DRAFT AGENDA

REGULAR COUNCIL MEETING
TUESDAY
SEPTEMBER 2, 2014

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
4:00 P.M. AND 6:00 P.M.

4:00 P.M. MEETING

Individual Items on the 4:00 p.m. meeting agenda may be postponed to the 6:00 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. PLEDGE OF ALLEGIANCE AND MISSION STATEMENT

MISSION STATEMENT

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

4. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

5. PUBLIC PARTICIPATION

Public Participation enables the public to address the Council about an item that is not on the agenda (or is listed under Possible Future Agenda Items). 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.

6. PROCLAMATIONS AND RECOGNITIONS

7. APPOINTMENTS

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

8. LIQUOR LICENSE PUBLIC HEARINGS

9. CONSENT ITEMS

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

10. ROUTINE ITEMS

A. Consideration and Approval of Contract: Approval of Lease Agreement for Red Gap Ranch Grazing. ***(A lease for grazing sheep on Red Gap Ranch).***

RECOMMENDED ACTION:

Accept the bid and approve the Lease Agreement with Manterola Sheep Co., Inc., for lease payments of $5,150 annually. Authorize the City Manager or his designees to execute all necessary documents.

B. Consideration and Adoption of Ordinance No. 2014-22: An ordinance setting aside and preserving twenty (20) acres of specific city property for open space and authorizing staff to apply to Coconino County for a rezoning to reflect the preservation***.(Designating property near Schultz Pass Rd. and Mt. Elden Lookout Rd. as open space)***

RECOMMENDED ACTION:

1) Read Ordinance No.2014-22 by title only for the final time
2) City Clerk reads Ordinance No. 2014-22 by title only (if approved above)
3) Adopt Ordinance No.2014-22

C. Consideration and Adoption of Ordinance/Resolution No. 2014-23: An ordinance of the City of Flagstaff setting aside specific City owned property for inclusion in Buffalo Park and restricting the land to uses and improvements consistent with a passive park *(Neighborwoods)* and authorizing staff to rezone the parcel to reflect its new designation. ***(Designating property at the north end of San Francisco as open space)***

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-23 by title only for the final time
2) City Clerk reads Ordinance No. 2014-23 by title only (if approved above)
3) Adopt Ordinance No. 2014-23

D. **Consideration and Adoption of Ordinance No. 2014-25:** An ordinance authorizing the provision of a ten (10) foot utility easement encumbering parcel number 301-89-001 (Cinder Lake Landfill) and authorizing the City Manager or his designee to execute the necessary documents ***(Grant utility easement to APS at the Cinder Lake Landfill)***.

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-25 by title only for the final time
2) City Clerk reads Ordinance No. 2014-25 by title only (if approved above)
3) Adopt Ordinance No. 2014-25

RECESS

6:00 P.M. MEETING

RECONVENE

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).

11. **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

12. **PUBLIC PARTICIPATION**

13. **CARRY OVER ITEMS FROM THE 4:00 P.M. AGENDA**

14. **PUBLIC HEARING ITEMS**

15. **REGULAR AGENDA**

A. **Consideration and Approval of Street Closure(s):** 2015 Dew Downtown Flagstaff Urban Ski and Snowboard Festival and **Consideration and Approval of Amplification Exception:** 2015 Dew Downtown Flagstaff Urban Ski and Snowboard Festival

RECOMMENDED ACTION:

- Approve the street closure on San Francisco Street between Birch Avenue and Dale Avenue on January 22, 2015 at 8:00 pm through January 25, 2015 at 11:59 pm; and
- Approve the street closure at Birch Avenue between Agassiz Street and San Francisco Street on January 23, 2015 at 8:00 am through January 25, 2015 at 11:59 pm; and
- Approve the amplification exception (to allow start box commentary, play-by-play commentary) on Sunday, January 25, 2015 between the hours of 9:00am - 12:00 pm

noon.

16. DISCUSSION ITEMS

17. POSSIBLE FUTURE AGENDA ITEMS

Verbal comments from the public on any item under this section must be given during Public Participation near the beginning of the meeting. Written comments may be submitted to the City Clerk. After discussion and upon agreement of three members of the Council, an item will be moved to a regularly-scheduled Council meeting.

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

19. 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 _____, 2014.

_____
Elizabeth A. Burke, MMC, City Clerk

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Robin Harrington, Backflow Prevention Manager

Co-Submitter: Amy Hagin

Co-Submitter: Amy Hagin, Senior Procurement Specialist

Date: 07/24/2014

Meeting Date: 09/02/2014

TITLE:

Consideration and Approval of Contract: Approval of Lease Agreement for Red Gap Ranch Grazing. ***(A lease for grazing sheep on Red Gap Ranch).***

RECOMMENDED ACTION:

Accept the bid and approve the Lease Agreement with Manterola Sheep Co., Inc., for lease payments of $5,150 annually. Authorize the City Manager or his designees to execute all necessary documents.

Policy Decision or Reason for Action:

Accept the bid and approve the Lease Agreement with Manterola Sheep Co., Inc. Leasing this space will provide a multi-use opportunity for the City's Red Gap Ranch, discourage vandalism by having the ranch occupied, and maintain property infrastructure relating to wildlife and the chosen livestock.

Subsidiary Decisions Points:

None.

Financial Impact:

The City will receive compensation at the rate of $5,150 annually to help offset the City's costs for its lease with the Arizona State Land Department (ASLD).

Connection to Council Goal and/or Regional Plan:

1) Repair, Replace, Maintain infrastructure maintain fencing & animal watering infrastructure.

Has There Been Previous Council Decision on This:

The City Council approved Manterola Sheep Co., Inc., for a 5-year greasing lease in 2007 and for a renewal in 2012 that ended when the City's 10-year lease with the ASLD ended on December 30, 2013. The City now has a new 10-year lease with the ASLD that started on December 31, 2013, and ends on December 30, 2023. This allows the City to once again sublease the Red Gap Ranch property with the inclusion of the ASLD property, allowing legal access to the City's property.

Options and Alternatives:

1. Accept the bid and approve the Lease Agreement as presented.
2. Reject the bid and provide staff guidance.
3. Reject all bids.

Background/History:

The City maintains two leases on the Red Gap Ranch. One is a grazing lease with the ASLD allowing the City access to adjoining ASLD properties. ASLD staff have indicated that if full use, in this case grazing use, is not utilized on their land and charged to the City, they may select another lessee who is willing to pay for full use of their lands. The City could then have difficulty accessing the Ranch property. The second lease the City has is with its customer. The City's previous grazing lease with Manterola Sheep Co., Inc., from February 20, 2007, to February 20, 2014, had an annual rental fee of $4,887 when the maximum number of animals were placed on the land. Fewer animals grazing resulted in a lower fee as it was based on a fixed rate per animal. This fee was due November 1 each year. The years the Ranch was not used, payment from Manterola Sheep Co., Inc., was not collected per the lease agreement. The new agreement has a fixed fee of $5,150 and no refund is given when the site is not used or when the number of animals placed on the property is less than the maximum amount in the agreement. This fee can assist in covering the City's cost of about $3,900 annually to lease the land from the ASLD and to maintain the infrastructure including, but not limited to, signage, staff time, pumps, water tanks and livestock water usage.

The grazing agreement the city has with the ASLD allows the City to lease to its own customer the ASLD property adjoining the City's Red Gap Ranch. This site can be leased for other activities during the term of the lease with Manterola Sheep Co., Inc. This lease would permit Manterola Sheep Co., Inc., to place livestock on the property from May 1 to November 1 each year to reduce any overgrazing and subsequent damage to the lands. The quantity of sheep is limited per the agreement the City has with the ASLD for the parcels they own adjacent to City property. This ASLD agreement allows travel across their property to the City property at Red Gap Ranch.

Key Considerations:

An Invitation for Bids (IFB) Number 2014-71 was issued on June 15, 2014. One (1) responsive and responsible bid was received by the due date and time. The IFB instructions indicated that an annual bid minimum was to be met of $4,200. The one (1) bidder has exceeded this bid minimum. The Lease Agreement provides for "Year Terms" meaning the period of time from May 1 to November 1 of any given calendar year. The term of this Lease Agreement shall be for an abbreviated pro-rated period from September 9, 2014 to November 1, 2014, and then a one (1) Year Term from May 1, 2015 to November 1, 2015 with an option for a five (5) year extension (five one Year Terms through November 1, 2020) upon mutual agreement of both parties. The Lease Agreement does include an escalation section.

Community Benefits and Considerations:

This site will have multi-use opportunities by accepting this grazing lease.

Community Involvement:

Inform

Expanded Options and Alternatives:

1. Accept the bid and approve the Lease Agreement as presented.
2. Reject the bid and provide staff guidance.
3. Reject all bids.

Attachments: RGR Bid Tabulation
Manterola 2014 RGR lease agreement

Form Review

Inbox	Reviewed By	Date
Senior Procurement Specialist - AH	Amy Hagin	08/13/2014 08:07 AM
Purchasing Director	Rick Compau	08/13/2014 10:02 AM
Finance Director	Rick Tadder	08/13/2014 10:14 AM
Legal Assistant	Vicki Baker	08/13/2014 10:32 AM
Deputy City Attorney	Sterling Solomon	08/13/2014 01:35 PM
Utilities Director	Stacy Saltzburg	08/19/2014 09:36 AM
Backflow Prevention Manager (Originator)	Robin Harrington	08/19/2014 11:03 AM
Utilities Director	Brad Hill	08/20/2014 11:24 AM
DCM - Josh Copley	Stacy Saltzburg	08/22/2014 08:52 AM
DCM - Jerene Watson	Jerene Watson	08/22/2014 01:37 PM
Form Started By: Robin Harrington		Started On: 07/24/2014 02:15 PM

Final Approval Date: 08/22/2014

CITY OF FLAGSTAFF BID TABULATION

DATE: 6/30/2014

BID/PROJECT#: 2014-71

CONDUCTED BY: Amy Hagin

BID/PROJECTNAME: Red Gap Grazing Lease IFB

WITNESS: Patrick Brown

ANTICIPATED COUNCIL AWARD DATE: Aug-14

ENGINEERS ESTIMATE: $

VENDOR	BOND	ADDENDUM 1	2	3	1	2	3	4	5	6	DEL
MANTEROLL SHEEP COMPANY					5,150.00						

GRAZING LEASE, RED GAP RANCH

CITY OF FLAGSTAFF
ARIZONA

SEPTEMBER 2014

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GRAZING LEASE AGREEMENT

This Grazing Lease Agreement ("Agreement") is made and entered into this 9th day of September 2014, by and between the City of Flagstaff ("Lessor"), a municipal corporation with offices located at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and Manterola Sheep Company, Inc., an Arizona Corporation (hereinafter referred to as "Lessee") with its corporate office located at PO Box 11227, Casa Grande, Arizona 85130.

RECITALS

1. Lessor is the owner of certain ranges and range rights consisting of patented lands and lands held under Arizona State Grazing Lease Number 05-3321 lying and being situated east of the City of Flagstaff, Cocon ino County, State of Arizona, such ranges being locally referred to and known as the "Red Gap Ranch." The patented lands are described in **Exhibit A**, attached and made a part of this Agreement ("Patented Lands").The lands held under Arizona State Grazing Lease Number 05-3321 are described in **Exhibit B**, attached and made a part of this Agreement ("State Lands"), and the map indicates the two sections that are not .

2. Lessor has accepted the bid of Lessee for grazing livestock at the Red Gap Ranch location.

3. Lessee desires to lease the Patented Lands and State Lands (sometimes collectively referred to as "Red Gap Ranch" or "Leased Premises") for the purpose of running a livestock operation on the Leased Premises. The conduct of such livestock operation will be under the sole management, cost and responsibility of Lessee.

4. Lessor, as the owner of Red Gap Ranch land, has the authority to impose and collect all rentals, fees and charges related and incidental to Lessee's use of the Red Gap Ranch land.

NOW, THEREFORE, Lessor does hereby agree to lease to Lessee, and Lessee does hereby agree to lease from Lessor, certain land, rights, and privileges in connection with and on the Red Gap Ranch land as follows:

I. LEASE AND SUBLEASE

A. Lease of Patented Land.

Lessor does hereby lease to Lessee, Lessee does hereby take and lease from Lessor the land described in **Exhibit A** ("Patented Lands") for the purposes of running a livestock operation on the Red Gap Ranch, as more particularly contained in this Lease Agreement, subject to Lessor's reservation of the following specified rights and all other rights not directly in conflict with Lessee's livestock grazing operation ("Operation"):

1. The exclusive right to all mineral rights, of any kind, appurtenant to the Patented Lands described in this Agreement owned, controlled or possessed by Lessor; and Lessor shall be entitled to prospect for, drill, produce, mine or extract such

minerals, provided such activity does not substantially interfere with Lessee's Operation.

2. The exclusive right to all timber or forest products, of any kind, appurtenant to the Patented Lands which Lessor owns, controls or possesses, including the right to harvest, cut, process, fabricate, remove or extract such timber or forest products, provided such activity does not substantially interfere with Lessee's Operation.

3. The exclusive right to grant easements, rights of way, licenses, permits, leases or enter into third party contracts, provided such use by or under authority from Lessor does not substantially interfere with the operation of Lessee. Lessee expressly acknowledges and understands that Lessor is contemplating entering into a lease of a portion of Red Gap Ranch for solar energy creation purposes, and Lessee acknowledges and agrees that such use would be compatible with Lessee's Operation, and Lessee does not to object to leases, licenses or permits which may be granted by Lessor for such purposes.

4. The exclusive right to survey, drill wells and improve the surface of the Patented Lands or maintain and repair all improvements situated on such lands, provided such activity, by or under authority of Lessor, does not substantially interfere with the Lessee's Operation.

5. The exclusive right to all water from any source on or under the leased premises.

6. The exclusive right of ingress and egress to any part or portion of the Red Gap Ranch for any purpose not in direct conflict with Lessee's Operation.

7. All other uses not directly in conflict with Lessee's Operation.

B. Sublease of State Lands.

Lessor and Lessee mutually agree that for purposes of this Lease Agreement, the leasing of any lands described in **Exhibit B** under Arizona State Grazing Lease Number 05-3321 shall be considered a sublease of such lands and shall be subject to all terms and conditions of the Arizona State Grazing Lease Number 05-3321, including but not limited to any increase in rents due under Arizona State Grazing Lease Number 05-3321, and also shall be subject to all rules and regulations of appropriate governmental authorities controlling the use of such lands owned by the State of Arizona. Permission for such sublease shall be obtained in writing from the Commissioner of the Arizona State Land Department, and if such permission is not obtained, this Lease Agreement shall automatically become null and void upon the date that Lessor receives notice from the State Land Department that the sublease has not been approved.

C. EQIP Contract No. 2002 7494572A047.

As a condition of this Lease Agreement, Lessee agrees to enter into Environmental Quality Incentives Program Contract No. 2002 7494572A047 ("EQIP Contract") with the U.S.

Department of Agriculture ("USDA") Commodity Credit Corporation ("CCC") with respect to grazing practices on the leased premises upon receiving an assignment of the same from the USDA, and Lessee covenants and agrees to perform all of Lessee's obligations under the EQIP Contract, unless Lessor unilaterally terminates this Lease Agreement for reasons other than Lessee's default, and Lessor's termination prevents Lessee from performing any such obligations. A copy of the EQIP Contract is designated **Exhibit C**, attached to and made a part hereof. The EQIP Contract provides financial incentives to the Lessee in the nature of cost sharing by the CCC with contributions in the amount of seventy-five percent (75%) of eligible costs as provided in the EQIP Contract, and the Lessor would participate in the cost sharing by absorbing twenty-five percent (25%) of eligible costs, provided that the Lessee completes the EQIP Contract requirements and is, otherwise, in compliance with this Lease Agreement. Lessee's duty to assume the EQIP Contract is conditioned upon approval by Lessee of the actual terms and conditions of the EQIP Contract and execution thereof within thirty (30) days of Lessee's receipt thereof. If Lessee fails to approve and execute the EQIP Contract within such thirty (30) day period, this Agreement shall automatically become null and void.

D. Possession.

Subject to **Article I(B)** above, Lessee shall take possession of the leased premises upon the later of the effective date of this Lease Agreement or receipt by Lessor of written permission for such sublease from the Commissioner of the State Land Department.

II. TERM

A. Term.

For purposes of this Agreement, a "Year Term" shall mean the period of time from May 1 to November 1 of any given calendar year. The term of this Agreement shall be for an abbreviated pro-rated period from September 9, 2014 to November 1, 2014 and then a (1) one Year Term from May 1, 2015 to November 1, 2015, with an option for a five (5) year extension (five one Year Terms through November 1, 2020) upon mutual agreement of both parties. During any additional Year Term, either party may terminate the Agreement upon 30 days written notice delivered to the other party.

B. Renewal.

Upon the expiration of the term of this Agreement, the parties may, upon mutual agreement, renew this Agreement for one (1) additional five (5) year term. Lessee shall request renewal of this Agreement by giving the City written notice at least ninety (90) days prior to the expiration of the initial term of this Agreement. All terms and conditions of this Agreement not changed by mutual agreement of the parties shall apply to the renewal term of this Agreement.

III. RENT

A. Definitions. For purposes of computing rentals, Lessor and Lessee agree to the following definitions:

1. “Livestock Grazing Period” means the period between May 1 to November 1 during the term of this Lease or any extensions thereof, and for rental purposes each grazing period shall be treated as 185 days.

2 “Adult Livestock” means any sheep or cattle one-year old or older; provided, however, that no rentals shall be computed or charged on rams.

3. “Lambs” means any sheep six months to one year of age, and, for purposes of this Lease Agreement, the grazing costs of lambs shall be fifty percent (50%) of the basic rentals for adult sheep, as hereinafter computed. Two (2) lambs shall equal one (1) adult sheep for grazing rental purposes.

4. “Animal Unit (A.U.)” means the annual feed requirement to maintain one mother cow or the equivalent in thrifty condition.

5. “Animal Unit Month (A.U.M.)” is one-twelfth of an Animal Unit or the feed requirement to maintain a mother cow in thrifty condition for an average month of the year.

6. “Minimum Numbers of Livestock” means adult livestock or its equivalent.

7. For purposes of calculating “minimum numbers of livestock”, “basic rentals” and “carrying capacity,” “one (1) adult cattle” shall equal “five (5) adult sheep.”

8. “Basic Rentals” means the total grazing rental reserved under this Lease Agreement based upon the actual number of head of livestock sheep for each annual livestock grazing period under this Lease Agreement computed on the following daily basis: $.15 per head per day during the lease term.

B. Rentals.

1. Numbers of adult livestock grazed shall be charged and pay the same cash rental of $.15 per head per day. Total rentals for livestock grazed during the term of this Lease Agreement or extensions thereto, as computed on the foregoing formula, shall be paid annually by Lessee to Lessor as follows:

(a) On May 1, the sum of $5,150.00 cash, which is not reimbursable should the lessee not place livestock on the property or place less than the equivalent amount of livestock on the property;

(b) On November 1, cash equal to the balance owing on the livestock rental account for the livestock grazing period ending November 1;

2. In addition to the rentals reserved above, Lessee shall pay to Lessor all applicable privilege, sales and excise taxes which may be legally levied or imposed upon rent now

or later by any governmental agency.

3. All rentals shall be paid by Lessee to Lessor at the address of Lessor as provided below for the giving of notices.

4. Lessor shall have a lien for unpaid rent on all livestock owned by Lessee ranging upon the leased property as of the date any rental delinquency shall occur.

C. Escalation.

All rents and rental amounts under this Lease Agreement shall be subject to escalation. In the event of any increase in rents under Arizona State Land Department Grazing Lease Number 05-3321 as referenced in Section I(B) above, all rent amounts under this Lease Agreement shall increase proportionally to those under Arizona State Department Grazing Lease Number 05-3321. This escalation clause shall also apply to any other increase in costs or expenses for the Lessor, which shall pass through to the Lessee proportionally.

IV. LESSEE'S OPERATION

A. Lessor's Operation.

The business to be conducted by Lessee upon the range lands, Patented Lands and State Lands embraced by this Lease Agreement shall be that of sheep operation, and Lessee agrees to conduct and manage said livestock operation at its sole cost and expense and in a good and livestock-manlike manner. The operation shall include, by way of illustration but not necessarily by way of limitation, the production of mutton by breeding, growing, fattening, pasturing or grazing.

1. Livestock placed on the leased range area shall be owned or controlled by Lessee and shall bear one of the irons or brands of Lessee.

2. Lessee shall, at its sole expense, promptly comply with all laws, ordinances, rules, regulations, requirements and orders whatever, present or future, of any governmental authority having applicable jurisdiction, which may in any way apply to the maintenance, operation or use of the leased premises as herein described.

V. CARRYING CAPACITY

A. Rental Basis.

All rentals reserved under this Lease Agreement shall be based upon the actual number of adult livestock actually pastured, from time to time, during the sheep grazing period as defined above. The parties agree to negotiate annually the stocking rates allowed for each season upon the range as provided below in accordance with **Article VI**.

B. Maximum Number of Livestock.

The maximum number of livestock to be grazed on the range (both Patented and State Lands) embraced by this Lease Agreement shall not exceed the then current annual carrying capacity appraisal per section of land as promulgated by the Arizona State Land Department on those State Lands included within the leased range area (currently rated at 0.41 AUM's per section) unless favorable range conditions allow for excess grazing. If Lessee wishes to exceed such appraised carrying capacity, it shall first obtain written permission of the Lessor and the State Land Commissioner. Based upon the current carrying capacity appraisal effective upon date of this Lease Agreement, the parties acknowledge and agree that the maximum carrying capacity on the leased premises is 181 animal units.

VI. COOPERATION

A. Reservation of Rights.

Lessee acknowledges that Lessor has reserved its rights to enter into other leases, permits and licenses with respect to the Red Gap Ranch, in accordance with **Article I** above.

B.

Lessee agrees to cooperate with Lessor by attending quarterly meetings to be arranged and scheduled by Lessor on or about the dates of February 15, May 15, August 15 and November 15, throughout the term of this Lease at a location convenient to the parties. Such meetings shall include, by way of example but not by way of limitation, consideration of stocking rates, grazing schedules, new range improvement construction, improvement maintenance and repair schedules, and range or improvement enhancement programs.

VII. PEACEABLE POSSESSION

A. Possession of Patented Lands and State Lands.

Lessor agrees to furnish to Lessee peaceable possession of the Patented Lands and the State Lands upon commencement of the term of this Lease, subject, however, to the prior written approval for sublease of State Lands under existing State Land Department Grazing Lease Number 05-3321, which shall be the obligation of Lessor to obtain. Should such approval not be obtained by Lessor after exercise of reasonable diligence within three months from the date hereof, this Lease Agreement shall immediately terminate.

B. Compliance with Applicable Leases and Agreements.

Lessee agrees to abide by and comply with all of the terms, covenants, conditions and obligations under this Lease Agreement and State Land Department Grazing Lease Number 05-3321, except, however, that Lessor shall be responsible for payment of rentals under Grazing Lease Number 05-3321. In addition, Lessee agrees to abide by and comply with all of the terms, covenants, conditions and obligations under EQIP Contract No. 2002 7494572A047.

VIII. IMPROVEMENTS

A. Lessor shall not be required to make any improvements on the leased range during the term of this Lease. Subject to Lessor's consent as provided below, Lessee shall have the right, at Lessee's sole cost and expense, to make any and all improvements, additions or alterations on the leased premises, as in its sole discretion may be deemed necessary. All improvements, additions or alterations placed by Lessee on the leased premises during the term hereof or any renewal of this Lease Agreement shall be and become the property of the range owner (Lessor or the State of Arizona, as the case may be) immediately when placed upon the leased premises, and shall not be removed by Lessee upon termination of this Lease, unless otherwise agreed upon in writing by Lessor and Lessee.

B. Before placement, installation, alteration or construction of any improvement upon the leased premises, Lessee must first obtain the written consent of Lessor for the placement, installation, and construction of such improvement. Furthermore, before placement, installation, alteration or construction of any improvement upon State Lands included within the leased premises, Lessee agrees to furnish to Lessor, for execution, the proper application to obtain prior approval from the Commissioner of the Arizona State Land Department for the placement, installation and construction of such improvement. Upon completion of the construction of any such improvement upon State Lands, Lessee agrees to give Lessor, for execution, a Report of Improvement which shall be filed with the Arizona State Land Department.

C. During the term of this Agreement, Lessee shall, at its sole cost and expense, keep all improvements upon the leased premises in as good condition as the same areas of the commencement of this Lease Agreement, ordinary and usual wear and tear, acts of God, violence, vandalism or any other causes beyond the control of Lessee excepted.

