FINAL AGENDA

REGULAR COUNCIL MEETING
TUESDAY
JULY 15, 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

A. Consideration and Approval of Minutes: City Council Regular Meeting of June 17, 2014; and the Special Meeting (Executive Session) of July 8, 2014.

RECOMMENDED ACTION:

Amend/approve the minutes of the City Council Regular Meeting of June 17, 2014; and the Special Meeting (Executive Session) of July 8, 2014.

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).

A. Consideration of Appointments: Transportation Commission.

RECOMMENDED ACTION:

Make three total appointments.
Make two Citizen appointments to terms expiring July 2017.
Make one Citizen appointment to term expiring July 2016.

B. Consideration of Appointments: Heritage Preservation Commission.

RECOMMENDED ACTION:

Make one At-Large appointment to a term expiring December 2016.
Make one Historic Property Owner appointment to a term expiring December 2016.

C. Consideration of Appointments: Tourism Commission.

RECOMMENDED ACTION:

Make one Hospitality appointment to a term expiring January 2017.

D. Consideration of Appointments: Beautification & Public Art Commission (BPAC).

RECOMMENDED ACTION:

Make one Hospitality appointment to a term expiring June 2015.

E. Consideration of Appointments: Disability Awareness Commission.

RECOMMENDED ACTION:

Make one appointment to a term expiring March 2017.

8. LIQUOR LICENSE PUBLIC HEARINGS

A. Consideration and Action on Liquor License Application: Danny Thomas, "New Jersey Pizza Company", 110 S. San Francisco, St. C., Series 12 (restaurant), New License.

RECOMMENDED ACTION:

Hold the Public Hearing
The City Council has the option to:
1) Forward the application to the State with a recommendation for approval;
2) Forward the application to the State with no recommendation; or
3) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

9. CONSENT ITEMS

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

A. **Consideration and Acceptance of Bid:** 2014-79 for ~~Neptune~~ Utility Water Meters ***(Purchase of water meters from HD Supply Waterworks Group, Inc.)***

RECOMMENDED ACTION:

Accept bid from HD Supply Waterworks Group, Inc. of Flagstaff, Arizona, for the purchase of Neptune Water Meters in the amount of approximately $225,000 annually. Authorize the City Manager to execute the necessary documents

B. **Consideration and Acceptance of Proposal:** Accept the proposal from Aerzen USA Corporation for three (3) High Efficiency Blowers. ***(Purchase of three blowers for the Wildcat Wastewater Treatment Plant).***

RECOMMENDED ACTION:

Accept the proposal and approve the purchase from Aerzen USA Corporation of Coatesville, PA, for the purchase of (3) three high efficiency "Turbo Blowers" in the amount of $ 692,562.00 plus applicable sales tax. Authorize the City Manager to execute the necessary documents.

C. **Consideration and Approval of Purchase Under National Intergovernmental Purchasing Alliance Contract:** All-wheel-drive motor graders with snow wing attachments ***(Purchase of 3 all-wheel-drive motor graders from Empire Machinery of Flagstaff)***

RECOMMENDED ACTION:

Approve the purchase under National Intergovernmental Purchasing Alliance Contract with Empire Machinery of Flagstaff, Arizona (Empire Southwest, LLC) for the purchase of three (3) all-wheel-drive motor graders with snow wing attachments in the amount of $677,000, plus the trade in of two (2) 1989 motor graders, one (1) 1990 all-wheel-drive motor grader, two (2) 1988 loaders and one (1) 1991 loader.

10. ROUTINE ITEMS

A. **Consideration and approval of Grant Agreement**: Authorizing approval of an Agreement with the U.S. Department of Justice, through the Arizona Criminal Justice Commission, for the Edward Byrne Justice Assistance Grant funds in the amount of $291,660.00 for the Northern Arizona Street Crimes Task Force (METRO unit).

RECOMMENDED ACTION:

Approve the acceptance of the grant from the U.S. Department of Justice, through the Arizona Criminal Justice Commission, Edward Byrne Justice Assistance Grant funds in the amount of $291,660.00 for FY2015.

B. **Consideration of Intergovernmental Agreement**: With Coconino County for use of the Hazardous Products Center (HPC) ***(Approve IGA with Coconino County which will allow the City to continue to accept hazardous wastes from Coconino County households and small businesses at the HPC)***.

RECOMMENDED ACTION:

Approve Intergovernmental Agreement with Coconino County.

C. **Consideration and Approval of Joint Funding Request:** Gauging Station at Newman Canyon Wash.

RECOMMENDED ACTION:

Approve the Agreement with the U.S. Geological Survey (USGS) to contribute $74,300.

D. **Consideration and Adoption of Ordinance No. 2014-19:** An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 7, Health and Sanitation, Chapter 7-04, Municipal Solid Waste Collection Service, Section 7-04-001-0009, Fees, by reinstating the $2.50 per ton Environmental Maintenance Facility Fee, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. ***(Reinstate the $2.50 per ton landfill tipping fee).***

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-19 by title only for the final time
2) City Clerk reads Ordinance No.2014-19 by title only for the final time (if approved above)
3) Adopt Ordinance No. 2014-19 (effective September 1, 2014)

E. **Consideration and Adoption of Ordinance No. 2014-18:** An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 3, Business Regulations, Chapter 10, User Fees, Section 3-10-001-0005, Recreation Fees, by increasing certain Parks and Recreation Fees; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. ***(Increasing recreation fees)***

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-18 by title only for the final time
2) City Clerk reads Ordinance No. 2014-18 by title only for the final time (if approved above)
3) Adopt Ordinance No. 2014-18 (and establish an effective for the recreation fees of September 1, 2014)

F. **Consideration and Possible Adoption of Resolution No. 2014-23 and Ordinance No. 2014-15:** A Resolution of the City Council of the City of Flagstaff, Arizona, Declaring that Certain Document Known as "The 2014 BBB Tax Re-Codification Amendments as a Public Record, and Providing for an Effective Date; and an Ordinance of the City Council of the City of Flagstaff, Amending the Flagstaff City Code, Title 3, *Business Regulations*, Chapter 3-06, *Privilege and Excise Taxes,* Chapter 3-06, *Lodging, Restaurant and Lounge Tax,* are Hereby Amended by Adopting "The 2014 BBB Tax Re-Codification Amendments" as Set Forth in that Public Record on File with the City Clerk; Providing for Penalties, Repeal of Conflicting Ordinances, Severability, Authority for Clerical Corrections, and Establishing Effective Dates. ***(Recodification of BBB Tax)***

RECOMMENDED ACTION:

1) Adopt Resolution No. 2014-12
2) Read Ordinance No. 2014-15 by title only for the final time
3) City Clerk reads Ordinance No. 2014-15 by title only for the final time (if approved above)
4) Adopt Ordinance No. 2014-15

G. **Consideration and Adoption of Ordinance No. 2014-17**: An ordinance of the City Council of the City of Flagstaff, Arizona, amending the Flagstaff City Code, Title 7, Health and Sanitation, Chapter 7-3, City Water System Regulations, Section 7-03-001-0003, Deposit Required, to change water service deposits; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. ***(Changing the amount of water service deposits)***

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-17 by title only for the final time
2) City Clerk reads Ordinance No. 2014-17 by title only for the final time
3) Adopt Ordinance No. 2014-17 and establish an effective date for the deposit adjustments of September 1, 2014

H. **Consideration and Adoption of Resolution No. 2014-24, and Consideration and Adoption of Ordinance No. 2014-16:** A Resolution of the City Council of the City of Flagstaff, Arizona, Declaring that Certain Document Known as "The 2014 Use Tax Adoption and Related City Tax Code Amendments" as a Public Record, and Providing for an Effective Date; and an Ordinance of the City Council of the City of Flagstaff, Arizona, Amending the Flagstaff City Code, Title 3, *Business Regulations,* Chapter 3-05, *Privilege and Excise Taxes,* is Hereby Amended by Adopting "The 2014 Use Tax Adoption and Related City Tax Code Amendments" by reference as Set Forth in that Public Record on File with the City Clerk; Providing for Penalties, Repeal of Conflicting Ordinances, Severability, Authority for Clerical Corrections, and Establishing an Effective Date. ***(Adoption of local 1% use tax)***

RECOMMENDED ACTION:

1) Adopt Resolution No. 2014-24
2) Read Ordinance No. 2014-16 by title only for the final time
3) City Clerk reads Ordinance No. 2014-16 by title only for the final time (if approved above)
4) Adopt Ordinance No. 2014-16

I. **Reconsideration of Prior Action:** **Resolution No. 2014-25:** A resolution authorizing the execution of a Development Agreement between City of Flagstaff and Evergreen - Trax, L.L.C. related to the development of approximately 33.6 acres of real property generally located at the intersection of Route 66 and Fourth Street, Flagstaff, Arizona.

RECOMMENDED ACTION:

Should the Council wish to reconsider this item, a motion to reconsider Resolution No. 2014-25 would be required to be made (by a member voting with the majority).

i. **Consideration and Adoption of Resolution No. 2014-25:** A resolution authorizing the execution of a Development Agreement between City of Flagstaff and Evergreen - Trax, L.L.C. related to the development of approximately 33.6 acres of real property generally located at the intersection of Route 66 and Fourth Street, Flagstaff, Arizona.

RECOMMENDED ACTION:

1) Read Resolution No. 2014-25 by title only.
2) City Clerk reads Resolution No. 2014-25 by title only (if approved above).
3) Adopt Resolution No. 2014-25.

J. **Consideration and Approval of Second Amendment of Purchase and Sale Agreement**: Between the City of Flagstaff and Evergreen - TRAX, LLC ("Evergreen"), for the sale of approximately 33.6 acres of property consisting of three parcels located at the southeast and southwest corners of the intersection of Fourth Street and Route 66, and the northwest corner of Fourth Street and Huntington drive adjacent to the Fourth Street Overpass (the "Property").

RECOMMENDED ACTION:

Approve the Second Amendment to the Purchase and Sale Agreement between the City of Flagstaff and Evergreen for the development of the Property, and authorize the Mayor to sign the agreement.

K. **Consideration and Approval of Intergovernmental Agreement:** Election Services for the August 26, 2014, Primary Election

RECOMMENDED ACTION:

Approve the Intergovernmental Agreement with Coconino County Elections at a cost of $2.00 per registered voter.

L. **Consideration and Adoption of Ordinance No. 2014-20:** An Ordinance prohibiting the use of wireless communication devices while operating a motor vehicle or bicycle.

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-20 by title only for the final time
2) City Clerk reads Ordinance No. 2014-20 by title only (if approved above)
3) Adopt Ordinance No. 2014-20

M. **Consideration of bid and Approval of the Lease Agreement:** City-Owned Property: Located at 6628 S. Piper Lane ***(Lease of property located near the Airport - formerly the FAA facility)***

RECOMMENDED ACTION:

Accept the bid and approve the Lease Agreement with Northern Arizona Healthcare dba Guardian Air for lease payments of $833.50 per month ($10,002 annually). The facility will receive intended improvements by lessee at an estimated value of $200,000. Authorize the City Manager or his designees to execute all necessary documents.

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

None

15. REGULAR AGENDA

A. Consideration and Adoption of Resolution No. 2014-29: A resolution of the City Council of the City of Flagstaff naming two of the trails in Picture Canyon Natural and Cultural Preserve the "Tom Moody Trail" and the "Don Weaver Trail". ***(Approve two Picture Canyon trail dedications).***

RECOMMENDED ACTION:

1) Read Resolution No. 2014-29 by title only
2) City Clerk reads Resolution No. 2014-29 by title only (if approved above)
3) Adopt Resolution No. 2014-29

B. Consideration of Proposals: Purchase of Property for the Core Services Maintenance Facility ***(Consider proposals submitted in response to RFP 2013-44).***

RECOMMENDED ACTION:

Reject all proposals as submitted for Request for Proposal (RFP) 2013-44 for the purchase of property for the Core Services Maintenance Facility and approve the McAllister Ranch property for construction of the Facility.

16. DISCUSSION ITEMS

A. Discussion of City Participation in Community Conversation on Student Housing

RECOMMENDED ACTION:

Discussion Only

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.

A. Consideration of Possible Future Agenda Item: Citizen Petition for Council Consideration of 2011 La Plaza Vieja Neighborhood Plan

RECOMMENDED ACTION:

Consideration of Future Agenda Item

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

4. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Elizabeth A. Burke, City Clerk
Date:	07/11/2014
Meeting Date:	07/15/2014

TITLE

Consideration and Approval of Minutes: City Council Regular Meeting of June 17, 2014; and the Special Meeting (Executive Session) of July 8, 2014.

RECOMMENDED ACTION:

Amend/approve the minutes of the City Council Regular Meeting of June 17, 2014; and the Special Meeting (Executive Session) of July 8, 2014.

INFORMATION

Attached are copies of the minutes of the City Council Regular Meeting of June 17, 2014; and the Special Meeting (Executive Session) of July 8, 2014.

Attachments: 06.17.2014.CCRM.Minutes
07.08.2014.CCSMES.Minutes

REGULAR COUNCIL MEETING
TUESDAY, JUNE 17, 2014
COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
4:00 P.M. AND 6:00 P.M.

4:00 P.M. MEETING

1. **CALL TO ORDER**

Vice Mayor Evans called the Regular Meeting of the Flagstaff City Council of June 17, 2014, to order at 4:00 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this 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).

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

Present:	Absent:
VICE MAYOR EVANS	MAYOR NABOURS
COUNCILMEMBER BAROTZ	
COUNCILMEMBER BREWSTER	
COUNCILMEMBER ORAVITS	
COUNCILMEMBER OVERTON	
COUNCILMEMBER WOODSON	

Others present: Kevin Burke, City Manager; Michelle D'Andrea, City Attorney.

3. **PLEDGE OF ALLEGIANCE AND MISSION STATEMENT**

MISSION STATEMENT

The audience and City Council recited the Pledge of Allegiance and Vice Mayor Evans read the City's 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

A. **Consideration and Approval of Minutes**: City Council Regular Meeting of June 3, 2014 and the Special Meeting (Executive Session) of June 10, 2014.

Councilmember Oravits moved to approve the minutes of the City Council Regular Meeting of June 3, 2014 and the Special Meeting (Executive Session) of June 10, 2014; seconded; passed 6-0.

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.

Vice Mayor Evans invited Fire Chief Mark Gaillard up to recognize the City Firefighters that assisted in the Slide Fire.

Chief Gaillard stated that the Slide Fire was an opportunity to see how well the region works cooperatively with others. At the height of the Slide Fire there were approximately 30 City employees who served on the Slide Fire and not all were firefighters. He expressed thanks to all the men and women who worked hard back in Flagstaff to allow others to serve on the fire.

Mr. Burke asked about the different functions that were utilized in the Slide Fire by City of Flagstaff staff. Chief Gaillard stated that the most visible was Chief Orrill who was the liaison for other agencies. There were people in public information, suppression efforts, air operation support. There were very diverse roles across the board in management and suppression.

The following individuals were recognized for their service:

- Bob Orrill
- Kevin Wilson
- Bobbie Parker
- Ryan Watkins
- Erik Brown
- Paul Atroya
- Mike Gillespie
- Skyler Lofgren
- Jake Hess
- Chris Sanchez
- Drew Manual

- Nate Jones
- Analisa Peru
- Ethan Gia
- Brandon Jordan
- Alex Super.

The City Council thanked them for coming to be recognized and thanked them for their service to the community and region.

6. **PROCLAMATIONS AND RECOGNITIONS**

None

7. **APPOINTMENTS**

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

A. **Consideration of Appointments:** Board of Adjustment.

Councilmember Overton moved to appoint Kevin Morrow to a term expiring May 2017; seconded; passed 6-0.

8. **LIQUOR LICENSE PUBLIC HEARINGS**

None

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.

Councilmember Woodson stated that he has a conflict of interest with Item F.

Councilmember Oravits asked to discuss Item G separately.

Councilmember Woodson moved to approve Consent Items 9-A, B, C, D, E, H, I, J; seconded; passed 6-0.

A. Consideration and Approval of Sole Source Purchase: Purchase of advertisements from Republic Media Advertising (Arizona Republic, AZ Central.com, and LaVoz Spanish publication)

MOTION:
Approve the purchase with Republic Media Advertising in an amount not to exceed $75,000.

B. **Consideration and Approval of the Flagstaff Cool Zone Purchase**: Purchase of a signage asset (sign or design element within a specified area) with Legends Entertainment District located in downtown Phoenix.

MOTION:
Approve the purchase of the Flagstaff Cool Zone with Legends Entertainment District in the amount of $65,000.

C. **Consideration and Approval of Contract:** Consideration and approval of the Agreement with Mead and Hunt, Inc. for the Federal Aviation Administration grant funded (AIP 37) Airport Sustainability Master Plan ***(Approve an agreement with consulting firm Mead and Hunt, Inc. in the amount of $271,097.65 for preparation of an Airport Sustainability Master Plan).***

MOTION:
1) Approve the Agreement between Mead & Hunt, Inc. and the City of Flagstaff in the amount of $271, 097.65, subject to approval by the Federal Aviation Administration (FAA) and Arizona Department of Transportation (ADOT) Multimodal Planning.
2) Authorize the City Manager to execute the necessary documents.

D. **Consideration and Acceptance of Bid:** 2014-75 for Utility ITRON Reader Water Communication Modules

MOTION:
Accept bid from National Meter and Automation, Inc. for the purchase of Itron Water Communication Modules in the amount of $95,000 annually. Authorize the City Manager to execute the necessary documents.

E. **Consideration and Approval of Final Plat:** A request from Miramonte Homes for Final Plat approval for Forest Springs Townhomes Unit 2, a 70-unit residential townhome subdivision on a 15.07-acre site located at 1115 North Flowing Springs Trail in the Medium Density Residential (MR) zone

MOTION:
Approve the final plat with the conditions outlined in the staff summary and its attachments, and authorizing the Mayor to sign both the plat and City/Subdivider Agreement when notified by staff that all conditions have been met and documents are ready for recording

F. **Consideration and Approval of Contract:** Sinclair Wash Sewer Interceptor Replacement Project ***(Approve contract with Eagle Mountain Construction, Inc. for Sinclair Wash Sewer Interceptor Replacement Project).***

MOTION:
1) Award the construction contract to Eagle Mountain Construction, Inc. of Flagstaff, Arizona in the total award amount of $186,500.00 which includes $28,120.00 in contract allowance. The contract period is 60 calendar days; and
2) Authorize Change Order Authority to the City Manager in the amount of $10,000.00 (6% of the bid contract amount, less contract allowance) for unanticipated additional costs; and
3) Authorize the City Manager to execute the necessary documents.

Councilmember Woodson left the dais at 4:13 P.M.

Councilmember Brewster moved to approve Consent Item 9-F; seconded; passed 5-0 with Councilmember Woodson abstaining.

Councilmember Woodson returned to the dais at 4:14 P.M.

G. Consideration and Approval of Engineering Design Professional Services Contract: Butler Avenue Traffic Signal Control System ***(Approve agreement with Lee Engineering, LLC in the amount of $99,660.00).***

MOTION:
1) Award the Engineering Design Professional Services Contract to Lee Engineering, LLC of Phoenix, Arizona in an amount not to exceed $99,660.00, including a $4,983.00 contract allowance and a calendar day contract period of 357 days; and
2) Approve Change Order Authority to the City Manager in the amount of $9,966.00 (10% of contract amount excluding allowance) for unanticipated or additional items of work; and
3) Authorize the City Manager to execute the necessary documents.

Capital Improvements Engineer Mo El-Ali explained that the intent is to install a system that will make it better for traffic to run smoother. There are many systems out there and Flagstaff needs to evaluate what will work best for the community; this study will help to make that determination and weigh all of the options available before installation.

Councilmember Oravits moved to approve Item 9-G; seconded; passed 6-0.

H. Consideration and Approval of Final Plat A request from TLC PC AZ, LLC., for White Pines Townhomes at Pine Canyon, a 36-unit residential townhouse subdivision and an amended final plat of Mountain Vista Condominium at Pine Canyon. The site is 8.06 acres in size and located at 3002 S. Clubhouse Circle in the Pine Canyon subdivision. The site is zoned R1, Single-Family Residential.

MOTION:
Approval of the Final Plat and Amended Final Plat, and authorize the Mayor and City Clerk to sign both the plat and City Subdivider Agreement.

I. **Consideration and Approval of Final Plat** A request by Miramonte Homes for Tract B of Presidio in the Pines, a subdivision of 14 single-family residential townhomes on approximately 1.65 acres located at 2700 S Presidio Drive South within the Highway Commercial (HC) zone.

MOTION:
Approve the final plat with the conditions outlined in the staff summary and its attachments, and authorizing the Mayor to sign both the plat and City/Subdivider Agreement when notified by staff that all conditions have been met and documents are ready for recording.

J. **Consideration of Appointment:** City Attorney

MOTION
Reappoint Michelle D'Andrea as the City Attorney for the City of Flagstaff

K. **Consideration of Purchase under the Strategic Alliance for Volume Expenditures (S.A.V.E.) Contract:** Contract Employment Program for Retirees - Employee leaseback.

MOTION:
Approve the purchase from Smart Works Plus for an annual amount up to $800,000 plus applicable taxes

Councilmember Overton noted that he struggles with item 9-K for the S.A.V.E. Contract and feels that there should be a natural flow for retirement.

10. **ROUTINE ITEMS**

A. **Consideration and Approval of Grant Application:** Consideration authorizing the submission of a grant application to the U.S. Department of Justice, FY2014 Edward Byrne Memorial Justice Assistance Grant in the amount of $24,330 to pay for Police Staff Overtime and a Rapid Deployable Portable Repeater for Coconino County Sheriff's Department and authorizing the acceptance upon award of the grant agreement.

Police Support Services Manager Jen Brown stated that the funds help with community policing activities. The City has been accepting this grant since 2008 and it allows agencies to place funds where needed most. The funds would be split with the Coconino County Sheriff's office and would create 348 hours of time for the Police Department.

Councilmember Woodson moved to approve the Submission of a Grant Application and Authorize Acceptance upon Award for the U.S. Department of Justice, FY 2014 Edward Byrne Memorial Justice Assistance Grant (JAG) for an amount of $24,330; seconded; passed 6-0.

B. **Consideration and Approval of an Intergovernmental Agreement:** Consideration authorizing the approval of an Intergovernmental Agreement between the City of Flagstaff and Coconino County (County) for submission of a

grant application to the U.S. Department of Justice, FY 2014 Edward Byrne Memorial Justice Assistance (JAG) Grant.

Councilmember Woodson moved to approve the Intergovernmental Agreement with Coconino County for the FY 2014 Edward Byrne Memorial Justice Assistance Grant in an amount of $7,299 for the purchase of a Rapid Deployable Portable Repeater; seconded; passed 6-0.

C. **Consideration and Approval of the award of Construction Contract:** Innovation Mesa Business Accelerator and Alternate/Secondary Emergency Operations Center.

Capital Improvements Project Manager James Duval provided a PowerPoint Presentation that covered the following:

- PROJECT RENDERING
- BACKGROUND
- PROJECT DEDUCTS

Councilmember Barotz asked if there was conversation with current NACET users on what they would like to see in the facility. Mr. Duval stated that staff met with Russ Yelton and Annette Zinky who met with the end users individually and brought the suggestions back to the group.

