
April Smith  
Moran Henn (Friends of Flagstaff's Future)  
Nina Swidler  
LauraAnne Chapman  
Kim Gehle-Romberger  
Marilyn Wessman  
George Averbeck  
Lance Diskan  
Nancy McCleskey  
Jamie Whelan

Council took a break from 7:19 p.m. to 7:34 p.m.

Council reviewed various possibilities of action that could be taken:

1. Not approve at all
2. Approve the lease in front of them, with restrictions re lights
3. Take out any reference to lighting at all and leave that to CUP process
4. Amend the proposed lease to provide for 30 days of lighting as requested

Councilmembers reviewed their positions on the issue. The Proposer reviewed his options presented if Council did not provide for lighting. Council also discussed the input received from various commissions regarding the issue which had been found confusing by some members, as well as the reference to this project being consistent with the General Plan Land Use Map.

Discussion was held on the need for the Proposer to still go through the conditional use permit process and what obstacles they may have with it.

**Mayor Nabours moved that Article 5D be amended to delete any reference to hours of operation and lights, and any other reference within the document; seconded by Councilman Oravits.**

Concern was voiced by members of the Council that this would prolong any decision being made regarding lights until the conditional use permit process, which could ultimately be appealed and back before the Council within the year.

Motion passed 4-2 with a roll call vote:

Mayor Nabours	Yes
Vice Mayor Evans	No
Councilmember Barotz	No
Councilmember Brewster	Yes
Councilmember Oravits	Yes
Councilmember Overton	Yes

Councilmember Woodson abstained.

**Mayor Nabours moved to approve the lease as amended; seconded by Councilman Oravits; passed 4-2 with a roll call vote:**

Vice Mayor Evans	No
Councilmember Barotz	No
Councilmember Oravits	Yes
Councilmember Overton	Yes
Councilmember Brewster	Yes
Mayor Nabours	Yes

Councilmember Woodson abstained.

## 15. DISCUSSION ITEMS

- A. Discussion Item: Filling of vacancies on Regional Plan Citizens Advisory Committee

RECOMMENDED ACTION:  
No recommendation

Staff was directed to add Discussion of Filling Vacancies on Regional Plan Citizens Advisory Committee to the September 18, 2012, meeting agenda, and include information on makeup of committee and whether the Steering Committee can override a decision of the Council with regard to membership. It was noted that due to the turnaround time, the draft agenda may not have all of the information, but a complete package would be included in the final agenda packet.

## 16. PUBLIC PARTICIPATION

Moran Henn commented on Vice Mayor Evans' vote against the snow play area.

## 17. INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Woodson returned to the dais at this time (8:23 p.m.)

Staff was asked to remind the Police Department that it was campaign season and there have been issues with damaged and/or missing signs.

Staff was asked to add the following items to Section 15 for discussion:

- ▶ No longer reading proclamations at Council meetings
- ▶ Value-Added RFQ process (to include list of things previously sent and background e-mails)

Staff was asked to see if the Council Retreat could be scheduled for the afternoon of October 11 as there were a few councilmembers unable to make a morning session on that date.

Staff was asked to report on how the changes to the election laws will impact Flagstaff and discuss whether they should join in Tucson's suit to challenge the provisions as they affect charter cities.

Staff noted that the new meeting times, adopted earlier in the meeting, would begin in October.

Updates were reported on:

- ▶ The Lions Demolition Derby held last weekend
- ▶ This weekend's wine tasting event at Hart Prairie
- ▶ Attendance by the Mayor and three councilmembers to the Annual Conference of the League of Arizona Cities and Towns

- ▶ The City was getting closer to achieving the goal of obtaining a grant for Picture Canyon
- ▶ NAIPTA has installed a new bus shelter at the Flagstaff Arts and Leadership Academy
- ▶ NAIPTA has added more buses and later hours
- ▶ NAIPTA reported a total of 1.7 million trips in FY2012

Staff was asked to provide an update on the prairie dog situation and also an update on the Council i-Pads.

Mr. Burke reported:

- ▶ The League Resolutions Committee unanimously supported the City's resolution for forest health so it would now become part of the Legislative Agenda
- ▶ He would pursue starting the October 11, 2012, Retreat at midday
- ▶ The Community Enrichment Services Department has placed a color copy of the draft Parks and Recreation Master Plan in each of the Council's boxes and they would soon be reviewing this Plan
- ▶ Next week they were going on a tour of the Interbasin Pipeline Reconstruction project and they needed to let Meg know if they planned to attend.

ADJOURNMENT

The Flagstaff City Council meeting of September 4, 2012, adjourned at 8:35 p.m.

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MAYOR

ATTEST:

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CITY CLERK

CERTIFICATION

STATE OF ARIZONA)  
   ) ss.  
 County of Coconino )

I, ELIZABETH A. BURKE, 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 September 4, 2012. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 18th day of September, 2012.

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CITY CLERK

**MINUTES OF THE SPECIAL MEETING (EXECUTIVE SESSION) OF THE FLAGSTAFF CITY COUNCIL HELD ON MONDAY, SEPTEMBER 11, 2012, IN THE STAFF CONFERENCE ROOM, SECOND FLOOR OF THE FLAGSTAFF CITY HALL, 211 WEST ASPEN, FLAGSTAFF, ARIZONA**

1. Call to Order

Mayor Nabours called the meeting to order at 4:00 p.m.

2. Roll Call

MAYOR NABOURS

VICE MAYOR EVANS

COUNCILMEMBER BAROTZ

COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS

COUNCILMEMBER OVERTON

COUNCILMEMBER WOODSON

3. Recess into Executive Session

**Mayor Nabours moved to recess into Executive Session; seconded by Councilmember Woodson; passed unanimously.**

The Flagstaff City Council recessed into Executive Session at 4:00 p.m.

4. EXECUTIVE SESSION

Discussion or consultation for legal advice with the attorney or attorneys of the public body; discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation; and discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property; pursuant to ARS §§38-431.03(A)(3), (A)(4) and (A)(7), respectively.

i. Property located in the vicinity of Fourth Street, Huntington Drive, and Route 66.

5. Adjournment

The Flagstaff City Council reconvened into Open Session at 4:37 p.m. at which time the Special Meeting of September 11, 2012, adjourned.

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MAYOR

ATTEST:

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CITY CLERK

# MINUTES

WORK SESSION  
TUESDAY, SEPTEMBER 11, 2012  
COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
5:30 P.M.

1. CALL TO ORDER

Mayor Nabours called the Flagstaff Work Session of September 11, 2012, to order at 5:32 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. **9/11 COMMEMORATION - Posting of the Colors and Pledge of Allegiance**

Members of the Flagstaff Police Department and Fire Department Honor Guard posted the Colors and the Council and audience recited the Pledge of Allegiance.

3. **Roll Call**

Councilmembers present:

Councilmembers absent:

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER  
COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER WOODSON

None

Others present: City Manager Kevin Burke; City Attorney Rosemary Rosales.

4. **Public Participation (Non-Agenda Items Only):**

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.

Dexter Albert, Flagstaff, and Gordon Watkins, members of the Commission on Diversity Awareness, spoke on the upcoming Drums, Dance and Song to be held on Saturday from 11 a.m. to 5 p.m. on the Square in Flagstaff, and introduced a few of the members of the Ballet Folklorico de Mexico (Carmen, Sierra, Marcus and Leonel).

Chris Kemmerly, developer of Presido in the Pines, commended the Council on City staff for their work on this project.

Matthew Capalby, Flagstaff, thanked Council members for moving forward with the Civil Rights Ordinance.

5. **Preliminary Review of Draft Agenda for the September 18, 2012, City Council Meeting.\***

*\* Public comment on draft agenda items will be taken under "Review of Draft Agenda Items" later in the meeting. Citizens wishing to speak on agenda items not specifically called out by the City Council for discussion under the second Review section may submit a speaker card for their items of interest to the recording clerk. The item will be called out during the second "Review of Draft Agenda Items" to allow citizens the opportunity to comment. Citizens are also encouraged to submit written comments.*

Staff involved with the Regional Plan Update Citizens Advisory Committee was asked to remain for further discussion later in the meeting.