D. In an effort to prevent erosion, Lessee agrees to conform to the best practices of the area in which the leased premises are located. Lessee shall not commit or permit or suffer the commission of any waste upon, or do or permit or suffer any damage to be done to the leased premises or any improvements thereon, or allow the range to be overgrazed, or cut or removed, or allow any timber or standing trees that may be upon the leased premises to be cut or removed, except such trees or timber as may be necessary for the maintenance of existing fences and improvements.

E. Notwithstanding anything to the contrary in this Agreement, Lessor agrees that Lessor will perform such tank, dam and reservoir work, whether by way of repairs, clean-out or new construction, as may be required because of destruction as set forth below, or that may be desired through mutual consent of the parties. Further, Lessor agrees to perform, at Lessor's expense, such cedar or juniper eradication work or reseeding programs as may be mutually agreed upon by the parties.

F. In the event any dirt tank, dam or reservoir shall be destroyed by flood, then, in that event, Lessor agrees to restore such dam, tank or reservoir at Lessor's sole cost and expense to the capacity of such dam, tank or reservoir before destruction. Lessor shall undertake such restoration within a reasonable period after receiving written notice of such destruction from the

Lessee, weather conditions permitting and with due regard to the availability of labor and equipment. Lessor shall, at the latest, restore such tank, dam or reservoir within one (1) year following receipt of written notice of destruction from Lessee.

IX. MAINTENANCE AND SERVICES

A. Lessee shall, at Lessee's sole risk and expense, provide and promptly pay for all labor, implements, tools, fuels and water and other materials and services of whatever kind or nature which may be used in the conduct of Lessee's operation and in performance of Lessee's obligations under this Lease Agreement, and Lessor shall not be liable for any part thereof.

B. Lessee shall hold Lessor harmless from all charges of any kind or character which could or which become the subject of a lien on the leased premises.

X. INSPECTION AND LIVESTOCK TALLY

A. Lessor or its authorized agents, at all reasonable times during the term of the Lease Agreement or any renewal, may enter upon the leased premises for the purpose of inspection of the range and improvements or conducting or supervising range improvements and determining range improvement decisions.

B. The parties mutually agree that Lessor shall have a right to tally numbers of livestock on the range at any time and to tally livestock on or off the range at mutually agreed times and methods; provided, however, that Lessor agrees to give Lessee not less than 14 days' written request of its desire to tally livestock.

XI. HORSES AND MULES

Without the payment of additional rentals, Lessee shall be entitled to keep and maintain upon the leased premises sufficient number of saddle horses, mules and/or pack burros as are necessary and required in the judgment of Lessee for the livestock operation. The number of saddle horses, mules and/or pack burros kept and maintained on the leased premises, when counted with the other livestock on the range, shall not exceed the then current annual carrying capacity appraisal per section of land as promulgated by the Arizona State Land Department on those certain State Lands included within the leased premises, unless the Arizona State Land Commissioner shall waive the carrying capacity limitation in writing.

XII. WATER AND RANGE RESOURCES

A. Lessee acknowledges that Lessor has reserved all water rights to the leased premises. All water developed or obtained by Lessee from any source located on the leased premises shall be used only on such range in connection with the Lessee's operation authorized under this Lease, and such water shall not be removed or exported to any other land without the prior written consent of Lessor.

B. Lessor makes no warranties or representations to Lessee, express or implied, as to the

adequacy of water, regardless of source, for use on the leased premises, or as to the adequacy of forage for grazing purposes situated on the leased premises.

XIII. TAXES AND ASSESSMENTS

Lessor shall, at its own cost and expense, pay and keep current all real property (ad valorem) taxes, State grazing rentals and any other assessments or taxes upon the leased premises. All taxes upon personal property including, but not limited to, livestock, feed, supplies, fuel, tack, machinery or equipment placed on the range area embraced by this Lease Agreement by Lessee, shall be the sole obligation and expense of Lessee.

XIV. CONDEMNATION

If the whole or a substantial part of the leased premises shall be taken or condemned by any competent authority for any public or quasi public use or purpose, then and in that event, the term of this Lease Agreement shall cease and terminate from the date when possession of the part so taken shall be required for such use or purpose, and without apportionment of the award. If less than the whole or a substantial part of the leased premises shall be taken or condemned by any competent authority for any public or quasi public use or purpose and, as a result thereof, Lessee believes the carrying capacity of the ranch unit leased has been reduced, the question of carrying capacity reduction and rental reduction shall be submitted to dispute resolution in accordance with **Article XXVII,** should Lessor and Lessee be unable to resolve the dispute.

XV. BANKRUPTCY

If at any time during the term of this Agreement, there shall be filed by or against the Lessee in any court pursuant to any statute, a petition of bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property, or if Lessee makes an assignment for the benefit of creditors, this Lease Agreement, at the option of the Lessor, may be cancelled and terminated. In such event, neither Lessee nor any person claiming through or under Lessee by virtue of any statute or of any order of court shall be entitled to possession or to remain in possession of the leased premises but shall immediately quit and surrender the leased premises. Lessor, in addition to the other rights and remedies Lessor may have at law or in equity, may retain as liquidated damages any rent, security, deposit or moneys received by Lessor from Lessee or others in behalf of Lessee.

XVI. REPRESENTATIONS AND WARRANTIES

A. Lessor has made no representations or promises to Lessee with respect to the leased premises, Lessee has inspected the leased premises, and Lessee leases the leased premises **AS IS**. Lessee's examination of the leased premises and taking of the leased premises shall be conclusive evidence as against Lessee that the leased premises are in a good and satisfactory condition at the time of possession by Lessee.

B. Lessor makes no warranty of title whatsoever, and this Lease Agreement is subject to easements, rights-of-way, restrictions and reservations of record or which may be observed upon

an inspection of the leased premises and is subject to all reservations and restrictions contained in governmental patent or patents embracing any of the lands described in this Lease Agreement. and the lands described in this Agreement arealso subject to all rules and regulations of the State Land Department of the State of Arizona insofar as this Lease Agreement includes a sublease of State Lands.

XVII. RELATIONSHIP OF PARTIES

Notwithstanding any joint decision arrangements provided for in this Agreement, the parties agree that nothing in this Agreement shall be deemed or construed to constitute a co-partnership or joint venture between Lessor and Lessee. The relationship created under this Agreement is that of landlord and tenant and no other. Lessor and Lessee shall not be mutually liable for any debts or obligations incurred by the other, nor shall they be mutually entitled to any benefits accruing to the other.

XVIII. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

Lessee, its employees, representatives and agents, shall comply at all times with all present or future applicable laws, rules, ordinances and regulations, and all amendments or supplements thereto, governing or relating to the use of Red Gap Ranch or the leased premises, as may from time to time be promulgated by federal, state or local governments and their authorized agencies.

XIX. INDEMNIFICATION AND WAIVER OF CLAIMS

A. Indemnification

1. Lessee shall indemnify, defend and hold harmless Lessor, its officers, officials, agents, employees and volunteers ("Indemnitee") from and against all claims, demands, actions, liabilities, damages, losses, or expenses, including court costs, costs of claim processing, investigation, and litigation, and reasonable attorney's fees (collectively referred to hereinafter as "Claims") whether or not meritorious, for bodily injury or personal injury, including death, or property damage, caused by or arising from, in whole or in part, the acts, errors, omissions, negligence, or alleged negligence of Lessee, or any of Lessee's directors, officers, agents, employees, volunteers, contractors or subcontractors. This indemnification includes all Claims arising or recovered under the Workers' Compensation laws, or arising out of the failure of Lessee to comply with any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the Parties that the Indemnitee shall, in all instances except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Lessee from and against all Claims. Lessee shall be responsible for all primary loss investigation, defense, and judgment costs where this indemnification is applicable. This indemnification by the Lessee shall extend, but not be limited to, the following:

(a) Construction by or through Lessee of any improvements or any other work or thing done in, on or about the leased premises or any part thereof;

(b) Any use, nonuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the leased premises, areas adjacent thereto or improvements thereon by or through Lessee, or any nuisance made or suffered thereon, or any failure by Lessee to keep the leased premises or space comprising a part thereof in a safe condition;

(c) Any fire, accident, injury (including death) or damage to any person or property occurring in, on or about the leased premises, areas adjacent thereto or improvements thereon, or any part thereof;

(d) Any lien or claim which may be alleged to have arisen against or on the leased premises, or improvements thereon, or any part thereof, or any of the assets of, or funds appropriated to, Lessor, or any liability which may be asserted against Lessor with respect thereto;

(e) Any acts or omissions of Lessee, Lessee's assignee or subtenant or any of its or their respective agents, contractors, servants, employees, licensees or invitees;

(f) Any failure on the part of Lessee to pay rent or landing fees, or to perform or comply with any of the covenants, agreements, terms or conditions contained in this Agreement, and the exercise by Lessor of any remedy provided in this Agreement with respect thereto;

(g) Any tax which Lessee is obligated to pay or cause to be paid, including any tax attributable to the execution, delivery or recording of this Agreement.

2. The foregoing provisions shall survive the expiration or earlier termination of this Agreement to the extent that the act, error, omission, negligence or alleged negligence arose prior to such expiration or termination.

3. Lessee shall hold all goods, materials, furniture, fixtures, equipment, machinery and other property whatsoever on the leased premises at the sole risk of Lessee, and, to the extent set forth above, hold Lessor harmless from any loss or damage thereto by any cause whatsoever.

4. The obligations of Lessee under this Agreement shall not in any way be affected by the absence of covering insurance, or by the failure or refusal of any insurance carrier to perform any obligation on its part to be performed under insurance policies affecting this Agreement.

5. In the event that any Claims are made or brought against Lessor by reason of any event, specified or unspecified, which is the subject of Lessee's foregoing indemnification, then, upon demand by Lessor, Lessee, at its sole cost and expense, shall defend such Claims in Lessor's name. Notwithstanding the foregoing, Lessor may engage its own attorneys to defend it or to assist in its defense, and Lessee shall pay the

reasonable fees and disbursements of such attorneys.

6. Lessor recognizes the broad nature of this indemnification and hold harmless clause and voluntarily makes this covenant and expressly acknowledges that the terms and conditions of this Agreement constitute good and valuable consideration provided by Lessee in support of this indemnification in accordance with laws of the State of Arizona.

B. Waiver of Claims

Lessee hereby waives all claims or causes of action against Lessor, its officers, officials, agents, employees and volunteers which it may have now or later for damages to any property on, about, or related to Red Gap Ranch, and for injuries or death to persons on, about or related to Red Gap Ranch, from any cause or causes arising at any time, except from the negligent or willful act or omission of City, its officers or employees.

XX. INSURANCE

A. Insurance Requirements

In addition to such insurance as may be required by law or regulation, Lessee, at its sole cost and expense, shall maintain in full force and effect throughout the term of this Agreement the insurance coverages, limits and endorsements required in this Agreement. These insurance requirements shall be minimum requirements for this Agreement and in no way limit the indemnification covenants contained in Section XXII. Neither the insurance requirements, nor the City's review or acceptance of insurance, shall in any manner limit or qualify the liabilities and obligations assumed by Lessee under this Agreement.

1. Minimum Scope and Limits of Insurance

(a) Commercial General Liability Insurance – Occurrence Form. Lessee shall maintain Commercial General Liability Insurance at limits of not less than $5,000,000 Combined Single Limit per occurrence for Personal Injury, Bodily Injury (including death) and Property Damage Liability and shall include, but not be limited to Premises and Operations, Personal Injury, Products-Completed Operations, and Contractual. Fire Damage (Damage to Rented Premises) shall be not less than $100,000. . Coverage shall be provided on a primary basis.

(b) Business Automobile Liability Insurance. Lessee shall maintain Business Automobile Liability Insurance covering all Owned, Hired, and Non-Owned Vehicles used at Red Gap Ranch in an amount of not less than $1,000,000 Combined Single Limit per occurrence for Bodily Injury (including death) and Property Damage Liability. If the scope and conduct of Lessee's operations under this Agreement require vehicle access to the Ramp Area, Lessee shall maintain Business Automobile Liability Insurance in an amount no less than $5,000,000 Combined Single Limit per occurrence for Bodily Injury (including death) and Property Damage Liability. Notwithstanding the foregoing, if the scope and conduct of Lessee's operations under this Agreement do not involve the

operation, ownership or use of any vehicle, then this requirement shall include automobile liability for Hired and Non-Owned vehicles only.

(c) Workers Compensation Insurance. Lessee shall maintain Workers Compensation and Employers Liability insurance written in accordance with the laws of the State of Arizona providing coverage for any and all employees of Lessee. Coverage shall include Employers Liability with minimum limits of $500,000 each accident, $500,000 Disease-Policy limit and $500,000 Disease – Each Employee. Coverage shall include Broad Form All States Endorsement and Waiver of Subrogation in favor of City of Flagstaff. In the event Lessee subcontracts any portion of the work or services under this Agreement to another party, Lessee shall be responsible for ensuring its subcontractors maintain Worker's Compensation & Employers Liability Insurance.

2. Other Insurance Requirements

All policies shall contain the following provisions:

(a) Additional Insured Endorsement. Except for Workers Compensation/Employer's Liability Insurance, and Personal Injury Liability:

(i) The City of Flagstaff, its officers, officials, agents, employees and volunteers shall be named as additional insureds with respect to liability arising out of the use and/or occupancy of the leased premises subject to this Agreement and activities performed by or on behalf of Lessee, including products and completed operations of Lessee; and automobiles owned, leased, hired or borrowed by Lessee.

(ii) The City of Flagstaff, its officers, officials, agents, employees and volunteers, shall be named as additional insureds to the full limits of liability purchased by Lessee even if those limits of liability are in excess of those required by this Agreement.

(b) Lessee's insurance coverage shall be primary insurance with respect to Lessor, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by Lessor, its officers, officials, agents, employees or volunteers, shall be in excess of the coverage of Lessee's insurance and shall not contribute to it.

(c) Lessee's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(d) Coverage provided by Lessee shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

(e) All policies shall contain a waiver of subrogation against the City of Flagstaff, its officers, officials, agents, employees and volunteers for losses arising from Lessee's operations, occupancy and use of the leased premises under this Agreement.

3. Notice of Cancellation

Each insurance policy required by the insurance provisions of this Agreement shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to Lessor. Such notice shall be sent directly to the Utilities Director as provided in Article XXVII(B) below.

4. Acceptability of Insurers

Lessee shall obtain insurance coverage hereunder with insurers duly licensed, or approved unlicensed companies, in the State of Arizona and with a "Best's" rating of not less than A-: VII. Lessor does not represent or warrant that the above required minimum insurer rating is sufficient to protect Lessee from potential insurer insolvency.

5. Verification of Coverage

Lessee shall have a signed Certificate or Certificates of Insurance, evidencing that required insurance coverage(s) has been procured or maintained by Lessee in the types and amount(s) required hereunder, delivered to Lessor before the effective date of Agreement. The Certificate(s) of Insurance shall clearly state that the City of Flagstaff is an "Additional Insured" as required in this Agreement. The certificate(s) of insurance shall also provide for thirty (30) days written notice to Lessor before cancellation (ten (10) days for nonpayment of premium) or non-renewal of coverage. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance.

(a)Required insurance shall be subject to the review, acceptance, and approval of Lessor, at its reasonable discretion, as to form and types of coverage. Lessor's failure to maintain all insurance policies required in this Agreement shall constitute a material default of the Agreement by Lessee, entitling Lessor to exercise any remedies available to it under this Agreement, at law and in equity, including the right to terminate this Agreement. All certificates of insurance shall be sent directly to the Utilities Director as set forth in Article XXVII(B) below.

6. Self-Insurance.

Lessor may allow insurance coverage required in this Agreement to be provided by Lessee's self-insurance plan, subject to prior written approval of Lessor's Risk Manager.

7. Deductibles, Coinsurance & Self-Insured Retention.

Lessee shall be fully and solely responsible for any deductible, or self-insured retention, including any losses, damages or expenses not covered due to an exhaustion of limits or failure to comply with the policy.

8. Approval

Any modification or variation from the insurance requirements in this Agreement shall have the prior approval of the Lessor's Risk Manager.

9. Policy Review and Adjustment

Lessor, by and through its Risk Manager, reserves the right to periodically review any and all policies of insurance and to reasonably adjust the limits of coverage required from time to time throughout the term of this Agreement. Lessor may reject any insurer or self-insurance plan providing coverage because of poor financial condition or failure to operate legally. In such event, Lessor shall provide Lessee written notice of such adjusted limits or rejection, and Lessee shall comply within thirty (30) days of receipt of notice. Lessee shall be responsible for any premium revisions as a result of any such reasonable adjustment.

10. Invalidation of Policies

Lessee shall not knowingly use or permit the use of the premises for any purpose which would invalidate any policies of insurance existing now or written later on Lessee's premises. In the event Lessee's acts or failure to act shall cause cancellation of any policy, then Lessee shall immediately, before notification by Lessor, take such action as is necessary to reinstate or replace the required insurance.

11. No Representation of Coverage Adequacy

Lessee acknowledges the limits, coverages and endorsements required by section XX are intended to minimize liability for Lessor. Lessee agrees that it will not rely upon the requirements of this section XX when assessing the extent or determining appropriate types or limits of insurance coverage to protect Lessee against any loss exposures, whether as a result of this Agreement or otherwise.

XXI. FORCE MAJEURE

The performance of all covenants in this Agreement, other than the covenants to pay rentals or other applicable fees or charges, shall be postponed and suspended during any period in which a Party's performance is prevented by acts of God, accidents, weather and conditions arising from them; strikes, boycotts, lockouts and other labor troubles; riot, fire, earthquake, flood, storm, lightning, epidemic, insurrection, rebellion, revolution, civil war, hostilities, war, the declaration or existence of a national emergency and attendant conditions; the exercise of paramount power by the federal government, either through the taking of the leased premises or the imposition of regulations restricting the conduct of business at the leased premises; acts of enemies, sabotage, terrorism, interference, restriction, limitation or prevention by legislation, regulation, decree, order or request of any federal, state or local government or any instrumentality or agency thereof, including any court of competent jurisdiction; inability to secure labor or adequate supplies of materials, products or merchandise; or any other delay or contingency beyond the

reasonable control of the Party whose performance is so prevented or delayed. Any Party desiring to invoke force majeure shall provide notice to the other Party no later than fifteen (15) days following such Party's knowledge of the occurrence of such event and prompt notice of the cessation of such event.

XXII. ASSIGNMENT AND SUBLEASING

Lessee shall not at any time, without the prior written consent of Lessor:

1. Assign, sublease or transfer, or permit or participate in any assignment, sublease or transfer of, this Agreement or any of the rights, powers or privileges under this Agreement;

2. Merge, consolidate or combine, either directly or indirectly, with any other person, firm, corporation or entity operating at Red Gap Ranch under any other lease or agreement, whether such uniting, merging, consolidating or combining be through the sale of property or sale of stock or otherwise.

Consent to an assignment or sublease shall not be unreasonably withheld by Lessor. In the event of any assignment or sublease, Lessee agrees that it shall notify any Assignees and/or Sublessees that they shall be liable under all terms, conditions and obligations herein. Lessee further agrees that despite any assignment or sublease, Lessee shall also remain liable under all terms and conditions set forth in this Lease Agreeement.

XXIII. CONDITION OF PROP ERTY UPON TERMINATION

Lessee covenants and agrees that upon any termination of this Agreement, however caused, Lessee shall quit and surrender the leased premises, and perform all repairs of the leased premises reasonably necessary to restore the leased premises to the same condition it was in at the time this Agreement was entered into, reasonable wear and tear excepted.

XXIV. TERMINATION BY LESSOR

A. Termination

Lessee acknowledges and agrees that Lessor may, at its option, upon the occurrence of any of the following events, immediately or at any time thereafter, terminate this Agreement and, without demand or notice, enter into and upon the leased premises or any part,take possession of the leased premises, and expel Lessee and any persons claiming by, through or under Lessee. Lessormay remove Lessee's or others' property and effects, if any, forcibly if necessary, from the leased premises, without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be available for arrearage of rent or breach of any provision of this Agreement:

1. If Lessee shall be in arrears in the payment of any rent or fee due under this Agreement for a period of ten (10) days or more;

2. The failure or refusal of Lessee to conduct its operations at Red Gap Ranch in compliance with the terms and conditions of this Agreement, and such failure or refusal continues for a period of at least ten (10) days after Lessor has notified Lessee in writing of such default;

3. The failure or neglect of Lessee to perform any of the covenants, terms and conditions of this Agreement (other than payment of rent or fee and continuous operation of Lessee's business operations), and the failure or neglect continues for a period of at least thirty (30) days after Lessor has notified Lessee in writing of the failure or neglect, or, in the event that the failure or neglect cannot be completely corrected within the thirty (30) day period, if Lessee has not actively begun correcting the failure or neglect within the thirty (30) day period;

4. The voluntary abandonment by Lessee of the leased premises or its operations at Red Gap Ranch for a period of thirty (30) days or more;

5. The seizure or taking of possession for a period of fifteen (15) days or more, of all or substantially all of the property used on Red Gap Ranch premises belonging to Lessee by or pursuant to lawful authority of any legislative act, resolution, rule, order or decree of any court or governmental board, agency, officer, receiver, trustee or liquidator;

6. The filing of any lien against the leased premises because of any act or omission of Lessee which is not discharged or contested in good faith (as Lessor shall determine in its sole discretion) by proper legal proceedings within twenty (20) days of receipt of actual notice of the lien by Lessee;

7. Lessee's willful falsification of any of its business records or books with the intent of depriving Lessor of any rents, fees or other rights under the terms of this Agreement;

8. If Lessee shall make or attempt to make an assignment, sublease, transfer, merger or consolidation of its business operations at the leased premises in breach of any of the terms and conditions of this Agreement; or

9. Any permanent injunction of Lessee's conduct of business on Red Gap Ranch premises by a court of final jurisdiction; provided, however, that if Lessee is temporarily enjoined from doing business at Red Gap Ranch, any resulting cessation of business by Lessee so long as the injunction remains in effect shall not be considered a breach of this Agreement or cause for termination by Lessor, unless and until the injunction becomes permanent.

B. <u>Termination for Convenience</u>

The City reserves the right to terminate, with or without cause, this Agreement upon ninety (30) days written notice. If any items being purchased in relation to the grazing of livestock on the property are truly unique and therefore not saleable or useable for any other

application, the City shall reimburse Lessee for actual labor, material, and burden costs, plus a profit not to exceed 8%. Title to all materials, work in progress, and completed but undelivered goods, shall pass to the City after costs are claimed and allowed. Proposer shall submit detailed cost claims in an acceptable manner and shall permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

C. Additional Remedies

1. Statutory Remedies

In addition to any other remedies provided in this Agreement, Lessor shall be entitled to all of the remedies enumerated in Title 33, Chapter 3, Article 4 of the Arizona Revised Statutes, the provisions of which are hereby incorporated by reference into this Agreement, as if the same were set forth in their entirety, upon the occurrence of any of the events set forth therein.

2. Remedies Cumulative

The remedies of Lessor set forth in this Agreement shall be cumulative and are not intended to be exclusive of any other remedies or means of redress to which Lessor may be lawfully entitled in the event of Lessee's breach of any provision of this Agreement. In addition to any other remedies set forth in this Agreement, Lessor shall be entitled to specific performance and to restraint by injunction of any breach, or attempted or threatened breach, of any of the terms, covenants, conditions or other provisions of this Agreement.

XXV. TERMINATION BY LESSEE

A. Termination

1. Termination for Cause

In addition to any other rights of cancellation it may have under this Agreement or by law, Lessee may, at any time that Lessee is not in default, terminate this Agreement at its option by giving Lessor thirty (30) days' prior written notice of termination, upon the occurrence of any of the following events:

(a) An order or action by the City or any other governmental authority substantially terminating Lessee's right to conduct its operations at Red Gap Ranch;

(b) The issuance, by a court of competent jurisdiction, of an injunction of at least thirty (30) days' duration, prohibiting or restraining the use of Red Gap Ranch as a grazing operation;

(c) A breach by Lessor of any material covenant of this Agreement, which remains uncured for a period of thirty (30) days following written notice of the breach to Lessor, or, in the event that the breach cannot be completely cured within the thirty (30) day

period, if Lessor has not actively begun curing the breach within the thirty (30) day period;

(d) Lessee's inability to use the leased premises or to conduct its grazing operations at Red Gap Ranch due to Lessor's failure to maintain Red Gap Ranch, and/or to unsafe conditions at Red Gap Ranch; or

(e) The seizure or other assumption of control of Red Gap Ranch by any governmental entity other than Lessor.

2. Termination Without Cause

In addition to any other rights of termination Lessee may have under this Lease, Lessee may, at any time that Lessee is not in default, terminate this Agreement without cause by giving Lessor ninety (90) days' prior written notice of termination.