Councilmember Overton moved to approve the award of Construction Contract to FCI Constructors, Inc., and approve the Construction Contract with FCI Constructors Inc. in the amount of $5,938,338.00, and a 340 calendar-day contract period; and approve Change Order Authority to the City Manager in the amount of $297,000 (5% of contract amount excluding allowance) for unanticipated or additional items of work; and authorize the City Manager to execute the necessary documents; seconded; passed 6-0.

D. **Consideration and Adoption of Resolution No. 2014-27:** A resolution of the Mayor and Council of the City of Flagstaff, Arizona, declaring for purposes of Section 1.150-2 of the Federal Treasury Regulations, official intent to be reimbursed in connection with certain capital expenditures relating to the U.S. Geological Survey Campus Facilities Construction for the Innovation Mesa Business Accelerator.

Management Service Director Barbara Goodrich stated that the Resolution is the City's standard reimbursement resolution that allows the City to move forward with the project.

Mr. Burke added that bond financing is a little different than General Obligation Loans; the debt would be repaid with lease revenue not property tax.

Councilmember Barotz moved to read Resolution No. 2014-27 by title only; seconded; passed 6-0.

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING, FOR PURPOSES OF SECTION 1.150-2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES RELATING TO THE U.S. GEOLOGICAL SURVEY CAMPUS FACILITIES CONSTRUCTION FOR THE INNOVATION MESA BUSINESS ACCELERATOR

Councilmember Woodson moved to adopt Resolution No. 2014-27; seconded; passed 6-0.

RECESS

The Regular Meeting of the Flagstaff City Council held June 17, 2014, recessed at 4:36 p.m.

6:00 P.M. MEETING

RECONVENE

Mayor Nabours reconvened the Regular Meeting of the Flagstaff City Council of June 17, 2014, at 6:00 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this 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.

Present:	Absent:
MAYOR NABOURS	
VICE MAYOR EVANS	
COUNCILMEMBER BAROTZ	
COUNCILMEMBER BREWSTER	
COUNCILMEMBER ORAVITS	
COUNCILMEMBER OVERTON	
COUNCILMEMBER WOODSON	

Others present: Kevin Burke, City Manager; Michelle D'Andrea, City Attorney.

12. **PUBLIC PARTICIPATION**

Emily Davalos addressed the Council with concerns about the Planning and Zoning Commission meeting and the logistical challenges that occurred. She also expressed her disapproval of the development proposed.

Jim McCarthy addressed Council asking for them to hear from those who had to leave the Planning and Zoning Commission meeting without the opportunity to speak.

Michael Hawkins addressed Council with frustration about the Planning and Zoning Commission meeting and asked for an opportunity for everyone to be heard.

Gloria Valencia addressed Council with dissatisfaction with the Planning and Zoning Commission meeting and disapproval of the proposed development.

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

None

14. **PUBLIC HEARING ITEMS**

A. **Public Hearing, Consideration and Possible Adoption of Resolution No. 2014-26:** A resolution amending the previous Flagstaff Area Regional Land Use and Transportation Plan to change the land use designation of approximately 33.6 acres of real property located at the southwest and southeast corners of Route 66 and Fourth Street and at the northwest corner of Huntington Drive and Fourth Street, from Office/Business Park/Light Industrial and Light/Medium Industrial to Community/Regional Commercial. ***(This is the development request from Evergreen Development for property located at 4th Street and Rt. 66 known as "The Trax")***

Planning and Development Manager Elaine Averitt provided a PowerPoint presentation that covered items 15-A and 15-B:

- THE TRAX LOCATION AND SURROUNDING USES
- REGIONAL LAND USE AMENDMENT REQUEST
- REGIONAL PLAN LAND USE MAP
- APPLICABLE GENERAL PLAN GOALS & POLICIES
- THE TRAX – ZONING MAP AMENDMENT
- ZONING STANDARDS COMPARISON
- CONCEPTUAL SITE PLAN
- DESIGN REVIEW
- CITY SYSTEMS IMPACTS
- PUBLIC INPUT
- ZONING MAP AMENDMENT RECOMMENDATION
- REZONING REQUEST RECOMMENDATION

Councilmember Barotz asked if the proposed amendment was done in accordance with the new zoning map. Ms. Averitt explained that the case came

forward before the new process was established. It was done according to the Zoning Code adopted in 2011 and is consistent with the 2001 Regional Plan.

Vice Mayor Evans asked the current ranking of the road on the I-40 bridge. Community Development Director Mark Landsiedel stated that the current ranking is a D. Vice Mayor Evans asked if it is customary for developments to pay into projects such as the bridge. Mr. Landsiedel stated that all developments require an impact analysis to determine the level of impact the development places on surrounding infrastructure. Vice Mayor Evans followed up asking if the City requires that developments fix any impacts at the time of the Development Agreement. Mr. Landsiedel explained that if the improvement is a larger, longer term one that they can function safely during the interim then they can pay over time; if it is a life safety issue then the developer would have to do the improvements up front in order to proceed. Vice Mayor Evans asked if there are life and safety issues with the bridge now. Mr. Landsiedel explained that there is a degradation of service but there are not any life or safety issues at this time.

Mr. Landsiedel added that there are six major developments that are being considered for contributions to the bridge improvements. The contributions will be each developments proportionate share of the impacts. The City asked each of them to study what their impacts might be. The current traffic numbers vary slightly due to the timing of each survey and the sources used for the study. They each projected with and without the project. To measure proportionate share staff took the projected trips on Fourth Street and divided that by the average 2030 with project. If there are smaller undeveloped projects that come in the meantime this list may grow.

Vice Mayor Evans asked about the projected funding to the general fund because of the projects. Ms. Goodrich explained that at this time there has not been any modeling of the impact of sales tax and property tax for any of the developments.

Mayor Nabours asked if at full build out there will be a need to increase further to six lanes. Mr. Landsiedel stated that there should not be a need for six lanes as the proposed four lanes should handle projected future growth for a long time.

Mayor Nabours opened the public hearing.

Laura Ortiz with Evergreen Development addressed Council stating that they are excited to revitalize this part of Flagstaff and there has been some great interest already despite not having approval yet. The hope and expectation is to break ground no later than January. Mayor Nabours asked if the conditions that were suggested by the Planning and Zoning Commission were acceptable to Evergreen to which Ms. Ortiz answered that they are acceptable.

Mayor Nabours asked if it makes any difference to Evergreen if the $320,000 is paid directly to the overpass or added to the overall purchase price. Ms. Ortiz offered that the only difference to them is that it should go towards improvements that would benefit their property.

Al Shelliger, and Administrative Member of Juniper Point, addressed Council stating that the decision of the Council tonight would set a precedent for all of the other developers and requested that the decision be postponed until the other five developers could speak on the issue. There has been no discussion about when the money is due or how it is paid.

Mayor Nabours closed the public hearing.

Mayor Nabours stated that there are questions about the Development Agreement and asked when it will be brought forward for discussion and if it will include the exactions. Ms. D'Andrea stated that the Development Agreement will be part of the second read. The only thing that makes this agreement a little different is that the City owns the property.

Vice Mayor Evans requested more information about the projected impacts of each development and the other parcels that might have an impact as well.

Councilmember Oravits requested more information about when the contribution is due.

Councilmember Barotz moved to read Resolution No. 2014-26 by title only; seconded; passed unanimously.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA AMENDING THE FLAGSTAFF AREA REGIONAL LAND USE AND TRANSPORTATION PLAN TO CHANGE THE LAND USE DESIGNATION OF APPROXIMATELY 33.6 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF ROUTE 66 AND FOURTH STREET FROM OFFICE/BUSINESS PARK/LIGHT INDUSTRIAL AND LIGHT/MEDIUM INDUSTRIAL TO COMMUNITY/REGIONAL COMMERCIAL

Councilmember Brewster moved to adopt Resolution No. 2014-26; seconded; passed unanimously.

B. **Public Hearing, Consideration and Possible Adoption of Ordinance No. 2014-14:** An ordinance amending the Flagstaff Zoning Map designation of approximately 33.6 acres of real property located at the southwest and southeast corners of Route 66 and Fourth Street and at the northwest corner of Huntington Drive and Fourth Street, from Light Industrial (LI) and Light Industrial-Open (LI-O) to Highway Commercial (HC). ***(Amending Zoning Map for "The Trax" commercial development).***

Councilmember Barotz moved to read Ordinance No. 2014-14 by title only for the first time; seconded; passed unanimously.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FLAGSTAF, ARIZONA, AMENDING THE FLAGSTAFF ZONING MAP DESIGNATION OF APPROXIMATELY 33.6 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF ROUTE 66 AND FOURTH STREET,

FROM LIGHT INDUSTRIAL ("LI") AND LIGHT INDUSTRIAL OPEN ("LI-O"), TO HIGHWAY COMMERCIAL ("HC")

C. Public Hearing For Proposed FY 2014 – 2015 Budget and Property Tax Levy.

Finance Manager Brandi Suda provided a PowerPoint presentation that covered the following:

- CITY OF FLAGSTAFF FY 2015 BUDGET
- TOTAL BUDGET
- EXPENDITURE HIGHLIGHTS
- FUNDING SOURCES HIGHLIGHTS
- CITY OF FLAGSTAFF PROPERTY TAX
- FY2015 BUDGET

Mayor Nabours stated that it is important to note that the Council is attempting to keep the amount of property tax paid last year the same this year. Ms. Suda stated that it was the intent to keep the amounts the same, however, if the value went up more than 1% there would be an increase. Ms. Goodrich added that when the City looks at the assessed value of the community some neighborhoods have seen an increase in 5% where others have seen a decrease of 5%. On a community wide basis the revenue is remaining flat but there is a possibility that someone could see a higher increase or decrease.

Mayor Nabours opened the public hearing. There being no public input, Mayor Nabours closed the public hearing.

The Regular Meeting of the Flagstaff City Council held June 17, 2014, recessed at 7:19 p.m.

SPECIAL MEETING

Mayor Nabours called the Special Meeting of the Flagstaff City Council of June 17, 2014, to order at 7:19 p.m.

Consideration and Adoption of Resolution No. 2014-20: A resolution of the City Council of Flagstaff, Arizona, for the adoption of the Budget for Fiscal Year 2014-15 and Public Hearing for Budget and Levy.

Councilmember Woodson moved to read Resolution No. 2014-20 by title only; seconded; passed unanimously.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2014-2015

Councilmember Oravits moved to adopt Resolution No. 2014-20; seconded; passed unanimously.

The Special Meeting of the Flagstaff City Council held June 17, 2014 adjourned at 7:20 p.m.

Mayor Nabours reconvened the Regular Meeting of the Flagstaff City Council of June 17, 2014, at 7:20 p.m.

15. **REGULAR AGENDA**

A. **Consideration and Adoption of Ordinance No. 2014-12:** An ordinance levying upon the assessed valuation of the property within the City of Flagstaff, Arizona, subject to taxation a certain sum upon each one hundred dollars ($100.00) of valuation sufficient to raise the amount estimated to be required in the Annual Budget, less the amount estimated to be received from other sources of revenue; providing funds for various bond redemptions, for the purpose of paying interest upon bonded indebtedness and providing funds for general municipal expenses, all for the Fiscal Year ending the 30th day of June, 2015.

Councilmember Overton moved to read Ordinance No. 2014-12 by title only for the first time; seconded; passed unanimously.

AN ORDINANCE LEVYING UPON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE CITY OF FLAGSTAFF, ARIZONA, SUBJECT TO TAXATION A CERTAIN SUM UPON EACH ONE HUNDRED DOLLARS ($100.00) OF VALUATION SUFFICIENT TO RAISE THE AMOUNT ESTIMATED TO BE REQUIRED IN THE ANNUAL BUDGET, LESS THE AMOUNT ESTIMATED TO BE RECEIVED FROM OTHER SOURCES OF REVENUE; PROVIDING FUNDS FOR VARIOUS BOND REDEMPTIONS, FOR THE PURPOSE OF PAYING INTEREST UPON BONDED INDEBTEDNESS AND PROVIDING FUNDS FOR GENERAL MUNICIPAL EXPENSES, ALL FOR THE FISCAL YEAR ENDING THE 30TH DAY OF JUNE, 2015

B. **Consideration and Adoption of Resolution No. 2014-18:** A resolution of the City of Flagstaff, Arizona establishing a Donation and Memorial Program for the City's Parks within the City Memorial Policy.

Councilmember Barotz moved to read Resolution No. 2014-18 by title only; seconded; passed unanimously.

A RESOLUTION OF THE CITY OF FLAGSTAFF, ARIZONA ESTABLISHING A DONATION AND MEMORIAL PROGRAM FOR THE CITY'S PARKS

Councilmember Brewster moved to adopt Resolution No. 2014-18; seconded; passed unanimously.

C. **Consideration and Possible Adoption of Ordinance No. 2014-11:** An ordinance amending Ordinance No. 2000-11 by modifying the Zoning Map Designation of that property generally known as Pine Canyon, through the

amendment of a general condition related to the public's overnight access to Pine Canyon.

Planning Development Manager Tiffany Antol provided a PowerPoint presentation that covered the following:

- PINE CANYON MODIFICATION CONDITION #8
- BACKGROUND
- SITE PLAN FOR PROPOSED SWING GATES
- POLICY ANALYSIS
- RECOMMENDATION

Mayor Nabours moved to read Ordinance No. 2014-11 by title only for the first time; seconded; passed unanimously.

AN ORDINANCE AMENDING ORDINANCE NO. 2000-11 BY MODIFYING THE ZONING MAP DESIGNATION OF THAT PROPERTY GENERALLY KNOWN AS PINE CANYON, THROUGH THE AMENDMENT OF A GENERAL CONDITION RELATED TO THE PUBLIC'S OVERNIGHT ACCESS TO PINE CANYON

A break was held from 7:30 p.m. through 7:41 p.m.

D. **Consideration and Approval of Preliminary Plat** A request from Westglen MHP, LLC for approval of a preliminary plat for a 201 manufactured dwelling unit condominium subdivision on 27.9 acres located at 1450 W Kaibab Lane, within the Manufactured Housing (MH) zone.

Councilmember Woodson declared a conflict of interest and left the dais at 7:41 p.m.

Planning and Development Manager Brian Kulina provided a PowerPoint presentation that covered the following:

- REQUEST
- VICINITY MAP
- AERIAL MAP
- REQUIRED FINDINGS
- INTRODUCTION AND DISCUSSION
- ZONING REQUIREMENTS
- DENSITY/INTENSITY/DEVELOPMENT STANDARDS
- PLAN OF ACTION
- SYSTEMS ANALYSIS
- RECOMMENDATION

Chris Welch, owner of Westglen Mobile Home Park, explained that the park is a 1990 + park where people enjoy living and they want to own the land on which their homes are placed. The condo conversion does not cost the City a penny and it creates affordable housing and a pride of ownership situation. Currently, the financing is difficult for a mobile home alone but when the land under it is

added it becomes more affordable and more financeable. This would be the first one of its kind in Flagstaff and possibly Arizona.

Mr. Welch introduced Don Dykman, Condominium Specialist for Arizona, Andy Fox, County Manager for Pioneer Title, Jim Fogers from Woodson Engineering, and Dave Richards with Wells Fargo Financing.

Mr. Welch further explained that in the Landlord Tenant Act there is a statute that addresses change in use. This statute would relate to other project happening in town, this project however will change the use but not relocate any tenants. The legal opinion is that the act does not apply if the tenant is not required to move. Some owners will not qualify to purchase the land and other circumstances may require people to stay renters. The position of the management is that if a tenant cannot or does not want to buy the lot they can continue to rent. It is estimated that there are approximately 200 people that want to buy their lots.

Mayor Nabours clarified that if a current resident of the mobile home park does not desire or cannot qualify to buy their lot they will be allowed to continue rent. Mr. Welch confirmed and added that there are currently 17 open spaces and it would make no sense to kick anyone out to make space for paying owners. There is no incentive to move anyone out.

Vice Mayor Evans asked if those who continue to rent will face any increase in the rent. Mr. Welch explained that the space rent is not locked in today but he does not anticipate any non-market forces coming to those who are continuing to rent.

Mayor Nabours asked if an owner can affix the home to the lot once they own the land. Mr. Welch stated that this is an option for residents and it will also increase the value of their property.

Vice Mayor Evans asked if the Homeowners Association (HOA) will govern the park to stay up to standard and if that would apply to renters as well. Mr. Welch stated yes; once a certain threshold is met the HOA will take over control of the management of the park. Mr. Dykman added that under the Condominium Act the HOA must be formed prior to the first sell and by State law the control of the HOA must be turned over to the residents after 75% of the units are sold.

Councilmember Oravits asked the average rent in the park. Mr. Welch responded that the average rent is just shy of $500 per month with utility charges.

Mr. Burke asked if 150 of the 200 lots are sold and the LLC decides to sell the other 50 to someone else, how that would carry over to the promises made to the renters that want to stay. Mr. Welch explained that there is no document that stays with the property that protects that. Presumably they will purchase for investment purposes. Once one unit sells it is established that it will be a mobile home park forever because there are then private property rights.

Mayor Nabours stated that the only access to the property is through Kaibab lane; he asked if that was a public street and if they guarantee access in the title

documents. Mr. Fox stated that access would be through Kaibab Lane to the private streets maintained by the HOA and that is included in the title documents.

Vice Mayor Evans asked if people who have low credit, no credit or are undocumented can get financing. Mr. Richards stated that undocumented individuals are not able to obtain financing and there are certain portfolio lines designed to help low income applicants and first time homebuyers. Anyone who is a lender with Fannie should be able to utilize the project.

Councilmember Barotz moved to approve the preliminary plat; seconded; passed unanimously.

E. Consideration and Adoption of Ordinance No. 2014-13: An ordinance of the Council of the City of Flagstaff, Arizona amending Flagstaff City Code Title 6, Police Regulations, Chapter 6-01, General Offenses, by adding a new Section 6-01-001-0004, Graffiti Prohibited; and amending Title 7, Health and Sanitation, by adding a new Chapter 7-01, Graffiti Abatement.

Councilmember Woodson returned to the dais at 8:43 p.m.

Zoning Code Administrator Roger Eastman provided a PowerPoint Presentation that covered the following:

- GRAFFITI PROHIBITED AND ABATEMENT
- GRAFFITI IS…
- GRAFFITI BUSTERS
- REPORTED CASES
- MEETING PURPOSE
- TITLE 6 – POLICE REGULATIONS
- TITLE 7 – HEALTH AND SANITATION
- CONCLUSION

Councilmember Brewster asked how staff will address the five day issue with residents who travel. She also stated that there are materials that it could be detrimental to paint rather than use an alternative method to removing the graffiti. Mr. Eastman explained that staff has at its disposal a number of tools available to help abate graffiti in various ways other than paint. The team knows what products to use to abate different graffiti scenarios. Additionally, staff has heard many times over that the graffiti needs to be abated as soon as possible to avoid further tagging.

Councilmember Overton noted that he is willing to look at the notification time but does not want to drag it out 30 days trying to get in contact with an owner. It is a property owner's responsibility to remove graffiti.

Councilmember Oravits voiced concern about not purchasing the paint matching machine and asked for staff to look into it further because it is such a low priced item. He also offered concern with the victim being penalized. While graffiti has to be removed fast, he would like to clean up the timing and be sure to note that official notification is certified.

Mayor Nabours suggested that there be a presumption clause in section A of Article 6 and Article 7 where graffiti is defined. Mr. Eastman stated that he will work with the City Attorney to add in that language.

Councilmember Oravits requested that the dollar amount when the lien is applied and the time frame for abatement by the property owner be added as well. Mr. Eastman stated that he will look into the cost of abatement and the cost benefit associated with collecting that from an owner.

Mayor Nabours moved to read Ordinance No. 2014-13 by title only for the first time; seconded; passed unanimously.

AN ORDINANCE AMENDING FLAGSTAFF CITY CODE TITLE 6, POLICE REGULATIONS, CHAPTER 6-01, GENERAL OFFENSES, BY ADDING A NEW SECTION 6-01-001-0004, GRAFFITI PROHIBITED; AMENDING TITLE 7, HEALTH AND SANITATION, BY ADDING A NEW CHAPTER 7-01, GRAFFITI ABATEMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PENALTIES

16. **DISCUSSION ITEMS**

A break was held from 9:13 p.m. through 9:20 p.m.

A. **Road Repair and Street Safety Initiative**

Mr. Burke reported that the County has approved and placed on the ballot a 3/10 cent tax for twenty years. He provided a PowerPoint presentation that covered the following:

- ROAD REPAIR AND STREET SAFETY INITIATIVE
- OPTIONS
- FINANCING – POLICY QUESTIONS
- FINANCE OPTIONS
- REMINDER OF SUPPORT OF SALES TAX INCREASE
- 2014 SURVEY OF LIKELY VOTERS
- BONDING

Councilmember Oravits asked if the increase in the cost of materials has been factored into the total cost of the project. Mr. Burke stated that it has been kept simple in the modeling and the City is looking to address the roads with the higher priority. The inflation and deterioration is being kept in mind. Councilmember Oravits followed up by asking if collecting more has been considered. Mr. Burke offered that there is consideration with that in the various ebbs and flows of collection. There is not a maximum to what can be raised only what can be borrowed.

Mr. Burke continued the presentation.

- SALES TAX RATES

- CITY/COUNTY TOTAL PROPOSED RATES
- DRAFT BALLOT QUESTION

Councilmember Woodson asked if there was a reason that the utility improvements were not mentioned in the question. Mr. Burke stated that it should have been included and staff will make that correction.

Councilmember Oravits emphasized that the money is not going to be used for plowing operations but to preservation and improvements. He asked if there was a way to keep the language specific to preservation and improvements without being too constrained. Mr. Burke agreed that there is some concern with maintenance as the preferred term. Ms. Goodrich added that the language can be drafted as restrictive as the Council would like and that it is always up to the Council as to what the money is used for. Mayor Nabours suggested calling it pavement improvements and ongoing preservation.

Councilmember Overton asked if the scope of work could be revisited should there be robust sales tax or if sales tax dollar decrease. Mr. Burke stated that the flexibility of the question leaves the ability to make additional changes and or additions. Ms. Goodrich offered that staff analyzes the amount of debt each year. If the sales tax proceeds were greater than anticipated staff would take that into consideration. The City wants to take advantage of market conditions and construction conditions but the City is not compelled to issue debt if it is able to maintain itself.

Councilmember Barotz suggested simplifying the language in the information materials. The information should be written in the same way a conversation would be had about the issue.

Councilmember Overton noted that the 1/3 cent is better money. It would be very important that the City communicates that it is a better steward of the money and it would be used to leverage an additional $10 million to be used. Mr. Burke noted that the goal has been to repair as many of the streets as possible and to stay general rather than allocating to a specific project. Staff likes the idea of a contingency. If the project is going well, there will be items that the voters have identified for the parameters of repair.

Mayor Nabours asked if the term could be reduced rather than raising an additional $10 million. Mr. Burke suggested that the term could possibly be reduced by two years.

The Council agreed to the .33% rate.

Mr. Burke stated that the City is not obligated to anything exclusively and staff will continue to work through language. There is flexibility within the question to do road repair, pavement preservation, bike/ped, and sidewalk activities. Mayor Nabours suggested categorizing the amounts needed for each area.