6. Presentation of Flagstaff 40 STEM-City Initiative

David Engelthaler with Flagstaff Forty and Director of TGen North, gave a presentation on the STEM (Science, Technology, Engineering, Math) Initiative, that addressed:

- ▶ SCIENCE • TECHNOLOGY • ENGINEERING • MATH
- ▶ WHY STEM?
- ▶ WHY STEM IN FLAGSTAFF?
- ▶ STEM IN FLAGSTAFF
- ▶ STEM LITERACY LEADS TO
- ▶ EXPECTATIONS
- ▶ STEM: A VISION FOR COMMUNITY IMPACT
- ▶ STEM CITY STRATEGY
- ▶ EARLY SUPPORT FROM COMMUNITY

His purpose was to provide information on the initiative to the Council and public, and request the City's support of the initiative. Further discussion was held and Council members voiced support for the program.

7. Draft 2012 Parks and Recreation Organizational Master Plan

Elizabeth Anderson, Community Enrichment Services Director, presented the first four chapters of the draft Parks and Recreation Organizational Master Plan, through a PowerPoint presentation which addressed:

- ▶ PROPOSED WORK SESSION SCHEDULE
- ▶ PLAN LAYOUT
- ▶ PURPOSE AND ORGANIZATION
- ▶ PLAN VISION – SEVEN TYPES OF EXCELLENCE

Excellence in Services  
Excellence in Economic Vitality  
Excellence in Equity  
Excellence in Efficiency of Operations  
Excellence in Responsiveness to Community Needs  
Excellence in Environmental Sustainability  
Excellence with Regards to Enjoyment

- ▶ PLAN CONTEXT

Natural Resources  
History  
Geography  
Demographics  
Land Use  
Economy

- ▶ KEY RECOMMENDATIONS
- ▶ PARKS – CHAPTER 4
- ▶ PARKS: ANALYSIS
- ▶ PLANNING CONSIDERATIONS
- ▶ ADDITIONAL PLANNING CONSIDERATIONS
- ▶ KEY RECOMMENDATIONS
- ▶ BUDGET ACTION STRATEGIES

Questions/comments were:

**Reclassification of Parks.** Selling or repurposing of existing parks, particularly the two acres or less, was a concern as many are located in areas needing the facilities. Infill was being encouraged in older neighborhoods and there may not be enough room for

larger parks, but they were still needed. Communication with affected neighborhoods should take place if such sale or repurpose was proposed. Clearer articulation within the document on this subject should be made.

Additionally, some parks could be considered a variety of types, such as Buffalo was noted as a Regional Park, but could also be a Specialty Park. Concern was voiced with having a Regional Park at Lake Mary when the County already had a Regional Park at Fort Tuthill. It was noted that there would not be duplication of amenities; they would offer different services, such as fields at Lake Mary. Additionally, the City staff has been working with County staff through this process.

The goal was to reduce the inventory of smaller parks, where appropriate, to provide better efficiencies but there would still be parks available in those areas. Some parks may be changed to open space, or civic spaces.

**Private maintenance of some parks.** This was problematic; there needs to be some type of mechanism for the City to facilitate maintenance.

Council took a break from 7:23 p.m. to 7:33 p.m.

**418.\* Review of Draft Agenda Items for the September 18, 2012, City Council Meeting.\***

*\* Public comment on draft agenda items will be taken at this time.*

Council returned to further discussion of Item 4C of the Draft Agenda regarding the Regional Plan Update Citizens Advisory Committee (RPUCAC) membership. The questions to be answered were: 1) does the Council want to fill the vacancy for a City resident? and, if so, 2) does the Council want to make that appointment next week?

Concerns raised were:

- ▶ Lack of balanced representation on the current RPUCAC and Steering Committee
- ▶ Some members of the RPUCAC itself voiced concern with lack of balance
- ▶ The RPUCAC members have been working on this project for over three years
- ▶ If the Council were to appoint a City representative, the County could appoint up to three County residents, which could still skew the makeup of the membership
- ▶ Without balanced representation the voters may not approve the General Plan Amendments
- ▶ The City's partner (the County) should be consulted through the Steering Committee prior to making any appointment
- ▶ Need to move quickly on appointment versus taking time to communicate with County and ultimate impact on schedule in relation to election
- ▶ Some flexibility with election dates during 2014
- ▶ There has been a great deal of public participation throughout the process
- ▶ The proposed amendments will go into the public for further comment in January of 2013 and return to the RPUCAC prior to placement on the ballot
- ▶ Members of other boards/commissions have terms; perhaps all of the members should be reappointed
- ▶ Appearance of push-back on various sides—wanting to appoint now and wanting to first meet with the Steering Committee

Tom Wyatt, Chamber of Commerce, spoke in favor of moving forward with an appointment.

Staff was directed to keep this item on the September 18, 2012, agenda for discussion only.

**89.\* Public Participation.**

Cathy Antroda said that during Councilmember Karen Cooper's service on the Council work was done regarding the Red Gap Ranch with regard to water quality studies and the item on next week's agenda may not be necessary if they were able to access those prior documents.

**910.\* Informational Items To/From Mayor, Council, and City Manager.**

Council commented as follows:

- Glad to see the flags outside and appreciated the group that put on the remembrance for 9/11; some also attended the American Legion's ceremony and the Veterans Forum
- Many attended the Fallen Officers Memorial last Saturday at the Law Enforcement facility
- Concern with southside neighborhood and related parking issues
- Has Economic Vitality met with the Navajo Economic Development group to discuss the east entrance into the Grand Canyon?
- Request that staff bring forward a resolution to support the STEM Initiative
- Attended the Boys and Girls Club grand opening
- Issues on Urban Trail system: crack on east side of Forest going to Cedar; a big drainage ditch has developed on the Buffalo Park side of the Cedar bridge; dead Aspen trees; upside boat on trail
- Tomorrow NAU was hosting a community meeting re collaboration
- NAU's first home football game was this coming Saturday night
- Looking forward to the Schultz tour
- Discovery Channel Telescope program recently on television put Flagstaff in a good light
- Jeff Hall from Lowell Observatory was trying to get a tour put together of the Discovery telescope

Staff was directed to address the following issues:

- Establishment of a Parking District on a future agenda for discussion
- Have Economic Vitality report at next week's meeting, preferably at the beginning, on this week's Governor's Rural Development Conference
- Future Work Session on Early Childhood Initiative – Baby College Initiative

Staff noted that the upcoming work sessions were pretty full, leaving little time for budget discussions, so it appeared that a Budget Retreat would be needed sometime in November; they were looking in the area of November 12.



**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Shannon Anderson, Human Resources Manager  
**Date:** 08/20/2012  
**Meeting Date:** 09/18/2012



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**TITLE:**

**Consideration and Possible Adoption of Changes to Title 1, Chapter 14, Personnel System, of the Flagstaff City Code:**

- i. Resolution No. 2012-33: A resolution of the City Council of the City of Flagstaff, Arizona declaring as a Public Record that certain document filed with the City Clerk and entitled "The 2012 Addendum 4 to the Flagstaff Employee Handbook of Regulations"
- ii. Ordinance No. 2012-14: An ordinance of the City Council of the City of Flagstaff amending the Flagstaff City Code, Title 1, *Administrative*, Chapter 14, *Personnel System*, Section 1-14-001-0001, *Personnel System Adopted*; adopting the *Flagstaff Employee Handbook of Regulations* by reference, relating to policies and procedures concerning equal employment opportunity, affirmative action, non-discrimination and anti-harassment, Americans with Disabilities Act, complaints, grievances, probationary employees, performance evaluations and reductions in force; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections and establishing an effective date.

**RECOMMENDED ACTION:**

1. Read Resolution No. 2012-33 by title only.
2. Read Ordinance No. 2012-14 by title only for the first time

**Policy Decision or Reason for Action:**

Revising Title 1, Chapter 14 as proposed will amend the Flagstaff Employee Handbook of Regulations to include new and updated policies in Equal Employment Opportunity, Affirmative Action, Non-Discrimination and Anti-Harassment, Americans with Disability Act, Complaint Procedures; Grievance Procedures, Probationary Period, Dismissal of Probationary Employees, Performance Evaluation System and Reduction in Force. The Employee handbook serves many purposes, which include but are not limited to: helping promote efficient City operations; helping protect the City from liability by providing employees with clear directives as to appropriate behavior in the workplace, and enabling the City to receive and continue to receive federal funding.

**Financial Impact:**

The employee handbook policies and procedures include employees at various levels throughout the organization which creates costs associated with personnel time.