XXVI . TERMINATION POSSESSION AND CONDITIONS

A. Surrender of Possession.

Lessee covenants that at the expiration or termination of this Lease Agreement it will surrender possession of the leased premises to Lessor immediately without further demand or notice and in as good order and condition as the same were when entered upon by the Lessee, excepting ordinary and reasonable wear and tear, acts of God, and range conditions, which include water supply and grazing capacity. In the event that Lessor unilaterally terminates this Lease Agreement, except on account of default by Lessee, the Lessor agrees to assume and indemnify Lessee from all liability under the EQIP Contract incurred by Lessee as a direct result of Lessor's termination up to and not to exceed liability that may be imposed under Section 9, Liquidated Damages, of the U.S. Department of Agriculture, Commodity Credit Corporation Appendix to Form CCC-1200 Environmental Quality Incentives Program Contract.

B. Condition of Premises Upon Termination or Abandonment.

Lessee, upon termination or abandonment of this Lease Agreement or termination of the Lessee's right of possession, covenants and agrees as follows:

1. Removal of Property. Lessee shall not remove any alterations, improvements or additions made to the leased premises by the Lessee or others without the prior written consent of Lessor. Lessee shall immediately remove, in a good and workmanlike manner, all personal property of the Lessee, and such alterations, improvements and additions made to the leased premises by the Lessee during the lease term as Lessor may request in writing to be removed. All damage occasioned by such removal shall be promptly repaired by the Lessee in a good and workmanlike manner. If Lessee fails to remove any such property, the Lessor may accept the title to such property without credit or compensation to the Lessee or remove and store such property, at the Lessee's expense, in any reasonable manner that Lessor may choose.

2. Restoration of the Premises. Lessee shall restore the leased premises to the condition existing on the commencement of this Lease Agreement, with the exception of ordinary wear and tear, and alterations, improvements and additions which Lessor has not directed the Lessee in writing to remove.

3. Holding Over. If Lessee fails to deliver actual possession of the leased premises to Lessor upon termination of this Lease Agreement, Lessor shall have all remedies available at law or in equity.

XXVII. GENERAL PROVISIONS

A. Conflict of Interest

Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge, in accordance with Arizona Revised Statutes § 38-511, that Lessor may terminate this Agreement upon written notice at any time within three (3) years of its execution, without penalty or further obligation, in the event that any person significantly involved in initiating, securing, drafting or creating this Agreement on behalf of Lessor, shall become an employee or agent of Lessee in any capacity or shall render consulting services to Lessee with respect to the subject matter of this Agreement.

B. Notices

Unless otherwise specified herein, any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be effective and deemed received when hand-delivered or faxed, or if sent by mail, three (3) business days after mailing, to the address given below for the Party to be notified, or to such other address of which notice is given in accordance with this Agreement:

If to Lessor:

City of Flagstaff
Utilities Director
211 South Aspen Avenue
Flagstaff, Arizona 86001
Fax: (928) 779-2409

If to Lessee:

C. Non-Exclusivity; Competing Uses

Nothing contained in this Agreement shall be construed to grant or authorize the granting of an exclusive right prohibited by federal law. The rights and privileges granted under this Agreement are non-exclusive, and Lessor has the right to grant to others the privilege and right of conducting any and all of the activities listed in this Agreement. Notwithstanding the foregoing, Lessor agrees not to enter into any similar agreement with respect to Red Gap Ranch which contains more favorable terms than are contained in this Agreement, or to grant to potential competitors of Lessee privileges not authorized in this Agreement, unless the same are also extended to Lessee.

D. Intention of the Parties

This Agreement is intended solely for the benefit of Lessor and Lessee, and is not intended to benefit, either directly or indirectly, any third party or members of the public at large. Any work done or inspection of the leased premises performed by Lessor is solely for the benefit of Lessor and Lessee.

E. Independence of Contract

Nothing in this Agreement is intended or shall be construed as in any way creating a relationship of partners or joint venturers between the Parties, or as constituting Lessee as the agent or representative or employee of Lessor for any purpose or in any manner whatsoever.

F. Waiver

The failure of either Party to insist in any instance upon a strict performance by Lessee of any of the provisions, terms, covenants, reservations, conditions or stipulations contained in this Agreement, shall not imply, constitute or be considered as a waiver or relinquishment of the right to insist upon performance of such condition or covenant, or of any other provision of this Agreement, nor shall any waiver by either Party of any breach of any one or more conditions or covenants of this Agreement constitute a waiver of any succeeding or other breach of this Agreement. No waiver by Lessor of any provision, term, covenant, reservation, condition or stipulation contained in this Agreement, shall be deemed to have been made in any instance unless expressed in the form of a written waiver from Lessor.

G. Prior Agreements; Integration; Modification

The Parties acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties, except as expressed in this Agreement, and that this Agreement, along with all of the terms and conditions of the Request for Proposals, amendments thereto and Lessee's Bid, constitute the Parties' entire agreement with respect to the matters addressed. All prior or contemporaneous agreements and understandings, oral or written, with respect to such matters are hereby superseded and merged in this Agreement. This Agreement may be modified or amended only by written agreement fully executed by the Parties.

H. Successors and Assigns

All covenants and conditions of this Agreement shall bind and shall inure to the benefit of the legal representatives, successors and assigns of the respective Parties to this Agreement, provided that any such representation, succession or assignment is authorized and permitted under this Agreement and by law. Any and all agreements that Lessee shall make with any permitted assignee, and/or sublessee of the leased premises, or any part thereof, shall include all provisions contained in this Agreement, and Lessee shall also remain liable under said provision.

I. Severability

In the event that a court of competent jurisdiction holds any part or provision of this Agreement invalid, void or of no effect, the remaining provisions of this Agreement shall remain in full force and effect, provided that continued enforcement of such remaining provisions does not materially prejudice either Lessee or Lessor in their respective rights and obligations contained in any valid provisions of this Agreement.

J. Headings

Headings or captions used in this Agreement shall be used solely for convenience of the Parties, and shall not define, limit, describe, alter or affect the meaning of any provision of this Agreement.

K. Litigation and Attorney's Fees

Except as otherwise agreed upon by the Parties, any litigation brought by either Party against the other Party to enforce the provisions of this Lease, shall be filed in Coconino County Superior Court, Flagstaff, Arizona. In the event that any action at law, or in equity, is instituted between the Parties in connection with this Agreement, the prevailing Party in the action shall be entitled to an award of costs, including reasonable attorney's fees and court costs, from the non-prevailing Party.

L. Governing Law

This Agreement shall be governed, interpreted and enforced in accordance with the laws of the State of Arizona.

M. Non-Discrimination

Lessee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination; (3) to ensure compliance with the statutory requirements of current Americans with Disability Act.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the _____ day of _____, 2014.

Lessor	**Lessee**
_____	_____
By: Kevin Burke, City Manager	By:
Attest:	Attest:
_____	_____
City Clerk	
Approved as to form:	
_____	
City Attorney	

STATE OF ARIZONA)
)ss:
County of Coconino)

ACKNOWLEDGMENT. On this _____ day of _____, 2014, before me, a Notary Public, personally appeared Kevin Burke, City Manager of the City of Flagstaff, known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same on behalf of the City of Flagstaff, for the purposes therein contained.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of Coconino)

ACKNOWLEDGMENT. On this _____ day of _____, 2014, before me, a Notary Public, personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that s/he executed the same on behalf of _____, a _____ corporation, for the purposes therein contained.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A

Order Number: 109971

LEGAL DESCRIPTION

PARCEL NO. 1:

That portion of Section 1, lying North of the North right of way line of the Atchison, Topeka and Santa Fe Railroad, located in Township 20 North, Range 12 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 2:

That portion of Section 11, and Section 13 lying North of the North right of way line of the Atchison, Topeka and Santa Fe Railroad, located in Township 20 North, Range 12 ½ East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 3:

All of Section 3, Township 20 North, Range 12 ½ East, Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 4:

All of Section 23, and Section 25, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 14/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

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PARCEL NO. 5:

All of Sections 21 and 27; the West half of Section 22; the Northeast quarter of the Northwest quarter of Section 18, and those portions of Sections 19, 29 and 33, lying North of the North right of way line of the Atchison, Topeka and Santa Fe Railroad, located in Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPTING therefrom any portion lying within Interstate Highway 40 as set froth in Final Order of Condemnation recorded May 29, 1974 in Docket 507, page 476, and in Docket 507, page 520, records of Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 6:

All of Section 29 and that portion of Section 31, lying North of the North right of way of the Atchison, Topeka and Santa Fe Railroad, located in Township 20 North, Range 14 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPTING the West half of the West half of the Northeast quarter of the Southwest quarter of Section 31;

FURTHER EXCEPTING therefrom any portion of Section 31 lying within Interstate Highway 40 as set forth in Final Order of Condemnation recorded May 29, 1974 in Docket 507, page 476, and in Docket 507, page 520, records of Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 7:

That portion of Section 5 lying North of the North right of way of the Atchison, Topeka and Santa Fe Railroad, located in Township 19 North, Range 14 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPTING therefrom any portion lying within Interstate Highway 40 as set forth in Final Order of Condemnation recorded May 29, 1974 in Docket 507, page 476, and in Docket 507, page 520, records of Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

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PARCEL NO. 8:

That portion of Section 35 lying North of the North right of way line of the Atchison, Topeka and Santa Fe Railroad, located in Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT a rectangular parcel of land 210 feet by 622.29 feet located in the Northwest quarter of said Section 35, bounded by lines more particularly described as follows:

BEGINNING at the Northwest corner of said Section 35, said corner being a Government Land Office standard brass cap marker, the common corner of Section 26, 27, 34 and 35 in said Township and Range;
THENCE South 0° 03' 30" East along the West boundary of said Section 35, a distance of 1162.05 feet to an intersection with the Southerly boundary of the right of way of the newly constructed Highway 66;
THENCE South 79° 52' East along the Southerly boundary of the Highway right of way a distance of 2017.35 feet to the TRUE POINT OF BEGINNING;
THENCE continuing along the said Southerly boundary of the Highway right of way, South 79° 52' East a distance of 622.29 feet;
THENCE South 10° 08' West a distance of 210 feet;
THENCE North 79° 52' West a distance of 622.29 feet;
THENCE North 10° 08' East a distance of 210 feet more or less, to the TRUE POINT OF BEGINNING; AND

EXCEPT that portion of the North half of the North half of Section 35, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona, more particularly described as follows:

BEGINNING at the Northwest corner of said Section 35;
THENCE along the North line of said Section 35, South 89° 51' 44" East 3764.11 feet;
THENCE South 0° 00' 15" East 1021.80 feet to the existing Northerly right of way line of Interstate Highway 40 (Flagstaff Holbrook Highway);
THENCE along said existing highway right of way line of the following three courses:

(1) North 79° 52' 00" West 350.00 feet;
(2) South 70° 18' 22" West 864.52 feet;
(3) North 79° 52' 00" West 2646.41 feet to the West line of said Section 35;

THENCE along said West Section line North 0° 02' 25" West 794.99 feet to the POINT OF BEGINNING; AND

EXCEPT that portion of the East half of Section 35, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona; more particularly described as follows:

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BEGINNING at the point of intersection of the existing Southerly right of way line of Interstate Highway 40 (Flagstaff-Holbrook Highway) with the East line of said Section 35, which point is South 0° 00' 15" East 2091.92 feet from the Northeast corner of said Section 35;
THENCE along the aforesaid East line of Section 35, South 0° 00' 15" East 639.33 feet to the existing Northerly line of the 200.00 foot right of way of the A.T.&S.F. Railway Company;
THENCE along said Northerly right of way line North 84° 12' 45" West 1728.49 feet;
THENCE North 0° 00' 15" West 376.59 feet to the aforesaid existing Southerly right of way line of Interstate Highway 40;
THENCE along said highway right of way line the following four courses:

(1) South 79° 52' 00" East 35.00 feet;
(2) North 72° 20' 34" East 836.48 feet;
(3) South 79° 52' 00" East 739.40 feet;
(4) along a curve to the right having a radius of 34,227.48 feet, a distance of 162.87 feet to the POINT OF BEGINNING;

AND FURTHER EXCEPTING therefrom any portion lying within Interstate Highway 40 as set forth in Final Order of Condemnation recorded May 29, 1974 in Docket 507, page 476, and in Docket 507, page 520, records of Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 9:

The East half of the Southwest quarter; the Southeast quarter of the Northwest quarter; the Southwest quarter of the Northeast quarter; the Northwest quarter of the Southeast quarter, all in Section 7, Township 20 North, Range 14 East, Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT any portion lying within the Winslow-Gray Mountain Highway, as set forth in Final Order of Condemnation recorded in Docket 576, page 21, records of Coconino County, Arizona;

AND EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals, as reserved in instruments recorded in Book 68 of Deeds, page 322, and Book 25 of Official Records, page 494, and Book 46 of Official Records, page 475, and Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 10:

The Southeast quarter of the Southeast quarter of Section 7, Township 20 North, Range 14 East, Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT any portion lying within the Winslow-Gray Mountain Highway, as set forth in Final Order of Condemnation recorded in Docket 576, page 21, records of Coconino County, Arizona;

AND EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals, as reserved in instruments recorded in Book 68 of Deeds, page 322, and Book 25 of Official Records, page 494, and Book 46 of Official Records, page 475, and Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 11:

The Northeast quarter of the Northeast quarter of Section 19, Township 20 North, Range 14 East, of the Gila and Salt River Base and Coconino, Maricopa County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 12:

The Northeast quarter of the Northwest quarter of Section 11, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 13:

The Northwest quarter of the Northwest quarter of Section 13, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 14:

The Northeast quarter of the Northwest quarter of Section 13, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

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PARCEL NO. 15:

The Southwest quarter of the Northeast quarter of Section 13, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 16:

The Southeast corner of the Northeast quarter of Section 15, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 17:

The Northeast quarter of the Southeast quarter of Section 17, Township 20 North, Range 13 East, Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals, as reserved in instruments recorded in Book 68 of Deeds, page 322, and Book 25 of Official Records, page 494, and Book 46 of Official Records, page 475, and Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 18:

The Northwest quarter of the Northeast quarter of Section 17, Township 20 North, Range 13 East, Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals, as reserved in instruments recorded in Book 68 of Deeds, page 322, and Book 25 of Official Records, page 494, and Book 46 of Official Records, page 475, and Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 19:

The Northwest quarter of the Southeast quarter of Section 17, Township 20 North, Range 13 East, Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals, as reserved in instruments recorded in Book 68 of Deeds, page 322, and Book 25 of Official Records, page 494, and Book 46 of Official Records, page 475, and Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 20:

The Southwest quarter of the Southeast quarter of Section 17, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest in all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 21:

The Southeast quarter of the Southeast quarter of Section 17, Township 20 North, Range 13 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest in all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 22:

The Southeast quarter of the Southeast quarter of Section 1, Township 20 North, Range 12 ½ East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest in all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 23:

The West half of the Southwest quarter of Section 1, Township 20 North, Range 12 ½ East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest in all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona; AND

EXCEPT all coal, oil, gas and minerals as reserved in instrument recorded August 18, 1970 in Docket 365, page 225, records of Coconino County, Arizona.

PARCEL NO. 24:

The Southeast quarter of the Northwest quarter, and the East half of the Southwest quarter of Section 1, Township 20 North, Range 12 ½ East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT the North, South, East and West 15 feet, as conveyed to Coconino County by deed recorded in Docket 425, page 291.

EXCEPT 15/16th interest in all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 25:

The Northeast quarter of the Southeast quarter of Section 1, Township 20 North, Range 12 ½ East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest in all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 26:

Lot 1, and the Southeast quarter of the Northeast quarter of Section 7, Township 20 North, Range 13 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest in all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 27:

Lot 4 of Section 7, Township 20 North, Range 13 East, Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals, as reserved in instruments recorded in Book 68 of Deeds, page 322, and Book 25 of Official Records, page 494, and Book 46 of Official Records, page 475, and Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 28:

The Southeast quarter of the Northwest quarter of Section 7, Township 20 North, Range 13 East, Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals, as reserved in instruments recorded in Book 68 of Deeds, page 322, and Book 25 of Official Records, page 494, and Book 46 of Official Records, page 475, and Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 29:

The Southeast quarter of the Southwest quarter of Section 7, Township 20 North, Range 13 East, Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT 15/16th interest of all oil, gas, hydrocarbon and minerals, as reserved in instruments recorded in Book 68 of Deeds, page 322, and Book 25 of Official Records, page 494, and Book 46 of Official Records, page 475, and Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 30:

Lots 1, 5 and 9, of Posen Ranch, a subdivision of Section 33, Township 20 North, Range 14 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona, according to the plat of record in the office of the County Recorder of Coconino County, Arizona, recorded in Book 4 of Surveys, page 95;

EXCEPT 15/16th interest in all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona.

PARCEL NO. 31:

Lots 1, 2, 3, 4 and 8, of Little Red-Gap Ranch, being a portion of Section 17, Township 20 North, Range 14 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, according to the plat of record in the office of the County Recorder of Coconino County, Arizona, recorded in Book 5 of Surveys, page 36;

EXCEPT 15/16th interest in all oil, gas, hydrocarbon and minerals as reserved in instruments recorded in Book 68 of Deeds, page 322, Book 25 of Official Records, page 494, Book 46 of Official Records, page 475, and in Docket 296, page 57, records of Coconino County, Arizona;
AND

EXCEPT all coal, oil, gas and minerals as reserved in instrument recorded April 11, 1968 in Docket 302, page 343, records of Coconino County, Arizona

EXHIBIT B

STATE LAND DEPARTMENT
STATE OF ARIZONA

GRAZING LEASE

Lease No. 05-3321

THIS GRAZING LEASE is entered into by and between the State of Arizona "Lessor" by and through the Arizona State Land Department and

CITY OF FLAGSTAFF

as "Lessee". In consideration of the payment of rent and of performance by the parties of each of the provisions set forth herein, the parties agree as follows:

ARTICLE 1
SUBJECT LAND

1.1 Lessor hereby leases to Lessee for the term, at the rent, and in accordance with the provisions set forth herein, the Subject Land described in Appendix A attached hereto ("Subject Land") for the uses and purposes specified in Article 4.

1.2 Lessee makes use of Subject Land "as is" and Lessor makes no express or implied warranties as to the physical condition of the Subject Land.

ARTICLE 2
TERM

2.1 The term of this Lease commences on December 31, 2013, and ends on December 30, 2023, unless terminated earlier as provided in this Lease.

ARTICLE 3
RENT

3.1 Lessee shall pay rent to Lessor for the use and occupancy of the Subject Land during the term of this Lease without offset or deduction and without notice or demand, as established, on an annual basis.

3.2 The annual base rent shall be set by Lessor in the manner established by law and paid in advance each year.

3.3 Each billing year in advance, Lessee shall inform Lessor, on forms to be provided by Lessor, whether Lessee intends to make full use, partial use or total non-use of the maximum allowable animal-unit-months for the Subject Land, so that the correct amount of rent may be billed by the Lessor. Lessee shall inform Lessor in writing of any subsequent change in the number of animal-unit-months which Lessee intends to use. If Lessee fails to provide Lessor with this information within the time stated in the form provided by Lessor, Lessee shall pay full-use rent.

3.4 There shall be added to the delinquent rental or other monies due, a penalty and delinquent interest. The delinquent interest rate shall be set by the State Treasurer according to law. The penalty shall be the greater of a minimum processing cost as determined by the Commissioner or five (5%) percent. The delinquent rent, penalty and interest shall be a lien on the improvements and property on the land.

3.5 Prior to the time a rent payment, annual or otherwise, is due, upon Lessee's written request, Lessor at its discretion may extend the time for payment for an additional period not to exceed 90 days. There shall be added to the delinquent rental or other monies due, a penalty and delinquent interest. The delinquent interest rate shall be set by the State Treasurer according to law. The penalty shall be the greater of a minimum processing cost as determined by the Commissioner or five (5%) percent. The delinquent rent, penalty and interest shall be a lien on the improvements and property on the land.

3.6 If the annual rent is at any time one calendar year in arrears, this Lease shall automatically terminate, without right of appeal by Lessee or any leasehold mortgagee, and Lessor shall proceed to cancel it on the records of the Department.

ARTICLE 4
USE OF SUBJECT LAND

4.1 The Subject Land is leased to the Lessee for the purposes of ranging livestock and for uses related thereto and no other use, except as approved in writing by Lessor after written application by Lessee.

4.2 Feedlot operations on the Subject Land are prohibited, but this shall not be construed to prevent the temporary or supplemental feeding of livestock.

ARTICLE 5
LIVESTOCK CARRYING CAPACITY

5.1 The livestock carrying capacity for the Subject Land shall be determined by the Lessor and may be adjusted from time to time, subject to the appeal rights of Lessee as provided by law. The appraised carrying capacity of the Subject Land shall not be exceeded during any billing year unless Lessee obtains the prior written permission of Lessor and agrees to pay the additional fees determined by Lessor.

ARTICLE 6
DUTY TO INFORM LESSOR OF TOTAL RANCH HOLDINGS

6.1 At the time of making application for the Lease, Lessee shall disclose to Lessor, on a form provided by Lessor, the total acreage used for grazing within the ranch unit or units of which the Subject Land is a part. This shall include, in addition to the Subject Land, any federal land which Lessee grazes pursuant to a written lease or permit any private land owned by or used by Lessee, with a designation as to which private lands are used pursuant to written agreement. In addition, Lessee shall show, on a map form supplied by or acceptable to Lessor: (1) the approximate location of all fence lines and man-made water sources and (2) the land ownership status (state, federal, or private) of the ranch unit or units of which the land covered by this Lease is a part.

6.2 In any determination as to whether the carrying capacity of the Subject Land has been exceeded, no claimed grazing use of private or federal lands within the ranch unit or units which have not been disclosed as part of the ranch unit or units shall be considered.

6.3 For purposes of determining whether the Lessee has remained within the authorized carrying capacity under this Lease, it shall be presumed that all land within a fenced pasture (whether state, federal or private) has been grazed to the same extent by livestock placed in that pasture unless Lessee or Lessor can, based upon range suitability and management practices, demonstrate to the contrary.

ARTICLE 7
RECORDS

7.1 Lessee shall keep records showing the numbers of Lessee's livestock of different classes on the ranch unit or units, the dates put on and removed and estimated death loss.

7.2 Such records shall be retained for a minimum period of three years.

7.3 The Lessor may, upon reasonable notice to the Lessee, require the production of the records described in Paragraph 7.1 above. In the event a dispute arises concerning the numbers of cattle grazed, the Lessee shall keep all documents and records until the dispute is finally resolved.

ARTICLE 8
TAXES; ADDITIONAL AMOUNTS

8.1 Lessee shall pay all assessments and charges for utilities and communication services, and assessments imposed pursuant to any construction on the Subject Land, all permit and authorization fees, all taxes, duties, charges and assessments of every kind of nature imposed by any public, governmental or political subdivision authority pursuant to

any currently or subsequently enacted law, ordinance, regulation or order, which during the term of this Lease, become due or are imposed upon, charged against, measured by or become a lien on (a) the Subject Land, (b) any improvements or personal property of the Lessee located on the Subject Land, (c) the interest of the Lessee to this Lease or in the proceeds received by Lessee from any assignment or sublease of the Subject Land.

8.2 Lessee shall pay or cause to be paid all amounts required to be paid under Paragraph 8.1 before any interest, penalty, fine or cost accrues for nonpayment.

ARTICLE 9
WAIVER

9.1 Acceptance of rent payments by Lessor shall not constitute a waiver by Lessor of any violation by Lessee of the provisions of this Lease.

9.2 No waiver of a breach of any provision of this Lease shall be construed as a waiver of any succeeding breach of the same or any other provision.

ARTICLE 10
IMPROVEMENTS

10.1 All buildings, fences, wells, pumps, pipelines, corrals, pens, range improvement practices (i.e., root plowing, land imprinting, clearing, etc.) and other structures of every kind and nature which exist, at anytime, on, above, or below the Subject Land or on a portion thereof and which are not portable in nature are considered "improvements" under this Lease.

10.2 Lessee may construct improvements on the Subject Land if: (a) Lessee has filed an Application to Place Improvements with Lessor, attaching any necessary written approvals from regulatory authorities; and (b) Lessor has granted written approval for the construction of such improvements.

10.3 Any improvements placed on the Subject Land which have not been approved as required by Paragraph 10.2 shall be forfeited to and become property of the Lessor, and Lessee shall be liable to Lessor for all damage to the Subject Land caused by such unauthorized improvements and for any expenses incurred by the Lessor in restoring the Subject Land.

10.4 Lessee shall have the right to remove all of its personal property which can be removed without damaging the Subject Land within 60 days prior to, or 90 days following the Expiration Date or the earlier termination of the Lease.

10.5 Improvements placed on the Subject Land shall conform to all applicable federal, state, county and municipal laws and ordinances.