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.

A. Tusayan ADOT Update

Councilmember Oravits requested an update from the Arizona Department of Transportation (ADOT) on the Tusayan airport; it would be nice for them to be here and for the public to have the ability to ask questions. Vice Mayor Evans added that there are a lot of individuals in the hotel and lodging industry that have questions. She recommended inviting the Tourism commission, FLRA, Chamber, and Board of Supervisors to attend.

Councilmember Overton stated that the topic may be better suited at a County Board of Supervisor meeting rather than a City Council meeting as the Board of Supervisors are in a better position to hear the update and provide results.

The consensus of Council is to proceed with scheduling an update with ADOT.

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

Vice Mayor Evans stated that staff needs to be more careful when doing roadwork. She noticed that lines were painted on a road that was soon after repaved and then repainted; it is just not efficient. She noted that the red curb paint in the Southside has faded and requested that it be repainted.

Vice Mayor Evans asked if there was a way to reopen the public hearing of the Planning and Zoning Commission to allow for those who did not get to speak the chance to address the Commission.

Mayor Nabours shared a conversation with a US Congressman who is struggling with road deterioration and maintenance. There are others who are sharing the same struggles as Flagstaff.

19. ADJOURNMENT

The Regular Meeting of the Flagstaff City Council held June 17, 2014, adjourned at 10:12 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFICATION

STATE OF ARIZONA)
SS)
County of Coconino)

I, ELIZABETH A. BURKE, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the meeting of the Council of the City of Flagstaff held June 17, 2014. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 15th day of July, 2014.

_____
CITY CLERK

MINUTES OF THE SPECIAL MEETING (EXECUTIVE SESSION) OF THE FLAGSTAFF CITY COUNCIL HELD ON TUESDAY, JULY 8, 2014, IN THE STAFF CONFERENCE ROOM, SECOND FLOOR OF THE FLAGSTAFF CITY HALL, 211 WEST ASPEN, FLAGSTAFF, ARIZONA

1. Call to Order

Mayor Nabours called the meeting to order at 3:04 p.m.

2. Roll Call

Present: Absent:

Mayor Nabours
Vice Mayor Evans
Councilmember Barotz
Councilmember Brewster
Councilmember Oravits
Councilmember Overton
Councilmember Woodson

Others present: City Manager Kevin Burke; City Attorney Michelle D'Andrea.

3. **Recess into Executive Session.**

Mayor Nabours moved to recess into Executive Session; seconded; passed unanimously.

4. **Executive Session:**

A. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body... pursuant to ARS 38-431.03(A)(1).

i. Annual Review of City Magistrates

B. Discussion or consultation for legal advice with the attorney or attorneys of the public body; and discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS 38-431.03(A)(3) and (4), respectively.

i. Western Navajo Pipeline

C. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to ARS 38-431.03(A)(7).

i. Property owned by Doug Martin and located in Section 21 North Range 11 East, Coconino County, generally located northwest of Twin Arrows.

D. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS 38-431.03(A)(4).

i. Schurtz v. City of Flagstaff

F. Discussion or consultation for legal advice with the attorney or attorneys of the public body; and discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to ARS 38-431.03(A)(3) and (7), respectively.

i. Affordable Housing Parcel at Sawmill

5. **Adjournment**

The Flagstaff City Council reconvened into Open Session at 5:55 p.m. at which time the Special Meeting of July 8, 2014, adjourned.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, Deputy City Clerk
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration of Appointments: Transportation Commission.

RECOMMENDED ACTION:

Make three total appointments.
Make two Citizen appointments to terms expiring July 2017.
Make one Citizen appointment to term expiring July 2016.

Policy Decision or Reason for Action:

By making the above appointments, the Transportation Commission will be at full membership and will be able to continue meeting on a regular basis.

There are three applications on file, they are as follows:

Andrew Benally (new applicant)
Robert Mullen (current commissioner)
Derik Spice (current commissioner)

Financial Impact:

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

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1) Appoint three Commissioners: by appointing members at this time, the Transportation Commission will be at full membership, allowing the group to meet and provide recommendations to the City Council.

2) Table the action to allow for further discussion or expand the list of candidates.

Background/History:

The Transportation Commission consists of seven voting members and two non-voting members. The voting members consist of the Superintendent of the Flagstaff Unified School District (FUSD), a member from the Northern Arizona Intergovernmental Transit Authority (NAIPTA) and five citizen members appointed by Council. The two non-voting members are a City of Flagstaff Police Officer and the Traffic Engineer. There are currently three citizen seats available.

Key Considerations:

It is important to fill the vacancies so as to allow the Commission to continue meeting on a regular basis at full membership.

Community Benefits and Considerations:

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

Community Involvement:

Inform.

Board members and City staff have informed the community of this vacancy through word of mouth. The vacancies are also posted on the City's website.

Expanded Options and Alternatives:

COUNCIL INTERVIEW TEAM: Councilmember Barotz and Mayor Nabours

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Attachments: Transportation Roster
Transportation Authority
Transportation Applicant Roster
Transportation Applications

City of Flagstaff, AZ

TRANSPORTATION COMMISSION MEMBERS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
Kuhn, Bob	**11/05/2013**	**11/16**	**No**
SCHOOL REPRESENTATIVE Asst. Superintendant of Operations/Flagstaff Unified School District 3839 E. Foxtail Flagstaff, AZ 86004 Work Phone: 928-527-6010 Term: (1st 11/13-11/16)			
Meilback, Jeff, Vice Chairman	**11/05/2013**	**11/16**	**11/04/2013**
NAIPTA REPRESENTATIVE CEO and General Manager/NAIPTA 3773 N. Kaspar Flagstaff, AZ 86004 Work Phone: 928-679-8909 Term: (1st 11/13-11/16)			
Miller, Walt		**Indefinite**	**04/18/2007**
POLICE DEPT. REPRESENTATIVE Deputy Chief/City of Flagstaff Police Dept. 911 E. Sawmill Rd. Flagstaff, AZ 86001 Work Phone: 928-774-3646			
Mullen, Robert	**05/03/2011**	**07/14**	**10/20/2011**
CITIZEN MEMBER Instructor/NAU P.O. Box 3809 Flagstaff, AZ 86003 Cell Phone: 928-600-6643 Term: (1st 5/11-7/14)			

Parkes, Kevin, Chairman	**11/05/2013**	**07/16**	**11/04/2013**
CITIZEN MEMBER Budget Officer/Grand Canyon National Park 1738 West University Heights Drive South Flagstaff, AZ 86001 Home Phone: 928-607-0868 Term: (1st 10/10-7/13; 2nd 7/13-7/16)			
Robbins, Gary	**03/05/2013**	**07/15**	**11/04/2013**
CITIZEN MEMBER Attorney/Gary E. Robbins, P.L. 4714 E. Double Eagle Flagstaff, AZ 86004 Home Phone: 928-774-4321 Term: (1st 3/13-7/15)			
Spice, Derik	**02/21/2012**	**07/14**	**No**
CITIZEN MEMBER Grand Canyon River Guide/Ski Patroller/Arizona Raft Adventures/Arizona Snowbowl 2008 N. 2nd St Flagstaff, AZ 86004 Cell Phone: 435-901-1302 Term: (1st 2/12-7/14)			
Z-VACANT,		**07/16**	**No**
CITIZEN MEMBER			

Staff Representative: Jeff Bauman

As Of: July 01, 2014

CHAPTER 2-12
TRANSPORTATION COMMISSION

SECTIONS:

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

2-12-001-0001 CITY POLICY:

It is the policy of the City, in the exercise of the powers vested in the City Council for the protection of the public safety and promotion of the general welfare, to promote the safety of the traveling public and to improve utilization of the public ways for all forms of transportation.

(Ord. 1349, Amended, 02/19/1985; Ord. 2013-06, Amended, 09/17/2013)

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

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

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

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

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

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

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

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

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

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

C. The Commission shall annually select one (1) of its members to serve as chairperson.

(Ord. 1349, Amended, 02/19/1985; Ord. 2007-21, Amended, 02/06/2007; Ord. 2010-14, Amended, 06/15/10; Ord. 2013-06, Amended, 09/17/2013)

2-12-001-0003 TERMS OF OFFICE:

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

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

A Commission member who is absent from three consecutive regular meetings may have their remaining term terminated by a vote of the City Council upon recommendation of the Commission.

(Ord. 1349, Amended, 02/19/1985; Ord. 1942, Amended, 05/06/1997; Ord. 2010-14, Amended, 06/15/2010; Ord. 2013-06, Amended, 09/17/2013)

2-12-001-0004 MEETINGS:

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

Meetings shall be conducted in accordance with the Board and Commission Members' Handbook adopted by resolution of the Flagstaff City Council, and in compliance with all other local, state, and federal laws.

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

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

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

The functions of the Commission shall be:

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

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

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

D. To annually advise the City Council of the progress and expenditures of the City's Transportation Capital Improvements Program as related to the Election of May 2000. To carry out this function, the Transportation Commission shall:

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

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

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

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

5. Publish an annual Transportation CIP Advisory Report; and

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

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

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

2-12-001-0006 OTHER POWERS:

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

B. The City Council hereby establishes the following advisory committees to the Transportation Commission to provide advice on special traffic and transportation topics, and delegates to the Commission the power to appoint members to these committees. No member of the Transportation Commission shall be a member of an advisory committee. The City Council retains the power to remove a member of an advisory committee for the reasons specified in the City's Board and Commission Members' Handbook.

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

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

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

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

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

3. The advisory committees shall bring to the Transportation Commission items of a planning, design, or regulatory nature that come to their attention regarding the City's pedestrian and bikeway systems.

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

2-12-001-0007 REPEALED:

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

The Flagstaff City Charter and City Code are current through Ordinance 2014-03, passed January 21, 2014.
Disclaimer: The City Clerk's Office has the official version of the Flagstaff City Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City of Flagstaff, AZ

TRANSPORTATION COMMISSION APPLICANTS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
Benally, Andrew			**No**
Porter/Findlay Toyota 3109 N. Schevene Blvd Flagstaff, AZ 86004 Cell Phone: 928-266-6185			
Mullen, Robert		**07/14**	**10/20/2011**
CITIZEN MEMBER Retired P.O. Box 3809 Flagstaff, AZ 86003 Cell Phone: 928-600-6643 Term: (1st 5/11-7/14)			
Spice, Derik		**07/14**	**No**
CITIZEN MEMBER Teaching Assistant/Northern Arizona University 2008 N. 2nd St Flagstaff, AZ 86004 Cell Phone: 435-901-1302 Term: (1st 2/12-7/14)			

Staff Representative: **Jeff Bauman**

As Of: **July 02, 2014**

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Monday, May 26, 2014 8:30 PM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

Categories: Green Category

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

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

Application to Serve on a Board/Commission

Please note that this information is public information.

Date:*	5/26/2014		
Board/Commission you wish to serve on:*	Transportation commission/ Parks and Rec		
If applicable, type of seat for which you are qualified:			

Your Information

Name:*	Andrew Benally	Home Phone:*	(928) 266-6184
Home Address:*	3109 N Scheven Blvd	Zip:*	86004
Mailing Address (If different from above):			
Employer:*	Findlay Toyota	Job Title:*	Porter
Business Phone:	(928) 779-2445	Cell:	(928)266- 6184
E-mail:*	BenallyAndrew@gmail.com		
Indicate preferred telephone:*	( ) Home ( ) Work	(X) Cell	
Please indicate age group:*	(X) 18-34 ( ) 35-54	( ) 55+	
Please indicate education:*	( ) High School (X) College	( ) Post Graduate	
Number of years living in the Flagstaff area:*	two years		

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
My community activities are limited to helping friends start up their own business and helping other citizens I've met to go back to school for college. What I lack in a full filled resume I make up with drive, determination and motivation. I'm a citizen of Flagstaff and a student who has come to love this town.
Why do you want to serve on the board or commission you listed?
My strong point with my fellow co-workers and student peers is my ability to motivate them to follow life goals. You may ask yourself how can I apply this to a board and committee position. What we do as a committee is to help increase the value of our community. The value of our community is not the overall city laws and zoning issues that pass but it's our citizens that make Flagstaff such a great city that we have all come to love. I want to serve on the committee for transportation or Parks and Rec is because I live next to bush master and I have seen what it has become over the past couple of years. The reason I want to serve on the Transportation committee is because I'm a student at CCC and I rode the public transportation for my first year of college. Experiencing the bus first hand everyday for a year has taught me about the inner working of the bus and the public who ride it to class and work.
By submitting this electronic form, I acknowledge that any information provided above is public information, and I certify that I meet the City Charter requirement of living within the Flagstaff City limits and have read and understand the right to have my application considered in a public meeting.

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 5/26/2014

Board/Commission you wish to serve on:: Transportation commission/ Parks and Rec

If applicable, type of seat for which you are qualified::

Name:: Andrew Benally

Home Phone:: (928) 266-6184

Home Address:: 3109 N Scheven Blvd

Zip:: 86004

Mailing Address (If different from above)::

Employer:: Findlay Toyota

Job Title:: Porter

Business Phone:: (928) 779-2445

Cell:: (928)266- 6184

E-mail:: BenallyAndrew@gmail.com

Indicate preferred telephone:: Cell

Please indicate age group:: 18-34

Please indicate education:: College

Number of years living in the Flagstaff area:: two years

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: My community activities are limited to helping friends start up their own business and helping other citizens I've met to go back to school for college. What I lack in a full filled resume I make up with drive, determination and motivation. I'm a citizen of Flagstaff and a student who has come to love this town.

Why do you want to serve on the board or commission you listed?: My strong point with my fellow co-workers and student peers is my ability to motivate them to follow life goals. You may ask yourself how can I apply this to a board and committee position. What we do as a committee is to help increase the value of our community. The value of our community is not the overall city laws and zoning issues that pass but it's our citizens that make Flagstaff such a great city that we have all come to love.
I want to serve on the committee for transportation or Parks and Rec is because I live next to bush master and I have seen what it has become over the past couple of years. The reason I want to serve on the Transportation committee is because I'm a student at CCC and I rode the public transportation for my first year of college.

Experiencing the bus first hand everyday for a year has taught me about the inner working of the bus and the public who ride it to class and work.

Additional Information:
Form submitted on: 5/26/2014 8:29:30 PM
Submitted from IP Address: 24.121.120.190
Referrer Page: http://www.flagstaff.az.gov/index.aspx?NID=1886
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Monday, February 10, 2014 8:38 AM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

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

Application to Serve on a Board/Commission

Please note that this information is public information.

Date:*	2/10/14
Board/Commission you wish to serve on:*	Transportation (Second term)
If applicable, type of seat for which you are qualified:	

Your Information

Name:*	Robert Mullen	Home Phone:*	9285220202
Home Address:*	See original application	Zip:*	86003
Mailing Address (If different from above):	P.O. Box 3809		
Employer:*	Retired	Job Title:*	Retired
Business Phone:	9286006643	Cell:	9286006643
E-mail:*	orion368@gmail.com		
Indicate preferred telephone:*	( ) Home ( ) Work	(X) Cell	

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
See original application
Why do you want to serve on the board or commission you listed?
I would like to serve second term.

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 2/10/14

Board/Commission you wish to serve on:: Transportation (Second term)

If applicable, type of seat for which you are qualified::

Name:: Robert Mullen

Home Phone:: 9285220202

Home Address:: See original application

Zip:: 86003

Mailing Address (If different from above):: P.O. Box 3809

Employer:: Retired

Job Title:: Retired

Business Phone:: 9286006643

Cell:: 9286006643

E-mail:: orion368@gmail.com

Indicate preferred telephone:: Cell

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: See original application

Why do you want to serve on the board or commission you listed?: I would like to serve second term.

Additional Information:
Form submitted on: 2/10/2014 8:37:32 AM
Submitted from IP Address: 71.209.155.114
Referrer Page: http://www.flagstaff.az.gov/index.aspx?nid=1883
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Monday, April 21, 2014 2:37 PM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

Categories: Green Category

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

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

Application to Serve on a Board/Commission

Please note that this information is public information.

Date:*	4/21/14		
Board/Commission you wish to serve on:*	transportation commission		
If applicable, type of seat for which you are qualified:	commissioner		

Your Information

Name:*	derik spice	Home Phone:*	435 901 1302
Home Address:*	2008 n. 2nd st	Zip:*	86004
Mailing Address (If different from above):			
Employer:*	NAU	Job Title:*	Teaching Assistant
Business Phone:		Cell:	
E-mail:*	derikspice@gmail.com		
Indicate preferred telephone:*	(X) Home ( ) Work	( ) Cell	
Please indicate age group:*	( ) 18-34 (X) 35-54	( ) 55+	
Please indicate education:*	( ) High School ( ) College	(X) Post Graduate	
Number of years living in the Flagstaff area:*	10		

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
Currently serving on the transportation commission for last two years. I greatly enjoy participating and this opportunity to serve the community.
Why do you want to serve on the board or commission you listed?
To continue to improve Flagstaff for local residents and visitors.

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 4/21/14

Board/Commission you wish to serve on:: transportation commission

If applicable, type of seat for which you are qualified:: commissioner

Name:: derik spice

Home Phone:: 435 901 1302

Home Address:: 2008 n. 2nd st

Zip:: 86004

Mailing Address (If different from above)::

Employer:: NAU

Job Title:: Teaching Assistant

Business Phone::

Cell::

E-mail:: derikspice@gmail.com

Indicate preferred telephone:: Home

Please indicate age group:: 35-54

Please indicate education:: Post Graduate

Number of years living in the Flagstaff area:: 10

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: Currently serving on the transportation commission for last two years. I greatly enjoy participating and this opportunity to serve the community.

Why do you want to serve on the board or commission you listed?: To continue to improve Flagstaff for local residents and visitors.

Additional Information:
Form submitted on: 4/21/2014 2:36:31 PM
Submitted from IP Address: 174.26.138.246
Referrer Page: No Referrer - Direct Link
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, Deputy City Clerk
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration of Appointments: Heritage Preservation Commission.

RECOMMENDED ACTION:

Make one At-Large appointment to a term expiring December 2016.
Make one Historic Property Owner appointment to a term expiring December 2016.

Policy Decision or Reason for Action:

By making the above appointment, the Heritage Preservation Commission will be at full membership and will be able to continue meeting on a regular basis. There are three applications on file.

Stephanie Bauer (new applicant)
Sean Patrick Berry (new applicant)
Jonathan Day (current member)
Josh Edwards (new applicant)

All applicants are eligible for the At-Large seat; Jonathan Day is eligible for the Historic Property Owner seat.

Financial Impact:

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

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1) Appoint two Commissioners: By appointing members at this time, the Heritage Preservation Commission will be at full membership, allowing the group to meet and provide recommendations to the City Council.

2) Table the action to allow for further discussion or expand the list of candidates.

Background/History:

The Heritage Preservation Commission consists of seven citizens serving three-year terms. Two positions represent historic owners, two positions represent the architecture industry, and three positions are at-large seats. There is currently one at-large seat available and one historic owner seat available.

The Heritage Preservation Commission locates sites of historic interest in the City, advises the City Council on all matters relating to historic preservation, and reviews development projects in the downtown design review district.

Key Considerations:

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

Community Benefits and Considerations:

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

Community Involvement:

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

Expanded Options and Alternatives:

COUNCIL INTERVIEW TEAM: Councilmember Oravits and Councilmember Overton.

Attachments: Heritage Preservation Roster
Heritage Preservation Authority
Heritage Preservation Applicant Roster
Heritage Preservation Applications

City of Flagstaff, AZ

HERITAGE PRESERVATION COMMISSION MEMBERS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
Corbin, Lynne	**12/18/2012**	**12/14**	**03/12/2013**
AT LARGE Project Director/Northern Arizona University 215 N. Park Dr. Flagstaff, AZ 86001 Home Phone: 928-774-8471 Term: (1st 8/10 - 12/11; 2nd 12/11-12/14)			
Day, Jonathan	**08/27/2012**	**12/13**	**No**
HISTORIC PROPERTY OWNER Self Employed 209 E. Cottage Ave. Flagstaff, AZ 86001 Home Phone: 928-853-3503 Term: (1st 8/12 - 12/13)			
Dunn, Laurel	**08/27/2012**	**12/15**	**10/20/2011**
HISTORIC PROPERTY OWNER Owner/England House Bed & Breakfast 614 W. Santa Fe Ave. Flagstaff, AZ 86001 Home Phone: 928-214-7350 Term: (1st part. 08/10-12/12; 2nd 12/12 - 12/15)			
Paradis, Thomas, Chairman	**08/27/2012**	**12/14**	**04/24/2008**
PROFESSIONAL Associate Professor/Northern Arizona University 4696 S. House Rock Trail Flagstaff, AZ 86001 Home Phone: 928-523-5853 Term: (1st 6/06-12/08; 2nd 12/08-12/11; 3rd 12/11-12/14)			

Scandura, Philip	**12/18/2012**	**12/15**	**03/18/2010**
AT LARGE Staff Engineer - Aerospace/Honeywell 4853 S. Bright Angel Trail Flagstaff, AZ 86001 Home Phone: 928-214-8194 Term: (1st 8/10 - 12/12; 2nd 12/12-12/15)			
Zimmerman, David	**08/27/2012**	**12/15**	**11/04/2013**
PROFESSIONAL Planner/Historic Preservation Specialist/ADOT 3001 N. Schevene Blvd. Flagstaff, AZ 86004 Home Phone: 928-380-3057 Term: (1st 12/12 - 12/15)			
Z-VACANT,		**12/16**	**No**
AT LARGE			

Staff Representative: Karl Eberhard

As Of: July 02, 2014

CHAPTER 2-19
HERITAGE PRESERVATION COMMISSION

SECTIONS:

2-19-001-0001 COMMISSION ESTABLISHED; ORGANIZATION:

SECTION 2-19-001-0001 COMMISSION ESTABLISHED; ORGANIZATION:

There is hereby created a commission to be known as the City of Flagstaff Heritage Preservation Commission.

A. ESTABLISHMENT OF THE COMMISSION.

1. The membership of the Commission shall consist of seven (7) voting members who must meet the requirements of the City Charter of the City of Flagstaff and be appointed by the City Council. In addition, the City Council may designate a Councilmember representative as a non-voting, ex-officio member of the Commission. Additional members may be appointed in the future, if and when additional Historic Design Review Districts beyond the first District are created, to represent those additional Districts and help develop and adopt Design Guidelines for those Districts.

2. The terms of appointment for this Commission shall be three years, or until a successor is appointed, except that the initial appointments may be for less than three years to establish "staggered" terms. The Commission shall, by majority vote, elect a Chairperson and Vice-Chairperson and shall meet at such times and dates as the Commission shall designate. The Chairperson and Vice-Chairperson shall serve terms of one year.

3. Members shall serve without compensation.

4. Appointed members shall meet the following qualifications, to the extent possible:

a. All should have a demonstrated interest in the history of the community and be committed to represent not only their specific areas of expertise, but also the community at large.

b. At least two (2) members must be professionals in the areas of architecture, history, architectural history, planning, or archaeology.

c. At least two (2) members shall be owners of locally designated historic properties or properties listed on the National Register of Historic Places.

d. At least three (3) members shall be from the general community.