**Connection to Council Goal:**

Effective governance.

**Has There Been Previous Council Decision on This:**

No.

**Options and Alternatives**

Options: 1) Support the changes ; 2) Support some of the changes; 3) Propose other changes.

**Background/History:**

The Flagstaff Employee Handbook of Regulations is an evolving document to ensure legal requirements are met and best practices are implemented. Therefore, the following changes are being proposed:

1. Section 1-10-011 Equal Employment Opportunity Policy: This new policy will be added to specify the City bases its hiring and employment decisions solely upon an individual's ability to perform the essential functions of the job without discrimination or harassment on the basis of race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, gender identity, veteran's status or any other status protected by law.
2. Section 1-10-012 Affirmative Action: This policy combines the Affirmative Action Policy, Equal Employment Opportunity and Affirmative Action Plan and Article 1-150 City of Flagstaff Affirmative Action Program into one policy. The policy provides background information, responsible parties and a listing of potential affirmative actions.
3. Section 1-10-013 Non-Discrimination and Anti-Harassment Policy: This is updating the City's current policy on sexual harassment and expanding the policy to clearly include harassment, discrimination and retaliation associated with race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, gender identity, veteran's status or any other status protected by law. The policy states discrimination and harassment are prohibited and will not be tolerated. The policy informs employees that all complaints of harassment, discrimination and retaliation will be thoroughly investigated per Section 1-10-021 Complaint Procedures and whom to contact.
4. Section 1-10-014 Americans with Disabilities Act: This policy combines the current handbook language and employee directive information. The policy has been updated to include definitions, how to address reasonable accommodations and records.
5. Section 1-10-021 Complaint Procedures: This is a new policy that standardizes how complaints related to harassment, discrimination and retaliation will be handled by the City for employees. The policy explains the reporting procedure, that any supervisor who fails to report will be subjected to discipline, a six month time frame for reporting, the steps of an investigation, including responsive action where an employee may seek recourse if they do not agree with the stated resolution and record keeping.
6. Section 1-10-022 Grievance Procedure: This policy has been updated to further explain the filing, response and appeal processes. It continues to include language about verbally speaking to an immediate supervisor or next levels of supervision as a step before filing a grievance.
7. Section 1-30-060 Probationary Period: This policy has been updated to include a definition of a probationary period and provide the length for non-exempt non-commissioned employees, non-exempt Municipal Court employees and non-exempt commissioned employees. The dismissal portion of the policy has been separated out to the dismissal section of the Employee Handbook.

8. Section 1-30-061 Performance Evaluation System: This is a new policy that encompasses the current probationary review and administrative review policies and performance evaluation handbook components. The policy explains the evaluation process, what probationary, annual and administrative evaluations are and the timing of each.

9. Section 1-40-122 Dismissal of Probationary Employees: This policy has been broken out of the probationary period policy and updated language has been added. The policy explains under what circumstances an employee may be dismissed while on probation and an explanation of the dismissal process.

10. Section 1-40-050 Reduction in Force: This policy has been updated to include the reduction process, performance matrix and placement process.

All of these policies have links to resources such as the Equal Employment Opportunity Commission or Department of Labor websites and to any related forms or documents.

**Key Considerations:**

Key considerations for the proposed changes are as follows:

1. Adding of an Equal Employment Opportunity statement.
2. Creating of a non-discrimination and anti-harassment policy including retaliation and standardized definitions and examples.
3. Expanding the Americans with Disabilities policy to include the process for requesting a reasonable accommodation.
4. Refining the Affirmative Action policy to update the program and how the program will be administered.
5. Establishing one complaint procedure for harassment, discrimination and retaliation for employees.
6. Providing a specific process for filing a grievance and adding the chain of command to the process versus going right from the immediate supervisor to the City Manager.
7. Removing the right of temporary employees to appeal a dismissal while on probation to the City Manager. Tenured employees do not have this right, so it was not an equitable practice.
8. Creating a performance evaluation system that includes all types of evaluations and explains the process.
9. Updating the reduction in force policy to officially adopt the performance matrix and reduction process.

**Community Involvement:**

These policies have not been reviewed by the community; however, sexual orientation and gender identity have been added to these policies based on a resolution adopted by City Council. The resolution was adopted by City Council after a series of public forums had been held regarding additional protections for the LGBT community.

**Date of Council Approval:**

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**Attachments:**    [Res 2012-33](#)  
                          [Ord 2012-14](#)  
                          [Addendum 4](#)

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**Form Review**

<b>Inbox</b>	<b>Reviewed By</b>	<b>Date</b>
Human Resources Manager	Shannon Anderson	09/06/2012 10:03 AM
Legal Assistant	Vicki Baker	09/06/2012 10:46 AM
Senior Assistant City Attorney AW	Anja Wendel	09/06/2012 02:23 PM
DCM - Josh Copley	Josh Copley	09/06/2012 02:36 PM

Form Started By: Elizabeth A. Burke

Started On: 09/05/2012 03:49 PM

Final Approval Date: 09/06/2012

**RESOLUTION NO. 2012-33**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK ENTITLED "THE 2012 ADDENDUM 4 TO THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS".**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

That certain document entitled "The 2012 Addendum 4 of the Flagstaff Employee Handbook of Regulations," three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the City Clerk.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

**ORDINANCE NO. 2012-14**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF AMENDING THE FLAGSTAFF CITY CODE, TITLE 1 ADMINISTRATIVE, CHAPTER 14 PERSONNEL SYSTEM, SECTION 1-14-001-0001 PERSONNEL SYSTEM ADOPTED, AMENDING THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS BY ADOPTING "THE 2012 ADDENDUM 4 FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS" BY REFERENCE, RELATING TO POLICIES AND PROCEDURES CONCERNING EQUAL EMPLOYMENT OPPORTUNITY, AFFIRMATIVE ACTION, NON-DISCRIMINATION AND ANTI-HARASSMENT, AMERICANS WITH DISABILITIES ACT, COMPLAINTS, GRIEVANCES, PROBATIONARY EMPLOYEES, PERFORMANCE EVALUATION, AND REDUCTION IN FORCE; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

**Section 1. In General.** The Flagstaff City Code, Title 1 Administrative, Chapter 14 Personnel System, Section 1-14-001-0001 Personnel System Adopted is hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text) and by amending that certain document known as the Flagstaff Employee Handbook of Regulations, by adopting those changes as set forth in that certain document known as "2012 Addendum 4 of the Flagstaff Employee Handbook of Regulations" of the City of Flagstaff, three copies of which are on file in the office of the City Clerk, which document was made a public record by Resolution No. 2012-33 of the City of Flagstaff, and which is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

**SECTION 1-14-001-0001 PERSONNEL SYSTEM ADOPTED:**

There is hereby established pursuant to Article IV, section 5, of the Charter of the City a personnel system based on the principles of merit and fitness to be known as the "~~Personnel Policies of the City of Flagstaff - 1980~~", which policies are hereby adopted by reference pursuant to Article VII, section 13, of the Charter of the City, and the same are hereby designated and declared to be a public record of the City. 'FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS,' WHICH MAY BE AMENDED FROM TIME TO TIME, Three (3) copies of the "~~Personnel Policies of the City of Flagstaff - 1980~~" WHICH shall be KEPT ON file in the office of the City Clerk and there retained available for the use and inspection by any interested person during normal business hours. The aforesaid rules and regulations shall be placed on file with the City Clerk immediately following the adoption and approval of this Chapter.

~~The City of Flagstaff hereby adopts the "2003 Amendments to the Personnel Policies of the City of Flagstaff," and by said adoption the City hereby augments and removes certain language contained in the Personnel Policies of the City of Flagstaff and hereby incorporates all of the provisions of the 2003 Amendments to the Personnel Policies of the City of Flagstaff into the Personnel Policies of the City of Flagstaff.~~

ANY PERSON FOUND IN VIOLATION OF A PROVISION OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS MAY BE SUBJECT TO DISCIPLINE, AS SET FORTH IN SUCH HANDBOOK.

(ORD. 1116, ENACTED 06/03/1980; Ord. 2003-21, AMENDED 11/08/03, ORD. 2004-25 AMENDED 12/21/2004, ORD. 2006-21 AMENDED 9/19/2006; ORD. 2007-39 AMENDED 08/07/2007, ORD. 2009-12 AMENDED 07/01/2009, ORD. 2010-10 AMENDED 06/08/2010, ORD. 2012-14 AMENDED 08/22/2012)

**Section 2. Penalties.** Any person found in violation of any provision of the Flagstaff Employee Handbook of Regulations may be subject to discipline, as set forth in such Handbook.