10.6 All improvements placed upon the Subject Land by Lessee in conformance with Paragraph 10.2 shall be the property of Lessee or any successor in interest ("Owner") and shall, unless they become the property of Lessor, be subject to assessment for taxes in the name of the Owner, as other property.

10.7 The Lessee or Owner shall be entitled to reimbursement for improvements authorized in accordance with Paragraph 10.2 by any subsequent lessee or purchaser of the Subject Land upon expiration of this Lease as provided by A.R.S. § 37-322.02 or any successor statute, subject to any rights acquired by the Lessor under Paragraph 3.4.

ARTICLE 11
LESSEE'S COOPERATION; INGRESS AND EGRESS

11.1 Lessee shall cooperate with Lessor in Lessor's inspection, appraisal and management of the Subject Land and permit reasonable access by Lessor's employees to isolated State Land across Lessee's private land during the term of this Lease.

11.2 Lessee shall not interfere with the authorized activities of Lessor's employees, agents, licenses or other lessees or permittees on the Subject Land.

ARTICLE 12
LESSEE SHALL NOT PERMIT LOSS OR WASTE

12.1 Lessee shall not cause nor grant permission to another to cause any waste or loss in or upon the Subject Land. Lessee, its employees and agents shall not cut, consume or remove any timber, or standing trees that may be upon the Subject Land, without the prior written consent of Lessor, except that Lessee may cut wood for fuel for domestic uses and authorized improvements on the Subject Land. Nothing herein shall permit the cutting of saw timber for any purpose.

ARTICLE 13
NATIVE PLANTS AND CULTURAL RESOURCES

13.1 Lessee shall comply with the provisions of the Arizona Native Plant Law (A.R.S. § 3-901 et seq., or any successor statutes) and with Arizona laws relating to archaeological discoveries (A.R.S. § 41-841 et seq., or any successor statutes). Lessee shall not disturb any cacti or other protected native plants nor disturb any ruins, burial grounds or other archaeological sites except as may be permitted by these laws.

ARTICLE 14
LESSEE SHALL PROTECT THE LAND, PRODUCTS AND IMPROVEMENTS

14.1 Lessee is hereby authorized to use means which are reasonable and which do not result in a breach of the peace or in creating a concealed hazard, to protect the Subject Land and improvements against waste, damage and trespass.

14.2 In the event of known trespass on the Subject Land resulting in damage thereto, Lessee shall make reasonable efforts to notify Lessor and appropriate law enforcement authorities.

ARTICLE 15
ASSIGNMENT, SUBLEASE, PASTURAGE AGREEMENT AND ENCUMBRANCE

15.1 Lessee, if not in default in the payment of rent and having kept and performed all the conditions of this Lease may, with the written consent of Lessor, assign this Lease. An assignment of this Lease shall not be made without the consent of all lienholders of record. In the event of assignment of this Lease, Lessee shall file with Lessor a copy of applications for transfer of all certificates for stockponds on the Subject Land to assignee, as agent for the State of Arizona, showing that the applications have been filed with the appropriate governmental agency.

15.2 Lessee shall not sublease or sell or lease pasturage to lands included in the Lease without first obtaining the written consent of Lessor. Subleasing by the sublessee, or pasturing of animals not branded with the sublessee's brands, is not allowed. The term "sublease" includes the transfer of control of all or part of the ranch unit or units containing the Subject Land. Not with-standing any sublease, Lessee shall remain responsible to the Lessor for the performance of the provisions of this Lease. In no event may this Lease be sublet unless all rent due has been paid and all provisions of this Lease are complied with.

15.3 This Lease authorizes only the grazing of livestock bearing the registered brand(s) of Lessee or Lessee's immediate family. If Lessee wishes to permit the grazing of livestock bearing any other brands pursuant to pasturage agreements of any kind, Lessee must so inform Lessor prior to the release of such livestock on the Subject Land.

15.4 Copies of all assignments, subleases, or pasturage agreements pertaining to the Subject Land shall be filed with the Lessor.

15.5 In the event, this Lease is canceled or terminated prior to the expiration date any sublease or pasture agreement shall automatically terminate on the date the Lease is terminated.

ARTICLE 16
RESERVATIONS, RELINQUISHMENTS TO UNITED STATES

16.1 Lessor excepts and reserves out of the grant hereby made, all oils, gases, geothermal resources, coal, ores, minerals, fossils, fertilizers, common mineral products and materials, and all natural products of very kind that may be in or upon the Subject Land any legal claim existing or which may be established under the mineral land laws of the United States or the State of Arizona.

16.2 Lessor reserves the right to execute leases, permits, or sales agreements covering the Subject Land for the purpose of entering upon and prospecting for, and the extraction of such reserved materials.

16.3 Lessor reserves the right to grant rights of way, easements and sites over, across, under or upon the Subject Land for public highways, railroads, utility lines, pipelines, irrigation works, flood control, drainage works, logging and other purposes.

16.4 Lessor reserves the right to relinquish to the United States land needed for irrigation works in connection with a government reclamation project and to grant or dispose of rights of way and sites for canals, reservoirs, dams, power or irrigation plants or works, railroads, tramways, transmission lines or any other purpose or use on or over the Subject Land.

16.5 In the event of such relinquishment, grants or disposal, the Lessee waives all right to any compensation whatsoever as against the Lessor except as may be allowed under the provisions of Article 17, and as limited therein.

ARTICLE 17
CONDEMNATION AND EMINENT DOMAIN

17.1 If at any time during the duration of this Lease the whole or any part of the Subject Land shall be taken for any quasi-public or public purpose by any person, private or public corporation, or any governmental agency having authority to exercise the power of condemnation or eminent domain pursuant to any law, this Lease shall expire on the date when the leased property is taken or acquired as to the leased property so taken or acquired. Except as set forth below, the rights of Lessee and Lessor to compensation for such taking shall be as provided by law. The Lessee shall have no compensable right or interest in the real property being condemned or interest in the unexpired term of this Lease or any renewal except as provided by law and in any event no interest greater than 10 percent of the total award for the land. The Lessor shall be entitled to and shall receive any and all awards for severance damages to remaining proceedings concerning the Subject Land. Lessee shall have the right to (1) prorated reimbursement for prepaid rent, (2) any and all awards for payments made for any authorized improvements which are taken, and (3) severance damages for any damage to Lessee's remaining ranch operation resulting from the taking.

ARTICLE 18
WATER RIGHTS

18.1 The Lessee shall be entitled to the use on the Subject Land of groundwater as defined in A.R.S. § 45-101, or any successor statute, for purposes consistent with this Lease. If the Lessee shall develop any groundwater on the Subject Land, he shall not acquire any rights with respect to the groundwater, except the right to use such water in accordance with applicable law, on the Subject Land during the term of this Lease.

18.2 If the Lessee uses, on the Subject Land, groundwater from a source not on the Subject Land, that use alone shall not (1) cause such water or any rights with respect to that water to be appurtenant to the Subject Land, or (2) affect in any way the Lessee's rights with respect to the water.

18.3 The rights of the Lessor and the Lessee concerning the application for an establishment of any rights with respect to surface water as defined in A.R.S. § 45-101, or any successor statute, shall be governed by the laws of the State of Arizona.

18.4 Nothing in the provisions of this Lease shall affect the validity of any rights established by or for the Lessor or Lessee with respect to surface water, as defined in A.R.S. § 45-101, prior to the Commencement Date of this Lease.

18.5 The application for and establishment by the Lessor or Lessee (as agent of the State of Arizona) of any water rights shall be for the State of Arizona; such rights shall attach to and become appurtenant to the Subject Land.

18.6 Notwithstanding Paragraph 18.5 above, the Lessee, as agent of the State of Arizona, shall be entitled to any certificate of water right, issued pursuant to the Stockpond Registration Act, A.R.S. § 45-271 through 45-276 (as it may be amended) relating to a stockpond constructed as an authorized improvement on the Subject Land. Any such certificate and the rights it evidences and represents shall be appurtenant to the Subject Land and shall pass to any successor lessee; or, if the land is not leased but is retained by the State of Arizona, then to the State of Arizona; or if the land is sold, then to the purchaser.

18.7 The Lessee shall promptly notify the Lessor in writing of any initial filings made by the Lessee with any governmental agency or court concerning the establishment or adjudication of any claim to a water right relating to the Subject Land. Upon request of the Lessor, the Lessee shall furnish copies of any document filed with the agency or court.

ARTICLE 19
DEFAULT AND CANCELLATION

19.1 Violation by Lessee of any provision of this Lease shall be a default hereunder entitling Lessor to any and all remedies it may have under Arizona law.

19.2 Upon any such default, the Lease may be canceled pursuant to A.R.S. § 37-289 or any successor statute.

19.3 This contract is subject to cancellation pursuant to A.R.S. § 38-511.

ARTICLE 20
HOLDOVER LESSEE

20.1 Upon expiration or termination of this Lease, Lessee agrees to surrender to Lessor peaceful and uninterrupted possession of the Subject Land. Holdover tenancy by the Lessee is prohibited and shall be deemed a trespass for which Lessor may seek all appropriate civil and criminal remedies; except that a Lessee in good standing who has filed a timely application for renewal may continue to occupy and use the Subject Land, pursuant to the terms of this Lease, pending action on the renewal application by Lessor.

ARTICLE 21
INDEMNIFICATION

21.1 Except as provided by A.R.S. § 33-1551 (or its successor statutes), Lessee hereby expressly agrees to indemnify and hold Lessor harmless, or cause Lessor to be indemnified and held harmless from and against all liabilities, obligations, damages, penalties, claims, causes of action, costs, charges and expenses, including attorneys' fees and costs, which may be imposed upon or incurred by or asserted against Lessor by reason of the following: (a) any accident, injury or damage to any persons or property occurring on or about the Subject Land or any portion thereof resulting from Lessee's use of the Subject Land, (b) any use, non-use or condition of the Subject Land or any portion thereof resulting from Lessee's intentional actions or negligence, and (c) any failure on the part of Lessee to perform or comply with any of the provisions of this Lease; except such as may be the result solely of Lessor's intentional conduct or active negligence.

21.2 In case an action or proceeding is brought against Lessor by reason of any such occurrence, Lessee, upon Lessor's request and at Lessee's expense, will resist and defend such action or proceedings, or cause the same to be resisted and defended either by counsel designated by Lessee or, where such occurrence is covered by liability insurance, by counsel designated by the insurer.

21.3 Lessee shall protect, defend, indemnify and hold harmless the Lessor from and against all liabilities, obligations, losses, environmental responses, and clean up costs, charges and expenses, including attorneys' fees and court costs arising out of or related to the presence or existence of any substance regulated under any applicable Federal, State or local environmental laws, regulations or ordinances or amendments thereto because of: (a) any substance that came to be located on the Subject Land resulting from any use or occupancy of the Subject Land by the Lessee before or after the issuance of the Lease; or (b) any release, threatened release, escape, seepage, leakage, spillage, discharge or emission of any such substance in, on, under or from said Subject Land that is caused, in whole or in part, by any conduct, actions or negligence of the Lessee, regardless of when such substance came to be located on the Subject Land.

ARTICLE 22
RENEWAL

22.1 Upon application to the Department not less than thirty days nor more than one year before the Expiration Date, Lessee, if a bona fide resident of the State or legally authorized to transact business in the State, shall have a preferred right to renewal for a term not to exceed ten years, as provided by law, bearing even date with the Expiration Date. The preferred right of renewal shall not extend to a Lessee if there has not been substantial compliance with the terms of this Lease or if the Subject Land has not been placed to the use prescribed in this Lease, unless for good cause, the failure to perform was given written authorization by the Department. If the Department determines the continued leasing of the land to the Lessee is not in the best interest of the State, the Lease shall not be renewed.

ARTICLE 23
INSURANCE REQUIREMENTS

23.1 Lessee shall maintain in full force a commercial general liability insurance policy during the lease term affording protection to the limit of not less than one million dollars. This policy shall contain a provision that Lessor, named as an additional insured, shall be entitled to recovery for any loss occasioned to it, its agents and employees. Further, the policy shall provide that their coverage is primary over any other insurance coverage available to the Lessor, its agents and employees. Insurance policies must contain a provision that the Lessor shall receive an advance 30 day written notice of any cancellation or reduction in coverage.

ARTICLE 24
ENVIRONMENTAL MATTERS

24.1 Lessee shall strictly comply with Environmental Laws, relating but not limited to hazardous and toxic materials, wastes and pollutants. Compliance means the Lessee shall act in accordance with the necessary reporting obligations obtain and maintain all permits required, provide copies of all documents as required by Environmental Laws. For purposes of this Lease the term "Environmental Law" shall include but not be limited to any relevant federal, state, or local laws, and applicable regulations, rules and ordinances, and publications promulgated pursuant thereto, including any future modifications or amendments relating to environmental matters.

ARTICLE 25
MISCELLANEOUS

25.1 This Lease grants Lessee only those rights expressly granted herein and Lessor retains and reserves all other rights in the Subject Land.

25.2 This Lease is subject to all current and subsequently enacted rules, regulations and laws applicable to State Lands and to the rights and obligations of Lessors and Lessees. No provisions of this Lease shall create any vested right in Lessee except as otherwise specifically provided in this Lease.

25.3 The Lessor shall be forever wholly absolved from any liability for damages which might result to the Lessee in the event this Lease is found to be void, canceled, forfeited or terminated prior to the Expiration Date or in the event this Lease is not renewed.

25.4 If it is determined that Lessor has failed to receive title to any of the Subject Land, the Lease is null and void insofar as it relates to the land to which Lessor has failed to receive title. Lessor shall not be liable to Lessee or any assignee or sublessee for any damages that result from Lessor's failure to receive title.

25.5 In any action arising out of this Lease, the prevailing party is entitled to recover reasonable attorneys' fees incurred therein in addition to the amount of any judgment, costs and other expenses as determined by the court. In the case of Lessor, reasonable attorneys' fees shall be calculated at the reasonable market value for such services when rendered by private counsel notwithstanding that it is represented by the Arizona Attorney General's Office or by other salaried counsel.

25.6 No provisions of this Lease shall create any right or interest in Lessee to a fee interest in the Subject Land.

25.7 Any notice to be given or other documents to be delivered to Lessee or Lessor hereunder shall be in writing and delivered to Lessee or Lessor by depositing same in the United States Mail, with prepaid postage addressed as follows:

To Lessor: Arizona State Land Department
1616 West Adams Street - First Floor
Phoenix, AZ 85007

To Lessee: Address of Record

Lessee must notify Lessor within thirty (30) days by written notice of any change in address. Lessor's notice shall be deemed adequate if sent to the Lessee's best known address of record and no change of address form is on file.

25.8 This Lease shall be governed by, construed and enforced in accordance with Arizona laws.

25.9 Any attempt to assign, sublease, convey, transfer or otherwise dispose of any estate or interest in this Lease, other than pursuant to its term, shall not be effective.

25.10 This Lease, together with all attached Appendices, embodies the whole agreement of the parties. There are no other agreements or terms, oral or written. This document supersedes all previous communications, representations and agreements, oral or written, between the parties.

25.11 THIS DOCUMENT is submitted for examination and shall have no binding effect on the parties unless and until executed by the Lessor (after execution by the Lessee), and a fully executed copy is delivered to the Lessee.

25.12 IN THE EVENT OF A DISPUTE between the parties to this Lease, it is agreed to use arbitration to resolve the dispute but only to the extent required by A.R.S. § 12-1518; and, in no event shall arbitration be employed to resolve a dispute which is otherwise subject to administrative review by the Department.

25.13 Every obligation of the State under this Lease is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Lease, this Lease may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or any damages as a result of termination under this paragraph.

25.14 The parties agree to be bound by applicable State and Federal rules governing Equal Employment Opportunity, Non-discrimination and Disabilities, including Executive Order No. 2009-09.

25.15 Upon the sale, exchange, redemption, relinquishment or taking, whether by eminent domain or institutional use of all or any portion of the Subject Land, this Lease shall terminate on the date of such disposition as to the property so affected.

APPENDIX A

STATE OF ARIZONA LAND DEPARTMENT
1616 W. ADAMS
PHOENIX, AZ 85007

RUN DATE: 30 December 2013
RUN TIME: 20:47 PM
PAGE: 1

KE-LEASE# 005-003321-00-007 APPTYPE: RENEWAL
AMENDMENT#: 0

LAND#	LEGAL DESCRIPTION	AUS	ACREAGE
19.0-N-14.0-E-04-03-031-1007	LOT 1 AND LOT 2 LY E OF PAT 6056	0.50	68.460
19.0-N-14.0-E-04-03-031-1008	LOTS 3 4 AND LOT 2 LY W OF PAT 6056 AND S2NW LY N OF 95-98642	1.30	170.910
19.0-N-14.0-E-04-03-031-1009	S2NW LY S OF 95-98642 AND N OF RR AND N2N2NESW LY N OF RR	0.10	16.070
19.0-N-14.0-E-06-03-031-1003	THAT PT N OF RR	0.10	20.000
20.0-N-12.0-E-02-03-030-1003	LOTS 1 2 AND LOTS 3 4 S2NE N2N2SENW N2N2NESE LY N OF RR	1.60	208.610
20.0-N-12.5-E-02-03-030-1002	LOTS 1 THRU 4 S2N2 S2	5.50	710.840
20.0-N-12.5-E-10-03-031-1003	N2 N2NENESE LY N OF RR	1.50	200.000
20.0-N-12.5-E-12-03-031-1002	ALL	5.00	640.000
20.0-N-13.0-E-08-03-031-1002	LOTS 1 THRU 4 S2N2 S2	4.90	638.960
20.0-N-13.0-E-10-03-031-1002	LOTS 1 THRU 4 S2N2 S2	4.90	635.160
20.0-N-13.0-E-12-03-031-1002	LOTS 1 THRU 7 SWNE S2NW W2SE SW	4.90	630.970
20.0-N-13.0-E-14-03-031-1002	ALL	5.00	640.000
20.0-N-13.0-E-16-03-030-1002	ALL	5.00	640.000
20.0-N-13.0-E-18-03-031-1002	LOTS 1 THRU 4 SENW E2SW E2	4.80	626.640
20.0-N-13.0-E-20-03-031-1002	ALL	5.00	640.000
20.0-N-13.0-E-22-03-031-1002	E2	2.50	320.000
20.0-N-13.0-E-24-03-031-1002	ALL	5.00	640.000
20.0-N-13.0-E-26-03-031-1002	ALL	5.00	640.000
20.0-N-13.0-E-28-03-031-1004	N2 N2SE AND SW S2SE LY N OF 95-98642 AND NE OF PAT 2951	4.40	562.390
20.0-N-13.0-E-28-03-031-1005	SWNWSW SWSW SWSESW LY SW OF PAT 2951 AND N E S OF 95-98642	0.20	29.470
20.0-N-13.0-E-28-03-031-1006	S2SESW LY NE OF PAT 2951 AND S OF 95-98642 AND S2S2S2SE LY S OF 95-98642	0.10	10.760
20.0-N-13.0-E-34-03-031-1005	N2N2 LY N OF 95-98642	0.30	39.140

APPENDIX A

STATE OF ARIZONA LAND DEPARTMENT
1616 W. ADAMS
PHOENIX, AZ 85007

RUN DATE: 30 December 2013
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PAGE: 2

KE-LEASE# 005-003321-00-007 APPTYPE: RENEWAL
AMENDMENT#: 0

20.0-N-13.0-E-34-03-031-1006	N2 LY S OF I-40 AND N OF RR	1.40	181.880
20.0-N-13.0-E-36-03-030-1005	LOTS 1 2 NWNE N2NW AND LOT 3 SWNE S2NW LY N OF 95-98642	2.20	286.980
20.0-N-13.0-E-36-03-030-1006	LOT 3 S2S2SWNE S2NW N2N2SW NWSE LY S OF 95-98642 AND N OF RR	0.70	96.020
20.0-N-14.0-E-04-03-031-1002	LOTS 1 THRU 4 S2N2 S2	4.80	626.460
20.0-N-14.0-E-06-03-031-1002	LOTS 1 THRU 6 SENW E2SW S2NE SE LOT 7 LY NE OF PAT 6057	4.70	605.940
20.0-N-14.0-E-08-03-031-1002	ALL	5.00	640.000
20.0-N-14.0-E-16-03-030-1002	ALL	5.00	640.000
20.0-N-14.0-E-18-03-031-1004	E2NENE LY E OF PAT 6058	0.00	4.030
20.0-N-14.0-E-18-03-031-1005	LOTS 1 THRU 4 W2NE SENE E2W2 SE AND NENE LY W OF PAT 6058	4.80	615.570
20.0-N-14.0-E-20-03-031-1004	E2E2 LY E OF PAT 6059	0.30	38.730
20.0-N-14.0-E-20-03-031-1005	W2E2 W2 AND E2E2 LY W OF PAT 6059	4.50	581.970
20.0-N-14.0-E-28-03-031-1006	E2E2 W2NE AND E2NW NENWNW E2NENENESW W2SE LY E OF PAT 6060	2.70	347.040
20.0-N-14.0-E-28-03-031-1007	SWNW W2SW AND NWNW E2NW E2SW W2SWSE LY W OF PAT 6060	2.00	265.760
20.0-N-14.0-E-30-03-031-1002	LOTS 1 THRU 4 E2W2 E2	4.80	625.440
20.0-N-14.0-E-32-03-030-1002	ALL EX 95-98642 LY IN SWSWSWSWSW	4.90	639.250
	TOTALS	115.40	14,923.450

IN WITNESS HEREOF, the parties hereto have signed this Lease effective the day and year set forth previously herein.

STATE OF ARIZONA, LESSOR
Arizona State Land Commissioner

Amber Yosel 1/14/14
By: **Date**

City of Flagstaff Utilities
Lessee

1/9/14
Authorized Signature **Date**

211 W. Aspen Ave
Address

Flagstaff AZ 86001
City **State** **Zip**

Arizona State Land Department
Red Gap Ranch Grazing Lease

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

-1200
-15-97)
M APPROVED
NO. 0560-0174

EXHIBIT C

CONSERVATION PROGRAM CONTRACT

1. State & County Code: 04 005
2. Signup Number :
3. Farm Number(s) : 1270
   Tract Number(s) : 1270
4. Contract Number : 20020133
5. Fund Code : 049999/2002
6. HUA Number : 15020008090000

PROGRAM (Check One)	a. Conservation Farm Option (CFO)	b. Conservation Reserve Program (CRP)	c. Environmental Quality Incentives Program (EQIP)	X
	d. Farmland Protection Program (FPP)	e. Wildlife Habitat Incentives Program (WHIP)		

CONTRACT LANGUAGE

This CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, tenants (referred to as "Owner", "Operator" & "Tenant"; respectively) on the farm identified above. The undersigned person or ons shall hereafter be referred to as "the Participant". The Participant agrees to participate in the program designated in ion 7 during the stipulated contract period identified in Section 9 from the date the Contract is executed by the CCC. The icipant also agrees to implement the Conservation Plan developed and approved by the Participant and CCC. Additionally, the icipant and CCC agree to comply with the terms and conditions contained in this Contract, including the appendix to this Con- t, entitled "Appendix to Form CCC-1200" for the applicable program (referred to as "Appendix"), and any addendum thereto. The icipant also agrees to pay such applicable liquidated damages in an amount specified in the Appendix for the applicable program ne Participant withdraws prior to CCC acceptance or rejection. BY SIGNING THIS CONTRACT, PARTICIPANTS ACKNOWLEDGE RECEIPT OF OLLOWING FORMS CCC-1200, APPENDIX, AND ANY ADDENDUM THERETO.

9a. PERFORMANCE/PAYMENT SCHEDULED FOR CONTRACT

nical de A	Technical Code Name B	Units C	Cost-Share Incentive Level D	Offered Level E	Total Cost-Share Incentive F	Year Scheduled G
3 A	Prescribed grazing (Ac)	31211.0	100	100	20000	2003
3	Pumping plant for water control (No)	4.0	75	75	15000	2003
1	Trough or tank (No)	1.0	75	75	600	2003
1	Trough or tank (No)	4.0	75	75	2400	2003
1	Trough or tank (No)	10000.0	75	75	6000	2003
1	Trough or tank (No)	4.0	75	75	24000	2003
	Water well (No)	400.0	75	75	6000	2003
	Water well (No)	1000.0	75	75	15000 14120	2003
	Water well (No)	1000.0	75	75	15000 14400	2003
	Water well (No)	1000.0	75	75	15000 13800	2003
	Fence (Ft)	6718.0	75	75	6298	2004
	Fence (Ft)	6000.0	75	75	6750	2004
A	Prescribed grazing (Ac)	31211.0	100	100	20000	2004
	Fence (Ft)	12850.0	75	75	12047	2005
	Fence (Ft)	13128.0	75	75	12308	2005
A	Prescribed grazing (Ac)	31211.0	100	100	20000	2005

Revised 1/29/03

AGREEMENT PERIOD From: 09-24-2002 To: 09-24-2006 | 9c. CONTRACT OBLIGATIONS $

10. CONTRACT PARTICIPANTS

E, ADDRESS, and PHONE NUMBER	OW	OP	PAYMENT SHARES	ID NUMBER: 1/ 86 0220939 E
ENTERPRISE INC 928-333-3226 COUNTRY GABLES DR X, AZ 85053-4561	X		%	SIGNATURE: DATE
E, ADDRESS, and PHONE NUMBER	OW	OP	PAYMENT SHARES	ID NUMBER: 1/
			%	SIGNATURE: DATE

: USE ONLY - Payments according to the shares approved. | SIGNATURE OF CCC REPRESENTATIVE DATE

oint operation ID, if applicable.