5. Any member may satisfy more than one of the above qualifications and any "professional" category may be filled by a person who is retired from that profession.

(Ord. No. 2005-08, Amended 04/05/2005; Ord. No. 2007-07, Amended 02/06/2007)

B. MEETINGS; BUDGET. Subject to State law, the operational regulations of the Commission shall include the following:

1. The Commission shall at a minimum hold at least one regular meeting quarterly, but shall normally hold monthly meetings. For the purpose of considering Certificates of Appropriateness, meetings may be held at any time, with ten (10) days notice, on the written request of any two of the Commission members or on the call of the Chairperson, the Planning Director or the Mayor. The Chairperson shall set the meeting times.

2. A quorum for the transaction of business shall consist of four (4) of the Commission's members. If additional members are appointed in the future, a quorum for the transaction of business shall consist of 51% of the total membership.

3. The Commission shall adopt rules for the transaction of its business and keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

4. At the time provided by law for the submission of budget estimates, the Commission shall submit an itemized estimate of its contemplated expenditures for the ensuing year, showing the amount proposed to be expended. The Mayor and Council shall make an appropriation for financing the Commission's expenditure, in such an amount as the Mayor and Council may deem necessary and appropriate.

5. If a member is absent for three (3) meetings within a twelve month period, excused or unexcused, that member may be replaced by the City Council.

(Ord. No. 2005-08, Amended 04/05/2005)

C. POWERS AND DUTIES. Subject to state law and the procedures prescribed herein, the City of Flagstaff Heritage Preservation Commission shall have and may exercise the following powers, duties, and responsibilities:

1. The Commission may recommend to the City Council that properties be designated landmarks or historic design review districts, subject to the procedures and requirements of this

Ordinance. See Title 10, Chapter 15 of this Code for the Purpose, Applicability, Procedures and Requirements of this Ordinance.

2. The Commission shall increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.

3. The Commission shall advise and assist owners of landmarks or historic structures on physical and financial aspects of preservation, renovation, rehabilitation, and reuse.

4. The Commission shall make recommendations to the City Council concerning the utilization of federal, state, local or private funds to promote the preservation of landmarks and historic districts within the City.

5. The Commission may recommend acquisition of landmark structures by the City where their preservation is essential to the purposes of this Ordinance and where private preservation is not feasible, and where either imminent demolition is pending, or required maintenance of said structures according to City Building Codes has not been accomplished for a period in excess of one year due to deficiencies of ownership affecting maintenance, and where preservation of said structures is related to some other existing plan or report.

6. The Commission shall review and make decisions on any development application for a Certificate of Appropriateness and require the same plans submitted for the Development Review Board, plus applicable elevation drawings.

7. The Commission shall develop and adopt Design Guidelines for historic and non-historic structures within designated design review districts, or individual historic structures or landmarks, to assist property owners and developers in preservation, renovation, rehabilitation, and reuse of historic structures and others within designated districts. If there is more than one designated district, the Commission shall develop appropriate Design Guidelines for each district. The Design Guidelines, and major amendments thereto, shall be subject to a Public Hearing before the Commission, including notification of the property owners within the district to which they would apply, per procedures outlined in Section 10-15-003-0002 of this Code.

8. The Commission shall carry out other such duties as determined by the City Council; and present other recommendations they deem pertinent.

(Ord. No. 1857, Enacted, 02/07/95)
(Ord. No. 1997, Amended, 06/15/1999)

City of Flagstaff, AZ

HERITAGE PRESERVATION COMMISSION APPLICANTS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
Bauer, Stephanie			**No**
Contract Administrator/Northern Arizona University 1613 N. Kutch Dr. Flagstaff, AZ 86001 Cell Phone: 623-363-8924			
Berry, Sean Patrick			**No**
Teaching Assistant/Northern Arizona University 550 S. Blackbird Roost #17 Flagstaff, AZ 86001 Cell Phone: 928-380-9854			
Day, Jonathan	**08/27/2012**	**12/13**	**No**
HISTORIC PROPERTY OWNER Self Employed 209 E. Cottage Ave. Flagstaff, AZ 86001 Home Phone: 928-853-3503 Term: (1st 8/12 - 12/13)			
Edwards, Josh			**No**
Archaeologist/Cornerstone Environmental 3631 N. Schevene Blvd. Flagstaff, AZ 86004 Cell Phone: 928-380-0373			

Staff Representative: Karl Eberhard

As Of: July 10, 2014

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Wednesday, June 19, 2013 8:19 AM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

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

Application to Serve on a Board/Commission

Please note that this information is a public record.

Date:*	6/19/2013
Board/Commission you wish to serve on:*	Heritage Preservation Commission
If applicable, type of seat for which you are qualified:	

Your Information

Name:*	Stephanie Bauer	Home Phone:*	928-637-6111
Home Address:*	1613 N. Kutch Dr.	Zip:*	86001
Mailing Address (If different from above):			
Employer:*	Northern Arizona University/Museum Club	Job Title:*	Contract Administrator/Owner
Business Phone:		Cell:	623-363-8924
E-mail:*	stephanie.damiani@gmail.com		
Indicate preferred telephone:*	( ) Home ( ) Work	(X) Cell	

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
I work full-time at Northern Arizona University's Facility Services as the construction contract administrator. I work closely with Project Managers, Architects/Engineers, Contractors, and other stake holders to process construction projects for the campus. Additionally, my spouse and I own 50% of the Museum Club, which is located in a historic building. I know the importance preserving Flagstaff's heritage has on not only our local community, but also our tourism and visitors.
Why do you want to serve on the board or commission you listed?
I would like to serve on the Heritage Preservation Commission because I have an interest in preserving Flagstaff's treasured history. As a small-business owner of a business that draws a lot of visitors because of its historic building, I know the value that preservation brings to individuals and the community as a whole. Arizona is still a young state, but the heritage we have is strong. I would love to contribute to its preservation in any way I can.

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 6/19/2013

Board/Commission you wish to serve on:: Heritage Preservation Commission

If applicable, type of seat for which you are qualified::

Name:: Stephanie Bauer

Home Phone:: 928-637-6111

Home Address:: 1613 N. Kutch Dr.

Zip:: 86001

Mailing Address (If different from above)::

Employer:: Northern Arizona University/Museum Club

Job Title:: Contract Administrator/Owner

Business Phone::

Cell:: 623-363-8924

E-mail:: stephanie.damiani@gmail.com

Indicate preferred telephone:: Cell

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: I work full-time at Northern Arizona University's Facility Services as the construction contract administrator. I work closely with Project Managers, Architects/Engineers, Contractors, and other stake holders to process construction projects for the campus. Additionally, my spouse and I own 50% of the Museum Club, which is located in a historic building. I know the importance preserving Flagstaff's heritage has on not only our local community, but also our tourism and visitors.

Why do you want to serve on the board or commission you listed?: I would like to serve on the Heritage Preservation Commission because I have an interest in preserving Flagstaff's treasured history. As a small-business owner of a business that draws a lot of visitors because of its historic building, I know the value that preservation brings to individuals and the community as a whole. Arizona is still a young state, but the heritage we have is strong. I would love to contribute to its preservation in any way I can.

Additional Information:
Form submitted on: 6/19/2013 8:19:15 AM
Submitted from IP Address: 134.114.50.56
Referrer Page: http://www.flagstaff.az.gov/index.aspx?NID=1883
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Monday, December 16, 2013 8:02 PM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

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

Application to Serve on a Board/Commission

Please note that this information is public information.

Date:*	12/15/2013
Board/Commission you wish to serve on:*	Heritage Preservation Commission
If applicable, type of seat for which you are qualified:	At Large

Your Information

Name:*	Sean Patrick Berry	Home Phone:*	928-380-9854
Home Address:*	550 S Blackbird Roost #17	Zip:*	86001
Mailing Address (If different from above):			
Employer:*	Northern Arizona University	Job Title:*	Teaching Assistant
Business Phone:		Cell:	928-380-9854
E-mail:*	spberry1@gmail.com		
Indicate preferred telephone:*	( ) Home ( ) Work	(X) Cell	

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
My education and my employment experience apply to serving on the Heritage Preservation Commission. I am in my second year of graduate school at Northern Arizona University, studying applied anthropology. My studies focused on archaeology and cultural resource management. I am familiar with the National Historic Preservation act, the Secretary of the Interior's Standards and Guidelines, and the Secretary of the Interior's Standards for the Treatment of Historic Properties, which guide the Heritage Preservation Commission's consideration of significance for potential heritage resources (City of Flagstaff). My applicable employment experience consists of twelve weeks of archaeological research and fieldwork on the water use and sustainability of the 12th and 13th century dry-land farmers of Wupatki National Monument (Berry 2013). In addition, I developed a climate change vulnerability assessment for Wupatki National Monument during the summer of 2012 (Berry 2012). Finally, I gained international resource management experience during an excavation and survey of Celtic and Roman archaeological sites in Galicia Spain in the summer of 2011. Education M.A. Applied Anthropology. (Expected 2014) Northern Arizona University, Flagstaff, Arizona B.A. Anthropology. Arizona State University, Tempe, Arizona (2011) A.A. General Studies. Mesa Community College, Mesa, Arizona (2011) Works Cited Berry, Sean P. 2013 Prehistoric Water Use and Sustainability of Wupatki National Monument, Wupatki National Monument, Flagstaff Area Monuments, National Park Service, Flagstaff. 2012 Vulnerability Assessment for Archaeological Resources at Wupatki National Monument, Flagstaff Area Monuments, National Park Service, Flagstaff. City of Flagstaff n.d. Landmark Design Review Overlay District Design Standards and Guidelines and Historic Preservation Resources. The City of Flagstaff, Arizona.
Why do you want to serve on the board or commission you listed?
I desire to serve on Heritage Preservation Commission for three reasons: 1.I believe that the preservation of our community's historical and cultural foundations are in the public interest, because historically significant properties and objects have economic, aesthetic, informative, and symbolic value that benefit our community. 2.By serving on the Heritage Preservation Commission, I will gain experience in cultural resource management that I can apply to future endeavors. 3."A work that has cost days, weeks, or years of toil has a right to existence" (W.M. Flinders Petrie 1904).

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 12/15/2013

Board/Commission you wish to serve on:: Heritage Preservation Commission

If applicable, type of seat for which you are qualified:: At Large

Name:: Sean Patrick Berry

Home Phone:: 928-380-9854

Home Address:: 550 S Blackbird Roost #17

Zip:: 86001

Mailing Address (If different from above)::

Employer:: Northern Arizona University

Job Title:: Teaching Assistant

Business Phone::

Cell:: 928-380-9854

E-mail:: spberry1@gmail.com

Indicate preferred telephone:: Cell

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: My education and my employment experience apply to serving on the Heritage Preservation Commission. I am in my second year of graduate school at Northern Arizona University, studying applied anthropology. My studies focused on archaeology and cultural resource management. I am familiar with the National Historic Preservation act, the Secretary of the Interior's Standards and Guidelines, and the Secretary of the Interior's Standards for the Treatment of Historic Properties, which guide the Heritage Preservation Commission's consideration of significance for potential heritage resources (City of Flagstaff). My applicable employment experience consists of twelve weeks of archaeological research and fieldwork on the water use and sustainability of the 12th and 13th century dry-land farmers of Wupatki National Monument (Berry 2013). In addition, I developed a climate change vulnerability assessment for Wupatki National Monument during the summer of 2012 (Berry 2012). Finally, I gained international resource management experience during an excavation and survey of Celtic and Roman archaeological sites in Galicia Spain in the summer of 2011.

Education
M.A. Applied Anthropology. (Expected 2014) Northern Arizona University, Flagstaff, Arizona

B.A. Anthropology. Arizona State University, Tempe, Arizona (2011)
A.A. General Studies. Mesa Community College, Mesa, Arizona (2011)

Works Cited

Berry, Sean P.
2013 Prehistoric Water Use and Sustainability of Wupatki National Monument, Wupatki National Monument, Flagstaff Area Monuments, National Park Service, Flagstaff.
2012 Vulnerability Assessment for Archaeological Resources at Wupatki National Monument, Flagstaff Area Monuments, National Park Service, Flagstaff.

City of Flagstaff
n.d. Landmark Design Review Overlay District Design Standards and Guidelines and Historic Preservation Resources. The City of Flagstaff, Arizona.

Why do you want to serve on the board or commission you listed?: I desire to serve on Heritage Preservation Commission for three reasons:

1.I believe that the preservation of our community's historical and cultural foundations are in the public interest, because historically significant properties and objects have economic, aesthetic, informative, and symbolic value that benefit our community.

2.By serving on the Heritage Preservation Commission, I will gain experience in cultural resource management that I can apply to future endeavors.

3."A work that has cost days, weeks, or years of toil has a right to existence" (W.M. Flinders Petrie 1904).

Additional Information:
Form submitted on: 12/16/2013 8:02:02 PM
Submitted from IP Address: 24.121.188.206
Referrer Page: No Referrer - Direct Link
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

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

CITY OF FLAGSTAFF
APPLICATION TO SERVE ON A BOARD/COMMISSION

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

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

DATE: 7-10-14

BOARD/COMMISSION YOU WISH TO SERVE ON: Heritage Preservation Comission

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

YOUR NAME: Jonathan Day HOME PHONE: 853-3503

HOME ADDRESS: 209 E Cottage Ave ZIP: 86001

MAILING ADDRESS (If Different from Above):

EMPLOYER: self JOB TITLE:

BUS. PHONE: CELL: E-MAIL

PLEASE INDICATE PREFERRED TELEPHONE: ☐ HOME ☐ WORK ☐ CELL

PLEASE INDICATE AGE GROUP: ☐ 18-34 ☒ 35-54 ☐ 55+

PLEASE INDICATE EDUCATION: ☒ High School ☐ College ☐ Post Graduate

NUMBER OF YEARS LIVING IN THE FLAGSTAFF AREA: 24

BACKGROUND INFORMATION: Please explain how your community activities and other relevant experience/ interests are applicable to this board or commission. I have served 3 terms on this commission in the last 12 years, I have held both Chair + Vice Chair. I helped create the floating historic overlay district. I own an 1894 Victorian + Restored the Ashurst house

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

To continue to educate the public on historic preservation as well as work with the community to save Flagstaff's Historic Resources.

I UNDERSTAND THAT ANY INFORMATION PROVIDED ABOVE IS PUBLIC INFORMATION AND I CERTIFY THAT I MEET THE CITY CHARTER REQUIREMENT OF LIVING WITHIN THE FLAGSTAFF CITY LIMITS AND HAVE READ AND UNDERSTAND THE RIGHT TO HAVE MY APPLICATION CONSIDERED IN A PUBLIC MEETING.

Applicant Signature

The City of Flagstaff is an Equal Opportunity/Affirmative Action Employer.

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

CITY OF FLAGSTAFF
APPLICATION TO SERVE ON A BOARD/COMMISSION

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

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

DATE: 1/24/14

BOARD/COMMISSION YOU WISH TO SERVE ON: Historic Preservation Commission

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

YOUR NAME: Josh Edwards HOME PHONE: 928-380-0373

HOME ADDRESS: 3631 N. Schevene Blvd., Flagstaff, AZ ZIP: 86004

MAILING ADDRESS (If Different from Above): _____

EMPLOYER: Cornerstone Environmental JOB TITLE: Archaeologist

BUS. PHONE: N/A CELL: 928-380-0373 E-MAIL geomorphjosh@gmail.com

PLEASE INDICATE PREFERRED TELEPHONE: ☐ HOME ☐ WORK ☒ CELL

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

I have been an archaeologist for over 20 years and have training and experience with the Section 106 process of the National Historic Preservation Act.

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

To contribute to the Flagstaff community and be involved in how historic properties are treated.

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

Applicant Signature

The City of Flagstaff is an Equal Opportunity/Affirmative Action Employer.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, Deputy City Clerk
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration of Appointments: Tourism Commission.

RECOMMENDED ACTION:

Make one Hospitality appointment to a term expiring January 2017.

Policy Decision or Reason for Action:

By making the above appointment, the Tourism Commission will be at full membership and will be able to continue meeting on a regular basis. There are three applications on file, they are as follows:

Ruben Abeyta (new applicant)
Janis Russell (new applicant)
Christopher Shields (new applicant)

Ruben Abeyta and Janis Russell are eligible for the Hospitality seat.

Financial Impact:

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

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1) Appoint one Commissioner: By appointing a member at this time, the Tourism Commission will be at full membership, allowing the group to meet and provide recommendations to the City Council.

2) Table the action to allow for further discussion or expand the list of candidates.

Background/History:

The Tourism Commission consists of nine citizens serving three-year terms; five of these citizens shall be from the hospitality industry. There is currently one hospitality seat available.

The mission of the Tourism Commission is to develop, promote, and maintain Flagstaff as a year-round visitor destination with professional visitor services that will benefit the community economically, environmentally, and socially.

Key Considerations:

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

Community Benefits and Considerations:

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

Community Involvement:

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

Expanded Options and Alternatives:

COUNCIL INTERVIEW TEAM: Councilmember Woodson and Vice Mayor Evans.

Attachments:

Tourism Roster
Tourism Authority
Tourism Applicant Roster
Tourism Applicant Matrix
Tourism Applications

City of Flagstaff, AZ

TOURISM COMMISSION MEMBERS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
Dullbson, Dino	**02/19/2013**	**01/16**	**02/16/2012**
HOSPITALITY General Manager/Owner/Econo Lodge 2480 E. Lucky Lane Flagstaff, AZ 86004 Cell Phone: 928-380-3450 Term: (1st 2/10 - 1/13; 2nd 1/13 - 1/16)			
Hasapis, James "Jamey", Chairman	**01/03/2012**	**01/15**	**03/18/2010**
AT-LARGE Owner/President/Muttley Krew Dog Biscuits, LLC 3235 S. Debbie St. Flagstaff, AZ 86001 Cell Phone: 928-310-8974 Term: (1st 11/07-1/09; 2nd 1/09 - 1/12; 3rd 1/12 - 1/15)			
Hockman, Jean	**09/21/2010**	**01/15**	**No**
AT-LARGE Retired 1970 Fox Hill Road Flagstaff, AZ 86004 Home Phone: 526-5813 Term: (1st 1/11-1/12; 2nd 1/12-1/15)			
Pappas, Lori	**02/19/2013**	**01/16**	**04/24/2008**
AT-LARGE Market Segment Manager/Suddenlink 902 N. Fox Hill Flagstaff, AZ 86004 Work Phone: 928-266-0693 Term: (1st 11/07 - 1/10; 2nd 1/10 - 1/13; 3rd 1/13-1/16)			

Patel, Minesh	**01/21/2014**	**01/17**	**03/12/2013**
HOSPITALITY Owner/JTT R&B LLC 2331 S. Rocking Horse Lane Flagstaff, AZ 86001 Cell Phone: 928-300-7115 Term: (1st 11/12 - 1/14; 2nd 1/14-1/17)			
Price, Mark	**01/03/2012**	**01/15**	**10/20/2011**
HOSPITALITY General Manager/Sonesta ES Suites - Flagstaff 3883 N. Steves Blvd. Flagstaff, AZ 86004 Cell Phone: 928-221-4283 Term: (1st 1/09-1/12; 2nd 1/12-1/15)			
Schindler, Kevin	**01/21/2014**	**01/16**	**No**
AT-LARGE Outreach Manager/Lowell Observatory 1400 W. Mars Hill Rd. Flagstaff, AZ 86001 Cell Phone: 928-607-1387 Term: (1st 1/14-1/16)			
Shields, Susan	**02/13/2014**	**01/17**	**No**
HOSPITALITY Director of Sales/Little America Hotel 2697 N. Sandstone Way Flagstaff, AZ 86004 Cell Phone: 928-637-5467 Term: (1st 2/14-1/17)			
Z-VACANT,		**01/17**	**No**
HOSPITALITY			

Staff Representative: **Heidi Hansen**

As Of: **July 01, 2014**

CHAPTER 2-13
TOURISM COMMISSION

SECTIONS:

2-13-001-0001 CREATION OF COMMISSION:
2-13-001-0002 COMPOSITION AND TERM OF OFFICE:
2-13-001-0003 COMPENSATION OF COMMISSION MEMBERS:
2-13-001-0004 ORGANIZATION:
2-13-001-0005 MEETINGS:
2-13-001-0006 DUTIES:

SECTION 2-13-001-0001 CREATION OF COMMISSION:

There is hereby established a City Tourism Commission. There shall be nine (9) voting members of said Commission who shall meet as hereinafter provided to consider and recommend programs for the expenditure of the portion of the Bed, Board and Booze Tax as designated by Ordinance No. 1532.

(Ord. No. 1579, Enacted, 08/02/88)
(Ord. 2001-27, Amended, 11/20/2001)

SECTION 2-13-001-0002 COMPOSITION AND TERM OF OFFICE:

The composition of the membership shall consist of:

A. A Councilmember designated by the City Council to serve, as a non-voting ex-officio member, during the Councilmember's term of office. (Ord. 1674, 9-18-90)

B. Five (5) members to be appointed by the City Council. Each member shall be from the hospitality industry and serve for three (3) years, on a staggered term basis.

C. Four (4) additional members to be appointed by the City Council, to serve for three (3) years, on a staggered term basis. (Ord. 1674, 9-18-90)

D. The City Manager or the Manager's designee shall be an ex-officio member of the Commission. The member shall have no voting privileges.

   The City Manager shall be responsible for staff support of the Tourism Commission.

   The Council shall fill vacancies for the unexpired term of any of the members of the Commission.

   A member's term in office shall commence with the first regular Commission meeting following the appointment and terminate with the

regular Commission meeting at which the successor takes office. No voting member of the Commission may be appointed to more than two (2) consecutive full terms. Said requirement shall not apply to the Councilmember representative.

(Ord. No. 1579, Enacted, 08/02/88); (Ord. No. 1674, Amended, 09/18/90); (Ord. 2001-27, Amended, 11/20/2001); (Ord. No. 2006-09, Amended 04/10/2006)

SECTION 2-13-001-0003 COMPENSATION OF COMMISSION MEMBERS:

Members of the Commission shall serve without compensation.

(Ord. No. 1579, Enacted, 08/02/88)

SECTION 2-13-001-0004 ORGANIZATION:

The Commission shall elect a Chairperson from among its members. The term of the Chairperson shall be one year with eligibility for reelection. Commission members may not serve more than two (2) consecutive terms as Chairperson. The Council representative shall not be eligible for the Chair.

(Ord. No. 1579, Enacted, 08/02/88)

SECTION 2-13-001-0005 MEETINGS:

A. The Commission shall hold at least one regular meeting per month, which shall at all times be open to the public. The time and place of said meeting shall be posted in accordance with the applicable Arizona State Statutes.

A quorum consisting of a minimum of five (5) voting members, shall be required to conduct business.

B. The Chairperson of the Commission shall meet with the Chairperson of the Economic Development Commission and the Beautification Commission at least once per month. The purpose of the meeting is for coordination of the three commissions only. The intent is not to create another commission. The meeting shall at all times be open to the public. The time and place of said meeting shall be posted in accordance with applicable Arizona State Statutes.

C. If a member is absent for three (3) meetings within a twelve month period, excused or unexcused, that member may be replaced by the City Council.