**Section 3. Repeal of Conflicting Ordinances.** All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

**Section 4. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**Section 5. Clerical Corrections.** The Human Resources Director is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary related to the City of Flagstaff Employee Handbook of Regulations as amended herein, and to make formatting changes needed for purposes of clarity and form, or consistency.

**Section 6. Effective Date.** This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
ATTORNEY

U:\Ordinance 2012-14 rev 9-5-12.doc

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

### 1-10-011 EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy of the City of Flagstaff to ensure equal employment opportunity to all qualified persons based solely upon an individual's ability to perform the essential functions of the job without discrimination or harassment on the basis of race, color, religion, sex, pregnancy, national origin, age, disability, genetic information, sexual orientation, gender identity, veteran's status or any other status protected by law. Federal definitions may be found by visiting the resource links provided below.

The City's equal employment policy applies to all human resources related activities such as recruitment and hiring, compensation, benefits, promotions, transfers, reductions in force, City-sponsored training, termination and all other terms and conditions of employment.

Employment discrimination based upon an employee's race, color, sex, religion or national origin is a violation of Title VII of the Civil Rights Act of 1964, as amended while discrimination based upon an employee's disability is a violation of the Rehabilitation Act of 1973, American with Disabilities Act of 1990 and the Americans with Disabilities Amendment Act of 2008. Age discrimination is a violation of the Age Discrimination in Employment Act of 1967 as amended.

The Human Resources Division has overall responsibility for this policy and maintains reporting and monitoring procedures. The Human Resources Director or designee is designated as the City's Equal Employment Opportunity Officer and the Affirmative Action Officer. The Human Resources Director or designee will be available to all employees and applicants to handle any matters regarding Equal Employment Opportunity.

Disciplinary action may be taken against any employee willfully violating this policy, up to and including termination.

Sexual orientation and gender identity are currently not protected by State or Federal Law, so the City has adopted the following definitions for the purposes of City policy.

- A. Sexual orientation refers to whether a person is romantically or sexually attracted to other adults of a different sex, the same sex, or both.
- B. Gender identity is an individual's inner sense of belonging to a particular sex, male or female, regardless of whether this corresponds to his or her anatomical sex.

Links: [Title VII of the Civil Rights Act of 1964](#)  
[Pregnancy Discrimination Act of 1978](#)  
[Rehabilitation Act of 1973](#)

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

[American with Disabilities Act of 1990](#)

[Americans with Disabilities Amendment Act of 2008](#)

[Age Discrimination in Employment Act of 1967](#)

[Genetic Information Non-Discrimination Act of 2008](#)

### 1-10-~~020012~~.AFFIRMATIVE ACTION

~~The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) requires Federal contractors and subcontractors take affirmative action to Affirmative action as developed at the national level shall be the City of Flagstaff's positive means of implementing equal opportunity for all employees recruit and advance qualified minorities, women, persons with disabilities, and covered veterans without regard to race, color, religion, sex, age, veteran's status, citizenship, non-disqualifying disability, national origin, or sexual orientation. As a government contractor the City has developed an Affirmative Action Program (AAP). The program is a tool designed to ensure equal employment opportunity in policies, practices and procedures relating to recruitment and hiring, advancement and all other terms and conditions of employment. The goal of this City is to devise recruitment, training, and career advancement programs that will result in a greater percentage of minorities and women in City employment.~~

#### A. RESPONSIBLE PARTIES

1. The City Manager, as chief executive, is responsible for oversight of the Affirmative Action Program (AAP) to ensure compliance.
2. The Human Resources Director or designee is the City's Affirmative Action Officer (AAO) responsible for the design and effective implementation of the AAP by:
  - a. Developing Equal Employment Opportunity (EEO) policy statements and affirmative action plans.
  - b. Maintaining workforce, job group and utilization analysis every other year with the completion of the EEO-4. The EEO-4 is a survey completed biennially in every odd-numbered year. Under the Title VII of the Civil Rights Act of 1964, the Equal Employment Opportunity Commission requires workforce data from local governments with 100 or more employees. The City provides information on employment totals, employees' job category and salary by sex and race/ethnic groups as of June 30 of the survey year.
  - c. Assisting in the identification of potential AAP/EEO problem areas.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

- d. Assisting management in arriving at effective solutions to AAP/EEO problems.
  - e. Designing and implementing an internal audit and reporting system that measures the effectiveness of the program and identifies the need for remedial action.
  - f. Informing the City Manager of statistical analysis, potential AAP/EEO problem areas and program progress on a quarterly basis.
  - g. Training supervisors on the AAP and related personnel policies.
  - h. Maintaining equal employment postings on the company's bulletin board to ensure information is up-to-date.
  - i. Documenting statistical data, applicant flow logs, summary of personnel actions such as new hires, promotions, resignations, terminations and layoffs, and records pertaining to the classification and compensation system.
  - j. Serving as liaison between the City and enforcement agencies, groups, or organizations concerned with Equal Employment Opportunity.
3. Division Director, Section Heads and Supervisors will assist with the implementation of the Affirmative Action Program (AAP) by:
- a. Identifying problem areas, formulating solutions, and establishing goals and objectives within their respective areas when necessary. All area specific plans will be published on the Human Resources website.
  - b. Reviewing the qualifications of all applicants and employees to ensure qualified individuals are treated in a nondiscriminatory manner when hiring, promotion, transfer and termination actions occur.
  - c. Conducting regular evaluations of an employee's job performance to assess whether personnel actions are justified based on the employee's performance of his or her duties and responsibilities.

### B. AFFIRMATIVE ACTIONS

The City's Affirmative Action Plan is on file with the Human Resources Director's Office. The plan includes but is not limited to the following measures to eliminate potential AAP/EEO problem areas.

## **2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS**

1. Conducting ongoing analyses of job descriptions to ensure they accurately reflect job functions.
2. Training hiring supervisors on proper interview techniques and equal employment opportunity to ensure the selection process is free from bias.
3. Including “Equal Opportunity/Affirmative Action Employer” in all printed employment advertisements and vacancy announcements.
4. Placing employment advertisements, when appropriate, in local minority news media and women’s interest media.
5. Requesting employment agencies to refer qualified minorities and women.
6. Ensuring all employees are given equal opportunity for promotion by posting promotional opportunities and offering assistance to employees in identifying training and education opportunities to enhance promotional opportunities.

Links: U.S. Equal Employment Opportunity Commission  
U.S. Department of Labor – Office of Federal Contract Compliance Programs

### **1-10-013 NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

The City of Flagstaff is committed to a work environment in which all individuals are treated with respect and dignity. The purpose of this policy is to establish expectations for employee conduct within the workplace and to provide a process for employees who feel as if they have been discriminated against or harassed. Each employee of the City is expected to refrain from discrimination, harassment and retaliation within the workplace. Any individual employee who violates these guidelines and engages in prohibited conduct will be subject to appropriate disciplinary action up to and including termination.

It is the policy of City of Flagstaff to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, sex, pregnancy, national origin, age, disability, genetic information, sexual orientation, gender identity, veteran’s status or any other characteristics protected by law. The City prohibits and will not tolerate any such discrimination or harassment.

#### **A. DEFINITIONS**

1. Discrimination means to exclude individuals from an opportunity or participation in any activity because of race, color, religion, sex, pregnancy, national origin, age, disability, genetic information, sexual orientation, gender identity, veteran’s status, familial status, caregiving

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

responsibilities, and occurs whenever similarly situated individuals of a different group are accorded different and/or unequal treatment in the context of a similar situation.