U.S. DEPARTMENT OF AGRICULTURE

COMMODI REDIT CORPORATION

CONSERVATION PROGRAM CONTRACT

1. State & County Code:	04 005
2 Signup Number :	
Farm Number :	1270
3. Tract Number(s) :	1270
4. Contract Number :	20020133
5. Fund Code :	049999/2002

PRIVACY ACT AND PUBLIC BURDEN STATEMENT

E. The following statement is made in accordance with the Privacy Act of 1974 (5USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is 7 CFR 1466 (EQIP), 1470 (WHIP), and 1469 (FPP). The information will be used to allow a farmer, rancher, or landowner to apply for conservation benefits under the terms and conditions of the contract. Furnishing the requested information is necessary to determine properly the eligible land for the applicable program benefits. Failure to furnish the requested information will result in the applicant being unable to apply for or receive benefits under the applicable programs. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.

Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM (OMB NO. 0560-0174), Stop 7630, Washington, D.C. 20250-7630. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.

NONDISCRIMINATION STATEMENT

program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, sex, marital status, or disability.

Form Approved - OMB No. 0560-0174
See CCC-1200 for Privacy Act and
Public Burden Statements

U. S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

APPENDIX TO FORM CCC-1200
ENVIRONMENTAL QUALITY INCENTIVES PROGRAM CONTRACT

1 DEFINITIONS

The following definitions are applicable to the Environmental Quality Incentives Program contract.

A EQIP contract or CCC-1200 means the program documents including the applicable contract appendix, conservation plan, entered into between the Commodity Credit Corporation (CCC) and the participant. Such contract shall set forth the terms and conditions for participation in the EQIP and receipt of EQIP payments.

B Conservation plan means a record of a participant's decisions, and supporting information, for treatment of a unit of land or water, and includes the schedule of operations, activities, and estimated expenditures needed to solve identified natural resource concerns.

C Conservation practice means a specified treatment, such as a structural, vegetative, or land management practice, which is planned and applied according to NRCS standards and specifications and as part of a conservation management system (CMS).

D Structural practice means a conservation practice which primarily involves the establishment, construction, or installation of a site-specific measure to conserve, protect from degradation, or improve soil, water, or related natural resources in the most cost-effective manner. Examples include, but are not limited to, animal waste management facilities, terraces, grassed waterways, tailwater pits, livestock water development, and capping of abandoned wells.

E Land management practice means conservation practices that primarily require site-specific management techniques and methods to conserve, protect from degradation, or improve soil, water, or related natural resources in the most cost-effective manner. Land management practices include, but are not limited to, nutrient management, manure management, integrated pest management, integrated crop management, irrigation water management, tillage or residue management, stripcropping, contour farming, grazing management, and wildlife habitat management.

F Vegetative practice means conservation practices which primarily involve the establishment or planting of a site-specific vegetative measure to conserve, protect from degradation, or improve soil, water, or related natural resources in the most cost-effective manner. Examples include, but are not limited to, contour grass strips, filterstrips, critical area plantings, and permanent wildlife habitat.

G Conservation management system (CMS) means any combination of conservation practices and land management practices that, if applied, will protect or improve the soil, water, or related natural resources. A CMS may treat one or all of the natural resources to the sustainable level, or to a greater or lessor extent than the sustainable level.

H Cost-share payment means the financial assistance from CCC to the participant to share the cost of installing a structural or vegetative practice.

I Incentive payment means the financial assistance from CCC to the participant in an amount and at a rate determined appropriate to encourage the participant to perform a land management practice that would not otherwise be initiated without program assistance.

J Unit of concern means a parcel of agricultural land that has natural resource conditions that are a concern to the participant as outlined in the conservation plan.

K Technical Assistance means the personnel and support resources needed to conduct conservation planning; conservation practice survey, layout, design, installation, and certification; training, certification, and provide quality assurance for professional conservationists; and evaluation and assessment of the program.

L All other words and phrases, unless the context of subject matter otherwise requires, shall have the meanings assigned to them in the regulations governing the Environmental Quality Incentives Program which are found at 7 CFR Part 1466.

2 ELIGIBILITY REQUIREMENTS FOR ENVIRONMENTAL QUALITY INCENTIVES PROGRAM (EQIP)

A By signing the EQIP contract, the participant certifies that such participant will control the land subject to the contract for the contract period and shall, upon demand, provide evidence to CCC demonstrating that such participant will control the land for that period.

B A participant shall not be eligible for cost-share or incentive payments on eligible land if the participant receives cost-share payments or other benefits for the same land under the Conservation Reserve Program (7 CFR Parts 704 or 1410) or Wetlands Reserve Program (7 CFR Parts 703, 620, or 1467).

C Land otherwise eligible for the EQIP shall not be eligible if the land is subject to a deed or other restriction prohibiting the application of the conservation plan and associated practices or where a benefit has or will be obtained from a Federal agency in return for the participant's agreement not to implement the conservation plan and associated practices on the land during the same time as the land would be enrolled in the EQIP. By applying for the EQIP contract, the participant certifies as a condition for payment that no such restrictions apply to such land.

3 SELECTING OFFERS FROM PRODUCERS

A All applications will be ranked using criteria that will consider the environmental benefits per program dollar expended, a reasonable estimate of the cost of the conservation practices, and other factors for determining which applications will present the maximum environmental benefits for the least cost to the program. The highest ranked applications will be selected for a contract.

B The applicant may improve his/her ranking by providing additional environmental benefits without increasing the program cost or by offering and accepting less than the maximum program payments allowed. An applicant's decision to offer and accept lesser program payments is confidential until the end of the application period and will be used to determine contract payments. The CCC-1201, Application Evaluation Worksheet, will be sent to the applicant following completion of the contract application evaluation. The applicant has 10 calendar days from the date on the CCC-1201 Application Evaluation Worksheet, not to exceed the date of final ranking, in which to modify the offer and decision regarding the program application.

4 AGREEMENT

A The participant agrees:

(1) That the CCC-1200 (EQIP contract) and its addenda shall be considered a request to enter into the Environmental Quality Incentives Program on the terms specified on CCC-1200 and its addenda.

(2) To place eligible land into the EQIP for a period of time as specified on the CCC-1200 (5 to 10 years), from the date of the contract executed by CCC;

(3) To apply or commence a financially assisted practice within the first 12 months from the date of the contract executed by CCC. The participant may be granted a waiver to this requirement by the FSA county committee.

(4) Not to start any financially assisted practice before the contract is executed by CCC. The participant may be granted a waiver to this requirement by the NRCS State Conservationist.

(5) To comply with the terms and conditions of the conservation plan and all Federal, State, and local laws that apply to the plan content;

(6) To establish, maintain for required lifespans, and replace, as specified in the contract, the practices agreed to in the conservation plan

(7) Not to undertake any action on land under the participant's control which tends to defeat the purposes of this contract, as determined by CCC;

(8) To discontinue work in the general area of the site and notify NRCS immediately if during the construction of any practice a previously unidentified archeological or historical site is encountered;

(9) To maintain proof of payment documentation, if applicable, for 3 years after the end of the fiscal year in which the practice was completed and to present this documentation to CCC within 30 days if selected for administrative compliance check; and

(10) To file annually, required forms for payment limitation determinations.

B CCC agrees, subject to the availability of funds, to:

(1) Share the cost with owners and operators of establishing an eligible practice, or an identified unit thereof, agreed to in the conservation plan;

(2) Pay to the participant an interest penalty on cost-share and incentive payments not made by the date, as determined by CCC, the payment is due.

5 CONSERVATION PLAN

A Subject to the approval of CCC, the conservation plan will include all of the following information and requirements:

(1) The conservation and incentive practices to be undertaken on the land enrolled in EQIP;

(2) A schedule of operations, activities, and estimated expenditures needed to solve identified natural resource problems on the land enrolled in EQIP;

(3) The level of environmental benefits which must be attained on the land enrolled in EQIP; and,

(4) Any other practices required to fulfill the intent of the conservation plan.

B By signing the conservation plan, the participant agrees to implement the practices specified in such conservation plan on the land enrolled in EQIP.

6 PAYMENTS

A Subject to the availability of funds, cost-share and incentive payments, as approved by CCC, shall be made available upon a determination by CCC that an eligible practice, or an identifiable unit thereof, has been established in compliance with the conservation plan and with appropriate standards and specifications.

B CCC will make cost-share and incentive payments, as approved by CCC, available to the participant at the rate specified in the EQIP contract.

C Except as otherwise provided for in this paragraph, cost-share and incentive payments, as approved by CCC, may be made available under the EQIP only for the establishment or application of an eligible practice. In order to receive cost-share and incentive payments, as approved by CCC, the participant, upon certification of the completion practice, must file Form CCC-1245 with CCC at the USDA Service Center responsible for the administration of the participant's farm records.

D Contract expenditures entered into during the fiscal year a contract is approved shall not be made until the subsequent fiscal year.

7 PROVISIONS RELATING TO TENANTS AND LANDLORDS

Notwithstanding Paragraph 15, no payment will be approved for the current year if CCC determines that any of the following conditions exist:

A The landlord or operator has not given the tenants that have an interest in the unit of concern covered by the conservation plan, or that have a lease that runs through the CCC-1200 period at the time of sign up, an opportunity to participate in the benefits of the program;

B The landlord or operator has adopted any other scheme or device for the purpose of depriving any tenant of any benefits to which such tenant would otherwise be entitled. If any such conditions occur or are discovered after payments have been made, all or any part of the payments, as determined by CCC, must be refunded with interest and no further payments shall be made.

8 ERRONEOUS REPRESENTATION AND SCHEME AND DEVICE

A A participant who is determined to have erroneously represented any fact affecting a determination with respect to this contract and the regulations applicable to this contract, adopted any scheme or device which tends to defeat the purposes of this contract, or made any fraudulent representation with respect to this contract, will not be entitled to payments or any other benefits made in accordance with this contract and the participant must refund to CCC all payments received by such participant, plus interest and liquidated damages thereon, with respect to the contract. Such liquidated damages will be determined in accordance with paragraph 9 of this Appendix.

B Refunds determined to be due and owed to CCC in accordance with this contract will bear interest at the rate which CCC is required to pay for its borrowing from the United States Treasury on the date of the disbursement by CCC of the moneys to be refunded. Interest will accrue from the date of such disbursement by CCC.

C The provisions of paragraph 7A of this Appendix shall be applicable in addition to any liability under criminal and civil fraud statutes, including 18 U.S.C. 268, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729, or any other liability to which the participant may be subject.

9 LIQUIDATED DAMAGES

It is mutually agreed that in the event the approved EQIP contract is breached by the participant, the CCC will suffer substantial damages which may not be possible to quantify with certainty. Therefore, in addition to the refund of payments received plus interest due, for breach of contract prescribed in this contract, the participant agrees to pay an amount equal to the product obtained by multiplying: (1) 25 percent by, (2) the sum of payments disbursed for practices specified on form CCC-1245 that have been performed subject to the contract, as liquidated damages and not as a penalty.

10 NOTIFICATION OF CHANGES TO TERMS AND CONDITIONS OF THE CONTRACT

CCC agrees that if any changes of any terms and conditions of this contract, including changes necessary to reconcile the technical practices listed on the CCC-1200 to those specified in the conservation plan, become necessary prior to the date that this contract is approved on behalf of CCC, CCC will notify the persons signing the CCC-1200 of such change and such person will be given 10 days from the date of notification in which to agree to the revised terms and conditions or to withdraw from the contract request. The participant agrees to notify the CCC of an intention to withdraw from the contract request within 10 days from the date of the issuance of such notice and further agrees that failure to notify the CCC will constitute agreement to the revised terms and conditions.

11 CORRECTIONS

CCC reserves the right to correct all errors in entering data or the results of computations in the contract.

12 TERMINATION OF CONTRACT; JOINT LIABILITY

If a participant fails to carry out the terms and conditions of this contract but CCC determines that such failure does not warrant termination of this contract, CCC may require such participant to refund, with interest, payments received under this contract, or require the participant to accept such adjustments in the subsequent payments as are determined to be appropriate by CCC.

13 CONTRACT MODIFICATIONS

A CCC may modify this contract to add, or substitute certain practices when:

(1) The installed practice failed to adequately treat a unit of land or water through no fault of the participants;

(2) The installed practice has caused adverse impacts to significant cultural and environmental resources identified in the conservation plan, or those discovered as a result of installation;

(3) The installed measure has deteriorated because of conditions beyond the control of the participants; or

(4) Another practice will achieve at least the same level of environmental benefits.

B Any modification to the CCC-1200 or conservation plan that is significant enough to warrant a change in the initial CCC-1200 ranking may disallow the modification altogether.

C Any modification to the CCC-1200 or conservation plan will require the concurrence of all participants.

D Concurrence of NRCS and the conservation district shall be obtained by CCC when modifications to this contract involve a technical aspect of a participant's conservation plan.

14 EFFECTIVE DATE AND CHANGES TO CONTRACT

A The EQIP contract is effective when signed by the participants and an authorized representative of CCC. Except as otherwise determined by CCC, the contract may not be revoked or revised unless by mutual agreement between the parties. Within the dates established by CCC, the contract must be signed by all required participants.

In the event that a statute is enacted during the period of this contract which would materially change the terms and conditions of this contract, the CCC may require the participants to elect between acceptance of modifications in this contract consistent with the provisions of such statute or termination of this contract.

B The EQIP contract shall be carried out in accordance with all Federal stature and regulations, included but not limited to the National Environmental Policy Act, the Endangered Species Act, National Historic Preservation Act, Title VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987, other nondiscrimination statutes, and the regulations of the Secretary of Agriculture found at 7 CFR Part 15, Subparts A & B. The CCC may, without incurring liability for breach of the contract, terminate the EQIP contract, in whole or in part, if CCC determines that continued operation of the contract will result in the violation of a Federal statute or regulation, or if CCC determines that termination would be in the public interest.

15 REGULATIONS TO PREVAIL

The regulations in 7 CFR Part 1466 for the EQIP are incorporated herein. In the event of a conflict between these regulations and the terms of this Appendix, the provisions of the regulations will prevail.

By signing the EQIP contract, the participant certifies that he/she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while conducting any activity associated with the EQIP contract. This certification is a material representation of fact upon which reliance was placed when CCC determined to award this EQIP contract. If it is later determined that the participant knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.; 7 CFR part 3017, Subpart F, Section 3017.600) CCC, in addition to any other remedies available to the United States, may take action authorized under the Drug-Free Workplace Act.

The following owners, operators, and producers by entering their signature acknowledge receipt of this Appendix to CCC-1200 and agree to the terms and conditions thereof. Further if the undersigned are succeeding to an existing EQIP contract, the undersigned agree and certify that no agreement exists or will be entered into between the undersigned, the previous owner and operator of the property, or mortgage holder that would, maintain or create an interest in the property in any previous participant on the EQIP contract for that property, or to receive payments under the contracts.

Lynn Roam Date 11-20-01

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COCONINO/MOHAVE/YAVAPAI COUNTY
FARM SERVICE AGENCY OFFICE
FLAGSTAFF, ARIZONA

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Jamie Whitten Building, 14th and Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

REVISION OF PLAN, SCHEDULE OF OPERATIONS OR MODIFICATION OF A CONTRACT

Form Approved
OMB No. 0578-0013 Expires 7/31/09

PARTICIPANT	COUNTY AND STATE	PROGRAM AND CONTRACT NUMBER	SUBACCOUNT
POSEN ENTERPRISES INC	COCONINO County, AZ	EQIP 2002 7494572A047	EQIP 2005 96F

LAND UNITS OR LEGAL DESCRIPTION	ACRES	MODIFICATION NUMBER AND DATE	EXPIRATION DATE
Farm:1270 Tract(s):1270.	12800	1 --- 10/18/2006	9/24/2010

Contract Item 1 - Prescribed grazing (ac) (528A)

Practice Lifespan: 3 years — Status: Certified 9/26/2006

Grazing will be managed according to a schedule that meets the needs of the soil, water, air, plant and animal resources and the objectives of the resource manager.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Certified Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR 2003 $	2004 $	2005 $							
1	Prescribed grazing (Ac) (528A)	31211 ac.			20,000									
1a	Prescribed grazing (Ac)	31211 ac.	$0.6408/ac.	100%	20,000									

Contract Item 2 - Pumping plant for water control (No)

Practice Lifespan: 15 years — Status: Certified 9/26/2006

Install a pumping facility to transfer water for a need(s).

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Certified Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR 2003 $	2004 $	2005 $							
2	Pumping plant for water control (No) (533)	4 no.			15,000									
2a	Pumping plant for water control (No)	4 no.	$5,000.0000 /no.	75%	15,000									

Contract Item 3 - Watering facility (No) (614)

Practice Lifespan: 10 years — Status: Planned

Install a water drinking facility for livestock and/or wildlife.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR 2003 $	2004 $	2005 $							
3	Watering facility (No) (614)	1 no.			600									
3a	Watering facility (No)	1 no.	$800.0000/no.	75%AA	600									

U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

REVISION OF PLAN/SCHEDULE OF OPERATIONS OR MODIFICATION OF A CONTRACT

OMB No. 0578-0013
Expires: 11/30/2009

PARTICIPANT	COUNTY AND STATE	PROGRAM AND CONTRACT NUMBER	SUBACCOUNT
POSEN ENTERPRISES INC	COCONINO County, AZ	EQIP 2002 7494572A047	EQIP 2005 96F

LAND UNITS OR LEGAL DESCRIPTION	ACRES	MODIFICATION NUMBER AND DATE	EXPIRATION DATE
Farm:1270 Tract(s):1270	12800	1 --- 10/18/2006	9/24/2010

Contract Item 4: Watering Facility (No) (614) — Practice Lifespan: 10 years — Status: Planned 2005

Install a water drinking facility for livestock and/or wildlife.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
4	Watering facility (No) (614)	4 no.			2,400									
4a	Watering facility (No)	4 no.	$800.0000/no.	75%AA	2,400									

Contract Item 5: Watering Facility (No) (614) — Practice Lifespan: 10 years — Status: Planned 2005

Install a water drinking facility for livestock and/or wildlife.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
5	Watering facility (No) (614)	10000 no.			6,000									
5a	Watering facility (No)	10000 no.	$0.8000/no.	75%AA	6,000									

Contract Item 6: Watering Facility (No) (614) — Practice Lifespan: 10 years — Status: Planned 2005

Install a water drinking facility for livestock and/or wildlife.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
6	Watering facility (No) (614)	4 no.			24,000									
6a	Watering facility (No)	4 no.	$8,000.0000 /no.	75%AA	24,000									

U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

REVISION OF PLAN / SCHEDULE OF OPERATIONS OR MODIFICATION OF A CONTRACT

FRM-CPA-160
OMB Control No. 0578-0018 Expires: 09/30/09

PARTICIPANT	COUNTY AND STATE	PROGRAM AND CONTRACT NUMBER	SUBACCOUNT
POSEN ENTERPRISES INC	COCONINO County, AZ	EQIP 2002 7494572A047	EQIP 2005 96F

LAND UNITS OR LEGAL DESCRIPTION	ACRES	MODIFICATION NUMBER AND DATE	EXPIRATION DATE
Farm:1270 Tract(s):1270.	12800	1 --- 10/18/2006	9/24/2010

Contract Item: Water well (No) (642) — Practice Lifespan: 20 years — Status: Certified 9/30/2004

Install a well.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Certified Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
7	Water well (No) (642)	940 no.			14,100									
7a	Water well (No)	940 no.	$18.8000/no .	75%	14,100									

Contract Item: Water well (No) (642) — Practice Lifespan: 20 years — Status: Planned PO

Install a well.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
8	Water well (No) (642)	400 no.			6,000									
8a	Water well (No)	400 no.	$20.0000/no .	75%AA	6,000									

Contract Item: Water well (No) (642) — Practice Lifespan: 20 years — Status: Certified 9/30/2004

Install a well.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Certified Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
9	Water well (No) (642)	960 no.			14,400									
9a	Water well (No)	960 no.	$19.2000/no .	75%	14,400									

REVISION OF PLAN/SCHEDULE OF OPERATIONS OR MODIFICATION OF A CONTRACT

PARTICIPANT	COUNTY AND STATE	PROGRAM AND CONTRACT NUMBER	SUBACCOUNT
POSEN ENTERPRISES INC	COCONINO County, AZ	EQIP 2002 7494572A047	EQIP 2005 96F

LAND UNITS OR LEGAL DESCRIPTION	ACRES	MODIFICATION NUMBER AND DATE	EXPIRATION DATE
Farm:1270 Tract(s):1270.	12800	1 --- 10/18/2006	9/24/2010

Contract Item 10: Water well (No) (642) — Practice Lifespan: 20 years — Status: Certified 7/20/06

Install a well.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Certified Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
10	Water well (No) (642)	920 no.			13,800									
10a	Water well (No)	920 no.	$18.4000/no	75%	13,800									

Contract Item 11: Fence (Ft) (382) — Practice Lifespan: 20 years — Status: Planned 10/4

Construct a fence for use as a barrier to wildlife, livestock, or people.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
11	Fence (Ft) (382)	6718 ft.				6,298								
11a	Fence (Ft)	6718 ft.	$1.2500/ft.	75%AA		6,298								

Contract Item 12: Fence (Ft) (382) — Practice Lifespan: 20 years — Status: Planned 10/4

Construct a fence for use as a barrier to wildlife, livestock, or people.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
12	Fence (Ft) (382)	6000 ft.				6,750								
12a	Fence (Ft)	6000 ft.	$1.5000/ft.	75%AA		6,750								

U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

REVISION OF PLAN / SCHEDULE OF OPERATIONS OR MODIFICATION OF A CONTRACT

NRCS-CPA-1155
OMB 0578-0013 Expires 6/30/08

PARTICIPANT	COUNTY AND STATE	PROGRAM AND CONTRACT NUMBER	SUBACCOUNT
POSEN ENTERPRISES INC	COCONINO County, AZ	EQIP 2002 7494572A047	EQIP 2005 96F

LAND UNITS OR LEGAL DESCRIPTION	ACRES	MODIFICATION NUMBER AND DATE	EXPIRATION DATE
Farm:1270 Tract(s):1270.	12800	1 --- 10/18/2006	9/24/2010

Contract Item 13 - Prescribed Grazing (528A) — **Practice Lifespan: 5 years** — **Status: Planned 2005**

Grazing will be managed according to a schedule that meets the needs of the soil, water, air, plant and animal resources and the objectives of the resource manager.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
13	Prescribed grazing (Ac) (528A)	31211 ac.				20,000								
13a	Prescribed grazing (Ac)	31211 ac.	$0.6408/ac.	FR[1]		20,000								

Notes: [1]Flat rates are the incentive payment amounts determined necessary to encourage adoption of conservation practices and are not based on cost share rates.

Contract Item 14 - Fence (382) — **Practice Lifespan: 20 years** — **Status: Planned 2005**

Construct a fence for use as a barrier to wildlife, livestock, or people.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
14	Fence (Ft) (382)	12850 ft.					12,047							
14a	Fence (Ft)	12850 ft.	$1.2500/ft.	75%AA			12,047							

Contract Item 15 - Fence (382) — **Practice Lifespan: 20 years** — **Status: Planned 2005**

Construct a fence for use as a barrier to wildlife, livestock, or people.

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
15	Fence (Ft) (382)	13128 ft.					12,308							
15a	Fence (Ft)	13128 ft.	$1.2501/ft.	75%AA			12,308							

RELEASE OF PLAN, SCHEDULE OF OPERATIONS OR MODIFICATION OF A CONTRACT

PARTICIPANT	COUNTY AND STATE	PROGRAM AND CONTRACT NUMBER	SUBACCOUNT
POSEN ENTERPRISES INC	COCONINO County, AZ	EQIP 2002 7494572A047	EQIP 2005 96F

LAND UNITS OR LEGAL DESCRIPTION	ACRES	MODIFICATION NUMBER AND DATE	EXPIRATION DATE
Farm:1270 Tract(s):1270.	12800	1 --- 10/18/2006	9/24/2010

Conservation Practice	Practice Specifications	Status Planned (S)
Grazing will be managed according to a schedule that meets the needs of the soil, water, air, plant and animal resources and the objectives of the resource manager.		