(Ord. No. 1579, Enacted, 08/02/88)
(Ord. 2001-27, Amended, 11/20/2001)

SECTION 2-13-001-0006 DUTIES:

The duties of the Commission shall be to:

A. Prepare a Five (5) Year Master Plan. The Five Year Plan shall be used as a guideline for future programs. Said Plan shall be presented to the Council prior to April 1 of each year.

B. Develop and present to City Council an Annual Plan outlining the Commission's program recommendations for the upcoming fiscal year. Said plan shall be presented to the Council prior to April 1 of each year.

C. Make recommendations to the City Council concerning the annual budgetary allocation of the tourism portion of the Bed, Board and Booze Tax, as outlined in Ordinance No. 1532, Section 4 A. 3.b.(1)-(7).

D. Perform any additional duties as determined by the City Council, related to tourism activities. (Ord. 1579, 8-2-88)

(Ord. No. 1579, Enacted, 08/02/88)

City of Flagstaff, AZ

TOURISM COMMISSION APPLICANTS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
Abeyta, Ruben			No
HOSPITALITY General Manager/Fairfield Inn by Marriott 2348 Keams Canyon Trail Flagstaff, AZ 86001 Cell Phone: 505-515-5006			
Russell, Janis			No
Director of Sales/Doubltree by Hilton Flagstaff 1074 W. Deadwood Ct. Flagstaff, AZ 86005 Work Phone: 928-773-8804			
Shields, Christopher			No
AT-LARGE Director of Sales & Marketing/High Country Conference Center 2697 N. Sandstone Way Flagstaff, AZ 86004 Cell Phone: 928-203-6765			

Staff Representative: Heidi Hansen

As Of: July 02, 2014

Tourism Commission

Positions and Terms to be Filled

Applications Received From:	Incumbent	Hospitality Jan-17
Ruben Abeyta		
Janis Russell		
Christopher Shields		

	Indicates positions that the City Council can appoint the Applicant.
	Indicates that Applicant is not eligible for this position.

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CITY OF FLAGSTAFF
APPLICATION TO SERVE ON A BOARD/COMMISSION

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

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

DATE: 1/29/14

BOARD/COMMISSION YOU WISH TO SERVE ON: Tourism Commission

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

YOUR NAME: Ruben Abeyta HOME PHONE: 505-515-5006

HOME ADDRESS: 2348 Keams Canyon Trail ZIP: 86001

MAILING ADDRESS (If Different from Above):

EMPLOYER: Fairfield Inn by Marriott JOB TITLE: General Manager

BUS. PHONE: 928-773-1300 CELL: 505-515-5006 E-MAIL RubenA@SWHM.Com

PLEASE INDICATE PREFERRED TELEPHONE: ☐ HOME ☒ WORK ☒ CELL

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

See Attached

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

See Attached

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

Applicant Signature

The City of Flagstaff is an Equal Opportunity/Affirmative Action Employer.

My name is Ruben Abeyta and I lived in Flagstaff from 1987 to 2001. I have been in the Hotel and Hospitality business for 27 years in different capacities which include USA Rent-a car, Nava Hopi Tours, Little America Hotel, Hilton Hotels, and most recently the Fairfield brand of Marriott here in Flagstaff. While I was in Flagstaff I was involved in the creation of the Flagstaff Lodging and Restaurant Association from 1997 to 2001. I also served on the Tourism Commission board from 1998 to 2001 as Board Member and Chairperson from 2000- 2001. I left Flagstaff at the end of 2001 and moved to Elko Nevada to open a Hilton Garden Inn Hotel and develop a private RV Resort (Iron Horse RV Resort) Please refer below to my years outside of Flagstaff and the impact I had in community service.

COMMUNITY-RELATED:

- President, Elko Rotary Club
- Met with former President Jimmy Carter to raise $3K for Habitat for Humanity, as President of the Elko Rotary Club
- Elko County distribution of Dictionaries to Elko 3rd Graders for 5 years
- Johnny Appleseed Playground project, Elko
- Sponsor and volunteer, Ruby Mountain Balloon Festival
- Board Member, California Interpretive Center Project

AWARDS (Summary):

- Elko Area Chamber of Commerce Customer Service Award
- White House Secret Service Award
- Hispanic Businessman Recognition by the Governor of Nevada

AFFILIATIONS (Summary):

Elko Rotary Club (Past President)
Elko Area Chamber of Commerce
Elko Convention Center Board Member
Elko Economic Development Authority
Board Member + Chairperson of Lodging Committee and Marketing Committee, Elko Area Convention Center

My desire to serve the city of Flagstaff is to join the many people who would like to ensure that our Community stays safe, desirable and place we can call home. With this yearning in mind I am dedicated to the success of the Hospitality industry which plays a major role in the overall goal to make Flagstaff a Community we can be proud of.

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

CITY OF FLAGSTAFF
APPLICATION TO SERVE ON A BOARD/COMMISSION

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

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

DATE: 1-17-14

BOARD/COMMISSION YOU WISH TO SERVE ON: Tourism Commission

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

YOUR NAME: Janis Russell HOME PHONE: 928-699-9690

HOME ADDRESS: 1074 W. Deadwood Court ZIP: 86005

MAILING ADDRESS (If Different from Above):

EMPLOYER: DoubleTree by Hilton Flagstaff JOB TITLE: Director of Sales

BUS. PHONE: 928 773 8804 CELL: 928 699 9690 E-MAIL: janis.russell@hilton.com

PLEASE INDICATE PREFERRED TELEPHONE: ☐ HOME ☒ WORK ☐ CELL

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

My 12 years in Flagstaff in the Hotel & Hospitality Industry and my interest in making Flagstaff's tourism revenue grow will be an asset to this Commission. I have a personal interest in seeing Route 66 continue to be a focal part of the city's draw for domestic and international travellers. I am an active Chamber member and currently serve on the Board of Directors for Shadows Foundation. I also volunteer for the American Cancer Society.

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

To be more in tune with how the city and CVB are managing tourism & advertising and working with the stakeholders to drive tourism to Flagstaff restaurants, hotels and attractions. My experience in hospitality sales will allow me to give valuable input to the Commission and its partners.

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

Janis Russell

Applicant Signature

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CITY OF FLAGSTAFF
APPLICATION TO SERVE ON A BOARD/COMMISSION

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

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

DATE: 01/17/2014

BOARD/COMMISSION YOU WISH TO SERVE ON: Tourism Commission

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

YOUR NAME: Christopher J. Shields **HOME PHONE:** 928-203-6765

HOME ADDRESS: 2697 N. Sandstone Way, Flagstaff, AZ **ZIP:** 86004

MAILING ADDRESS (If Different from Above): same

EMPLOYER: High Country Conference Center **JOB TITLE:** Director of Sales and Marketing

BUS. PHONE: 928-523-7778 **CELL:** 928-203-6765 **E-MAIL** christopher.shields@sodexo.com

PLEASE INDICATE PREFERRED TELEPHONE: ☐ HOME ☐ WORK ☒ CELL

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

I have been in the tourism and hospitality business for 22 years and have held positions of varying responsibilities. Having lived in Flagstaff for three years I have grown to love the community and would lik to help our business grow. I also was the title sponsor for the "Walk for a Change" event here in Flagstaff and look forward to continuing our relationship with them.

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

Being a hospitality professional my dream is to be an Integral part of growing the tourism business in Flagstaff. I have a strong passion for Flagstaff and for the people in our community.

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

Chris J. Shields

Applicant Signature

The City of Flagstaff is an Equal Opportunity/Affirmative Action Employer.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, Deputy City Clerk
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration of Appointments: Beautification & Public Art Commission (BPAC).

RECOMMENDED ACTION:

Make one Hospitality appointment to a term expiring June 2015.

Policy Decision or Reason for Action:

By making the above appointment, the Beautification & Public Art Commission will be at full membership and will be able to continue meeting on a regular basis. There are three applications on file as follows:

Dawn Kish (new applicant)
Anne Mead Soper (new applicant)
Jeremy Meyer (new applicant)

Jeremy Meyer is eligible for the Hospitality seat.

Financial Impact:

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

Connection to Council Goal:

Diversity of arts, culture and educational opportunities.

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1) Appoint one Commissioner: By appointing a member at this time, the Beautification & Public Arts Commission will be at full membership, allowing the group to meet and provide recommendations to the City Council.

2) Table the action to allow for further discussion or expand the list of candidates.

Background/History:

The Beautification & Public Art Commission consists of nine citizens serving three-year terms. One of the positions represents the hospitality industry, two positions represent members of the arts community, one position represents the design professional industry, and five are at-large seats. There is currently one hospitality seat available.

The Beautification and Public Art Commission recommends expenditures from the BBB beautification fund and public art portion of the BBB arts and science fund. It studies and recommends community beautification projects ranging from landscaping and irrigation, signs and billboards, buildings, facilities, streetscapes, gateways, the purchase and installation of public art projects within beautification projects, property acquisition for beautification and/or public art projects, and neighborhood-initiated projects, to mention a few.

Key Considerations:

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

Community Benefits and Considerations:

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

Community Involvement:

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

Expanded Options and Alternatives:

COUNCIL INTERVIEW TEAM: Councilmember Brewster and Councilmember Oravits.

Attachments:

BPAC Roster
BPAC Authority
BPAC Applicant Roster
BPAC Applicant Matrix
BPAC Applications

City of Flagstaff, AZ

BEAUTIFICATION AND PUBLIC ART COMMISSION MEMBERS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
Averbeck, George	**05/20/2014**	**6/17**	**No**
ARTS COMMUNITY Glass Artist/Self 429 E. David Flagstaff, AZ 86001 Cell Phone: 928-600-1158 Term: (1st 5/14-6/17)			
Chambers, Robert	**12/04/2012**	**06/15**	**11/04/2013**
DESIGN PROFESSIONAL Illustrator/Designer/Self 103 N. Bonito #1 Flagstaff, AZ 86001 Term: (1st 12/12-6/15)			
Doyle, Anne, Vice Chairman	**05/20/2014**	**06/17**	**10/20/2011**
AT LARGE Heritage Program Manager/Museum of Northern Arizona 508 W. Tombstone Flagstaff, AZ 86001 Cell Phone: 928-607-2066 Term: (1st 6/11 - 6/14; 2nd 6/14-6/17)			
Foster, Vicky	**12/04/2012**	**06/15**	**10/20/2011**
AT LARGE Instructor/Central AZ College 2415 N. Kramer Street Flagstaff, AZ 86001 Cell Phone: 928-607-5298 Term: (1st 6/09 - 6/12; 2nd 6/12-6/15)			

Gardner, Emma	**10/01/2013**	**06/16**	**03/12/2013**
ARTS COMMUNITY Artist/Self 216 S. Beaver St. Flagstaff, AZ 86001 Home Phone: 928-607-5039 Term: (1st 12/12-6/13; 2nd 6/13-6/16)			
Hasenbank, Jason	**10/01/2013**	**06/16**	**11/04/2013**
AT LARGE Owner/Off The Wall Entertainment 816 N. Kendrick Sr. Flagstaff, AZ 86001 Home Phone: 928-607-3001 Term: (1st 10/13 - 6/16)			
Knorr, Jeff	**10/01/2013**	**06/16**	**11/04/2013**
AT LARGE President/JKC Inc General Contractor 6744 Anazazi Flagstaff, AZ 86004 Home Phone: 928-606-4378 Term: (1st 10/13 - 6/16)			
Z-VACANT,		**06/15**	**No**
HOSPITALITY			

Staff Representative: **Karl Eberhard**

As Of: **July 01, 2014**

CHAPTER 2-14
BEAUTIFICATION AND PUBLIC ART COMMISSION

SECTIONS:

2-14-001-0001 CREATION OF COMMISSION:
2-14-001-0002 COMPOSITION AND TERM OF OFFICE:
2-14-001-0003 COMPENSATION OF COMMISSION MEMBERS:
2-14-001-0004 ORGANIZATION:
2-14-001-0005 MEETINGS:
2-14-001-0006 DUTIES:

SECTION 2-14-001-0001 CREATION OF COMMISSION:

There is hereby established a City Beautification and Public Art Commission. There shall be nine (9) voting members of said Commission who shall meet as hereinafter provided to consider and recommend programs for the expenditure of the portions of the Bed, Board and Booze Tax as designated by City Code, Title 3, Chapter 6, Section 3-06-001-0004.

(Ord. No. 1580, Enacted, 08/02/88; Ord. No. 2006-15, Amended, 05/16/2006; Ord. No. 2007-07, Amended, 02/06/2007))

SECTION 2-14-001-0002 COMPOSITION AND TERM OF OFFICE:

The composition of the membership shall consist of:

A. A Councilmember designated by the City Council to serve, as a non-voting, ex officio Council liaison, during the Councilmember's term of office. (Ord. 1674, 9-18-90); (Ord. 2006-15, 05/16/2006)

B. One (1) member to be from the hospitality industry, appointed by the City Council. Said member shall serve a three (3) year term.

C. Two voting members from the arts community, including, but not limited to artists, craftsmen, gallery owners, arts educator, art historian, art curator, art administrator.

D. One voting member who is a design professional, including, but not limited to, architects, landscape architect, urban planner, or graphic designer.

E. Five (5) additional members appointed by the City Council. (Ord. No. 2006-15, (05/16/2006); (Ord. No. 2007-04, Amended 02/06/07)

Each member shall serve three-year terms, on a staggered basis. A member's term in office shall commence with the first regular Commission meeting following the appointment and terminate with the regular Commission meeting at which the successor takes office. No voting

member of the Commission may be appointed to more than two (2) full consecutive terms.

(Ord. No. 1580, Enacted, 08/02/88; Ord. No. 1674, Amended, 09/18/90; Ord. No. 2006-15, Amended 05/16/2006); (Ord. No. 2007-04, Amended 02/06/07)

SECTION 2-14-001-0003 COMPENSATION OF COMMISSION MEMBERS:

Members of the Commission shall serve without compensation.

(Ord. No. 1580, Enacted, 08/02/88)

SECTION 2-14-001-0004 ORGANIZATION:

The Commission shall elect a Chairperson from among its members. The term of the Chairperson shall be one year with eligibility for reelection. Commission members may not serve more than two (2) consecutive terms as Chairperson. The Council representative shall not be eligible for the Chair.

(Ord. No. 1580, Enacted, 08/02/88)

SECTION 2-14-001-0005 MEETINGS:

A. The Commission shall hold at least one regular meeting per month, which shall at all times be open to the public, the time and place of said meeting shall be posted in accordance with the applicable Arizona State Statutes.

B. A quorum consisting of a minimum of five (5) voting members shall be required to conduct business.

(Ord. No. 1580, Enacted, 08/02/88; Ord. No. 2006-15, Amended 05/16/2006)

SECTION 2-14-001-0006 DUTIES:

The duties of the Commission shall be to:

A. The Commission shall be responsible for preparing a Five (5) Year Plan. The Five Year Plan shall be used as a guideline for future programs. Said Plan shall be presented to the Council prior to April 1 of each year.

B. Develop and present to City Council an Annual Plan outlining the Commission's program recommendations for the upcoming fiscal year. Said plan shall be presented to the Council prior to April 1 of each year.

C. Make recommendations to the City Council concerning the annual budgetary allocation of the beautification and public art portions of the Bed, Board and Booze Tax and other monies as deemed appropriate by

the City Council, as outlined in City Code, Section 3-06-001-0004, to include, but not be limited to:

1. Purchase, installation or modification of landscaping and irrigation systems;

2. Purchase, removal or modification of billboards and nonconforming signs;

3. Beautification of buildings and facilities, streetscapes and gateways;

4. Purchase and installation of public art projects;

5. Purchase or lease of easements or property necessary for beautification projects.

D. Make recommendations to the City Council for public art projects by:

1. Reviewing and defining potential public art projects and writing project descriptions.

2. Determining the artist selection method and writing the call to artists for public art projects.

3. Evaluating public art proposals for recommendation to the City Council.

4. Facilitating display of local art in public facilities.

Oed. No. 2006-15, Amended, 05/16/2006)

E. Perform any additional duties as determined by the City Council, related to beautification and public art activities. (Ord.1580, 8-2-88)

(Ord. No. 1580, Enacted, 08/02/88; Ordinance No. 2006-15, Amended, 05/16/2006)

City of Flagstaff, AZ

BEAUTIFICATION AND PUBLIC ART COMMISSION APPLICANTS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
Kish, Dawn Photographer/Self 1810 N. San Francisco Flagstaff, AZ 86001 Cell Phone: 928-380-4748			No
Mead Soper, Anne DESIGN PROFESSIONAL Architect/UPDESIGN Studio 1111 W. Lower Coconino Ave., Unit B Flagstaff, AZ 86001 Cell Phone: 520-780-8746			No
Meyer, Jeremy HOSPITALITY Rendezvous Manager/Hotel Monte Vista 2113 E. Dortha Ave Flagstaff, AZ 86004 Home Phone: 479-445-4785			No

Staff Representative: **Karl Eberhard**

As Of: **July 02, 2014**

Beautification & Public Art Commission

Positions and Terms to be Filled

Applications Received From:	Incumbent	Hospitality Jun-15
Dawn Kish		
Anne Mead Soper		
Jeremy Meyer		

	Indicates positions that the City Council can appoint the Applicant.
	Indicates that Applicant is not eligible for this position.

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Wednesday, January 22, 2014 6:03 PM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

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

Application to Serve on a Board/Commission			
Please note that this information is public information.			
Date:*	1/22/2014		
Board/Commission you wish to serve on:*	Beautification and Public Art		
If applicable, type of seat for which you are qualified:	member		
Your Information			
Name:*	Dawn Kish	Home Phone:*	928-380-4748
Home Address:*	1810 N. San Francisco St.	Zip:*	86001
Mailing Address (If different from above):			
Employer:*	Self	Job Title:*	Photographer
Business Phone:		Cell:	928-380-4748
E-mail:*	dkish@dawnkishphotography.com		
Indicate preferred telephone:*	( ) Home ( ) Work	(X) Cell	

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
I am a freelance photographer and have been in business for the past 20 years. I have created photographs and design for local Flagstaff businesses like the Museum of Northern AZ, Grand Canyon National Park, NAU and the Flagstaff Visitors Bureau. For the past 5 years I have been an artist of the Trappings Art Show, as well as, the High Country Conference Center. I donate my time and my art work to local charity events to help improve their goals. ex: Whale Foundation, Palette to Palate (Coconino Community Collage), Grand Canyon Wildlands Council. I also teach photography workshops and always extend a hand to others who need advice in my field of work. When I was a young photographer, my mentor, Sue Bennett taught me to always give back to your community and I still have that belief.
Why do you want to serve on the board or commission you listed?
Flagstaff is my home and I love it. I grew up here. I love art too. I feel I can help with the beauty and the progressive future we have in Flagstaff.

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 1/22/2014

Board/Commission you wish to serve on:: Beautification and Public Art

If applicable, type of seat for which you are qualified:: member

Name:: Dawn Kish

Home Phone:: 928-380-4748

Home Address:: 1810 N. San Francisco St.

Zip:: 86001

Mailing Address (If different from above)::

Employer:: Self

Job Title:: Photographer

Business Phone::

Cell:: 928-380-4748

E-mail:: dkish@dawnkishphotography.com

Indicate preferred telephone:: Cell

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: I am a freelance photographer and have been in business for the past 20 years. I have created photographs and design for local Flagstaff businesses like the Museum of Northern AZ, Grand Canyon National Park, NAU and the Flagstaff Visitors Bureau. For the past 5 years I have been an artist of the Trappings Art Show, as well as, the High Country Conference Center. I donate my time and my art work to local charity events to help improve their goals. ex: Whale Foundation, Palette to Palate (Coconino Community Collage), Grand Canyon Wildlands Council. I also teach photography workshops and always extend a hand to others who need advice in my field of work. When I was a young photographer, my mentor, Sue Bennett taught me to always give back to your community and I still have that belief.

Why do you want to serve on the board or commission you listed?: Flagstaff is my home and I love it. I grew up here. I love art too. I feel I can help with the beauty and the progressive future we have in Flagstaff.

Additional Information:
Form submitted on: 1/22/2014 6:02:52 PM
Submitted from IP Address: 24.121.173.87
Referrer Page: No Referrer - Direct Link
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Thursday, May 02, 2013 1:51 PM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

Important Notice:
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Application to Serve on a Board/Commission

Please note that this information is a public record.

Date:*	05/02/13		
Board/Commission you wish to serve on:*	Beautification & Public Art Commission		
If applicable, type of seat for which you are qualified:	Design Professional		

Your Information

Name:*	Anne Mead Soper, RA	Home Phone:*	520-780-8746
Home Address:*	1111 W. Lower Coconino Ave. Unit B	Zip:*	86001
Mailing Address (If different from above):			
Employer:*	UPDESIGN studio	Job Title:*	Architect
Business Phone:		Cell:	520-780-8746
E-mail:*	mead.anne@gmail.com		
Indicate preferred telephone:*	( ) Home ( ) Work	(X) Cell	

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
My experience in architecture and design gives me the awareness to recognize areas in our community that could benefit greatly from city beautification efforts. My design knowledge, project management skills, and community connections would all be valuable assets for this Commission and would help bring steady creativity to its agenda.
Why do you want to serve on the board or commission you listed?
I would be honored to serve on the Beautification & Public Art Commission in Flagstaff because I grew up here. I attended FALA and it gave me an appreciation for the arts which eventually led me to pursue Architecture. I would like to give back to the community which laid the foundation for my career as an Architect, Entrepreneur, and community advocate.

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 05/02/13

Board/Commission you wish to serve on:: Beautification & Public Art Commission

If applicable, type of seat for which you are qualified:: Design Professional

Name:: Anne Mead Soper, RA

Home Phone:: 520-780-8746

Home Address:: 1111 W. Lower Coconino Ave. Unit B

Zip:: 86001

Mailing Address (If different from above)::

Employer:: UPDESIGN studio

Job Title:: Architect

Business Phone::

Cell:: 520-780-8746

E-mail:: mead.anne@gmail.com

Indicate preferred telephone:: Cell

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: My experience in architecture and design gives me the awareness to recognize areas in our community that could benefit greatly from city beautification efforts. My design knowledge, project management skills, and community connections would all be valuable assets for this Commission and would help bring steady creativity to its agenda.

Why do you want to serve on the board or commission you listed?: I would be honored to serve on the Beautification & Public Art Commission in Flagstaff because I grew up here. I attended FALA and it gave me an appreciation for the arts which eventually led me to pursue Architecture. I would like to give back to the community which laid the foundation for my career as an Architect, Entrepreneur, and community advocate.

Additional Information:
Form submitted on: 5/2/2013 1:51:18 PM
Submitted from IP Address: 24.121.232.204
Referrer Page: http://www.flagstaff.az.gov/index.aspx?NID=1886
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Monday, March 03, 2014 4:01 PM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

Important Notice:
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Application to Serve on a Board/Commission

Please note that this information is public information.

Date:*	03/03/14		
Board/Commission you wish to serve on:*	Public arts and beautification commission		
If applicable, type of seat for which you are qualified:			

Your Information

Name:*	Jeremy Meyer	Home Phone:*	4794454785
Home Address:*	2113 E Dortha Ave	Zip:*	86004
Mailing Address (If different from above):			
Employer:*	Hotel Monte Vista	Job Title:*	Rendezvous Manager
Business Phone:		Cell:	
E-mail:*	jeremy-meyer@excite.com		
Indicate preferred telephone:*	(X) Home ( ) Work	( ) Cell	

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
I've worked in the service industry in Flagstaff for almost 5 years. I grew up in an art family travelling the country for art shows. I've got an eye for good art and Bruce Aiken asked me to come aboard with this program.
Why do you want to serve on the board or commission you listed?
I care about how our city looks to residents as well as tourists, and would like to revitalize 4th street especially.