2. Harassment is unwelcomed conduct related to race, color, religion, sex, pregnancy, national origin, age, disability, genetic information, sexual orientation, gender identity, veteran's status, familial status, or caregiving responsibilities where such conduct has the purpose or affect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive work environment.
3. Hostile work environment is one in which an employee is regularly confronted with offensive conduct, comments, jokes, cartoons or remarks based upon characteristics protected by law, that make it difficult for an employee to perform his or her job. A hostile work environment does not need to be limited to sex-based conduct, and may include conduct or comments based upon race, color, religion, national origin, age, disability, sexual orientation, gender identity or any other characteristics protected by law. Generally the conduct that creates a hostile work environment is repeated behavior which is sufficiently severe or pervasive to affect the terms and conditions of employment.
4. Retaliation is to discriminate against an individual because he or she has opposed any practice made unlawful under the Federal employment discrimination statutes. This protection applies if an individual communicates to his or her employer or to a state or federal agency charged with investigating discriminatory conduct a belief that activity constitutes a form of employment discrimination that is covered by any of the statutes enforced by the Arizona Civil Rights Division of the Arizona Attorney General's office or the Equal Employment Opportunity Commission (EEOC).

### B. HARASSMENT

Harassment on the basis of any other protected characteristics is strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, pregnancy national origin, age, disability, genetic information, sexual orientation, gender identity, veteran's status or any other characteristic protected by law that:

1. Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

3. Otherwise adversely affects an individual's employment opportunities.
4. Harassing conduct includes, but is not limited to:
  - a. Epithets, slurs or negative stereotyping;
  - b. Threatening, intimidating or hostile acts; or
  - c. Denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail).

### C. SEXUAL HARASSMENT

1. Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. For the purposes of this policy, sexual harassment is unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, when for example:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
2. Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different sex. Depending on the circumstances, these behaviors may include, but are not limited to:
  - a. unwanted sexual advances or request for sexual favors;
  - b. sexual jokes and innuendos;
  - c. verbal abuse of a sexual nature;
  - d. commentary about an individual's body, sexual prowess or sexual deficiencies;
  - e. leering, catcalls or touching;

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

- f. insulting or obscene comments or gestures;
  - g. display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail);
3. For purposes of clarification, sexual harassment or other forms of unlawful harassment include, but is not limited to the following behaviors:
- a. *Verbal Harassment.* Derogatory comments, propositioning, slurs, or other offensive words or comments on the basis of any protected status; whether made in general, directed to an individual or to a group of people, regardless of whether the behavior was intended to harass. This includes, but is not limited to, inappropriate comments on appearance, including dress or physical features, sexual rumors, code words, and stories.
  - b. *Physical Harassment.* Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy or movement when directed at an individual on the basis of any protected class status. This includes such behaviors as pinching, patting, grabbing, or making explicit or implied threats or promises in return for submission to physical acts.
  - c. *Visual Forms of Harassment.* Derogatory, prejudicial, stereotypical, or other offensive posters, photographs, cartoons, notes, bulleting, drawings, screensavers, pictures, or articles of clothing that refers to any protected status or characteristic. This applies to posted materials, material maintained in or on City of Flagstaff property or equipment, or personal property in the workplace.
4. Harassment not involving sexual activity or language (e.g. male manager yells only at female employees and not males) may also constitute sex discrimination if it is severe or pervasive and directed at employees because of their sex.

### D. INDIVIDUALS AND CONDUCT COVERED

These policies are intended to protect all employees from harassment, discrimination or retaliation whether by fellow employees, by a supervisor or manager or by a third party (e.g. a City contractor, vendor, consultant or customer).

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside of the workplace, such as during business trips, business meetings and business-related social events.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

All complaints of harassment, discrimination and retaliation should be reported as outlined in section 1-40-014 Complaint Policy.

### E. RETALIATION IS PROHIBITED

The City of Flagstaff prohibits retaliation of any kind by an employee, supervisor or manager because an employee filed a complaint or participates in an investigation of a complaint. Retaliation shall be deemed to include, but are not limited to:

1. Disciplining, or changing a work assignment or working conditions; and
2. Threatening promotional opportunities, job securities, benefits, terms of employment or any other service related benefits or privileges.

### F. RESPONSIBLE PARTIES

1. The Human Resources Division shall be responsible for formally notifying employees of the City's policy and regularly conducting training on the topics of harassment, discrimination and retaliation.
2. Supervisors and managers are responsible for ensuring that harassment, discrimination, retaliation or other prohibited actions do not occur in the workplace. The supervisor or manager shall immediately report any prohibited behaviors to the Human Resources Director or designee for investigation and possible corrective action. If the subject of the complaint is a supervisor, the complainant is to report the matter to the Human Resources Director or designee.
3. Employees who witness prohibited actions of harassment, discrimination or retaliation are required to report such conduct. Employees are required to cooperate in investigations related to this policy by coming forward with evidence and fully and truthfully making a written report or verbally answering questions when requested by an investigator.

### G. REPORTING COMPLAINTS

All complaints of harassment, discrimination or retaliation shall be reported to the immediate supervisor, Section Head, Division Director or the Human Resources Director or designee. All complaints of harassment, discrimination and retaliation will be thoroughly investigated as outlined in section 1-10-021 Complaint Policy.

Links: [Equal Employment Opportunity Commission Guidelines](#)

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

### 1-10-02114 AMERICANS WITH DISABILITIES ACT

It is the policy of the City not to discriminate against qualified individuals with disabilities in its hiring or employment practices such as advancement, discharge, compensation, training or other terms, conditions, and privileges of employment. The Americans with Disabilities Act (ADA) and subsequent Americans with Disabilities Amendments Act (ADAA) require employers to reasonably accommodate qualified individuals with disabilities. The City does not discriminate on the basis of disability in its hiring or employment practices.

The City shall not ask a job applicant about the existence, nature, or severity of a disability or medical condition. Applicants may be asked about their ability to perform specific job functions. Job specific medical examinations or inquiries may be made, but only after a conditional offer of employment is made and only if required of all applicants for the position.

The City shall make reasonable accommodations for the known physical or mental limitations of a qualified applicant or employee with a disability upon request, unless the accommodation would cause an undue hardship on the operation of the City's business. To the extent its selection criteria for employment decisions have the effect of disqualifying an individual because of disability; those criteria must be job-related and consistent with business necessity. Employees' medical information shall be maintained separately from personnel files and protected by confidentiality.

In order to meet the federal and state mandated requirements relating to the Rehabilitation Act of 1973, Americans with Disability Act (ADA) and its amendments, the following internal process will be used.

#### A. DEFINITIONS

1. "Disability" refers to a physical or mental impairment that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning or working.
2. "Direct threat to safety" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.
3. "Qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or has applied for.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

### B. REASONABLE ACCOMMODATION

Prospective or current employees of the City of Flagstaff may request that the City undertake a “reasonable accommodation” evaluation. The purpose of the evaluation is to determine if the qualified individual with a disability is able to perform the essential functions of the job for which they are an applicant or currently hold without creating an undue hardship on the City.

1. Any persons having a disability, or acting on behalf of a person having a disability, may file a City of Flagstaff Request for Reasonable Accommodation (RRA). If the RRA form is unavailable, the correspondence to the City must include the following information:
  - a. Name of the person making the inquiry;
  - b. Telephone number of the person making the inquiry;
  - c. Address of the person making the inquiry;
  - d. Name of the person for whom the accommodation is being requested;
  - e. Nature of disability involved;
  - f. Position for which the request for reasonable accommodation is being made;
  - g. Length of current disability; and
  - h. Work related needs according to the disabled individual.
2. The City will reasonably accommodate qualified individuals with a disability so they can perform the essential functions of the job. An individual who can be reasonably accommodated for a job, without undue hardship to the organization, will be given the same consideration for the position as any other applicant.
3. All employees are required to comply with safety standards. Applicants who pose a direct threat to the health or safety of other individuals in the workplace that cannot be eliminated by reasonable accommodation will not be hired. Current employees who pose a direct threat to the health or safety of the other individuals in the workplace will be placed on appropriate leave, paid or unpaid depending on the circumstances, until an organizational decision has been made in regard to the employee’s immediate employment situation.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

4. Upon receipt of the request for a reasonable accommodation, the Human Resources Director or designee will provide a copy of the employee's current job description and request that the employee review this with their treating physician in order to confirm the limitations of the employee.
5. Upon receipt of the employee's limitations, the Human Director or designee will meet with the person making the inquiry. The Human Resources Director or designee will inform the inquiring person in writing of the outcome of this request. This written notice will be mailed to the address of the person making the inquiry as listed on the RRA form unless otherwise requested.
6. The City will attempt to resolve all requests for reasonable accommodation within thirty (30) calendar days of the receipt of the RRA form or letter.
7. The City may review the status of an accommodation in circumstances where the disability is not deemed permanent.