Fields:
Tract: 1270 Fields: 1;

Contract Item	Planned Conservation Treatment	Planned Amount	Unit Cost	Cost Share Rate/Method	COMPLETION SCHEDULE AND ESTIMATED COST-SHARE OR PAYMENT BY YEAR									
					2003 $	2004 $	2005 $							
16	Prescribed grazing (Ac) (528A)	31211 ac					20,000							
16a	Prescribed grazing (Ac)	31211 ac.	$0.6408/ac.	FR[1]			20,000							

Notes: [1]Flat rates are the incentive payment amounts determined necessary to encourage adoption of conservation practices and are not based on cost share rates.

Basis for Modification or Revision

This ranch was purchased by the City of Flagstaff. They are going to put the ranch up for lease bidding in the near future. The sucessful bidder, as part of the lease, will have to assume the EQIP contract and will then proceed with installing the remaining practices.

REVISION OF PLAN / SCHEDULE OF OPERATIONS OR MODIFICATION OF A CONTRACT

PARTICIPANT	COUNTY AND STATE	PROGRAM AND CONTRACT NUMBER	SUBACCOUNT
POSEN ENTERPRISES INC	COCONINO County, AZ	EQIP 2002 7494572A047	EQIP 2005 96F

LAND UNITS OR LEGAL DESCRIPTION	WATERSHED	ACRES	EXPIRATION DATE
Farm:1270 Tract(s):1270.	Middle Little Colorado	12800	9/24/2010

Total Cost Share or Payment by Year

Year	2003	2004	2005								Total Cost Share Payment
Amount($)	$116,300	$33,048	$44,355								$193,703

NOTES: A. All items numbers on form NRCS-CPA-1155 must be carried out as part of this contract to prevent violation.
B. When established, the conservation practices identified by the numbered items must be maintained by the participant at no cost to the government.
C. All cost share rates are based on average cost (AC) with the following exceptions:
AA = Actual cost not to exceed average cost; FR = Flat Rate; NC = Non cost-shared; AM = Actual cost not to exceed a specified maximum.
D. By signing, the participant acknowledges receipt of this conservation plan including this form NRCS-CPA-1155 and agrees to comply with the terms and conditions here of.

Certification of Participants

Signature	Date	Signature	Date	Signature	Date
POSEN ENTERPRISES INC					

Signatures of Approving Officials

NRCS Approving Official	Reviewed by Conservation District Representative
Signature: Ronald B Eckfield	Signature:
USDA Electronic Signature; manual signature not required	
Date: 12/6/2004	Date:

PUBLIC BURDEN STATEMENT

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collections is 0578-0013. The time required to complete this information collection is estimated to average 45/0.75 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

PRIVACY ACT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C 522a). Furnishing this information is voluntary; however failure to furnish correct, complete information will result in the withholding or withdrawal of such technical or financial assistance. The information may be furnished to other USDA agencies, the Internal Revenue Service, the Department of Justice, or other state or federal law enforcement agencies, or in response to orders of a court, magistrate, or administrative tribunal.

USDA NON-DISCRIMINATION STATEMENT

"The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer."

EXHIBIT D

RETURN TO:
ARIZONA STATE LAND DEPARTMENT
PUBLIC COUNTER
1616 WEST ADAMS
PHOENIX, ARIZONA 85007

SUBMIT NON-REFUNDABLE
$200 FILING FEE

DEPARTMENTAL USE ONLY	
ACCOUNTING	T & C
Filing Fee: $200	Exam:_____
S(32) P (32)	App. entry: _____

ROLODEX #_____

LEASE NO._____-_____

SUBLEASE OR PASTURE AGREEMENT REQUEST AND PERMISSION

THIS FORM MUST BE COMPLETED, SIGNED BY ALL PARTIES AND SUBMITTED WITH A NON-REFUNDABLE $200 FILING FEE.

Check one: ☐ **SUBLEASE** ☐ **PASTURE AGREEMENT**

1A. APPLICANT(S):

_____
State Lessee aka Sub-Lessor

_____
State Lessee aka Sub-Lessor

_____
Mailing Address

_____
City State Zip

_____
Contact Person Phone No.

_____
Email Address (optional)

1B. APPLICANT(S):

_____
Sub-Lessee

_____
Sub-Lessee

_____
Mailing Address

_____
City State Zip

_____
Contact Person Phone No.

_____
Email Address (optional)

By submitting this request and permission, the above Sub-Lessor and Sub-Lessee agree that the land described in this Sublease/Pasture Agreement shall be used for the purpose described in the State Lease referenced and for no other use. Further, Sub-Lessor and Sub-Lessee agree to abide by all of the terms and conditions of the State Lease and to conform and perform in accordance with A.R.S. Title 37, the Rules of the Arizona State Land Department, A.A.C. Title 12, Chapter 5.

2. REQUEST TO SUBLEASE STATE TRUST LANDS:

The State lessee requests permission to allow the sub-leasing or pasturing of those lands described in State Lease No._____ -_____ which expires on_____.

Check One: **All of the lands in the State Lease number described above.**
Only that portion of the above referenced State Lease as described below.

TWN.	RNG.	SEC.	LEGAL DESCRIPTION	COUNTY	SLD CTY	USE GRT	ONLY PARCEL

3. PURPOSE OF SUBLEASE:
Check one: ☐ **Livestock Grazing** ☐ **Agricultural Use** ☐ **Commercial Use**

A. LIVESTOCK GRAZING:

Does SUB-LESSEE have an Arizona Registered Brand? ☐ **Yes** ☐ **No**

NOTE: Sublessee must attach a certificate indicating proof of an Arizona Registered Brand or this request for permission to sublease will be returned.

B. AGRICULTURAL USE:

If the purpose of the sublease is irrigation, and the land under the lease is located within an Active Management Area or Irrigation Non-Expansion Area, have you reviewed the annual allotment of water regulated by the Arizona Department of Water Resources (ADWR) with which to irrigate eligible acres? ☐ **Yes** ☐ **No**

Have you reviewed the status of the flexibility account for the Irrigation Grandfathered Right (IGR)?
☐ **Yes** ☐ **No**

NOTE: The annual allotment of water may be reduced pursuant to management plan requirements developed and enforced by ADWR. If the flexibility account has a debit balance that exceeds 50% of the allotment during a calendar year, a transfer of credits to the IGR would be required to avoid enforcement by ADWR and the Department. Please contact either ADWR or the Department's Water Right Management Section for assistance.

C. COMMERCIAL USE:

If this sublease is for telecommunication purposes, Sublessee must obtain a Special Land Use Permit.
Have you applied for a Special Land Use Permit? ☐ **Yes** ☐ **No**

4. TERM:

Requested term of this sublease/pasture agreement is: From _____ to _____.

NOTE: The term of the sublease/pasture agreement cannot exceed the term of the State Lease.

5. CONSIDERATION: Specify the *monetary compensation being paid by the Sublessee:
(*Lessee is obligated to pay the Department annual rent, regardless of the rental value reached between the Lessee and Sublessee)

$_____PER AUM **$_____ANNUALLY** **$_____OTHER**

6. SUB-LESSOR(S) - COMPLETE AND SIGN PAGE 3. (Sub-lessor(s) must be the same as on the State lease.)

7. SUB-LESSEE(S) - COMPLETE AND SIGN PAGE 4.

FOR DEPARTMENT USE ONLY

The State Land Commissioner, by virtue of the authority vested in him by law hereby grants permission to sublease or pasture the State Lands herein described from _____ to _____.

This permission is granted subject to all terms and conditions herein stated or attached and made a part hereof.

☐ **If this box is checked, additional terms and conditions are attached to this document and are made a part hereof.**

(SEAL)

STATE OF ARIZONA
ARIZONA STATE LAND COMMISSIONER

_____
By

_____
Date

TO BE COMPLETED BY SUB-LESSOR(S) (STATE LESSEE) "1A"

CERTIFICATION: Pursuant to A.R.S. Title 37 and the Rules of the Arizona State Land Department, A.A.C. Title 12, Chapter 5, you must complete the following information pertinent to you and/or the organization you represent and sign the certification or your application will not be processed. NOTE: Applicant must complete item #1.

1. Is this application made in the name of: (Applicant must check one) _____ **Individual(s)** _____ **Husband & Wife**

_____ **Corporation** _____ **Partnership** _____ **Limited Partnership** _____ **Limited Liability Company** _____ **Estate**

_____ **Trust** _____ **Joint Venture** _____ **Municipality** _____ **Political Subdivision** _____ **Other (specify)** _____

2. INDIVIDUAL(s) OR HUSBAND & WIFE: Complete the following for each applicant:

NAME	AGE	MARITAL STATUS

3. CORPORATION: Complete the following:
(A) Do you have authority from the Arizona Corporation Commission to do business in the State of Arizona? Yes____ No____
(B) Is the corporation presently in good standing with the Arizona Corporation Commission? Yes____ No____
(C) In what state are you incorporated? _____.
(D) Is the legal corporate name and Arizona business address the same as stated in this application? Yes____ No____

If no, state the Legal Corporate Name: _____

Address: _____
(Street or Box Number) (City) (State) (Zip)

4. LIMITED LIABILITY COMPANY: Complete the following:
(A) If an out-of-state limited liability company: Have you filed for a Certificate of Registration with the Arizona Corporation Commission?
_____ **Yes** _____ **No.**
(B) If an Arizona limited liability company: Have you filed Articles of Organization with the Arizona Corporation Commission?
_____ **Yes** _____ **No.**
(C) Are you authorized by the Arizona Corporation Commission to transact business in Arizona? _____ **Yes** _____ **No**

5. PARTNERSHIP OR JOINT VENTURE: Complete the following for each authorized partner or principal in the partnership or joint venture:

NAME	BUSINESS ADDRESS	AGE	MARITAL STATUS

6. LIMITED PARTNERSHIP: Is this Limited Partnership on file with the Arizona Secretary of State? ☐ **Yes** ☐ **No**
Complete the following for the <u>authorized general partner(s)</u> only:

GENERAL PARTNER(S) NAME	BUSINESS ADDRESS

7. ESTATE: Complete the following <u>and attach a copy</u> of the court or estate document(s):
Name of the court appointed administrator or personal representative: _____

List the type and date of issuance of the court or Estate document: _____
(Type of Document) (Date issued)

8. TRUST: (A) Complete the following pursuant to A.R.S. § 33-404, for each <u>beneficiary</u> of the Trust:

NAME	ADDRESS	AGE	MARITAL STATUS

or (B) Identify the Trust document by <u>title</u>, <u>document number</u>, and <u>county</u> where document is recorded: _____

9. I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT THE INFORMATION AND STATEMENTS CONTAINED HEREIN, TOGETHER WITH ALL EXHIBITS AND ATTACHMENTS ARE TRUE, CORRECT AND COMPLETE AND THAT I/WE HAVE AUTHORITY TO SIGN THIS DOCUMENT.

SIGNATURE(S)

_____ _____
(Name of Corporation, Partnership, etc.) Date **Signature of Sub-Lessor (Individual) Date**

_____ _____
Signature Title **Signature of Sub-Lessor (Individual) Date**

TO BE COMPLETED BY SUB-LESSEE(S) "1B"

CERTIFICATION: Pursuant to A.R.S. Title 37 and the Rules of the Arizona State Land Department, A.A.C. Title 12, Chapter 5, you must complete the following information pertinent to you and/or the organization you represent and sign the certification or your application will not be processed. NOTE: Applicant must complete item #1.

1. Is this application made in the name of: (Applicant must check one) _____ **Individual(s)** _____ **Husband & Wife**

_____ **Corporation** _____ **Partnership** _____ **Limited Partnership** _____ **Limited Liability Company** _____ **Estate**

_____ **Trust** _____ **Joint Venture** _____ **Municipality** _____ **Political Subdivision** _____ **Other (specify)** _____

2. INDIVIDUAL(s) OR HUSBAND & WIFE: Complete the following for each applicant:

NAME	AGE	MARITAL STATUS

3. CORPORATION: Complete the following:
(A) Do you have authority from the Arizona Corporation Commission to do business in the State of Arizona? Yes____ No____
(B) Is the corporation presently in good standing with the Arizona Corporation Commission? Yes____ No____
(C) In what state are you incorporated? _____.
(D) Is the legal corporate name and Arizona business address the same as stated in this application? Yes____ No____

If no, state the Legal Corporate Name: _____

Address: _____
(Street or Box Number) (City) (State) (Zip)

4. LIMITED LIABILITY COMPANY: Complete the following:
(A) If an out-of-state limited liability company: Have you filed for a Certificate of Registration with the Arizona Corporation Commission?
_____ **Yes** _____ **No.**
(B) If an Arizona limited liability company: Have you filed Articles of Organization with the Arizona Corporation Commission?
_____ **Yes** _____ **No.**
(C) Are you authorized by the Arizona Corporation Commission to transact business in Arizona? _____ **Yes** _____ **No**

5. PARTNERSHIP OR JOINT VENTURE: Complete the following for each authorized partner or principal in the partnership or joint venture:

NAME	BUSINESS ADDRESS	AGE	MARITAL STATUS

6. LIMITED PARTNERSHIP: Is this Limited Partnership on file with the Arizona Secretary of State? ☐ **Yes** ☐ **No**
Complete the following for the <u>authorized general partner(s)</u> only:

GENERAL PARTNER(S) NAME	BUSINESS ADDRESS

7. ESTATE: Complete the following <u>and attach a copy</u> of the court or estate document(s):
Name of the court appointed administrator or personal representative: _____

List the type and date of issuance of the court or Estate document: _____
(Type of Document) (Date issued)

8. TRUST: (A) Complete the following pursuant to A.R.S. § 33-404, for each <u>beneficiary</u> of the Trust:

NAME	ADDRESS	AGE	MARITAL STATUS

or (B) Identify the Trust document by <u>title</u>, <u>document number</u>, and <u>county</u> where document is recorded: _____

9. I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT THE INFORMATION AND STATEMENTS CONTAINED HEREIN, TOGETHER WITH ALL EXHIBITS AND ATTACHMENTS ARE TRUE, CORRECT AND COMPLETE AND THAT I/WE HAVE AUTHORITY TO SIGN THIS DOCUMENT.

SIGNATURE(S)

_____ _____
(Name of Corporation, Partnership, etc.) Date **Signature of Sub-Lessee (Individual) Date**

_____ _____
Signature Title **Signature of Sub-Lessee (Individual) Date**

ARIZONA STATE LAND DEPARTMENT ENVIRONMENTAL DISCLOSURE QUESTIONNAIRE

These two pages are part of the application - DO NOT DETACH.

The purpose of this questionnaire is to give the Department an opportunity to detect proposed land uses that may have potential environmental impacts and risks, and to consider these impacts and risks in the processing of the application.

If you have questions regarding this questionnaire, please contact the State Land Department, Environmental Section at (602) 542-2119. Other Federal, State, County and local agencies may also need to be contacted regarding environmental regulations.

PLEASE INDICATE BELOW THE TYPE(S) OF POTENTIAL ENVIRONMENTAL IMPACTS FROM YOUR CURRENT OR PROPOSED USE:

YES	NO	WILL YOUR USE INVOLVE: TYPE OF ENVIRONMENTAL IMPACT
____	____	**WASTE TIRES** The collection of waste tires? If yes, explain: _____
____	____	**LEAD ACID BATTERIES** The sale and disposal of lead acid batteries? If yes, explain: _____
____	____	**DISCHARGE IMPACTING GROUNDWATER** Generating a discharge that may potentially impact groundwater? If yes, explain: _____
____	____	**PESTICIDES?** If yes, explain use: _____
____	____	**DRY WELLS?** If yes, ADEQ Registration #(s): _____
____	____	**POTABLE WATER (DRINKING WATER) SYSTEMS?** If yes, explain: _____
____	____	**WASTEWATER COLLECTION AND TREATMENT SYSTEMS** Wastewater collection and/or treatment? If yes, explain: _____
____	____	**AIR CONTAMINANTS/AIR POLLUTION CONTROL** Air contaminant emissions? If yes, explain: _____
____	____	**SOLID WASTE - GENERAL** Solid waste generation, transportation, treatment, recycling, storage or disposal? If yes, explain: _____
____	____	**SOLID WASTE - MEDICAL WASTE** Medical waste generation, transportation, treatment, recycling, storage or disposal? If yes, explain: _____
____	____	**SOLID WASTE - SEWAGE SLUDGE/SEPTAGE (**Septic Tank Waste) Sewage sludge/septage generation, transportation, treatment, storage, use or disposal? If yes, explain: _____
____	____	**USED OIL** Used oil generation, transportation, storage, recycling, use, disposal, marketing or burning? If yes, explain: _____
____	____	**RECYCLING ACTIVITIES?** If yes, explain: _____
____	____	**SPECIAL WASTE** Special waste (asbestos, motor vehicle shredding waste) generation, transportation, treatment, recycling, storage or disposal? If yes, explain: _____
____	____	**HAZARDOUS WASTE GENERATOR** Generating hazardous waste? If yes, explain: _____
____	____	**HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL?** If yes, explain: _____

(OVER)

YES	NO	WILL YOUR USE INVOLVE:	TYPE OF ENVIRONMENTAL IMPACT

____ ____ **HAZARDOUS WASTE TRANSPORTATION?** If yes, explain: _____

_____

____ ____ **UNDERGROUND STORAGE TANK (UST)?** If yes, explain: _____

_____

____ ____ **ABOVEGROUND STORAGE TANK (AST)?** If yes, explain: _____

_____

____ ____ **HAZARDOUS SUBSTANCES?** If yes, explain: _____

_____

____ ____ **CURRENTLY UNCLASSIFIED WASTE** Will your use involve currently unclassified waste containing the following? (A.R.S. §49-854). If yes, check appropriate waste category:

___ Polychlorinated biphenyls (PCBs)
___ Incinerator ash
___ Petroleum refining waste
___ Slag and refractory material
___ Precious metals recycling
___ Aluminum dross
___ Oil and gas exploration drilling muds
___ Categorical industrial pretreatment sludge
___ Radioactive waste
___ Uranium ore tailings
___ Industrial catalysts
___ Industrial sands (excluding mining or mineral processing operation)
___ Petroleum contaminated soil
___ Commercial/industrial septage
___ Used Antifreeze
___ Contaminated process equipment
___ Industrial Sludges

If checked, explain waste generation process: _____

_____

____ ____ **SUPERFUND SITES** Is the State Trust land located in a National Priority List (NPL, Federal Superfund) area or in a Water Quality Assurance Revolving Fund (WQARF, State Superfund) study area?

If yes, NPor WQARF area name: _____

____ ____ **LAND DISTURBANCE** If land disturbance will occur, will it be on previously undisturbed land? If yes, explain: _____

_____

____ ____ **WATER WELLS** Are there open and/or abandoned water wells on the property? If yes, submit a site diagram showing location(s) and use(s).

____ ____ **ADJACENT LAND USES** To the best of your knowledge, are adjacent lands subject to any of the above-referenced environmental impacts? If yes, explain: _____

_____

____ ____ **ON-SITE INSPECTION/ENVIRONMENTAL ASSESSMENT** To the best of your knowledge, has an on-site inspection and/or an environmental site assessment been performed at this location?

If yes, explain: _____

_____

____ ____ **PREVIOUS ENVIRONMENTAL IMPACT** To the best of your knowledge, has any environmental impact been reported previously to ADEQ?

If yes, explain: _____

_____

ADDITIONAL COMMENTS:

SUBLEASE OR PASTURE AGREEMENT REQUEST AND PERMISSION
INFORMATION SHEET

To avoid having your application rejected, please READ prior to submitting the attached.

1. FILING INSTRUCTIONS:

- **A. Submit application with non-refundable filing fee.**
- **B. Complete all of pages 1 and 2.**
- **C. Complete the Environmental Disclosure questionnaire.**
- **D. The term of the sublease/pasture agreement cannot exceed the term of the lease.**
- **E. Sublessor(s) complete and sign certification page 3.**
- **F. Sublessee(s) complete and sign certification page 4.**

NOTE: The Lessee is responsible of notifying the Department of any changes.

2. SIGNATURE(S):

This application MUST BE SIGNED BY ALL SUBLESSORS (See Page 3) AND SUBLESSEES (See Page 4). If anyone other than sublessor(s)/sublessee(s) signs this application, a notarized written authorization (Power of Attorney) must accompany the application. An additional $50.00 filing fee is required when filing a Power of Attorney.

3. PROCESSING TIME:

Plan ahead and expect a minimum of 30 – 90 days for this application to be reviewed by the State Land Department.

4. GRAZING LESSEES ONLY:

- **A. Pursuant to A.R.S. § 37-283, grazing subleases are subject to a surcharge.**
- **B. Current Arizona Registered Brand certificate must be attached and in Sublessee's name.**

5. AGRICULTURAL LESSEES ONLY:

If applicable in your lease, agricultural subleases are subject to a surcharge.

6. COMMERCIAL LESSEES ONLY:

If this is for telecommunication purposes, you must apply for a Special Land Use Permit.

7. TERMINATION OF SUBLEASE: (to avoid unnecessary surcharges)

In the event the sublease/pasture agreement is terminated, all lessees and sublessees must sign a termination form. If needed, forms are available by calling the Title & Contracts Section at (602) 542-4602.

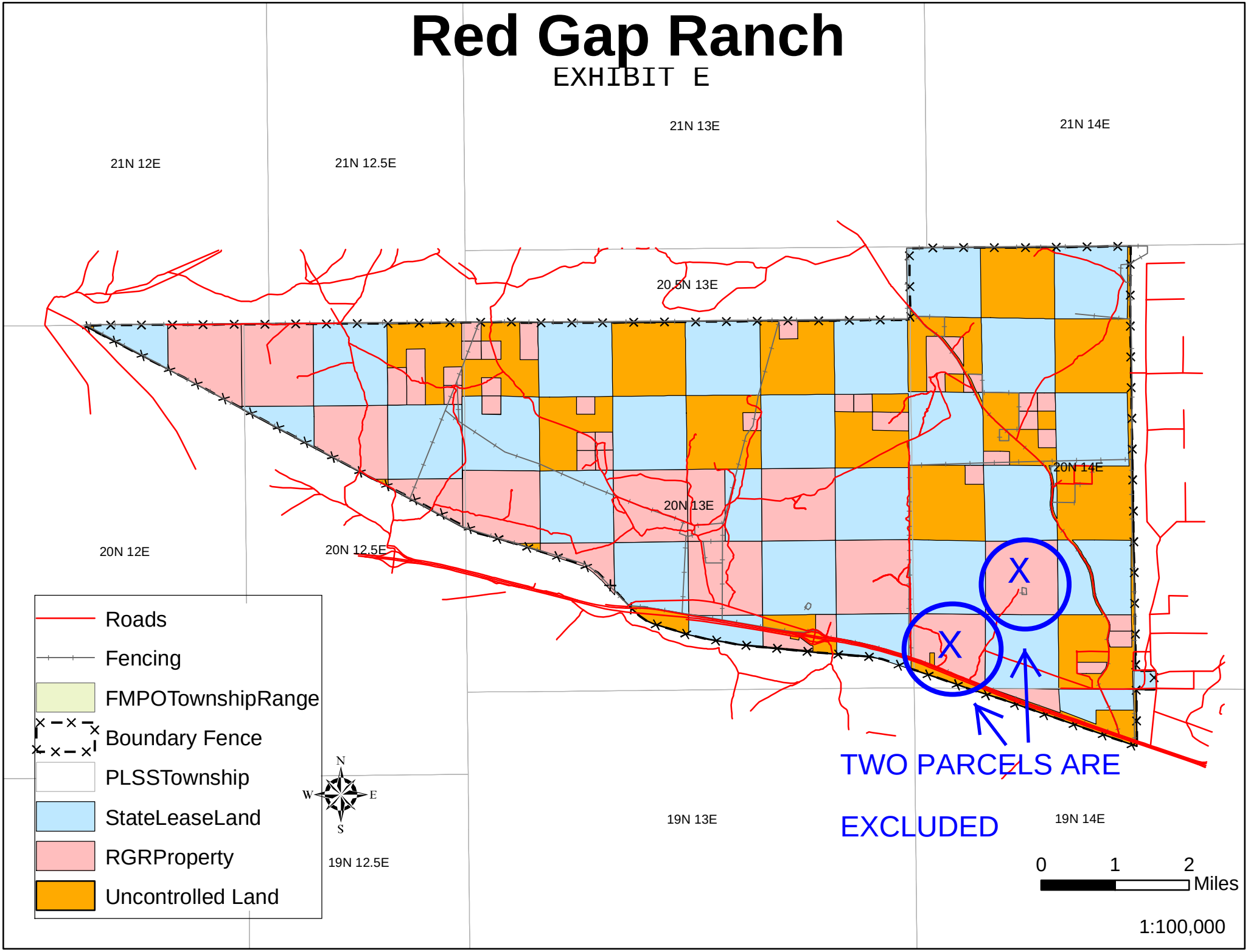
8. ASSISTANCE:

If required, contact one of the following for technical assistance.