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 03/03/14

Board/Commission you wish to serve on:: Public arts and beautification commission

If applicable, type of seat for which you are qualified::

Name:: Jeremy Meyer

Home Phone:: 4794454785

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, Deputy City Clerk
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration of Appointments: Disability Awareness Commission.

RECOMMENDED ACTION:

Make one appointment to a term expiring March 2017.

Policy Decision or Reason for Action:

By making the above appointment, the Disability Awareness Commission will be at full membership. There are three applications on file and they are as follows:

James Dazhoni (new applicant)
Christina Leland (new applicant)
Shari Peralta (new applicant)

Financial Impact:

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

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1) Appoint one Commissioner: by appointing a member at this time, the Disability Awareness Commission will be at full membership, allowing the group to continue meeting to provide recommendations to the City Council.

2) Table the action to allow for further discussion or expand the list of candidates.

Background/History:

The Disability Awareness Commission consists of nine citizens serving three year terms. There is currently one vacant seats available.

This commission's goals are to expand educational opportunities; improve access to housing, buildings, and transportation; have greater participation in recreational, social, and cultural activities; encourage greater opportunity for employment; and expand and strengthen rehabilitative programs and facilities.

Key Considerations:

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

Community Benefits and Considerations:

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

Community Involvement:

INFORM: Board members and City staff have informed the community of these vacancies through word of mouth in addition to the posting on the City's website.

Expanded Options and Alternatives:

COUNCIL INTERVIEW TEAM: Vice Mayor Evans and Councilmember Brewster.

Attachments: DAC Roster
DAC Authority
DAC Applicant Roster
DAC Applications

City of Flagstaff, AZ

DISABILITY AWARENESS COMMISSION MEMBERS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
Barrett, Kathryn S.	**10/16/2012**	**03/15**	**03/15/2006**
Occupational Therapist/Flagstaff Medical Center 1926 Meadow Lark Drive Flagstaff, AZ 86001 Cell Phone: 928-890-7665 Term: 4th (1st-2/05-3/06, 2nd 3/06-3/09; 3rd 3/09-3/12)			
Gale, Debra	**05/06/2014**	**03/17**	**03/12/2013**
Coordinator/ResCare 1401 North 4th St. # 248 Flagstaff, AZ 86004 Cell Phone: 928-853-4730 Term: (1st 3/11 - 3/14; 2nd 3/14-3/17)			
Martinez, James	**05/06/2014**	**03/17**	**No**
Customer Service Rep/DES/DDD 4801 E. Snowshoe Way Flagstaff, AZ 86004 Work Phone: 928-773-4957 Term: (1st 5/13 - 3/14; 2nd 3/14-3/17)			
McGinlay, Liz	**12/18/2012**	**03/16**	**No**
VP Mission Advancement/Goodwill of Northern Arizona 5024 S. Topaz Rd Flagstaff, AZ 86001 Cell Phone: 928-699-0340 Term: (1st 12/12-3/16)			

Pfeil, Alida Residential Director/Quality Connections 2500 N. Center St. #2 Flagstaff, AZ 86004 Cell Phone: 928-607-1511 Term: (1st 12/12-3/16)	**12/18/2012**	**03/16**	**03/12/2013**
Randall, Russell Transition Facilitator/Flagstaff Unified School District 1199 W. Coy Dr. Flagstaff, AZ 86001 Cell Phone: 928-607-8410 Term: (1st 12/12 - 3/14; 2nd 3/14-3/17)	**05/06/2014**	**03/17**	**03/12/2013**
Tuck, Jim Retired 2829 N. Fremont Blvd. Flagstaff, AZ 86001 Home Phone: 928-773-9194 Term: (1st 3/07-3/09; 2nd 3/09-3/12; 3rd 3/12 - 3/15)	**10/16/2012**	**03/15**	**10/20/2011**
Verfuerth, Kaitlyn Owner/BTO Yogurt 1145 N. Flowing Springs Trail Flagstaff, AZ 86004 Cell Phone: 619-985-2793 Term: (1st 5/13-3/16)	**05/07/2013**	**03/16**	**No**
Z-VACANT,		**03/17**	**No**

Staff Representative: Denise Thompson

As Of: July 02, 2014

CHAPTER 2-18
COMMISSION ON DISABILITY AWARENESS

SECTIONS:

2-18-001-0001 COMMISSION ESTABLISHED, DUTIES
2-18-001-0002 MEMBERS AND TERMS:
2-18-001-0003 ORGANIZATION:

SECTION 2-18-001-0001 COMMISSION ESTABLISHED, DUTIES

There is hereby established the Commission on Disability Awareness. It shall be the Commission's duty to advise the City Council on all issues affecting the City of Flagstaff in relation to individuals with disabilities and shall include, but not be limited to:

A. Review of City compliance with the Americans with Disabilities Acts and the Arizonans with Disabilities Acts.

B. Review of City programs, activities, services and procedures to ensure all citizens are afforded equitable access to same.

C. Develop and transmit recommendations to the City Council to assist the City Council in developing policies to respond to the concerns and needs of those with disabilities.

D. Provide a public forum for identifying and discussing issues of interest relating to individuals who are disabled, physically or mentally, and to act as an information and referral group to assist individuals, organizations, and employers in efforts to aid members of the community toward greater independence and community interactions.

E. Increase community awareness of the real contributions made by citizens of the community who are disabled and to provide recognition for employers, employees, students, teachers, parents, and professionals who further the goals of disability awareness and inclusion. (Ord. 1780, 11/17/92)

(Ord. No. 1780, Enacted, 11/17/92)

SECTION 2-18-001-0002 MEMBERS AND TERMS:

The Commission shall consist of nine (9) members who shall be appointed by the City Council based upon the recommendations of the Committee/Commission. The Commission and the City Council will make every effort to recruit and appoint those individuals most directly involved and concerned with the obligations of the Americans with Disabilities Act. Commission members shall serve staggered, three-year terms.

A quorum shall consist of one more than half the membership of the commission.

In addition, the City Council may designate a Councilmember representative as a non-voting, ex-officio member of the Disability Awareness Commission who shall not count toward the quorum.

In the event a member's term expires, that member shall continue to serve until reappointed or replaced by the City Council. (Ord. 1833, 05/03/94)

(Ord. No. 1780, Enacted, 11/17/92; Ord. No. 1833, Amended, 05/03/94; Ord. No. 2007-31, Amended 07/23/2007)

SECTION 2-18-001-0003 ORGANIZATION:

A Chairperson and other Commission officers shall be selected by a majority vote of those members present at a meeting called for that purpose for a term of one (1) year. The Commission shall meet at such times, dates and locations as determined by the members except that the Chairperson may call a special meeting with not less than twenty-four (24) hours notice. All other rules of procedure shall be established by the members so long as said rules are consistent with State law, the City Charter, the Board and Commission Members' Handbook, and this Ordinance.

A Commission member who is absent from three consecutive regular meetings may have their remaining term terminated by a vote of the City Council upon recommendation of the Commission.

(Ord. 1780, 11/17/92); (Ord. No. 1780, Enacted, 11/17/92); (Ord. No. 2007-37, Amended 07/24/2007)

City of Flagstaff, AZ

DISABILITY AWARENESS COMMISSION APPLICANTS

NAME	APPOINTED	TERM EXPIRES	TRAINING COMPLETED
James, Dazhoni			**No**
Employment Specialist/Goodwill Industries Norther Arizona 2110 N. East St. Apt. C Flagstaff, AZ 86004 Cell Phone: 928-225-5697			
Leland, Christina			**No**
Handicap Facilitator 2532 N. Fourth St. #154 Flagstaff, AZ 86004 Cell Phone: 928-707-3114			
Peralta, Shari			**No**
Disabled 4895 E. Broken Bow Dr. Flagstaff, AZ 86004 Cell Phone: 916-850-5004			

Staff Representative: **Denise Thompson**

As Of: **July 02, 2014**

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Wednesday, January 30, 2013 12:59 PM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

RECEIVED
JAN 30 2013
BY: SS

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

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

Application to Serve on a Board/Commission

Please note that this information is a public record.

Date:*	1/30/2013
Board/Commission you wish to serve on:*	Commission on Disability Awareness
If applicable, type of seat for which you are qualified:	

Your Information

Name:*	Dazhoni James	Home Phone:*	9282255697
Home Address:*	2110 N. East St. Apt. C Flagstaff, AZ	Zip:*	86004
Mailing Address (If different from above):			
Employer:*	Goodwill Industries Northern Arizona	Job Title:*	Employment Specialist
Business Phone:	9285269188	Cell:	9282255697
E-mail:*	dazhoni.james@goodwillna.org		
Indicate preferred telephone:*	( ) Home ( ) Work	(X) Cell	

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
My experience and interest are applicable to this commission through the following: high knowledge of assisting individuals with disabilities to secure, enter and maintain employment, passion for promoting the lives of others, genuine desire to increase awareness and collaborate with others to actively fulfill the requirements of this board. I have worked passionately with Goodwill Industries of Northern Arizona as an employment specialist for 4.5 years. My role as an employment specialist requires a high level of expertise in strengthening and improving the lives of individuals with disabilities through expanding employment opportunities and addressing barriers in the workplace. Additionally, I work with employers to promote disability awareness in the workplace, discuss ADA (Americans with Disabilities) rights and work accommodations to ensure on the job success. Through my personal life experiences I have developed a lifelong passion for changing lives including individuals with disabilities. Being a member of the Navajo Nation and working through many barriers including alcoholism, domestic violence, high unemployment, poverty and minimal access to services for individuals with disabilities has sparked a lifelong passion to possess a solution focused attitude to changing lives through knowledge, awareness and advocacy. As a member of this commission I will collaborate with others, focus on creating more opportunities in employment and provide ongoing feedback and solutions to barriers that individuals with disabilities face including employment, access to programs, housing and other important initiatives.
Why do you want to serve on the board or commission you listed?
I desire to serve on this commission so I may collaborate with others from the Flagstaff community to creatively and innovatively increase the knowledge of individuals with disabilities, expand educational opportunities, participate in expanding employment; and strengthen rehabilitation programs. While serving on the board, I will bind my professional and personal experience to change lives through my service and creating awareness. I have seen this commission impact the Flagstaff community and want to be a part of the 'movement'. It has become my goal to help

others overcome barriers by identifying proactive solutions, establishing goals and an active plan to address each situation. Again, I wish to serve on this board to continue to strengthen the goals of the commission, to offer feedback and solutions to barriers, and to be an advocate for those in the Flagstaff community and beyond.

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 1/30/2013

Board/Commission you wish to serve on:: Commission on Disability Awareness

If applicable, type of seat for which you are qualified::

Name:: Dazhoni James

Home Phone:: 9282255697

Home Address:: 2110 N. East St. Apt. C Flagstaff, AZ

Zip:: 86004

Mailing Address (If different from above)::

Employer:: Goodwill Industries Northern Arizona

Job Title:: Employment Specialist

Business Phone:: 9285269188

Cell:: 9282255697

E-mail:: dazhoni.james@goodwillna.org

Indicate preferred telephone:: Cell

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: My experience and interest are applicable to this commission through the following: high knowledge of assisting individuals with disabilities to secure, enter and maintain employment, passion for promoting the lives of others, genuine desire to increase awareness and collaborate with others to actively fulfill the requirements of this board.

I have worked passionately with Goodwill Industries of Northern Arizona as an employment specialist for 4.5 years. My role as an employment specialist requires a high level of expertise in strengthening and improving the lives of individuals with disabilities through expanding employment opportunities and addressing barriers in the workplace. Additionally, I work with employers to promote disability awareness in the workplace, discuss ADA (Americans with Disabilities) rights and work accommodations to ensure on the job success.

Through my personal life experiences I have developed a lifelong passion for changing lives including individuals with disabilities. Being a member of the Navajo Nation and working through many barriers including alcoholism, domestic violence, high unemployment, poverty and minimal access to services for individuals with disabilities has sparked a lifelong passion to possess a solution focused attitude to changing lives through knowledge, awareness and advocacy.

As a member of this commission I will collaborate with others, focus on creating more opportunities in employment and provide ongoing feedback and solutions to barriers that individuals with disabilities face including employment, access to programs, housing and other important initiatives.

Why do you want to serve on the board or commission you listed?: I desire to serve on this commission so I may collaborate with others from the Flagstaff community to creatively and innovatively increase the knowledge of individuals with disabilities, expand educational opportunities, participate in expanding employment; and strengthen rehabilitation programs.

While serving on the board, I will bind my professional and personal experience to change lives through my service and creating awareness. I have seen this commission impact the Flagstaff community and want to be a part of the 'movement'. It has become my goal to help others overcome barriers by identifying proactive solutions, establishing goals and an active plan to address each situation.

Again, I wish to serve on this board to continue to strengthen the goals of the commission, to offer feedback and solutions to barriers, and to be an advocate for those in the Flagstaff community and beyond.

Additional Information:
Form submitted on: 1/30/2013 12:59:10 PM
Submitted from IP Address: 206.80.216.98
Referrer Page: http://www.flagstaff.az.gov/index.aspx?NID=1883
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Tuesday, March 25, 2014 2:42 PM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

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

Application to Serve on a Board/Commission

Please note that this information is public information.

Date:*	03/25/2014
Board/Commission you wish to serve on:*	Disability Awareness Commision
If applicable, type of seat for which you are qualified:	Member

Your Information

Name:*	Christina M. Leland	Home Phone:*	928-707-3114
Home Address:*	1580 E. Rt. 66, Flagstaff, AZ.	Zip:*	86001
Mailing Address (If different from above):	2532 N. Fourth St. # 154, Flagstaff		
Employer:*	Disabled	Job Title:*	Handicap Facilitor
Business Phone:	N/A	Cell:	928-707-3114
E-mail:*	handicap.facilitator@gmail.com		
Indicate preferred telephone:*	( ) Home ( ) Work	(X) Cell	

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
I am a City of Flagstaff resident. I am an active volunteer in community safety. I have dedicated my life to assisting others and striving to make our community a better place. I am a state & Federal certificated instructor and have authored two books; one on Public Safety and another on Handicap safety and I actively teach others.
Why do you want to serve on the board or commission you listed?
As a mobility impaired person, I have developed a keen insight into handicap and disability related issues and concerns. I want to help make a positive differance and serve on the Disability Awareness Commision to further my service to the community. I sincerely believe that I would be a ideal canidate for this position and would serve the City of Flagstaff to the best of my ability.

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 03/25/2014

Board/Commission you wish to serve on:: Disability Awareness Commision

If applicable, type of seat for which you are qualified:: Member

Name:: Christina M. Leland

Home Phone:: 928-707-3114

Home Address:: 1580 E. Rt. 66, Flagstaff, AZ.

Zip:: 86001

Mailing Address (If different from above):: 2532 N. Fourth St. # 154, Flagstaff

Employer:: Disabled

Job Title:: Handicap Facilitor

Business Phone:: N/A

Cell:: 928-707-3114

E-mail:: handicap.facilitator@gmail.com

Indicate preferred telephone:: Cell

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: I am a City of Flagstaff resident. I am an active volunteer in community safety. I have dedicated my life to assisting others and striving to make our community a better place. I am a state & Federal certificated instructor and have authored two books; one on Public Safety and another on Handicap safety and I actively teach others.

Why do you want to serve on the board or commission you listed?: As a mobility impaired person, I have developed a keen insight into handicap and disability related issues and concerns. I want to help make a positive differance and serve on the Disability Awareness Commision to further my service to the community. I sincerely believe that I would be a ideal canidate for this position and would serve the City of Flagstaff to the best of my ability.

Additional Information:
Form submitted on: 3/25/2014 2:42:07 PM
Submitted from IP Address: 75.226.15.242
Referrer Page: http://az-flagstaff3.civicplus.com/index.aspx?nid=994
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

Stacy Saltzburg

From: noreply@civicplus.com
Sent: Saturday, May 31, 2014 4:08 PM
To: Elizabeth Burke; Stacy Saltzburg
Subject: Online Form Submittal: Board/Commission Application

Categories: Green Category

If you are having problems viewing this HTML email, click to view a Text version.

Board/Commission Application

Important Notice:
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Application to Serve on a Board/Commission

Please note that this information is public information.

Date:*	05/31/2014
Board/Commission you wish to serve on:*	Disability Board
If applicable, type of seat for which you are qualified:	

Your Information

Name:*	Shari Peralta	Home Phone:*	916-850-5004
Home Address:*	4895 E Broken Bow Dr	Zip:*	86004
Mailing Address (If different from above):			
Employer:*	disabled	Job Title:*	none
Business Phone:		Cell:	916-850-5004
E-mail:*	shari729@live.com		
Indicate preferred telephone:*	( ) Home ( ) Work	(X) Cell	
Please indicate age group:*	( ) 18-34 (X) 35-54	( ) 55+	
Please indicate education:*	( ) High School ( ) College	(X) Post Graduate	
Number of years living in the Flagstaff area:*	on & off since 2000		

Background Information

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.
I am actively involved in the Diabetes Support Group via FMC; I assist with programs and speakers (I have type II) and was featured in Diabetes Together published by FMC and other organizations. I attend the diabetes support group meetings at North Country. I am on the Board of the MS Support Group and an active member, as I have MS. I attend the AZ Spinal Cord Injury support group and seminars since my MS lesions are in my spine. I also contribute to Second Chance in the form of craft items, presents & decorations for them to receive donations from the public buying my crafts. It is PT for my MS hands and good for the animals! Thus, if you include asthma I've had all my life, I have the 'trifecta' of chronic illnesses. I have had to learn to deal with all three diseases - a difficult balance indeed.
Why do you want to serve on the board or commission you listed?
Although my JD is in California law, I was not able to take the 3 day Bar exam once the MS hit me 2010. But I do have a legal background which provide a unique view into the disabled world, both from being disabled due to the MS and a legal perspective. I have actively involved myself into several groups as listed above, trying to assist the community the best that I can. I think having MS and diabetes as my daily challenges qualify me to assist the Flagstaff community even further and I think Jim Tuck would vouge for that. I am permanently disabled and thus have the time to commit to assisting however I can.

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

* indicates required fields.

The following form was submitted via your website: Board/Commission Application

Date:: 05/31/2014

Board/Commission you wish to serve on:: Disability Board

If applicable, type of seat for which you are qualified::

Name:: Shari Peralta

Home Phone:: 916-850-5004

Home Address:: 4895 E Broken Bow Dr

Zip:: 86004

Mailing Address (If different from above)::

Employer:: disabled

Job Title:: none

Business Phone::

Cell:: 916-850-5004

E-mail:: shari729@live.com

Indicate preferred telephone:: Cell

Please indicate age group:: 35-54

Please indicate education:: Post Graduate

Number of years living in the Flagstaff area:: on & off since 2000

Please explain how your community activities and other relevant experience/interests are applicable to this board or commission.: I am actively involved in the Diabetes Support Group via FMC; I assist with programs and speakers (I have type II) and was featured in Diabetes Together published by FMC and other organizations. I attend the diabetes support group meetings at North Country. I am on the Board of the MS Support Group and an active member, as I have MS. I attend the AZ Spinal Cord Injury support group and seminars since my MS lesions are in my spine. I also contribute to Second Chance in the form of craft items, presents & decorations for them to receive donations from the public buying my crafts. It is PT for my MS hands and good for the animals! Thus, if you include asthma I've had all my life, I have the 'trifecta' of chronic illnesses. I have had to learn to deal with all three diseases - a difficult balance indeed.

Why do you want to serve on the board or commission you listed?: Although my JD is in California law, I was not able to take the 3 day Bar exam once the MS hit me 2010. But I do have a legal background which provide a

unique view into the disabled world, both from being disabled due to the MS and a legal perspective. I have actively involved myself into several groups as listed above, trying to assist the community the best that I can. I think having MS and diabetes as my daily challenges qualify me to assist the Flagstaff community even further and I think Jim Tuck would vouge for that. I am permanently disabled and thus have the time to commit to assisting however I can.

Additional Information:
Form submitted on: 5/31/2014 4:07:59 PM
Submitted from IP Address: 24.121.14.235
Referrer Page: No Referrer - Direct Link
Form Address: http://az-flagstaff3.civicplus.com/Forms.aspx?FID=166

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, Deputy City Clerk
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration and Action on Liquor License Application: Danny Thomas, "New Jersey Pizza Company", 110 S. San Francisco, St. C., Series 12 (restaurant), New License.

RECOMMENDED ACTION:

Hold the Public Hearing
The City Council has the option to:
1) Forward the application to the State with a recommendation for approval;
2) Forward the application to the State with no recommendation; or
3) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

Policy Decision or Reason for Action:

Danny Thomas is the agent for a new Series 12 (restaurant) liquor license for New Jersey Pizza Company.

Financial Impact:

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

Connection to Council Goal:

Effective governance (Regulatory action)

Has There Been Previous Council Decision on This:

Not applicable.

Options and Alternatives:

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

Background/History:

An application for a new Series 12 liquor license was received from Danny Neal for New Jersey Pizza Company.

A background investigation performed by Sgt. Matt Wright of the Flagstaff Police Department resulted in a recommendation for approval.

A background investigation performed by Tom Boughner, Code Compliance Manager resulted in no active code violations being reported.

Sales tax and licensing information is currently being reviewed by Ranbir Cheema, Tax, Licensing & Revenue Manager, who is working through a few issues with the applicant and will issue a final recommendation at the time of the final agenda.

Key Considerations:

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

A Series 12 license allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

The deadline for issuing a recommendation on this application is July 30, 2014.

The applicant is not required to provide the distance between the applicant’s business and the nearest church or school for government; and the State does not require a geological map or list of licenses in the vicinity for any license series.

Expanded Financial Considerations:

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

Community Involvement:

The application was properly posted on June 20, 2014.

No written protests have been received to date.

Expanded Options and Alternatives:

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

Attachments: New Jersey - Letter to Applicant
Hearing Procedures
Series 12 Description
New Jersey - PD Memo
New Jersey - Code Memo

OFFICE OF THE CITY CLERK

July 2, 2014

New Jersey Pizza Company
Attn: Danny Thomas
P.O. Box 152
Flagstaff, AZ 86002

Dear Mr. Thomas:

Your application for a Series 12 new liquor license for New Jersey Pizza Company at 110 S. San Francisco St., Ste. C, was posted on June 20, 2014. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, July 15, 2014 which begins at 4:00 p.m.**

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

The twenty-day posting period for your liquor license application is set to expire on July 11, 2014 and the application may be removed from the premises at that time.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy Saltzburg
Deputy City Clerk

Enclosure

City of Flagstaff

Liquor License Application
Hearing Procedures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

License Types: Series 12 Restaurant License

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

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

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

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

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

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

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

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

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

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

MEMORANDUM

Memo # 14-066-01

TO: **Chief Kevin Treadway**

FROM: **Sgt. Matt Wright**

DATE: **June 27, 2014**

RE: **LIQUOR LICENSE APPLICATION – SERIES 12- FOR "New Jersey Pizza"**

On June 27, 2014, I initiated an investigation into an application for a series 12 (restaurant) liquor license filed by Danny Thomas (Agent) on behalf of the owners New Jersey Pizza, Marco Agostini and Jamin Mareck-Loftus. Marco Agostini and Jamin Mareck-Loftus are also listed on the application. New Jersey Pizza is located at 110 S. San Francisco #C. This is an application for the new series 12 license #12033362.