### C. RECORDS

Medical information obtained concerning individual requests for disability accommodation shall be kept confidential, except for the following circumstances:

1. Supervisors or managers may be informed regarding restrictions concerning the work or duties of disabled individuals, and regarding necessary accommodation needs.
2. First aid and safety staff may be informed when and to what condition might require emergency medical treatment.
3. Government officials investigating compliance shall be informed.

Form(s): Request for Reasonable Accommodation

Links: Rehabilitation Act of 1973

Americans with Disability Act of 1990

Americans with Disability Amendments Act of 2008

### 1-10-021. COMPLAINT PROCEDURE

The purpose of the complaint procedure is to outline reporting procedures for City employees or non-City employees who feel they have been subjected to harassment, discrimination or retaliation. All complaints of harassment, discrimination or retaliation will be thoroughly investigated in a timely manner.

## **2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS**

It is the policy of the City of Flagstaff that there is fair treatment in workplace matters. Unlawful discrimination, harassment, and retaliation shall not be tolerated.

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment, discrimination or retaliation. The City requires the prompt reporting of complaints or concerns within six months of the event which is the subject of the complaint, so that rapid and constructive action can be taken. The City will make every effort to stop alleged harassment before it becomes severe or pervasive, but can only do so with the cooperation of its employees.

Employees who are unsure if treatment rises to the level of harassment, discrimination or retaliation may seek the assistance of the Human Resources Director or designee. The Human Resources Director or designee will discuss the situation with the employee and provide guidance. These conversations will be documented by the Human Resources Director or designee and may remain informal and confidential between the employee and the Human Resources Director or designee, unless the treatment is severe and pervasive. This provides an employee the opportunity to understand how treatment may relate to City policies and state or federal laws and what are appropriate next steps.

### A. REPORTING

1. Employees who feel they have been subjected to harassment, discrimination or retaliation are encouraged to try and solve the problem directly by politely and firmly confronting the individual and tell them to stop. If the employee is not comfortable doing this they should take the issue to their immediate supervisor, Section Head, Division Director, or Human Resources.
2. The City of Flagstaff requires the reporting of all incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe they have experienced conduct that they believe is contrary to the City's policy or who have concerns about such matters should file their complaints with their immediate supervisor, Section Head, or Division Director, or the Human Resources Director or designee before the conduct becomes severe or pervasive. Individuals should not feel obligated to file their complaints with their immediate supervisor first before bringing the matter to the attention of one of the other City designated representatives above.
3. Employees filing a complaint will be encouraged to provide a written and/or recorded statement about their knowledge of the alleged incident. Verbal complaints will be treated with equal seriousness. However, in order to conduct a thorough investigation, the reporting party is

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

encouraged to submit written documentation. The employee or non-City employee should be prepared to provide the following information:

- a. His or her name, division and position title;
  - b. The name of the person or persons committing the harassment, discrimination or retaliation and their job title;
  - c. The specific nature of the harassment, discrimination or retaliation, how long it has gone on, specific dates and any employment action taken against you or any threats made against you as a result of the harassment, discrimination or retaliation;
  - d. Witnesses to the harassment, discrimination or retaliation;
  - e. Whether you have previously reported such harassment, discrimination or retaliation and, if so, when, to whom and what happened as a result of that report.
4. Any supervisor who becomes aware of possible harassment, discrimination or retaliation of an employee, either as a result of having received a complaint directly from the employee, from any reliable source of information or from his or her personal observation, must report the situation in writing to the Human Resources Director or designee immediately. Any manager or supervisor who fails to report harassment, discrimination or retaliation may be subject to discipline, up to and including termination.

### B. THE INVESTIGATION

1. The Human Resources Director or designee shall be responsible for overseeing the investigation and all resulting records. The Human Resources Director or designee may delegate the investigation to another City employee or third party agent at his or her discretion. In the event the complaint is against a member of the City Council or a Council appointed position such as the City Manager, City Attorney or Presiding Magistrate, the investigation shall be referred to an outside agency. In the event the complaint is against the Human Resources Director, the investigation will be referred to the City Manager or their designee.
2. Any reported allegations of harassment, discrimination or retaliation will be investigated promptly, thoroughly and impartially. The investigation may include individual interviews with parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

3. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.
4. Based upon the investigator's report, the Human Resources Director or designee and/or the City Manager or designee shall, within a reasonable amount of time, determine whether the conduct of the person against whom a complaint has been made constitutes a violation of the City's policies.
5. Following the investigation of a complaint, the Human Resources Director or designee shall report the facts of the investigation to the City Manager or designee and the Division Director. In cases where it is determined a violation has occurred, the City will take appropriate disciplinary action up to and including termination.

### C. RESPONSIVE ACTION

1. Misconduct constituting harassment, discrimination or retaliation will be dealt with promptly and appropriately.
2. Responsive action may include, for example, training, referral to counseling, monitoring of the offender and/or disciplinary action such as a verbal warning, reprimand, withholding of a promotion or pay increase, reduction in wages, demotion, reassignment, temporary suspension without pay, or termination, as the City believes appropriate under the circumstances to correct and prevent harassment, discrimination or retaliation.
3. If an employee making a complaint does not agree with the resolution, the employee may formally appeal in writing to the City Manager or designee within five (5) working days.

### D. RECORDS

Complaint records will not be filed or maintained with any other employment information concerning employees, but will be kept as a distinct system of records. If a complaint results in disciplinary action against an employee, the record of that action will be maintained with the employee's personnel records. The accessibility of investigation records will be limited to the City Manager, Deputy City Manager or appointed representatives; except to the extent required by law. Upon receipt of a public records request, the Human Resources division or City Clerk section will notify the complaining employee and subject of the complaint of the request.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

### ~~ARTICLE 1-90. GRIEVANCE PROCEDURE~~

#### ~~1-90-0101-10-022. GRIEVANCE PROCEDURE~~

Any alleged violation of a specific City provision is subject to review through the grievance procedure, excluding dismissal, demotion and suspension of ten (10) days or more. Dismissal, demotion and suspension of ten (10) days or more are covered by section 1-10-040 Personnel Board.

Employees are encouraged to first discuss an alleged policy violation with their immediate supervisor, as appropriate, before filling a grievance. If the alleged policy violation involves the employee's immediate supervisor or is not resolved with the immediate supervisor, the employee may approach the next level of supervision up to the Division Director without formally filing a grievance in writing. These informal discussions shall not be deemed a grievance.

Once an alleged policy violation is submitted in writing it is considered a grievance.

The time limits specified in the grievance process may be waived at any time by mutual consent of the parties. A grievance may be terminated at any time in the process with a signed written request from the employee.

#### A. FILING PROCESS

1. An employee initiates the grievance process by submitting the alleged violation in writing to their immediate supervisor. The grievance must be initiated within twenty (20) calendar days of the incident that gave rise to the grievance.
2. The grievance shall be signed by the employee, and must include the following information:
  - a. A clear and concise statement of the alleged policy violation and the facts upon which it is based;
  - b. The section(s) of the City of Flagstaff Employee Handbook of Regulations or other City policy that was violated; and
  - c. The remedy requested.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

### B. RESPONSE PROCESS

1. The supervisor shall notify the Section Head, Division Director and Human Resources Director or designee of the grievance and consult with these parties before their response.
2. The supervisor may meet with the employee prior to the response in order to seek clarification.
3. The response to a grievance shall be in writing, signed by the supervisor, and include the following information:
  - a. A clear and concise response to the grievance and the facts upon which it is based;
  - b. The section(s) of the City of Flagstaff Employee Handbook of Regulations or other City policy which apply to the grievance and basis for the decision; and
  - c. Denial or acceptance of the proposed remedy or alternative. The supervisor shall include information regarding the next steps in the process, if denying the remedy or alternative.
4. The supervisor shall meet with the employee to discuss the grievance response within five (5) working days after the grievance is initiated.