Agriculture	**(602) 542-3500**
Commercial	**(602) 542-1704**
Grazing	**(602) 542-4625**

Red Gap Ranch

EXHIBIT E



ATTACHMENT B

THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT
5000 W. CAREFREE HIGHWAY
PHOENIX, AZ 85086-5000
(602) 942-3000 • WWW.AZGFD.GOV
REGION II, 3500 S. LAKE MARY ROAD, FLAGSTAFF, AZ 86001

GOVERNOR
JANICE K. BREWER
COMMISSIONERS
CHAIRMAN, ROBERT R. WOODHOUSE, ROLL
NORMAN W. FREEMAN, CHINO VALLEY
JACK F. HUSTED, SPRINGERVILLE
J.W. HARRIS, TUCSON
JENNIFER L. MARTIN, PHOENIX
DIRECTOR
LARRY D. VOYLES
DEPUTY DIRECTORS
GARY R. HOVATTER
BOB BROSCHEID

Robin Harrington
City of Flagstaff
Utilities Program Manager

RE: Recommendations for Grazing on the Red Gap Ranch

Robin,

The following are recommendations for wildlife habitat enhancement to consider in establishing the terms of the grazing lease for the Red Gap Ranch.

- Ensure, to the extent possible, water is available year round for use by wildlife. Avoid wires (fencing or other) over troughs or tanks to avoid creating a hazard for bats and birds flying over the water or attempting to drink. Provide an adequate escape (ramps or other escape method) for birds and small animals that may fall into troughs or tanks.
- Minimize fencing to avoid inhibiting big game movement. Where fencing is required make sure the bottom wire is 16 to 18 inches above the ground surface to allow pronghorn to pass under the fence. Placing "goat bars" at places in the fence where antelope commonly cross is also quite helpful for pronghorn movement across fencing. Keeping the top wire at 42 to 44 inches from the ground surface will aid in deer and elk movement across the fence. Information on wildlife compatible fencing is available through the Arizona Game and Fish website http://www.azgfd.gov/w_c/WildlifePlanning.shtml.
- Ensure that upon the completion of the grazing period adequate biomass remains to provide feed (forage and seeds) and cover for wildlife. Plant biomass left as cover also provides an environment conducive to insects which provide food for many wildlife species. Leave adequate standing biomass of 10 to 18 inches within ¼ mile of water sources to provide hiding cover for pronghorn fawns. Establish the carrying capacity at a level that would require destocking due to drought conditions no more than 1 year out of 10. Generally this is somewhere around 65 to 70 percent of the carrying capacity expected for the mean or average precipitation year.
- Although all classes of livestock can be managed in a manner that is compatible with healthy wildlife habitat, my greatest concern is with the grazing of horses and/or burros and donkeys due these animals' ability to bite plants very close to the soil surface and the potential of trampling and severe soil surface disturbance from their hooves.

Thank you for the opportunity to provide comment on the terms of the grazing lease for the Red Gap Ranch. If I can provide any further assistance as you work through the development of the lease please let me know.

Steve Cassady
Landowner Relations Program Specialist
Arizona Game and Fish Department, Region II

Cc: Sarah Reif, Habitat Program Manager, AGFD, Region II

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	David McIntire, Asst. to City Manager - Real Estate
Date:	08/14/2014
Meeting Date:	09/02/2014

TITLE:

Consideration and Adoption of Ordinance No. 2014-22: An ordinance setting aside and preserving twenty (20) acres of specific city property for open space and authorizing staff to apply to Coconino County for a rezoning to reflect the preservation ***.(Designating property near Schultz Pass Rd. and Mt. Elden Lookout Rd. as open space)***

RECOMMENDED ACTION:

1) Read Ordinance No.2014-22 by title only for the final time
2) City Clerk reads Ordinance No. 2014-22 by title only (if approved above)
3) Adopt Ordinance No.2014-22

Policy Decision or Reason for Action:

After significant public process and City Council discussion, on January 21, 2014 the Council approved Resolution 2014-04 which provided city staff with the direction to bring a parcel of land identified as Assessor's Parcel Number 300-47-004 forward for consideration and possible action to preserve it as open space. The parcel is owned by the City of Flagstaff, but is located in Coconino County so upon approval of the action preserving it for open space city staff will apply to Coconino County to rezone the parcel to the zoning most reflective of it's new restrictions. The strategy was discussed with the Open Space Commission and the Parks and Recreation Commission and both bodies are supportive of the designation. The parcel isaddressed 3620 West Schultz Pass Road and is located near to the intersection of Schultz Pass Road and Mt. Elden Lookout Road and has been referred to informally as the Shultz Y.

Financial Impact:

There are not significant costs associated with this action. The parcel is already city owned and not restricted to a specific use. There is not a requirement for reimbursement to a specific fund either. The preservation of the parcel as open space will generate some need for maintenance and prevent the City from generating revenue from the parcel, but is not anticipated to generate significant costs. A partnership with the Forest Service regarding trail development and maintenance has been discussed.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

11. Effective governance

REGIONAL PLAN:

OS 1 - The region has a system of open lands, such as undeveloped natural areas, wildlife corridors and habitat areas, trails, access to public lands and greenways to support the natural environment that sustains our quality of life, cultural heritage, and ecosystem health.

REC 1 - Maintain and grow the region's healthy system of convenient and accessible parks, recreation facilities, and trails.

Has There Been Previous Council Decision on This:

On January 21st, 2014, City Council approved Resolution 2014-04 which provided staff direction regarding the disposition of 17 parcels of City owned land. The direction included this specific parcel being brought forward for consideration of a designation as open space. First read of the Ordinance was held on August 25, 2014.

Options and Alternatives:

1) Approve Ordinance 2014-22 which will designate parcel 300-47-004 as open space and authorize city staff to take the steps necessary to rezone the parcel.
2) Not approve Ordinance 2014-22 and provide staff additional direction regarding intended disposition of the parcel.
3) Not approve Ordinance 2014-22.

Background/History:

The twenty (20) acre parcel of City owned land has historic and natural resources and is considered of high value by the Open Space Commission and many members of the community. It is not restricted to other uses by funding source, dedication or previous Council action. City staff performed an inventory of city owned land and this parcel was brought forward from that process for City Council discussion and to receive guidance regarding its potential uses and disposition. After significant public discussion City Council provided direction, memorialized in Resolution 2014-04, that city staff bring the parcel forward for consideration of preservation as open space.

Key Considerations:

The public comment related to the parcel demonstrated significant community interest in its disposition and the Open Space Commission recommended it be preserved as open space.

It is currently used recreationally and there have been conversations with the Forest Service regarding a potential partnership on the parcel.

The parcel is in the County and any rezoning will go through the County process.

Community Benefits and Considerations:

According to the City of Flagstaff Regional Plan and the 1998 Flagstaff Area Open Space and Greenways Plan, parks and open spaces provide significant community benefit and are a value for Flagstaff. The designation of this parcel as open space will increase the amount of land in the region preserved towards that benefit and protect a parcel considered high value. It will also potentially provide for Flagstaff Urban Trail System to Forest Service Trail connectivity in the future.

Community Involvement:

Involve

Expanded Options and Alternatives:

1) Approve Ordinance 2014-22 which will designate the parcel as open space and authorize staff to take the necessary steps to rezone the parcel. This will preserve the parcel as open space and protect it from other uses.
2) No approve Ordinance 2014-22 and provide staff additional direction regarding the intended disposition of the parcel. This action will provide staff additional guidance regarding City Council's desires disposition and will additional time for revision.
3) Not approve Ordinance 2014-22. This action will maintain the parcel as vacant and unprotected land.

Attachments: Ord. 2014-22
Ord. 2014-22 Legal desc

Form Review

Inbox	Reviewed By	Date
Legal Assistant	Vicki Baker	08/13/2014 10:37 AM
Deputy City Attorney	Sterling Solomon	08/13/2014 02:12 PM
DCM - Josh Copley	Elizabeth A. Burke	08/14/2014 11:18 AM
Asst. to City Manager - Real Estate (Originator)	David McIntire	08/14/2014 11:31 AM
DCM - Jerene Watson	Elizabeth A. Burke	08/14/2014 11:43 AM
Asst. to City Manager - Real Estate (Originator)	Elizabeth A. Burke	08/14/2014 11:44 AM
DCM - Jerene Watson	Elizabeth A. Burke	08/14/2014 11:44 AM
Asst. to City Manager - Real Estate (Originator)	David McIntire	08/14/2014 11:50 AM

Form Started By: David McIntire Started On: 08/10/2014 11:57 AM

Final Approval Date: 08/14/2014

ORDINANCE NO. 2014-22

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL SETTING ASIDE, AND PRESERVING APPROXIMATELY 20 ACRES OF SPECIFIC CITY OWNED REAL PROPERTY, AS OPEN SPACE, WHICH PROPERTY IS COMMONLY KNOWN AS THE SHULTZ PROPERTY GENERALLY LOCATED NEAR SHULTZ PASS ROAD AND MT. ELDEN LOOKOUT ROAD (COCONINO COUNTY ASSESSOR'S PARCEL NUMBER 300-47-004), AND PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, open space conservation is a goal set forth in Chapter V of the Flagstaff Regional Plan; and

WHEREAS, open space makes a significant contribution to the well-being of the citizens of the City of Flagstaff; and

WHEREAS, the City maintains an interest in enhancing the beauty and recreational elements within the community, and open space contributes to those efforts; and

WHEREAS, the Open Space Commission supports the setting aside and preservation of the land as open space;

WHEREAS, on January 21, 2014, City Council approved Resolution 2014-04, which provided city staff with the direction to bring this specific parcel of real property forward for consideration and possible action by the City Council to preserve it as open space.

ENACTMENTS:

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

SECTION 1: Setting Aside and Preservation.

The portion of real property owned by the City of Flagstaff as described in the attached Exhibit A and incorporated by this reference is hereby set aside and preserved open space and uses associated with open space.

SECTION 2: Zoning

An application will be made to Coconino County to rezone the property to the zoning best reflective of the preservation as open space.

SECTION 3: Limited Uses and Improvements.

Any potential uses or improvements to the parcel will be limited to those allowed on open space lands as described within the Regional Plan and in relevant City and County zoning regulations such as, but not limited to, trails, trail signs, benches and earthen water detention features. Any such uses or improvements will be consistent with the category of Neighborhoods in the 1998 Flagstaff Area Open Spaces and Greenways Plan.

SECTION 4. 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 5. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 6. Clerical Corrections.

The City Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary related to this ordinance as amended herein, and to make formatting changes needed for purposes of clarity and form, or consistency, within thirty (30) days following adoption by the City Council.

SECTION 7. 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 2nd September, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

EXHIBIT A

Description

The East half of the Southeast quarter of the Southwest quarter of Section 33, Township 22 North, Range 7 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	David McIntire, Asst. to City Manager - Real Estate
Date:	08/14/2014
Meeting Date:	09/02/2014

TITLE:

Consideration and Adoption of Ordinance/Resolution No. 2014-23: An ordinance of the City of Flagstaff setting aside specific City owned property for inclusion in Buffalo Park and restricting the land to uses and improvements consistent with a passive park *(Neighborwoods)* and authorizing staff to rezone the parcel to reflect its new designation. ***(Designating property at the north end of San Francisco as open space)***

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-23 by title only for the final time
2) City Clerk reads Ordinance No. 2014-23 by title only (if approved above)
3) Adopt Ordinance No. 2014-23

Policy Decision or Reason for Action:

After a significant public process and City Council discussion, on January 21st, 2014 the Council approved Resolution 2014-04 which provided city staff with the direction to bring a parcel of land identified as Assessor's Parcel Number 110-03-001B forward for consideration and possible action to preserve it as open space. The City of Flagstaff Regional Plan and the 1998 Flagstaff Area Open Spaces and Greenways Plan provide for different types of land designation and use that are open space appropriate and consistent with open space values. After internal staff discussion it was determined that because the parcel was adjacent to Buffalo Park there were financial and logistical benefits for the Parks Section to oversee the ongoing maintenance of the parcel as long as the parcel was designated as a passive park, which is considered a form of open space, and not utilized as an active park, which is not. This idea was brought to the Open Space Commission and the Parks and Recreation Commission and both bodies supported the designation.

The parcel is located on the Northeast corner of the intersection of Fir Avenue and San Francisco Street.

Financial Impact:

The incorporation of the parcel into Buffalo Park will have two financial impacts.

The first financial consideration is that the City will be responsible for reimbursing the Highway User Revenue Fund (HURF) for the value of the parcel. The City of Flagstaff budgets a general fund transfer to HURF each year and will use that general fund transfer as the payment towards the value of the parcel. Currently the parcel has an assessed value of $835,589, however once the parcel is restricted to passive park use and rezoned the market value will potentially decrease.

The second financial impact is ongoing maintenance costs incurred by Parks. The restriction of the land to use as a passive park significantly limits activities and improvements beyond invasive weed removal, potential but currently unplanned trail construction and maintenance, signage, and parking so maintenance costs will remain relatively low.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

11. Effective governance

REGIONAL PLAN:

REC 1 - Maintain and grow the region's healthy system of convenient and accessible parks, recreation facilities, and trails.

OS 1 - The region has a system of open lands, such as undeveloped natural areas, wildlife corridors and habitat areas, trails, access to public lands and greenways to support the natural environment that sustains our quality of life, cultural heritage, and ecosystem health.

Has There Been Previous Council Decision on This:

City Council approved Resolution 2014-04 which provided staff with direction regarding the disposition of 17 City owned parcels. That direction included this parcel being brought forward for consideration of a designation as open space. First read of the Ordinance was held of August 25, 2014.

Options and Alternatives:

1) Approve Ordinance 2014-23 and designate parcel 110-01-003B as open space by making it a part of Buffalo Park.
2) Not approve Ordinance 2014-23 and provide staff additional direction regarding the intended disposition of the parcel.
3) Not approve Ordinance 2014-23.

Background/History:

The parcel was originally purchased with transportation funding for the potential use in the construction a road. The road is no longer intended for the area and the parcel has been vacant. City staff performed an inventory of City land and this parcel was brought forward from that process for City Council discussion and to receive guidance regarding its potential uses and disposition. After significant public input and discussion City Council provided direction, memorialized in Resolution 2014-04, that city staff bring the parcel forward for consideration of preservation as open space.

Per the City of Flagstaff Regional Plan and the Flagstaff Area Greenways and Open Space Plan there are a number of potential uses and designations for land that qualify as open space. As the parcel is adjacent to Buffalo Park there were financial and logistical benefits to designating the parcel as a passive park and incorporating it into Buffalo Park. Staff brought this intention to the Parks and Recreation Commission and the Open Space Commission and both bodies were supportive of the strategy.

Should City Council approve Ordinance 2014-23 staff will further protect the parcel by rezoning it to reflect its passive park use and designation.

Key Considerations:

On January 21, 2014 Council approved Resolution 2014-04 which provided direction to staff to bring this parcel forward for preservation as open space.

A passive park is considered a form of open space and this parcel, as a passive park, would best fit the category of Neighborwoods from the Flagstaff Area Open Space and Greenways Plan.

The parcel was originally intended for a road and there will be a need for repayment of the property value to the HURF funds, however it appears that over the next years that value will be able to be achieved through budgeted general fund transfers the City is currently anticipating. The assessed value of the parcel is $835,589, however that value may decrease after the restrictions and rezoning are approved.

The public comment related to this parcel demonstrated significant community interest in its disposition and it was recommended for preservation by the Open Space Commission..

Community Benefits and Considerations:

According to the City of Flagstaff Regional Plan and the Flagstaff Open Space and Greenways Plan, parks and open spaces provide significant community benefit and are a value for Flagstaff. The designation of this parcel as a passive park and its inclusion into Buffalo Park will increase the land within the City preserved towards that benefit and protect a parcel considered of high value by the Open Space Commission and many members of the public.

Community Involvement:

Involve

Expanded Options and Alternatives:

Approve Ordinance 2014-23 and designate parcel 110-01-003B as open space by making it a part of Buffalo Park. This will preserve the parcel as open space and as a park and protect it from other uses.

Not approve Ordinance 2014-23 and provide staff additional direction regarding the intended disposition of the parcel. This action will provide staff additional guidance regarding City Council's desired disposition and will require additional time for revision.

Not approve Ordinance 2014-23. This action will maintain the parcel as vacant and unprotected land.

Attachments: Ord. 2014-23
Ord. 2014-23 Legal Desc

Form Review

Inbox	Reviewed By	Date
Asst. to City Manager - Real Estate (Originator)	David McIntire	08/13/2014 06:54 AM
Legal Assistant	Vicki Baker	08/13/2014 10:37 AM
Deputy City Attorney	Sterling Solomon	08/13/2014 02:30 PM
DCM - Josh Copley	Elizabeth A. Burke	08/14/2014 11:19 AM
Asst. to City Manager - Real Estate (Originator)	David McIntire	08/14/2014 11:33 AM
DCM - Jerene Watson	Elizabeth A. Burke	08/14/2014 11:44 AM
Asst. to City Manager - Real Estate (Originator)	David McIntire	08/14/2014 11:50 AM

Form Started By: David McIntire — Started On: 08/10/2014 10:25 AM

Final Approval Date: 08/14/2014

ORDINANCE NO. 2014-23

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL SETTING ASIDE, PRESERVING AND DESIGNATING APPROXIMATELY 26.03 ACRES OF SPECIFIC CITY OWNED REAL PROPERTY, AS OPEN SPACE FOR PASSIVE PARK PURPOSES, WHICH PROPERTY IS COMMONLY KNOWN AS THE NORTH SAN FRANCISCO PROPERTY GENERALLY LOCATED NEAR FIR AVENUE AND NORTH SAN FRANCISCO STREET (COCONINO COUNTY ASSESSOR'S PARCEL NUMBER 110-03-001B), TO BE INCLUDED AS PART OF BUFFALO PARK IMMEDIATELY ADJACENT THERETO, AND PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the acquisition, provision and development of parks, trails and opens space are goals set forth in Chapter V of the Flagstaff Regional Plan; and

WHEREAS, preservation of real property as a passive park is considered a form of open space in the 1998 Flagstaff Area Open Spaces and Greenways Plan; and

WHEREAS, open space for passive park purposes makes a significant contribution to the well-being of the citizens of the City of Flagstaff; and

WHEREAS, the City maintains an interest in enhancing the beauty and recreational elements within the community, and open space for passive parks purposes contribute to those efforts; and

WHEREAS, the Parks and Recreation Commission and Open Space Commission support the incorporation of the land into Buffalo Park exclusively for passive park use;

WHEREAS, On January 21, 2014, City Council approved Resolution 2014-04, which provided city staff with the direction to bring this specific parcel of real property forward for consideration and possible action by the City Council to preserve it as open space;

ENACTMENTS:

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

SECTION 1: Dedication.

The portion of real property owned by the City of Flagstaff as described in the attached Exhibit A and incorporated by this reference is hereby set aside, preserved and designated as open space for passive park purposes and included as part of Buffalo Park immediately adjacent thereto.

SECTION 2: Zoning

The appropriate process will occur for a rezoning of the property to the zoning best reflective of the designation of the property as open space for passive park purposes..

SECTION 3: Limited Uses and Improvements.

The property being incorporated by this reference shall be open space for passive park purposes with improvements consistent with the the Neighborhoods category of Open Space as outlined in the 1998 Flagstaff Area Open Spaces and Greenways Plan.

SECTION 4. 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 5. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 6. Clerical Corrections.

The City Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary related to this ordinance as amended herein, and to make formatting changes needed for purposes of clarity and form, or consistency, within thirty (30) days following adoption by the City Council.

SECTION 7. 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 2nd September, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____

CITY ATTORNEY

EXHIBIT A

DESCRIPTION

The Southeast quarter of the Northwest quarter of Section 10, Township 21 North, Range 7 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

EXCEPT that part of the Southeast quarter of the Northwest quarter of Section 10, Township 21 North, Range 7 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

BEGINNING at a point on the South line of said Southeast quarter of the Northwest quarter which bears South 89° 56' East, 398.05 feet from the Southwest corner thereof;

thence Northwesterly 31.42 feet along a curve to the right, having a radius of 25.00 feet and a central angle of 72° 00";

thence North 17° 56' West, 91.59 feet;

thence Northwesterly 109.04 feet along a curve to the left having a radius of 816.33 feet and a central angle of 7° 39' 11';

thence North 0° 16' East, 536.00 feet;

thence South 89° 44' East, 219.86 feet;

thence Southeasterly 469.29 feet along a curve to the right, having a radius of 1009.61 feet and a central angle of 26° 37' 56";

thence South 0° 08' West, 263.08 feet;

thence Southwesterly 39.24 feet along a curve to the right, having a radius of 25.00 feet and a central angle of 89° 56';

thence North 89° 56' West, 210.44 feet along the South line of said Southeast quarter of the Northwest quarter to the POINT OF BEGINNING;

AND EXCEPT that part of the Southeast quarter of the Northwest quarter of Section 10, Township 21 North, Range 7 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

BEGINNING at a point which bears South 89° 56' East, 398.05 feet and Northwesterly 31.42 feet along a curve to the right, having a radius of 25.00 feet and a central angle of 72° 00' and North 17° 56' West, 91.59 feet and Northwesterly 109.04 feet along a curve to the left, having a radius of 816.33 feet and a central angle of 7° 39' 11" from the Southwest corner of said Southeast quarter of the Northwest quarter said point being the TRUE POINT OF BEGINNING;

thence Northwesterly 198.71 feet along a curve to the left having a radius of 816.33 feet and a central angle of 13° 56' 49" ;

thence North 39° 32' West 10.56 feet;

thence Northwesterly 17.39 feet along a curve to the right, having a radius of 25.00 feet and a central angle of 39° 48';

thence North 0° 16' East, 454.11 feet;

thence Northeasterly 223.18 feet along a curve to the right, having a radius of 323.16 feet and a central angle of 39° 34' 10";

thence Northeasterly 44.04 feet along a curve to the right having a radius of 25.00 feet and a central angle of 100° 55' 20";

thence South 39° 14' 30" East, 164.60 feet;

thence Southeasterly 224.54 feet along a curve to the right, having a radius of 1009.61 feet and a central angle of 12° 44' 34";

thence North 89° 44' West, 219.86 feet;

thence South 0° 16' West, 536.00 feet to the POINT OF BEGINNING;

(continued)

DESCRIPTION (continued)

AND EXCEPT that portion of the Southeast quarter of the Northwest quarter, Section 10, Township 21 North, Range 7 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

BEGINNING at the Southwest corner of the Southeast quarter of the Northwest quarter, Section 10, Township 21 North, Range 7 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona;

thence South 89° 56' 00" East, 282.40 feet along the North line of Fir Avenue as shown on the record plat of Mount Elden Park as recorded in Book 2, Page 38, records of Coconino County, Arizona, to the TRUE POINT OF BEGINNING, which is the point of tangency of a curve;

thence Northerly 47.12 feet, along the arc of a 25.00 foot radius curve, concave to the Northwest, and having a central angle of 108° 00' 00";

thence North 17° 56' 00" West, 55.84 feet;

thence Northwesterly 285.13 feet, along the arc of a 756.33 foot radius curve, concave to the Southwest, and having a central angle of 21° 36' 00";

thence North 39° 32' 00" West, 235.65 feet to an intersection with the West line of said Southeast quarter of the Northwest quarter;

thence North 0° 18' 24" East along said West line 93.66 feet;

thence South 39° 32' 00" East, 125.14 feet;

thence 61.17 feet along the arc of a 25.00 foot radius curve, concave to the North and having a central angle of 140° 12' 00";

thence North 0° 16' 00" East, 322.08 feet;

thence Northeasterly 284.49 feet along the arc of a 383.16 foot radius curve concave to the Southeast and having a central angle of 42° 32' 30";

thence Northwesterly 35.80 feet along the arc of a 25.00 foot radius curve, concave to the West having a central angle of 82° 03' 00";

thence North 39° 14' 30" West, 238.63 feet to an intersection with the North line of said Southeast quarter of the Northwest quarter;

thence South 89° 58' 15" East along said North line 77.50 feet;

thence South 39° 14' 30" East 465.68 feet;

thence Southeasterly 735.06 feet along the arc of a 1069.61 foot radius curve, concave to the Southwest and having a central angle of 39° 22' 30";

thence South 0° 08' 00" West, 262.96 feet;

thence Southeasterly 39.30 feet along the arc of a 25.00 foot radius curve, concave to the Northeast and having a central angle of 90° 04' 00" to the cusp of a curve, which cusp lies South 89° 56' 00" East along the North line of Fir Avenue 436.09 feet from the TRUE POINT OF BEGINNING;

thence North 89° 56' 00" West, 55.03 feet, along said North line of Fir Avenue to its intersection with the center line of Valley Drive, as shown on said plat of Mount Elden Park;

thence North 89° 56' 00" West, 54.97 feet along said North line of Fir Avenue to the cusp of a curve that is tangent to said North line of Fir Avenue;

(continued)

DESCRIPTION (continued)

thence Northeasterly 39.24 feet along the arc of a 25.00 foot radius curve, concave to the Northwest and having a central angle of 89° 56' 00";
thence North 0° 08' 00" East, 263.08 feet;
thence Northwesterly 693.83 feet along the arc of a 1009.61 foot radius curve, concave to the Southwest and having a central angle of 39° 22' 30";
thence North 39° 14' 30" West, 164.60 feet;
thence Westerly 44.04 feet along the arc of a 25.00 foot radius curve, concave to the South and having a central angle of 100° 55' 20";
thence Southwesterly 223.18 feet along the arc of a 323.16 foot radius curve, concave to the Southeast and having a central angle of 39° 34' 10";
thence South 0° 16' 00" West, 454.11 feet;
thence Southeasterly 17.37 feet along the arc of a 25.00 foot radius curve, concave to the East and having a central angle of 39° 48' 00";
thence South 39° 32' 00" East, 10.56 feet;
thence Southeasterly 307.73 feet along the arc of a 816.33 foot radius curve, concave to the Southwest and having a central angle of 21° 36' 00";
thence South 17° 56' 00" East, 91.59 feet;
thence Southeasterly 31.42 feet along the arc of a 25.00 foot radius curve, concave to the Northeast and having a central angle of 72° 00' 00"; to the cusp of a curve, which cusp lies South 89° 56' 00" East of 115.65 feet from the TRUE POINT OF BEGINNING and which is tangent to said North line of Fir Avenue;
thence North 89° 56' 00" West, 49.70 feet along said North line of Fir Avenue to its intersection with the center line of Marion Drive, as shown on said plat of Mount Elden Park;
thence North 89° 56' 00" West along said North line of Fir Avenue 65.95 feet to the TRUE POINT OF BEGINNING;

AND EXCEPT that portion of the Southeast quarter of the Northwest quarter of Section 10, Township 21 North, Range 7 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona, lying Southwesterly of Marion Drive, as dedicated in instrument recorded in Docket 246, Page 470.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	David McIntire, Asst. to City Manager - Real Estate
Date:	08/14/2014
Meeting Date:	09/02/2014

TITLE:

Consideration and Adoption of Ordinance No. 2014-25: An ordinance authorizing the provision of a ten (10) foot utility easement encumbering parcel number 301-89-001 (Cinder Lake Landfill) and authorizing the City Manager or his designee to execute the necessary documents ***(Grant utility easement to APS at the Cinder Lake Landfill)***.