I conducted a query through local systems and public access on Marco Agostini and Jamin Mareck-Loftus. I found Marco had been arrested in 2008 for failing to appear on a collection hearing. Marco was also arrested in 2012 for disorderly conduct. Marco plead guilty to the charge and entered a deferred prosecution program which resulted in the in the charges being dropped. Jamin was found to have been arrested in 2008 for carrying a concealed weapon (knife) the charge was later dismissed. I spoke with Danny Thomas who stated he is the agent on the license for administrative purposes only and Marco Agostini and Jamin Mareck-Loftus the owners would be operating the day to day operations. Marco Agostini and Jamin Mareck-Loftus have not taken the mandatory liquor law training course but planned to prior to the issuance of the license. No liquor law violations could be located for Marco Agostini and Jamin Mareck-Loftus as this will be their first liquor license.

As a result of this investigation, I can find no reason to oppose this series 12 liquor license application. Recommendation to Council would be for approval.

Planning and Development Services Memorandum

July 2, 2014

TO: Stacy Saltzburg, Deputy City Clerk

THROUGH: Roger E. Eastman, AICP, Comprehensive Planning and Code Administrator

FROM: Tom Boughner, Code Compliance Mgr.

RE: Application for Liquor License #12033362
110 South San Francisco Street, # C, Flagstaff, Arizona 86001
Assessor's Parcel Number 103-08-006
Danny Thomas, agent, on behalf of New Jersey Pizza Company

This application is a request for a new Series #12(Restaurant) from Danny Thomas, applicant on behalf of New Jersey Pizza Company, located in the Community Commercial district. This district allows for restaurant liquor sales.

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

This liquor license is for approval.

City of Flagstaff Web Map

New Jersey Pizza Co.

Wed Jul 2 2014 03:38:25 PM.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Andy Wagemaker, Revenue Director

Co-Submitter: Candace Schroeder, Senior Procurement Specialist

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Acceptance of Bid: 2014-79 for ~~Neptune~~ Utility Water Meters ***(Purchase of water meters from HD Supply Waterworks Group, Inc.)***

RECOMMENDED ACTION:

Accept bid from HD Supply Waterworks Group, Inc. of Flagstaff, Arizona, for the purchase of Neptune Water Meters in the amount of approximately $225,000 annually. Authorize the City Manager to execute the necessary documents

Policy Decision or Reason for Action:

The City has not been under a contract with a water meter vendor for the past year. The prior water meter manufacturer the City purchased from, Elster, stopped providing mechanical meters effective June 2013. At that time, staff opted to purchase water meters for the next fiscal year through Badger Meter, Inc., a leading water meter manufacturer, with the intent of securing a contract with a meter vendor in the coming year. The acceptance of this bid is the culmination of those efforts to secure a guaranteed price and supply from a water meter manufacturer. ~~All other bids were rejected as non-responsive for failure to meet pricing or meter specifications.~~

Subsidiary Decision Points: None.

Financial Impact:

The City is currently purchasing water meters, as needed, without a formal contract in place. This contract will allow the City to purchase water meters under a formal contract, with a guaranteed pricing structure. This item is budgeted every year as part of the ongoing meter replacement/maintenance program. The total budget is $350,000 which provides for both the meters and the water communication modules.

Connection to Council Goal:

Repair, replace and maintain infrastructure (Water Meter Equipment). The water meters are a key component for accurate water meter reads.

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

1) Accept the bid from the lowest responsive and responsible bidder HD Supply Waterworks Group, Inc.
2) Do not accept the recommended bid from HD Supply Waterworks Group, Inc. and continue to purchase water meters without a contract on an as needed basis.

Background/History:

The City has approximately 20,000 water meters that are billed on a monthly basis. The City utilizes many different water meter sizes (3/4" up to 10") and technologies (nutating disc, compound, turbine, etc.) to deliver water to City residents and businesses. The recommended bid will cover approximately 99.5% of all water meters the City currently purchases. The small number not covered by the bid are ordered on an as needed basis for specific applications. Examples of special applications include: fire service meters and meters that require specific test plugs for maintenance.

The recommended bid with HD Supply Waterworks Group, Inc. will allow the City to continue to use Itron meter reading technology. Neptune water meters tie seamlessly into the Itron water communication modules and software. This will allow the City to continue the transition to automated meter reading (AMR), or drive-by reading, and advanced metering infrastructure (AMI), or fixed network reading.

In addition, HD Supply Waterworks Group, Inc. has a warehouse location within the City of Flagstaff. This will allow a quicker turnaround from the vendor as vendor inventory will be kept close to the City's warehouse.

Key Considerations:

This contract will allow the City to purchase water meters under a formal contract through HD Supply Waterworks Group, Inc.. The Neptune Water Meters are fully compatible with the City of Flagstaff's Itron water meter reading system.

Expanded Financial Considerations:

None.

Community Benefits and Considerations:

This contract will allow the City to purchase water meters and have a formal contract/pricing structure in place. A formal contract will guarantee delivery of essential components for the water system and ensure that there are minimal impacts to customers, such as misreads and incorrect billings, from failed equipment that the City is unable to replace in a timely manner.

Community Involvement:

Inform.

Expanded Options and Alternatives:

Attachments: Bid No. 2014-79 Documents

CITY OF FLAGSTAFF BID TABULATION

DATE: 05/22/2014 **BID/PROJECT NO:** 2014-79 **BID/PROJECT NAME:** Water Meters

CONDUCTED BY: Patrick Brown **ANTICIPATED COUNCIL AWARD DATE:**

WITNESS: Di Ann Butkay **ENGINEERS ESTIMATE:** $

VENDOR		ADDENDUM 1			¾ X ¾ Sizes Offered	1" Sizes Offered	1.5 " Sizes Offered	2" Sizes Offered	3" Sizes Offered	4" Sizes Offered
Zenner Performance Meter		✓			78.25	109.11	258.64	295.97	293.33	308.77
Badger Meters					122.00	182.00	307.00	429.00	997.62	1443.11
Mountain States Pipe & Safety					114.35	146.05	353.59	474.70	octave 1447.05	octave 1933.28
HD Waterworks compound					94.50	156.00	318.00	compound 1055.00	compound 1638.00	compound 2083.00
Dana Kepner					167.40	210.00	421.20	577.81	958.85	1839.65
					5" Sizes Offered	6" Sizes Offered	Sizes Offered	Sizes Offered	Freight	Discount
Zenner Performance Meter					Ø	433.20	8" 534.43	10" 603.46	FOB	
Badger Meters					Ø	3405.09	8" 4141.15	10" 6204.71	Ø	
Mountain States Pipe & Safety					Ø	octave 3081.53			Ø	
HD Waterworks compound					Ø	compound 3666.00	—	—	Ø	
Dana Kepner					Ø	3290.—	8" 5562.00	10" 7243.00	Ø	

CITY OF FLAGSTAFF BID TABULATION

DATE: 05/22/2014 **BID/PROJECT NO:** 2014-79 **BID/PROJECT NAME:** Water Meters

CONDUCTED BY: Patrick Brown **ANTICIPATED COUNCIL AWARD DATE:**

WITNESS: Di Ann Butkay **ENGINEERS ESTIMATE:** $

VENDOR		ADDENDUM 1			¾ X ¾ Sizes Offered	1" Sizes Offered	1.5 " Sizes Offered	2" Sizes Offered	3" Sizes Offered	4" Sizes Offered
Zenner Performance Meter										
Badger Meters										
Mountain States Pipe & Safety (2)					114 35	146 05	353 59	464 70	Turbine 591 25	Turbine 795 87
HD Waterworks Turbine					108 25	156 00	318 00	412 00	Turbine 815 00	Turbine 1055 00
Dana Kepner					accustream 97 55	accustream 134 50				
					5" Sizes Offered	6" Sizes Offered	Sizes Offered	Sizes Offered	Freight	Discount
Zenner Performance Meter										
Badger Meters										
Mountain States Pipe & Safety (2)					Ø	Turbine 1721 23	—	—	—	
HD Waterworks Turbine					Ø	Turbine 1977 00	8" Turbine 2944 —	10" Turbine 4444 00	—	
Dana Kepner										

CITY OF FLAGSTAFF BID TABULATION

DATE: 05/22/2014 **BID/PROJECT NO:** 2014-79 **BID/PROJECT NAME:** Water Meters

CONDUCTED BY: Patrick Brown **ANTICIPATED COUNCIL AWARD DATE:**

WITNESS: Di Ann Butkay **ENGINEERS ESTIMATE:** $

VENDOR		ADDENDUM 1			¾ X ¾ Sizes Offered	1" Sizes Offered	1.5 " Sizes Offered	2" Sizes Offered	3" Sizes Offered	4" Sizes Offered
Zenner Performance Meter										
Badger Meters										
Mountain States Pipe & Safety (3)					114 35	146 05	353 59	474 70	Compound 1932 88	Compound 2475 93
HD Waterworks										
Dana Kepner										
					5" Sizes Offered	6" Sizes Offered	Sizes Offered	Sizes Offered	Freight	Discount
Zenner Performance Meter										
Badger Meters										
Mountain States Pipe & Safety (3)					~~0~~	Compound 4425 39	—	—	—	
HD Waterworks										
Dana Kepner										

CITY OF FLAGSTAFF
UTILITY WATER METERS
BID 2014-79
SPECIFICATIONS/REQUIREMENTS OF BID

The City of Flagstaff intends to establish a contract for the purchase of Utility Water Meters for the City of Flagstaff Utilities Water Distribution department as specified herein.

The City reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the City.

The bidder shall indicate the bidders compliance with a "Yes" or non-compliance with a "No" for each line item specification. Any space left blank shall be considered non-compliance. Any deviations from the specifications must be clearly cited in writing by the bidder, but no deviation below minimum specifications will be accepted. If quoting as specified on an item, indicate in the space, "As Specified".

SPECIFICATIONS **Utility Water Meters**	**COMPLY** YES OR NO	**OFFERED** *i.e.; size, weight, type, etc.*
Low lead meters	YES	100% - LEAD FREE
Direct/straight read mechanical registers with absolute encoder technology	YES	PRO-READ REGISTER
Measurement to the 10 gallons.	YES	10 - GALLON
Outfitted with 5 foot Itron quick connects for Itron ERT's.	YES	6 - FT ERT CONNECTOR
Serial numbers stamped onto the register lid.	YES	WITH LID & SERIAL #
Meter size, model, registration, and date of manufacture printed on the register dial face.	YES	IN REGISTER FACE
Registers must affix to the meter body with a tamper proof mechanism.	YES	TAMPER PROOF REGISTER PIN
The bottom plate that attaches to the meter case shall brass/bronze.	YES	BRONZE BOTTOM
Bolts that attach the bottom plate to the meter case shall be stainless steel.	YES	302 STAINLESS STEEL
Meters may not utilize oscillating piston technology.	YES	
Meters must utilize nu-tating disc technology, if applicable.	YES	NUTATING DISC
Meters that utilize technology other than nu-tating disc must have the technology noted on the bid	YES	
I.E. turbine, compound, electromagnetic, etc.	YES	TURBINE, COMPOUND, PD
All meters 1.5" and larger shall be equipped with outlet test ports.	YES	1½-2" T-10 HAVE TEST PORTS 2"-10 - HPT TURBINES - NO TEST PORTS 2"-8" TRU-FLO COMPOUNDS - HAVE TEST POR

Meter deliveries must include an inventory upload file that the City is able to upload into its meter inventory system.	YES	
Application of minimum AWWA standards.	YES	
Include spec sheets for each meter in the final bid.	YES	PRODUCT SHEETS
Lay length requirements for meters up to 2" are as follows: ¾" by ¾" = 7 ½" 1" =10 ¾" 1.5" =13" 2" =17" For meters over 2", please note the lay length in the bid document.	YES	
Annual quantities are estimates only and may vary per year.		
¾" by ¾" Estimated Annual Quantity: 1200		
1" Estimated Annual Quantity: 50		
1.5" Estimated Annual Quantity: 50		
2" Estimated Annual Quantity: 50		
3" Estimated Annual Quantity: <5		
4" Estimated Annual Quantity: <5		
6" Estimated Annual Quantity: <5		
8" Estimated Annual Quantity: <5		
10" Estimated Annual Quantity: <5		

CITY OF FLAGSTAFF
UTILITY WATER METERS

BID 2014-79

Water Meter Offered: NEPTUNE - COMPOUND METERS

				EXTENSION
1200 -	5/8" X 3/4" Sizes offered: T-10 PD	UNIT PRICE	$ 94.50	113,400.00
50 -	1" Sizes offered: T-10 PD	UNIT PRICE	$ 156.00	7,800.00
50 -	1.5" Sizes offered: T-10 PD	UNIT PRICE	$ 318.00	15,900.00
	2" Sizes offered: TRU-FLO COMPOUND	UNIT PRICE	$ 1055.00	5,275.00
	3" Sizes offered: TRU-FLO COMPOUND	UNIT PRICE	$ 1638.00	8,190.00
	4" Sizes offered: TRU-FLO COMPOUND	UNIT PRICE	$ 2083.00	10,415.00
	5" Sizes offered:	UNIT PRICE	$	
	6" Sizes offered: TRU-FLO COMPOUND	UNIT PRICE	$ 3666.00	7,332.00
	Sizes offered:	UNIT PRICE	$	
	Sizes offered:	UNIT PRICE	$	
		FREIGHT	$ 0	
		TAX (8.44%) %	$ 720.99	14,215.63
		TOTAL UNIT PRICE	$ 8,536.50	$ 182,527.63

OPTIONS (Please state additional cost from "base price")

(1) Discount for quantity purchase? $ 0

Any other specifications not standard, but being specified, must be included here, with price.

Miscellaneous charges: NONE

(All charges must be included, no extra charges will be considered at a later date.)

DELIVERY:
Maximum number of calendar days to deliver after receipt of a purchase order. 42 Days.

CITY OF FLAGSTAFF
UTILITY WATER METERS

BID 2014-79

Water Meter Offered: NEPTUNE - T-10'S(PD) HPT-TURBINES

				EXTENSION
1200 -	¾" X ¾" Sizes offered: T-10 (SL) PD	UNIT PRICE	$ 108.25	129,900.00
50 -	1" Sizes offered: T-10 PD	UNIT PRICE	$ 156.00	7,800.00
50 -	1.5" Sizes offered: T-10 PD	UNIT PRICE	$ 318.00	15,900.00
50 -	2" Sizes offered: T-10 PD	UNIT PRICE	$ 412.00	20,600.00
5 -	3" Sizes offered: HPT TURBINE	UNIT PRICE	$ 815.00	4,075.00
5 -	4" Sizes offered: HPT TURBINE	UNIT PRICE	$ 1,055.00	5,275.00
	5" Sizes offered: N/A	UNIT PRICE	$	
5 -	6" Sizes offered: HPT TURBINE	UNIT PRICE	$ 1,977.00	9,885.00
2 -	8" Sizes offered: HPT TURBINE	UNIT PRICE	$ 2,944.00	5,888.00
2 -	10" Sizes offered: HPT TURBINE	UNIT PRICE	$ 4,444.00	8,888.00
		FREIGHT	$ NONE	
		TAX (8.44%)	$ 1032.88	$ 17,585.50
		TOTAL UNIT PRICE	$ 12,229.25	$ 225,796.50

OPTIONS (Please state additional cost from "base price")

(1) Discount for quantity purchase? $ 0

Any other specifications not standard, but being specified, must be included here, with price.

Miscellaneous charges: NONE

(All charges must be included, no extra charges will be considered at a later date.)

DELIVERY:
Maximum number of calendar days to deliver after receipt of a purchase order. 42 Days.

OFFER AND CONTRACT AWARD

Submit the original of this form to the City.

OFFER

TO THE CITY OF FLAGSTAFF:

The Undersigned Vendor hereby offers and agrees to furnish the products, materials, services or construction in compliance with all terms, conditions, specifications and amendments set forth in the Invitation for Bids, Instructions, Uniform Contract Terms and Conditions, Special Terms and Conditions, Specifications/Requirements of Bid, this Offer and Contract Award, and any written exceptions in the Offer (the "Contract Documents"). The Undersigned Vendor also certifies by signing and submitting this Offer and Contract Award that Undersigned Vendor has the legal authority to enter into a contract with the City.

For clarification of this Offer, contact:

Name: Mike Ellis

Phone: 928-864-5000

HD Supply Waterworks
Company Name

5300 East Railhead Ave
Address

Flagstaff Arizona 86004
City State Zip

Type of Legal Entity (select applicable box)

☒ Corporation ☐ LLC ☐ Partnership
☐ Sole Proprietor ☐ Other _____

E-Mail Address: Mike.Ellis@HDSupply.com

Federal ID Number: 03-055887

Fax No.: 928-527-4644

Mike Ellis
Signature of Person Authorized to Sign Offer

Mike Ellis
Printed Name

Municipal Sales
Title

Date: 5-22-14

ACCEPTANCE OF OFFER AND CONTRACT AWARD (For City of Flagstaff Use Only)

Your Offer is hereby accepted.

Vendor is now bound to sell the products, materials, services or construction listed in the attached award notice based upon the solicitation, including all Contract Documents, which are incorporated herein by reference, and Vendor's Offer as accepted by the City of Flagstaff.

This Invitation for Bid shall henceforth be referred to as Contract No. 2014-79. Vendor is hereby cautioned not to commence any billable work or provide any products, materials, services or construction under this Invitation for Bid until vendor receives an executed purchase order.

Awarded this _____ day of _____ 2014

_____
City Manager

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Ryan Roberts, Utilities Engineering Manager

Co-Submitter: Brad Hill, Utilities Director

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Acceptance of Proposal: Accept the proposal from Aerzen USA Corporation for three (3) High Efficiency Blowers. ***(Purchase of three blowers for the Wildcat Wastewater Treatment Plant).***

RECOMMENDED ACTION:

Accept the proposal and approve the purchase from Aerzen USA Corporation of Coatesville, PA, for the purchase of (3) three high efficiency "Turbo Blowers" in the amount of $ 692,562.00 plus applicable sales tax. Authorize the City Manager to execute the necessary documents.

Policy Decision or Reason for Action:

The purpose of installing these "turbo blowers" at Wildcat Hill Wastewater Treatment Plant (WWTP) is three (3) fold: First, these blowers are much more energy efficient and will reduce the City's energy use thereby saving money; Second, the new blowers will allow for better control of the treatment process which will greatly assist in the reduction of nitrogen concentrations, and; Third, because of the de-nitrification benefits, the Arizona Department of Environmental Quality (ADEQ) approved the installation of these blowers within the City's Corrective Action Plan to reduce Total Nitrogen.

Financial Impact:

- The Utilities Division has budgeted in the Wastewater Treatment Energy Efficiency Project (202-08-375-3204-0-4405) in the amount of $750,000 for FY15.
- The installation of new high efficiency blowers will reduce annual electrical energy usage by 1,860,000 kWh at the Wildcat Hill WWTP. This will result in approximately $167,400 dollars per year in annual energy savings for the Utilities Division.

Connection to Council Goal(s) and/or Regional Pla:

Repair replace and maintain infrastructure (Wastewater Aeration Equipment). The aeration blowers are a critical component to the wastewater de-nitrification process and will assist in helping the Wildcat Hill WWTP meet the required regulatory permit levels for nitrogen concentrations. Replacement of the existing inefficient equipment will lower the annual energy costs to the Utilities Division.

Has There Been Previous Council Decision on This:

None previously.

Options and Alternatives:

1. Accept the proposal and approve the purchase from Aerzen USA Corporation.
2. Reject all proposals and continue to use the existing aeration blower equipment. By accepting this option, the City may not be able to improve the process de-nitrification, will not lower energy usage and may not comply with the City's Consent Order with ADEQ.

Background/History:

Tata & Howard conducted energy audits at the Wildcat Hill WWTP and Rio de Flag Water Reclamation Facility in February of 2012. These audits included an evaluation of the relative wire to air efficiency of the blower systems at both plants. Tests were conducted to evaluate the relative efficiency of the blower systems under normal operating conditions and recording electrical data.

As a result of the energy audit, it was determined that the existing blower systems at the Wildcat Hill WWTP have a wire to air efficiency ranging from 35 percent to 40 percent. These wire to air efficiencies are well below industry standards for this type of equipment. The audit showed an estimated energy savings of up to 1,860,000 kilowatt hours per year associated with increasing the overall efficiency of the existing blower systems to current industry standards.The report recommended the installation of three new appropriately sized "turbo blowers" and upgrading the process control systems.

Staff solicited a Request for Proposals (RFP) in October/November 2013, only two proposals were received (Aerzen and Neuros). An evaluation committee, consisting of four City staff members and one outside member, evaluated both proposals and found Aerzen to be the highest ranking and most qualified. Aerzen also had the lowest proposal price (Aerzen $692,562; Neuros $928,000).

Key Considerations:

The Utilities Division conducted a thorough energy audit of both wastewater treatment plants in February 2012. This audit identified several energy conservation measures that will lower annual energy usage and ongoing electrical costs. The energy conservation opportunities were divided into two (2) projects (i.e., Wildcat Hill and Rio) and then prioritized according to the highest payback and rate of return, so Wildcat Hill is being completed first.

Community Involvement:

Inform

Attachments: Aerzen Proposal
Aeration Blower RFP

AERZEN USA CORPORATION
108 Independence Way
Coatesville, PA 19320
www.aerzenusa.com

AERZEN
SINCE 1864

November 12, 2013

Executive Summary

Dear Reviewing Participants:

Please kindly accept the attached proposal of High Speed Turbo Blowers for the Wildcat Hill & Rio De Flag Wastewater Treatment Plant Aeration Blowers. Aerzen very much appreciates the opportunity to propose our equipment for this project.

Aerzen is recognized as a premier supplier of blower and compressor technologies and has a strong history of 149 years of producing and supporting quality equipment. Since 2011 Aerzen has been manufacturing and supplying turbo blowers as the rights to the KTurbo blower design were acquired . The KTurbo technology has a strong recognized installation base of over 2000 units running worldwide. Some of the most notable North American installations by Aerzen are represented in an enclosed list. Aerzen's product and customer service carries a reputation of excellence and we hope to share that experience with you on the project.

Aerzen will be working with NE Controls LLC. as a supplier of the Blower Master Control Panel. N.E. Controls, L.L.C., was formed in January of 1998. The company is located just west of Syracuse, in Cato, New York. The three partners are Al Weaver, President; Harvey Stone, V.P. Sales; and Herb Smith, V.P. of Engineering. NE Controls staff has a combined blower control experience of 50+ years in aeration and blower control. Aerzen has worked successfully on a number of projects with NE Controls to offer master controls for such a system. Some of the most notable experience of NE Controls is represented in an enclosed list.