### D. APPEAL PROCESS

1. After receiving the written response from the supervisor, if the employee does not feel the grievance is satisfactorily resolved, the employee may file an appeal with the next level of supervision within five (5) working days in writing and shall include the reason for the appeal and why the previous response was unsatisfactory.
2. The next level of supervision shall discuss the grievance with the employee within five (5) working days, gather information from others involved or having information pertinent to the issue, and then shall provide a written response to all parties within five (5) working days of the meeting. This appeal process will continue through the chain of command to the City Manager.
  - a. At each succeeding step the employee shall state in writing the reason for his or her appeal and why the previous response was unsatisfactory.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

- b. At each succeeding step the supervisor or manager shall respond in writing to the grievance stating the reason and basis for the decision that was rendered.
    - c. The decision of the City Manager is final.
  - 3. All grievance documents should be forwarded to the Human Resources office for record retention.
- ~~A. A grievance is a circumstance, other than dismissal, demotion, or suspension, thought by the employee to be unjust and which has been reduced to writing.~~
- ~~1. If an employee feels they have a complaint, they shall discuss it with their immediate supervisor. If the complaint is not resolved with one's immediate supervisor, the employee may go to the next level of supervision and may proceed through the Department Head without formally filing a grievance. Such informal discussion shall be considered as a complaint and not a grievance.~~
  - ~~2. If, at any level of supervision above the first one, the employee decides to formalize their complaint in writing, they shall be considered as having a grievance.~~
- ~~B. All grievances shall commence within twenty (20) calendar days of the incident which gave rise to the grievance.~~
- ~~C. The following procedures shall be followed when any employee desires to express dissatisfaction with some aspect of their employment.~~
- ~~1. An employee who has a problem shall first present their complaint orally to their immediate supervisor so that it can be settled through discussion. Every effort shall be made to adjust all complaints on an informal basis between the employee and their immediate supervisor. The supervisor shall notify their Department Head when a complaint is presented so that their advice and counsel may be obtained and the complaint resolved.~~
  - ~~2. The complainant's supervisor is encouraged to answer the employee as quickly as possible and must reply no later than five (5) working days after submission of the complaint.~~
  - ~~3. If, after discussion with their first two levels of supervision, the employee does not believe the problem has been satisfactorily resolved on the informal oral basis, they may file a formal written grievance with their immediate supervisor.~~

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

- ~~4. This first level supervisor must, within five (5) working days of the filing of the grievance, render a written, dated decision to the employee. This decision will have the written concurrence of the Department Head, and shall indicate the basis for the decision. Copies of this decision shall be sent to the City Manager and the Department Head. If, after receiving the formal answer from the supervisor, the employee does not feel the grievance is satisfactorily resolved by the answer, the employee may, within five (5) working days of the date of the formal answer, appeal the decision in writing to the City Manager.~~
- ~~D. The City Manager shall discuss the grievance with the employee, and others involved or having information pertinent to the issue, and then shall, within seven (7) calendar days, render findings which shall be final.~~

### **1-30-060. PROBATIONARY PERIOD**

- ~~A. Probationary Period The probationary period is the initial period of adjustment when the employee is learning about the City and their new position and the employee is provided with training and guidance from their supervisor.~~
- ~~A. Probationary periods are designed to provide a reasonable amount of time to evaluate an employee's performance.~~
  - ~~1. Non-exempt non-commissioned employees will serve a six month probationary period.~~
  - ~~2. Non-exempt Municipal Court and non-exempt commissioned employees will serve a one year probationary period. The probationary period for Police Officers will begin after the completion of the Field Training Officer (FTO) Program.~~
- ~~B. Probationary period may be extended by no more than six (6) months per section 1-30-061.B Performance Evaluation System Probationary Evaluation.~~
  - ~~1. Original appointments of classified employees shall be tentative and subject to a six (6) month probationary period, except for classified commissioned employees, who will serve a one (1) year probationary period. Probationary periods will start on the employee's date of hire except for Police Officers whose probationary period will start after completion of FTO or when assigned solo status. Probationary periods may be extended by no more than six (6) months. Extensions shall be granted by the Department Head prior to the end of the initial six (6) months or one (1) year probationary period.~~

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

- 2C. Upon successful completion of a probationary period, a ~~classified non-exempt~~ employee shall be granted tenured status in the ~~classification position~~ in which the probationary period is served.
- 3D. Time spent serving as a temporary employee will not count towards the probationary period.
- 4E. The appropriate ~~Department Head~~Division Director may dismiss the ~~probationer~~probationary employee at any time during the probationary period ~~with or without cause~~when the employee is not progressing or performing satisfactorily per section 1-40-122 Dismissal of Probationary Employee.

### B.1-40-122 Dismissals While On ProbationDISMISSAL OF PROBATIONARY EMPLOYEES

A non-exempt employee may be dismissed while on probation when the employee is not progressing or performing satisfactorily and the supervisor has made a reasonable effort to coach the employee and ensure he or she understand the expectations of the position.

#### 4A. DISMISSAL PROCESS

1. The supervisor will recommend the termination of the probationary employee to the Division Director.
2. Upon approval from the City Manager or designee, the Division Director will meet with the employee to notify them of the dismissal and provide written notification of dismissal for the employee to acknowledge.
3. The Division Director will notify the Human Resources Director and Payroll immediately.
4. The written acknowledgment will be placed in the employee's personnel file.
5. Payroll will provide the employee's last paycheck within three days of the notice of dismissal.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

- B. Employees who are dismissed while completing their probation do not have access to the Personnel Board or the formal grievance procedure. ~~However, probationary employees may request a review by the City Manager or designee.~~
- ~~2. The employee shall petition for review by the City Manager within five (5) calendar days from notification by a division or Department Head that he/she has not successfully completed his/her initial probationary period.~~
- ~~3. An employee rejected during the probationary period from a position to which promoted may be returned to the classification in which they had regular status, provided a vacancy in that classification exists. Should no vacancy exist at the time, the employee shall be placed on the appropriate re-employment list.~~

### 1-30-061 PERFORMANCE EVALUATION SYSTEM

The performance evaluation system enables the creation of reasonable performance expectations by the supervisor and the employee. The formal evaluations of the employee's work behavior helps the employer and the employee build on the strengths of the employee and identify those areas the employee needs improvement to be more effective and efficient in their job.

#### A. EVALUATION PROCESS

1. The supervisor will prepare the evaluation based on the review of the following items:
  - a. A comparison of the employee's performance with the performance expectations established upon the employee's date of hire or the previous year's evaluation;
  - b. The duties and responsibilities of the employee's position; and
  - c. Supervisory notes taken during the evaluation period.
2. The supervisor's evaluation should be based on an employee's actual performance and not on personal prejudice, bias or favoritism.
3. The supervisor will notify the employee of their evaluation meeting at least one (1) week in advance.
4. The supervisor will request the employee complete the pre-review input form. This allows the employee an opportunity to present his or her accomplishments for the year and assist the supervisor in completing the performance evaluation.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

5. The supervisor will meet with the employee to review the performance evaluation. The supervisor will discuss the employee's strengths, areas of improvement with suggestions for improvement and expectations and goals for the upcoming year.
6. Any evaluations completed by a supervisor and signed by the employee will be filed in the employee's personnel file. If the employee refuses to sign the supervisor will write "employee refused to sign" and the evaluation will be filed in the employee's personnel file.
7. An employee may attach a written statement to any evaluation to be placed in their 201 file.

### B. PROBATIONARY EVALUATION

1. All non-exempt employees will be evaluated during their probationary period to ensure satisfactory performance based on the following schedule:
  - a. A non-commissioned non-exempt employee shall be evaluated at three and six months from their date of hire.
  - b. A non-exempt employee of the Municipal Court shall be evaluated at four, eight and twelve months from their date of hire.
  - c. A commissioned non-exempt employee shall be evaluated at three, six, nine and twelve months from their date of hire. Except Police Officers who shall be evaluated at three, six, nine and twelve months after their completion of the Field Training Officer (FTO) Program.
2. The probationary evaluation schedule may be extended up to six months by completing the following process:
  - a. The supervisor submits a request in writing outlining the reason for and length of the probationary period extension and the request is approved by the Section Head, Division Director, Deputy City Manager and Human Resources Director prior to the end of the probationary period.
  - b. The supervisor notifies the employee in writing the probationary period has been extended and the employee acknowledges by signing the written document.
  - c. The employee acknowledgement is filed in the employee's personnel file.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

- d. Another performance evaluation is completed before the end of the extended probationary period.
3. An employee is deemed to have satisfactorily completed the probationary period when an extension is not requested prior to the end of the probationary period.
4. An employee who does not perform satisfactorily during the probationary evaluation period may be discharged per section 1-40-022 Dismissals of Probationary Employees.
5. Exempt employees do not serve a probationary period, thus a probationary evaluation is not required.