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-25 by title only for the final time
2) City Clerk reads Ordinance No. 2014-25 by title only (if approved above)
3) Adopt Ordinance No. 2014-25

Policy Decision or Reason for Action:

Arizona Public Service (APS) realigned a power line to better serve Cinder Lake Landfill during the construction of the administration building and scale house, and the easement for the power line was not relocated to reflect the new alignment. The original easement for a previous location remains in place, but no longer provides necessary rights. APS will abandon the existing easement upon receiving the new easement. Providing the ten (10) foot easement will provide the necessary rights to provide and maintain power to Cinder Lake Landfill and abandon an easement that's no longer utilized. The former easement was sixteen (16) feet and the new one will be ten (10) feet so the City will gain a small benefit in terms of property rights from the transaction. The main benefit is the clarification of an existing incorrect condition and the continued supply of energy to the landfill.

Financial Impact:

There is no financial impact to the City as we are trading an obsolete easement for a current easement and APS will be recording the document..

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

1. Repair Replace maintain infrastructure (streets & utilities)

REGIONAL PLAN:

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

Has There Been Previous Council Decision on This:

In 1999 City Council authorized the initial easement for APS which was recorded as document number 3007712. First read of the Ordinance was held on August 25, 2014.

Options and Alternatives:

1) Adopt Ordinance number 2014-25 which authorizes the provision of the easement and corrects the property rights issue currently existing with the Cinder Lakes Landfill.
2) Not adopt Ordinance 2014-25 and provide staff with direction regarding potential changes.
3) Not adopt Ordinance 2014-25 which would leave the existing easement which no longer provides useful rights.

Key Considerations:

The power line is already located where the new easement will be and has been there for a number of years.

The City Cinder Lakes Landfill benefits from the power provided via the power line.

The new easement is smaller than the existing easement.

Community Involvement:

Inform

Attachments: Ord. 2014-25
Easement document

Form Review

Inbox	Reviewed By	Date
Project Manager I - Landfill	Matthew Morales	08/13/2014 10:42 AM
Legal Assistant	Vicki Baker	08/13/2014 11:49 AM
Senior Assistant City Attorney DW	David Womochil	08/13/2014 02:27 PM
DCM - Josh Copley	Elizabeth A. Burke	08/14/2014 11:19 AM
Asst. to City Manager - Real Estate (Originator)	David McIntire	08/14/2014 11:25 AM
DCM - Jerene Watson	Elizabeth A. Burke	08/14/2014 11:44 AM
Asst. to City Manager - Real Estate (Originator)	David McIntire	08/14/2014 11:50 AM
Form Started By: David McIntire		Started On: 08/13/2014 06:55 AM

Final Approval Date: 08/14/2014

ORDINANCE NO. 2014-25

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING THE PROVISION OF A UTILITY EASEMENT ENCUMBERING PARCEL NUMBER 301-89-001 AND BENEFITTING ARIZONA PUBLIC SERVICE ("APS"), AS IS MORE FULLY DESCRIBED IN THE LEGAL DESCRIPTION ATTACHED AS EXHIBIT A, AND PROVIDING AUTHORITY FOR THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS, AND AUTHORITY FOR THE CITY CLERK TO MAKE CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff owns parcel 301-89-001, which is the location of the Cinder Lakes Landfill; and

WHEREAS, APS realigned an existing underground power line to the Cinder Lakes Landfill, and

WHEREAS, APS requires a ten foot (10') easement in order to properly maintain and operate the underground power line; and

WHEREAS, the power line provides necessary electricity to the Cinder Lakes Landfill.

ENACTMENTS:

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

SECTION 1: That the City is hereby authorized to provide the attached utility easement as described in Exhibit A to APS.

SECTION 2: That the City Manager is authorized to execute any other documents necessary to effectuate this provision of a utility easement.

SECTION 3: That the City Clerk is hereby authorized to correct any typographical and grammatical errors, as well as errors of wording and punctuation, as necessary, related to this ordinance.

SECTION 4: 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 2nd day of September, 2014.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

When recorded, please return to :
APS RIGHT OF WAY DEPT.
2200 E Huntington Dr.
FLAGSTAFF, AZ. 86004
W ½ -11-22N-8E
APN – 301-89-001
W104976 & W101190
DAM

UTILITY EASEMENT

CITY OF FLAGSTAFF, an Arizona municipal corporation, (hereinafter called "Grantor"), is the owner of the following described real property located in Coconino County, Arizona (hereinafter called "Grantor's Property"):

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Grantor, for and in consideration of One Dollar ($1.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to **ARIZONA PUBLIC SERVICE COMPANY**, an Arizona corporation, (hereinafter called "Grantee"), and to its successors and assigns, a non-exclusive right, privilege, and easement 10 feet in width at locations and elevations, in, upon, over, under, through and across, a portion of Grantor's Property described as follows (herein called the "Easement Premises"):

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF

Grantee is hereby granted the right to: construct, reconstruct, replace, repair, operate and maintain electrical lines, together with appurtenant facilities and fixtures for use in connection therewith, for the transmission and distribution of electricity to, through, across, and beyond Grantor's Property; install, operate and maintain telecommunication wires, cables, conduits, fixtures and facilities incidental to supplying electricity or for Grantee's own use (said electrical and telecommunication lines, facilities and fixtures collectively herein called "Grantee Facilities"); utilize the Easement Premises for all other purposes connected therewith; and permit the installation of the wires, fixtures, conduits, or cables of any other company.

Grantee is hereby granted the right, but not the obligation, to trim, prune, cut, and clear away trees, brush, shrubs, or other vegetation on, or adjacent to, the Easement Premises whenever in Grantee's judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

Grantee shall at all times have the right of full and free ingress and egress to and along the Easement Premises for the purposes herein specified.

Grantor shall maintain a clear area that extends 2 feet from and around all edges of all transformer pads and other equipment pads, 3 feet from and around all edges of all switching cabinet pads and a clear operational area that extends 10 feet immediately in front of all transformer, switching cabinet and other equipment openings. No obstructions, trees, shrubs, fixtures, or permanent structures shall be placed by Grantor within said areas.

Grantor shall not locate, erect or construct, or permit to be located, erected or constructed, any building or other structure or drill any well within the limits of the Easement Premises; nor shall Grantor plant or permit to be planted any trees within the limits of the Easement Premises without the prior written consent of Grantee. However, Grantor reserves the right to use the Easement Premises for purposes that are not inconsistent with Grantee's easement rights herein conveyed and which do not interfere with or endanger any of the Grantee Facilities, including, without limitation, granting others the right to use all or portions of the Easement Premises for utility or roadway purposes and constructing improvements within the Easement Premises such as paving, sidewalks, landscaping, and curbing. Notwithstanding the foregoing, Grantor shall not have the right to lower by more than one foot or raise by more than two feet the surface grade of the Easement Premises, and in no event shall a change in the grade compromise Grantee's minimum cover requirements or interfere with Grantee's operation, maintenance or repair.

Grantee agrees that following any installation, excavation, maintenance, repair, or other work performed by Grantee within the Easement Premises, the affected area will be restored by Grantee to as close to original condition as is reasonably possible, at the expense of Grantee; and that Grantee shall indemnify Grantor, to the extent required by law, for any loss, cost or damage incurred by Grantor as a result of any negligent installation, excavation, maintenance, repair or other work performed by Grantee within the Easement Premises.

The easement granted herein shall not be deemed abandoned except upon Grantee's execution and recording of a formal instrument abandoning the easement.

The covenants and agreements herein set forth shall extend and inure in favor and to the benefit of, and shall be binding on the heirs, administrators, executors, successors in ownership and estate, assigns and lessees of Grantor and Grantee.

[THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, **CITY OF FLAGSTAFF, an Arizona municipal corporation**, has caused this Utility Easement to be executed by its duly authorized representative, this _____ day of _____, 201__.

CITY OF FLAGSTAFF, an Arizona municipal corporation

By: _____

Its: _____

_____
(Signature)

STATE OF _____ }
} ss.
County of _____ }

This instrument was acknowledged before me this ____ day of _____, 201__

by _____ (Grantor).

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

Notary Seal:

_____
Notary Public Signature

EXHIBIT "A"

Portions of Sections 1, 2, 11 and 12, Township 22 North, Range 8 East of the Gila and Salt River Base and Meridian, more particularly described as follows:

COMMENCING at the common corner of Sections 1, 2, 11 and 12;

THENCE South 63° 22' 28" East, a distance of 1215.44 feet to the TRUE POINT OF BEGINNING;

THENCE North 58° 54' 39" East, a distance of 2335.36 feet;

THENCE North 12° 38' 52" West, a distance of 796.47 feet;

THENCE North 77° 28' 52" East, a distance of 995.93 feet;

THENCE South 14° 07' 56" East, a distance of 819.41 feet;

THENCE North 64° 26' 09" East, a distance of 2389.32 feet;

THENCE South 23° 53' 08" East, a distance of 2028.29 feet;

THENCE South 64° 26' 09" West, a distance of 2518.26 feet;

THENCE South 30° 41' 09" East, a distance of 1213.70 feet;

THENCE South 79° 05' 35" West, a distance of 3567.76 feet;

THENCE North 02° 06' 55" East, a distance of 1149.73 feet;

THENCE North 38° 40' 56" West, a distance of 1378.12 feet to the TRUE POINT OF BEGINNING.

EXHIBIT "B"

<u>APS CENTERLINE EASEMENT DESCRIPTION:</u>

This easement is to lie 5 feet each side of the following centerline described as follows:

COMMENCING at the Northwesterly corner of the parcel described in Exhibit "A", said point marked by a USDA aluminum cap AP-1;

THENCE North 57° 58' 21" East, a distance of 139.68 feet to an APS electrical conduit and the POINT OF BEGINNING;

THENCE South 48° 33' 01" East, a distance of 14.85 feet;

THENCE South 57° 40' 46" West, a distance of 128.38 feet to an APS switching cabinet vault;

THENCE South 39° 26' 05" East, a distance of 790.60 feet to APS pullbox PB243888;

THENCE South 39° 41' 27" East, a distance of 574.56 feet;

THENCE South 02° 37' 14" West, a distance of 3.62 feet to Point "A";

THENCE South 00° 32' 18" West, a distance of 512.22 feet;

THENCE South 45° 09' 47" East, a distance of 17.65 feet;

THENCE South 23° 27'37" East, a distance of 33.60 feet;

THENCE South 16° 35' 51" East, a distance of 37.24 feet;

THENCE South 17° 25' 23" West, a distance of 143.03 feet;

THENCE South 01° 22' 15" West, a distance of 232.65 feet;

THENCE North 64° 06' 14" East, a distance of 307.05 feet to APS transformer TX22150, said transformer bears North 42° 12' 36" East of the Southwest corner of the parcel described in Exhibit "A" marked by a USDA aluminum cap AP-10.

BEGINNING AGAIN at Point "A";

THENCE South 32° 27' 56" East, a distance of 26.20 feet;

THENCE South 54° 20' 27" East, a distance of 18.87 feet;

THENCE South 71° 17' 59" East, a distance of 20.80 feet;

THENCE South 76° 46' 47" East, a distance of 35.24 feet;

THENCE South 70° 21' 45" East, a distance of 37.77 feet;

THENCE South 67° 53' 44" East, a distance of 74.78 feet;

THENCE South 62° 29' 03" East, a distance of 49.41 feet;

THENCE South 47° 45' 05" East, a distance of 93.54 feet to APS transformer N21451.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Glorice Pavey, Recreation Supervisor

Co-Submitter: Brian Grube, Recreation Services Director

Date: 07/14/2014

Meeting Date: 09/02/2014

TITLE:

Consideration and Approval of Street Closure(s): 2015 Dew Downtown Flagstaff Urban Ski and Snowboard Festival and **Consideration and Approval of Amplification Exception:** 2015 Dew Downtown Flagstaff Urban Ski and Snowboard Festival

RECOMMENDED ACTION:

- Approve the street closure on San Francisco Street between Birch Avenue and Dale Avenue on January 22, 2015 at 8:00 pm through January 25, 2015 at 11:59 pm; and
- Approve the street closure at Birch Avenue between Agassiz Street and San Francisco Street on January 23, 2015 at 8:00 am through January 25, 2015 at 11:59 pm; and
- Approve the amplification exception (to allow start box commentary, play-by-play commentary) on Sunday, January 25, 2015 between the hours of 9:00am - 12:00 pm noon.

Policy Decision or Reason for Action:

By approving the Dew Downtown Flagstaff Urban Ski and Snowboard Festival street closure and amplification exception, the City is providing a safe location and promoting economic activity during the traditionally low sales performing month of January.

Subsidiary Decisions Points: No subsidiary decision points.

Financial Impact:

Street closures change traffic patterns for local businesses and may have the potential to affect sales. Based off of feedback from the 2012-2014 events, many businesses reported a significant increase in sales over the previous years and years prior to the creation of the Dew Downtown event. Review of the sales tax data for the downtown area showed a comparable increase in February sales over previous years, which staff believes could be attributable to the Dew Downtown Flagstaff Urban Ski and Snowboard Festival.

Connection to Council Goal:

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

Has There Been Previous Council Decision on This:

City Council approved the street closure for the 2012, 2013, and 2014 Dew Downtown Flagstaff Urban Ski and Snowboard Festivals. Additionally City Council approved the amplification exception for the 2013-2014 festivals.

Options and Alternatives:

1) Deny the request to close the proposed downtown streets and not hold the event.
2) Deny the request to approve the amplification exception with play-by-play announcements as part of the special event permit packet.

Background/History:

The event features snowboarding and skiing on an urban course in the heart of historic downtown. Snow is packed onto San Francisco Street between Birch and Dale Avenues, allowing skiers and snowboarders the opportunity to complete "tricks" while maneuvering various urban obstacles. The event will run from 9:00am-8:00 pm on Saturday and 9:00am-3:00 pm on Sunday.

In addition to the activities on the course, vendors will set up on the street and on the County Courthouse lawn. Types of items sold at the event include food, beer, ski and snowboard related items, and sponsors' wares. The festival component of the event is managed by R Entertainment had will be moved to Birch Ave (Agassiz St to San Francisco St), contingent upon City Council approval. The festival will focus on family friendly activities.

In August of 2012, the Dew Downtown Flagstaff Urban Ski and Snowboard Festival received the Arizona Parks and Recreation Association's award for "Most Outstanding Community and Neighborhood Event for a population of 25,000-100,000".

Key Considerations:

Street closures are permitted by Council action under the Special Events rules and regulations. Of note, Cherry Avenue is a two-way street and its closure is allowable under the special event permit guidelines, without requiring permission of the City Council.

Expanded Financial Considerations:

In 2012, this event drew roughly 10,000 spectators to the downtown area, increasing sales tax revenue.
In 2013, despite a blizzard, the event drew comparable numbers to 2012.
In 2014, this event drew roughly 15-20,000 spectators to the downtown area, increasing sales tax revenue.

The Dew Downtown Urban Ski and Snowboard Festival has become one of the centerpieces of the WinterFest activities. This event will be advertised throughout Arizona and the Southwestern states.

The date for the 2015 festival was strategically chosen to occur slightly before the Phoenix Open and prior to the Superbowl in order to draw the crowd that will be in Phoenix for those events.

Community Benefits and Considerations:

The special event is managed by the City of Flagstaff for the threefold purpose of (1) providing an economic stimulus for the community during the traditionally low performing month of January; (2) continue to brand Flagstaff as a four season tourism destination; and (3) provide a family-friendly winter event for all ages.

Community Involvement:

INFORM, CONSULT, and INVOLVE: City staff held a public meeting on July 28, 2014 and August 26, 2014. The date and times of the July public meeting were posted in the July issue of the Downtown Newsletter. The dates and times for the August public meeting were posted in the August edition of the Downtown Newsletter. Additionally, door hangers were hand delivered on August 18th with the public meeting date and City Council date. The Downtown Newsletter posted the time of the City Council meeting in the August and September edition. The Downtown Newsletter is posted on the City of Flagstaff website (www.flagstaff.az.gov/downtown) as well as in the Heritage Square kiosk, library facility downtown, City Hall, and the Aquaplex.

Expanded Options and Alternatives:

1. Deny the request to close the proposed downtown streets
   - Pro: No impact to the traffic flow in the north downtown area
   - Con: Economic benefit may not be seen by Flagstaff businesses during a traditionally slow sales period.

2. Deny the request to approve the amplification exception to the special event permit packet

   - Pro: No impact to surrounding businesses and residents
   - Con: The ability to provide play-by-play commentary for the contestants and to call participants to the starting box for the competition portion of the event would be compromised.

Attachments: Proposed Closure

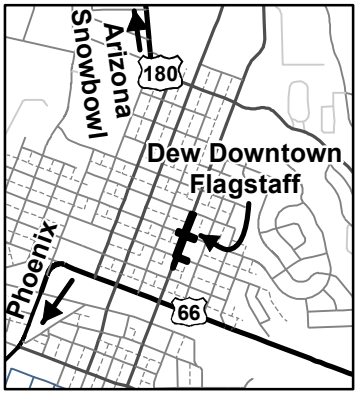
Form Review

Inbox	Reviewed By	Date
Recreation Supervisor - Pavey (Originator)	Glorice Pavey	08/12/2014 05:19 PM
Recreation Services Director	Brian Grube	08/12/2014 06:57 PM
Traffic Engineer	Jeff Bauman	08/13/2014 09:53 AM
Police Lieutenant - Roberts	Lance Roberts	08/18/2014 04:23 PM
Fire Marshal	Kristin Smith	08/19/2014 08:01 AM
Public Information Officer	Stacy Saltzburg	08/19/2014 08:24 AM
Public Works Director	Erik Solberg	08/19/2014 09:32 AM
DCM - Jerene Watson	Jerene Watson	08/20/2014 01:39 PM
Form Started By: Glorice Pavey		Started On: 07/14/2014 11:31 AM

Final Approval Date: 08/20/2014

Dew Downtown

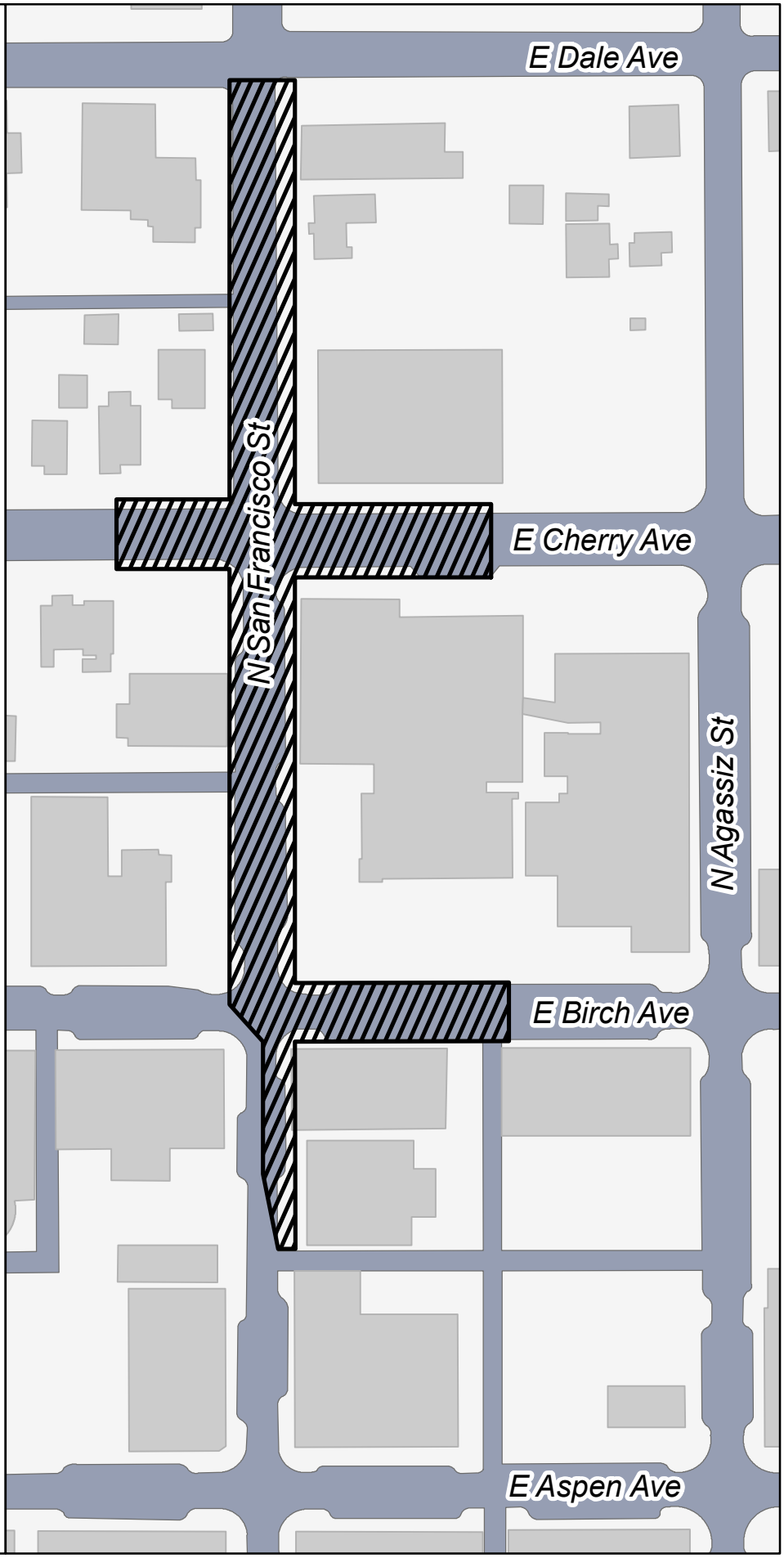
2015 Street Closures



Closure

Buildings

Streets



N

0 25 50 75 100 125 150 Feet

8/12/2014