### C. ANNUAL EVALUATION

1. After an employee has completed the probationary evaluation or administrative evaluation period, the rating period shall be annually upon the employee's hire or classification date.
  2. Exempt evaluations shall be completed by July 1<sup>st</sup> of each year.
  3. Upon budgetary approval non-exempt and exempt employees with an overall evaluation score of five (5) or above will receive a merit increase, except when the employee is at the maximum of the pay range. A non-exempt pay merit increase is movement to the next step in the pay range. An exempt merit increase is equal to 3.2% of the employee's current salary.
  4. Council appointed employee evaluations shall be completed on the anniversary of and prior to the end of the service agreement.
  5. Additional evaluations may be required upon request from the immediate supervisor.
- ~~1. An employee shall be retained beyond the end of the probationary period if the appropriate Department Head affirms that the services of the employee have been found to be satisfactory. Failure to request an extension or make a recommendation to dismiss or retain an employee within the six (6) month or one (1) year for (for classified commissioned employees) probationary period, automatically changes the employee to tenured status.~~
  - ~~2. Employees serving a six (6) month probationary period shall receive a formal written evaluation by their supervisor at the end of their third and fifth month of employment in their current position. Employees serving a one (1) year~~

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

~~probationary period shall be evaluated formally on the third, sixth, ninth, and eleventh month. Police Officers will be evaluated formally on the third, sixth, and ninth month following completion of FTO. On the twelfth month they will receive written notification regarding tenured status.~~

- ~~3. After probationary performance evaluation ratings, the normal rating period shall be annually upon the employee's classification date.~~
- ~~4. Additional performance evaluations may be conducted at the discretion of the appropriate supervisor.~~

### ~~1-30-061. ADMINISTRATIVE REVIEW~~

#### D. ADMINISTRATIVE EVALUATION

~~1.A. Classified Non-exempt and exempt employees who are promoted, demoted, transferred, or who voluntarily reassigned to another position will complete are subject to an six (6) month administrative review, except for classified commissioned employees, who will complete a one (1) year administrative review evaluation based on the following schedule:~~

- ~~a. A non-commissioned non-exempt employee shall be evaluated at three and six months from their date of promotion, demotion, transfer, or voluntary reassignment to another position.~~
- ~~b. A non-exempt employee of the Municipal Court shall be evaluated at four, eight and twelve months from their date of promotion, demotion, transfer or voluntary reassignment to another position.~~
- ~~c. A commissioned non-exempt employee shall be evaluated at three, six, nine and twelve months from their date of promotion, demotion, transfer or voluntary reassignment to another position.~~

~~B.2. If an employee does not successfully complete his/her administrative review An employee who does not perform satisfactorily during the administrative evaluation period, he/she may be returned to his/her their previous classification position, provided a vacancy exists. Should no vacancy exist at the time, the employee shall be recommended for termination placed on the appropriate re-employment list. The employee is eligible to request a hearing before He/she may also access the Personnel Board as outlined in Article per section 1-10-40. C Personnel Board Request for Hearing.~~

- ~~C. Employees completing an administrative review shall receive a formal written evaluation by their supervisor at the end of their third and fifth~~

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

~~month of employment in their current position. Employees completing a one-year administrative review shall be evaluated formally on the third, sixth, ninth, and eleventh month.~~

~~—D3.—Additional administrative reviews/evaluations may be required upon request from the immediate supervisor. ~~conducted at the discretion of the appropriate supervisor.~~~~

Forms: Performance Evaluation  
Performance Evaluation Handbook

### 1-40-050. REDUCTION IN FORCE

A. A layoff may occur when one or more of the following conditions exist:

1. Shortage of work or funds,
2. Material change in duties or organization,
3. Business necessity,
4. No longer will be providing the service, or
5. Other appropriate reasons as determined by the City Manager.

~~The City Manager may lay off an employee in the classified service because of material change in duties or organization or shortage of work or funds. Employees in good standing shall be placed on an appropriate re-employment list as provided by these rules:~~

### B. REDUCTION PROCESS

1. The City Manager or designee shall determine the specific position, job family and/or single classification targeted for reduction.
2. The City's first preference is to reduce its workforce through voluntary options such as internal reassignment and natural attrition. When these options are insufficient to meet the City's needs, individual positions will be eliminated.
3. When there is more than one employee in the position identified for reduction, the immediate supervisor will use the performance matrix to determine which employee(s) will be part of the reduction.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

4. The matrix results will be reviewed and approved by the Section Head, Division Director, Human Resources Director or designee and the City Manager or designee.
  5. Once a decision has been made, the immediate supervisor and the Human Resources Director or designee will meet with the employee. The employee will be provided information on the placement process, job placement assistance and the Employee Assistance Program.
  6. An employee will be notified at least ten (10) working days in advance of a reduction in force.
  7. Human Resources will provide the employee with information relating to benefits, retirement and unemployment.
  8. The City Manager will determine when a severance agreement will be offered as part of a reduction in force. Any severance agreements will be mailed to the employee's home address via certified mail within forty-five (45) calendar days of a reduction in force.
  9. Employees who are part of a reduction in force and in good standing will remain on the City's re-employment list for one year from the date of reduction.
- B. ~~Whenever possible, the employees will be given a two (2) week notice of pending lay-offs.~~

### C. PERFORMANCE MATRIX

To determine objectively which employees are to be ~~laid off~~part of a reduction in force, the following factors will be used on a ~~departmental~~division basis:

1. Length of continuous service ~~(full-time)~~ with the City.
  - a. Tenured part-time employees years of service will be pro-rated based on the number of hours worked. For example, a 20-hour per week employee would receive one-half (0.5) a year of service for twelve (12) months of work.
  - b. Length of service should be based on the following scale:

<u>Years of Service</u>	<u>Performance Matrix Score</u>
<u>1 to 5 years</u>	<u>1</u>
<u>6 to 10 years</u>	<u>2</u>
<u>11 to 15 years</u>	<u>3</u>

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

<u>16 to 20 years</u>	<u>4</u>
<u>21 or more years</u>	<u>5</u>

2. Employee skills, training, and job knowledge as determined by their three (3) most current ~~merit~~annual evaluations.
  - a. The annual evaluations must have been given by the employee's current division, previous evaluations should not be considered.
  - b. If the employee has not received an annual evaluation or has less than three annual evaluations, the supervisor should use the most recent evaluations on file.
3. Any performance documented outside of the most recent evaluation such as disciplinary actions, letters of commendation or awards may be included in the performance matrix scoring. If the performance had not been documented, it should not be included. other factor the Department Head and City Manager may consider being important.
4. The supervisor's evaluation should be based on an employee's actual performance and not on personal prejudice, bias or favoritism.

### D. PLACEMENT PROCESS

1. The employee will complete the personal skills inventory form indicating their skills, abilities and education and what type of work they are interested in pursuing.
2. Human Resources will review the personal skills inventory form and will contact employees as funded position become vacant.
3. If there is more than one employee in the reduction in force that meet the minimum qualification, there will be a competitive process to determine who is the most qualified candidate.
4. If there is only one employee in the reduction in force and a funded position become vacant within the same division, the Division Director may choose to offer the vacant position to the employee without a competitive process.
5. If there is only one employee in the reduction in force and a funded position becomes vacant in another division, the employee will interview with the hiring supervisor.

## 2012 ADDENDUM 4 OF THE FLAGSTAFF EMPLOYEE HANDBOOK OF REGULATIONS

- a. If an employee meets the minimum qualifications of the position or has the ability to meet the minimum qualifications within a six (6) month period, the employee may be offered the position.
- b. If the employee does not meet the minimum qualification of the position or will not have the ability to meet the minimum qualification of the position, the position will be opened up for a more competitive recruitment process.

Forms: Reduction in Force Matrix  
Personal Skills Inventory Form

~~The Human Resources and Finance Divisions' representatives will meet with the employees to be laid off and provide the following:~~

- ~~1. Estimate on the duration of the lay-off.~~
- ~~2. Explanation of how seniority rights will be affected.~~
- ~~3. Explanation on how vacation and sick leave will be affected.~~
- ~~4. Effects on life, health insurance, and retirement benefits.~~
- ~~5. Explanation of final pay.~~
- ~~6. Where to sign up for unemployment insurance.~~
- ~~7. Explanation of re-employment list.~~