Key Team members for this project include;
Joel Schomo, Turbo Blower Specialist, 4+ years in turbo blower application and project experience; Margie Jarrow. Project Manager Aerzen, 15+ years in Project Management and blower experience; Harvey Stone, NE CONTROLS, 20 + years in blower control design experience. A more in-depth representation of the Aerzen support group is represented in the General information and qualifications.

With the range of experience between the staff at Aerzen and NE Controls there is a commitment to respond completely and competently to the project scope and maintain a project schedule and project budget

Aerzen USA greatly appreciates your consideration and review of our proposal and we hope to be in communication shortly.

Thank you.

CITY OF FLAGSTAFF
WILDCAT HILL & RIO DE FLAG WASTEWATER TREATMENT PLANT AERATION BLOWERS
RFP 2014-18

Fee and Price Schedule

Item No.	Description	Appx. QTY	Unit		Amount Offer in Figures
Base Proposal - Offer Item 1 – Wildcat Hill WWTP Blower System (3 New Blowers)					
1A	Submittals	1	LS		Included
1B	Factory Testing and Witnessing Services	1	LS		$7500.00
1C	Blower Package Systems	1	LS		$656,221.00
1D	Blower Master Control Panel	1	LS		$51,057.00
1E	Field Testing Services	1	LS		$3,600.00
1F	Operations and Maintenance Manuals	1	LS		Included
1G	Training	1	LS		$1200.00
	Wildcat Hill WWTP (only) Base Offer Total	Including shipping and bond		Total	$692,562.00
Proposal Alternate 1 - Offer Item 2 – Rio De Flag WWTP Blower System (3 New Blowers)					
2A	Submittals	1	LS		~~included~~
2B	Factory Testing and Witnessing Services	1	LS		$7500.00
2C	Blower Package Systems	1	LS		$284,253.00
2D	Blower Master Control Panel	1	LS		$51,057.00
2E	Field Testing Services	1	LS		$3,600.00
2F	Operations and Maintenance Manuals	1	LS		Included
2G	Training	1	LS		~~$1,200.00~~
	Rio De Flag WWTP (only) Offer Alternative 1 Total	Including shipping and bond		Total	$345,566.00
Proposal Alternate 2 – Offer Item 3 - Wildcat Hill WWTP and Rio de Flag Blower System (6 New Blowers)					
3A	Submittals	1	LS		~~Included~~
3B	Factory Testing and Witnessing Services	1	LS		$15,000.00
3C	Blower Package Systems	1	LS		$882,256.00
3D	Blower Master Control Panel	1	LS		$102,144.00
3E	Field Testing Services	1	LS		$7,200.00
3F	Operations and Maintenance Manuals	1	LS		Included
3G	Training	1	LS		~~$2,400.00~~
	Combined Offer Alternate 2 Total	Including shipping and bond		Total	$1,009,000.00

Warranty Information (include time period, coverage and any associated cost) _____
Standard Warranty is 24 months after start up or 30 months after delivery, which ever comes first, however as specified for a 5 year warranty Aerzen represents the associated Cost adder to the equipment

Any other specifications not standard, but being specified, must be included here, with price.

Miscellaneous charges: Bonds Shipping are included previous Costs,
Warranty adder for 5 years is an additional $344,710.00 not included in Fee and price schedule table on previous sheet
(All charges must be included, no extra charges will be considered at a later date.)

DELIVERY:
Maximum number of calendar days to deliver after receipt of a purchase order. 210 Days.

Delivery is 140 days after receipt of technical release of shop drawings
Shop drawings within 56 days after receipt of the order
The total delivery factors in 2 weeks for engineering review.

OFFER

TO THE CITY OF FLAGSTAFF:

The undersigned hereby offers and agrees to furnish the material, service, or construction in compliance with the RFP Package. Signature also certifies understanding and compliance with "Certification" as defined in Article 1 of the "Standard Terms and Conditions" of this Agreement.

For clarification of this offer, contact:

Name: Joel Schomo Phone: 610-563-5229 Fax: _____

Company Name: Aerzen USA CORP

Address: 108 Independence Way

City, State, Zip: Coatesville, PA, 19320

_____ Turbo Blower Sales

Signature of Person Authorized to Sign Offer Title

Joel Schomo 11/19/2013

Printed Name Date

CITY OF FLAGSTAFF

REQUEST FOR PROPOSALS

PRODUCT AND OR SERVICES: **WILDCAT HILL & RIO DE FLAG WASTEWATER TREATMENT PLANT AERATION BLOWERS**

PROPOSAL NUMBER: **2014-18**

PROPOSALS DUE NO LATER THAN: **November 6, 2013 @ 3:00 PM**

RFP OPENING LOCATION: **City of Flagstaff**
Management Services-Purchasing Division
211 West Aspen Ave.
Flagstaff, AZ 86001
(928) 213-2277/Fax (928) 213-2209

In accordance with the Charter for the City of Flagstaff in Flagstaff, Arizona ("City") and by Arizona State Statute, competitive sealed offers for the products or services specified will be received by the City at the above` specified location, until the time and date cited. Offers received by the correct time and date will be opened and the name of each Proposer will be publicly read.

Offers shall be in the actual possession of the City, at the location indicated, on or prior to the exact time and date indicated above. Late offers shall not be considered.

Offers must be submitted in a sealed envelope with the REQUEST FOR PROPOSAL name and number and the Proposer's name and address and the RFP closing date and time clearly indicated on the envelope. All offers must be completed in ink or typewritten. Additional instructions for preparing a proposal response are provided herein.

PROPOSERS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE REQUEST FOR PROPOSAL.

Buyer:	Patrick Brown, C.P.M.
Phone Number:	(928) 213-2277
Fax Number:	(928) 213-2209
E-mail Address:	pbrown@flagstaffaz.gov
Date:	October 23, 2013

ACKNOWLEDGMENT OF RECEIPT

RFP ISSUE DATE: _____October 23, 2013_____

PRODUCT AND/OR SERVICES: WILDCAT HILL & RIO DE FLAG WASTEWATER TREATMENT PLANT AERATION BLOWERS

PROPOSAL NO.: 2014-18

QUESTIONS MUST BE RECEIVED BY: 3:00 pm, November 1, 2013

OFFER DEADLINE: November 6, 2013 @ 3:00 pm MST

Please provide the requested information below as acknowledgment that you have received our Request for Proposal ("RFP") noted above. It is **recommended** that interested proposers complete and return this acknowledgment via Fax to the City of Flagstaff Purchasing Office at (928) 213-2209 or by mail. **Only those companies or individuals returning completed acknowledgments will receive notification of any addenda or responses to questions regarding this RFP.** Proposals from companies or individuals **not** acknowledging the addenda may be considered incomplete, non-responsive and potentially subject to disqualification.

Name of Company
or Individual: _____

Name / Title of Contact: _____

Address: _____

_____

_____

Phone #: (____) _____ Fax #: (____) _____

E-Mail Address: _____

Signature: _____ Date: _____

NO RESPONSE FORM

Product and/or services Wildcat Hill & Rio De Flag Wastewater Treatment Plant Aeration Blowers

Proposal Number: **2014-18**

Proposers not responding to this solicitation are asked to complete this form. Please return this form to the address listed above or fax to *(928) 213-2209*.

Company Name:_____

Address: _____

City: _____ State: _____ Zip: _____

Phone:_____ Fax:_____

Reason for NO OFFER:

- ☐ Do not handle product/service
- ☐ Unable to respond due to current staff availability and/or business conditions
- ☐ Insufficient time
- ☐ Unable to meet terms, conditions, specifications or requirements as described within the solicitation due to:

  _____

  _____

- ☐ Other:_____

This *NO OFFER* response is authorized by: _____
Signature

_____
Title

Please check one:

- ☐ Retain our company on the mailing list for future solicitations.
- ☐ Please remove our company from the mailing list.
- ☐ Please remove our company from this commodity or service only.

INSTRUCTIONS

PREPARATION: Proposals shall be submitted in a sealed envelope addressed to the City of Flagstaff, Attn: Patrick Brown, C.P.M., Purchasing Office, 211 West Aspen Avenue, Flagstaff, AZ 86001 marked "Sealed Proposals" and identified by the material or service description, RFP number, and RFP opening date and time. When submitting a no proposal, indicate on the outside of the envelope "No Proposal". The entire RFP package including all instructions is to be returned and properly fastened together. Retain a copy of your proposal for your records. Proposals shall be opened publicly at the time and place designated on the cover of this document. Proposals will not be subject to public inspection until after contract award.

All proposals must be made on the City proposal forms and duly signed by an authorized representative of the vendor.

Proposals faxed to the City of Flagstaff cannot be accepted.

Proposals received after the stipulated RFP opening date and time will not be considered.

Erasures, interlineations or other modifications in the proposal shall be in ink and made by the authorized person signing the proposal.

The Offer document must be submitted with an original ink signature by the person authorized to sign the Offer.

The Offer must be typed or in ink. Erasures, interlineations or other modifications in this RFP document shall be initialed in ink by the authorized person signing the Offer. No Offer shall be altered, amended or withdrawn after the specified RFP due time and date.

Periods of time, stated as a number of days, shall be calendar days, unless otherwise specified.

Submittal: All Offers must be clearly marked: **Wildcat Hill & Rio De Flag Wastewater Treatment Plant Aeration Blowers RFP #2014-18**, your name or company name and the closing date and time of this RFP on the outside of the sealed envelope. Proposals shall be provided in three ring binders **one original and six (6)** copies of their proposal shall be included.

The quality of the proposal(s) submitted by the Proposer is viewed as a basic indication of the Proposer's general capability and technical competence. Quality is interpreted as (1) completeness, (2) thoroughness, (3) accuracy, (4) compliance with proposal instructions, and (5) the organization and conciseness of descriptive text material. Proposals that do not comply with instructions may be eliminated from further consideration.

The City is not responsible for any vendor's errors or omissions. It is the responsibility of all vendors to examine the entire set of proposal documents and seek clarification of any item or requirement that may not be clear and to check all responses for accuracy prior to submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time. Retain a complete set of proposal documents for your records.

All prices quoted will reflect the total cost to the City for the product, FOB Flagstaff and include all applicable taxes, and delivery charges. The City is exempt from Federal Excise Tax; however Arizona, Coconino County and local sales taxes do apply.

Prices shall be submitted on a per unit basis by line item when applicable. In the event of a disparity between the unit and extended price, the unit price shall prevail.

SALES TAX: The City of Flagstaff will not pay any taxes on invoices received unless an Arizona Transaction Privilege License Number or Arizona Use Tax Number and, if applicable, a City Sales Tax Number is listed below. The City will figure applicable taxes to proposals received from out of state Vendors who do not list an Arizona Use Tax number for tabulation and total cost evaluation.

Arizona Sales Tax Number: _____

Arizona Use Tax Number: _____

City of: _____

Sales Tax Number: _____

Refer to the following to determine if the freight or delivery charges are taxable:

Delivery charges are not taxable if separately stated on the invoice from the seller to the buyer and delivery is made to the ultimate consumer by the seller.

Freight charges for delivery from place of production or the manufacturer to the vendor either directly or through a chain of wholesalers or jobbers or other middlemen are deemed "freight-in" and are not considered delivery. Freight In charges are taxable.

GENERAL INFORMATION: All proposals shall be for new merchandise unless otherwise specified.

The specifications listed as part of this RFP are intended to reflect the minimum standards required by the City. All exceptions to the City's specifications must be clearly stated in the vendor's proposal. If no exceptions are stated by the vendor, the City will assume the vendor's proposal to equal or exceed the specifications at the vendor's risk of correcting or replacing the equipment at the vendor's own cost.

The vendor shall submit full descriptive information on all products offered for consideration with its proposal.

INTENT: These specifications require the doing of all things necessary, or proper for, or incidental to the specifications of this RFP. All things not expressly mentioned in these specifications, but involved in carrying out their intent are required by these specifications, and the vendor shall perform the same as though they were specifically mentioned, described, and delineated.

NON-COLLUSION: Vendors, by submitting a signed Request for Proposals, certify that the accompanying proposal is not the result of, or affected by any unlawful act of collusion with any other person or company in the same line of business or commerce, or any other fraudulent act punishable under Arizona or Federal law.

USE OF BRAND NAMES: The use of the name of a manufacturer, brand, make or catalog designation specifying an item does not restrict vendors to that manufacturer, brand, make or catalog designation. This is used simply to indicate the character, quality and/or performance equivalence of the commodity on which proposals are submitted. In submitting a proposal on a commodity other than as specified, vendors shall furnish complete data and identification with respect to the commodity they propose to offer. If a vendor does not indicate that the commodity offered is other than specified, it will be construed to mean that the vendor proposes to offer the exact commodity as described. The City reserves the right to determine what is considered equal to or not.

ADDITIONAL INFORMATION: All questions, clarifications and requests for additional information are to be put in writing and faxed, emailed or mailed to the attention of:

Patrick Brown, C.P.M.,
Senior Procurement Specialist
Purchasing Division, City of Flagstaff — Email: pbrown@flagstaffaz.gov
211 West Aspen, Flagstaff, AZ 86001 — Fax No: (928) 213-2209

The City **shall not** be responsible for vendors adjusting their proposal based on any oral instructions made by any employees or officers of the City regarding the RFP instructions, drawing, specifications, or contract documents. All changes to the Request for Proposals will be in the form of a written addendum, which will be furnished to all vendors who are listed with the City as having received the RFP.

The City shall not respond to any requests for information pertaining to specifications received less than five working days (Monday–Friday) before the RFP opening. Any interpretation or correction of the

Request for Proposals documents will be made only by addendum, duly issued, and posted to the City website The City is not responsible for any other explanations or interpretations of the Request for Proposals documents.

The Buyer may be required to submit any and all questions in writing at the City's sole discretion. Any correspondence related to a solicitation shall refer to the appropriate solicitation number, page and paragraph number. However, the Proposer shall not place the solicitation number on the outside of an envelope containing questions, since such an envelope may be identified as a sealed RFP and may not be opened until after the official RFP due date and time.

MATERIAL SAFETY DATA SHEET: Vendor shall supply Materials Safety Data Sheets (MSDS) in accordance with Federal requirements with its proposal response. If a proposal is submitted without the MSDS, the proposal may be considered non-responsive. A vendor entering the City workplace with materials requiring MSDS will supply the City with a MSDS covering those particular products the vendor may expose City employees or the general public to while working at the site.

ASBESTOS MATERIALS: Only asbestos-free materials are allowed in City facilities during any building maintenance, renovation or repair projects. Vendors must execute and submit the appropriate forms certifying the products as "asbestos-free" prior to installation. Forms and site information can be obtained by calling (928) 213-2206.

EVALUATION: When determining the low responsive proposal price the City will include the cost of options requested and selected, if any, as a part of the total proposal price. When evaluating proposals, the City may incorporate known cost factors associated with the proposal in determining the lowest responsive proposal. Responsible factors to be considered may include, but are not limited to, the proposer's current and past performance on other contracts, and other matters set forth in City of Flagstaff Code 1-20-001-00004. The award may be made to other than the lowest price.

If the vendor is a resident vendor that has listed a valid City of Flagstaff sales tax number, the local tax will be factored out when evaluating the vendor's proposal.

Prior to the award of a contract, the successful vendor shall have a completed Vendor Application on file with the Purchasing Division.

The City Council reserves the right to reject any and all proposals, or any part thereof; to accept any proposal or any part thereof; to waive any formalities; or cancel/reissue an RFP when it is deemed to be in the City's best interest.

Materials submitted by vendor shall become the property of the City of Flagstaff unless otherwise requested at the time of submission. Any material that is to be considered as confidential in nature must be so marked. Information submitted in response to this request for proposal is considered public record and may be disclosed pursuant to applicable Arizona Revised Statutes.

The City will evaluate the manufacturer proposals based on the responses and the information contained herein. The supplier shall provide the information to be evaluated and ranked based on the associated scoring system. Failure to provide this information may be considered an unresponsive proposal.

Information Required:

1. Describe your company's history, corporate structure and ownership, location of your corporate headquarters, and manufacturing facility locations.

2. Provide contact information including the name, phone number and email address of the individual that should be contacted if additional information is required regarding this proposal.

3. Indicate your firm's ability to comply with all of the requirements of the attached equipment specification; or, if necessary, indicate the particular specification section(s) with which your firm

cannot conform. Provide reason(s) for any nonconformance, details of your firm's proposed alternative to the specification, and justification.

4. Proposals shall include the manufacturer's recommended blower equipment to meet the design and technical criteria described in the attached equipment specifications.

5. How many blowers does your firm have operating at municipal wastewater treatment facilities in the United States? Provide a complete list of all U.S. installations with the following information for each installation: facility name, facility location, facility contact name and phone number, number of blowers installed, blower model(s), blower size (HP), and date installed.

6. Provide five (5) references of similar sized blowers operating in the U.S. for at least three (3) years. Provide facility contact name and contact number, facility location, number of blowers installed, blower model(s), blower size (hp) and date installed.

7. How many blowers does your firm have operating at wastewater treatment facilities worldwide? Provide a list of installations with the following information: facility name, facility location, number of blowers installed, blower model(s), blower size (HP), and date installed.

8. Describe your company's ability to provide support services during and after equipment installation. Describe installation, training and startup services to be provided by your firm. How many service technicians are currently employed by your firm in the United States? Identify the office locations of where support services are offered from throughout the U.S. From where would field service assistance originate in support of an installation at the City of Flagstaff? Indicate a guaranteed maximum on-site response time for process operations support and mechanical repair support. Identify all other technical support resources offered by your firm.

9. Provide blower manufacture and delivery time from point of approved shop drawings.

10. Provide preventative maintenance schedule for blower system including daily, weekly, and annual activities. Include costs for replacement parts and associated labor hours or manufacturer technician costs if service must be performed by the Factory.

11. Submit a proposed price for which you will commit to furnish the complete scope of services described in the attached specification, as modified per any exceptions identified herein. The proposed price shall be complete and include all duties, transportation, fees, etc. The price for the selected equipment will be included in the attached proposal form. The price identified herein shall remain valid for two hundred and seventy (270) days following the submittal of the proposal.

12. Describe the intake air handling system required for your proposed equipment. Does each unit require individual or a separate intake header or will a common header shared by multiple units provide the required intake air.

AWARD: The contract shall be awarded to the lowest responsible and responsive proposer whose proposal is responsive and conforms to the terms and conditions set forth in the Request for Proposals. The City reserves the right to award in whole or in part by individual location, by individual blower, or as a total proposal for all blowers at all locations, whichever is deemed most advantageous to the City.

PERFORMANCE BOND: Successful vendor awarded the contract shall provide a Performance Bond to ensure faithful performance of the contract for the manufacturing, shipping and delivery of the Aeration Blowers. Vendor shall provide the original notarized performance bond to the buyer in the amount of the total contract awarded prior to execution of the contract.

ACCEPTANCE: All proposals submitted to the City of Flagstaff are to remain firm for a minimum period of ninety (90) calendar days from the date the proposals are officially opened, unless otherwise specified.

The successful vendor's proposal is not officially accepted until such time as the vendor either receives a purchase order or a written notice of acceptance from the City Purchasing Director.

DELIVERY: The time for delivery shall be stated in definite terms and may be a factor in making an award. Delivery shall be made in accordance with the delivery time specified in the proposal.

Risk of loss and/or damage shall be upon vendor until such time as the goods have been physically delivered to and accepted by the City.

VENDOR REQUIREMENTS: Provide a current list of customers who have purchased wastewater treatment plant blowers from your company in the last two years. Please provide company name, contact person, email address, mailing address, and phone number.

ESTIMATED QUANTITY: The quantity stated on the proposal form is the City's best estimate for the purchase of wastewater treatment plant blowers. The wastewater treatment plant blowers is contingent upon the City Council authorizing an award of a contract. The City reserves the right to purchase more or less than the estimated quantities stated.

PROPRIETARY INFORMATION: Any information considered to be proprietary by the vendor shall be placed in a separate envelope and marked “Proprietary Information”, subject to the public record disclosure laws. To the extent the Purchasing Director concurs, this information shall not be considered public information subject to the public record disclosure laws. The Purchasing Director shall be the final authority as to the extent of material that shall be considered confidential. Pricing information shall not be considered proprietary.

PUBLIC RECORD: Except as otherwise stated herein, all proposals submitted in response to this request shall become the property of the City and will become a matter of public record, available for review after an award has been made.

COST TO PREPARE: The City will not reimburse the vendor the costs associated with responding to the request for proposal.

WITHDRAWAL OF PROPOSAL: At any time prior to a specified solicitation due time and date a Proposer (or designated representative) may withdraw the Proposal. Facsimile, telegraphic or mailgram withdrawals shall not be considered.

UNIFORM CONTRACT TERMS AND CONDITIONS

WARRANTY: Vendor expressly warrants that all goods and services covered by this Request for Proposals shall conform to the specifications, drawings, samples or other description in this Request for Proposals, shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defect and that goods and services of vendor's design be free from defect in design. Inspection, test, acceptance or use of the goods furnished hereunder shall not affect vendor's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Vendor agrees to replace or to correct defects of any goods or services not conforming to the foregoing warranty promptly, without any expense to the City including shipping and transportation costs, when notified of such nonconformity by the City. In the event of failure by vendor to correct defects in or replace nonconforming goods or services promptly, City, after reasonable notice to vendor, may make such corrections or replace such goods and services and charge vendor for the cost incurred by the City thereby.

Vendor's product, service, and facilities shall be in full compliance with all applicable Federal, State and local laws, statutes, ordinances, regulations, and standards, regardless of whether or not they are expressly referred to by the City.

Unless otherwise specified, the minimum warranty period shall be one (1) year from vendor's installation or delivery of the warranted item. Vendor shall provide the City with a copy of the complete manufacturer's warranty information.

PATENTS: Vendor agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against the City or its employees and agents, for alleged patent infringement, as well as for any alleged unfair competition resulting from similarity in design, trademark or appearance of goods or services furnished hereunder, and vendor further agrees to indemnify, hold harmless and defend the City and its employees and agents against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fees resulting from any such suit or proceeding, including any settlement.

The City may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by vendor.

COMPLIANCE: It is agreed that vendor shall be fully responsible for making any corrections, replacements, or modifications necessary for specification or legal compliance. Vendor agrees that if the product or service offered does not comply with the terms and conditions of this Request for Proposals, the Purchasing Director has the right to cancel at any time with full refund within sixty (60) calendar days after notice of non-compliance and vendor further agrees to be fully responsible for any incidental and/or consequential damages suffered by the City.

SUB-CONTRACTING: This Request for Proposals or any portion thereof shall not be sub-contracted without the prior written approval of the City. No such approval shall be construed as making the City a party of or to such sub-contract, or subjecting the City to liability of any kind to any sub-vendor. No sub-vendor shall, under any circumstances, relieve vendor of its liability and obligation under this Request for Proposals; and despite any such sub-contracting the City shall deal through vendor. Sub-vendors shall be dealt with as workers and representatives of vendor.

TERMINATION: The City reserves the right to terminate this Request for Proposals for non-performance by vendor. Vendor may be given a reasonable opportunity to correct the deficiency prior to termination.

PROTESTS: Protests shall be resolved, in accordance with the following: A protest shall be in writing and shall be personally delivered or served upon the City Purchasing Director. A protest of a solicitation shall be received at the City Purchasing Department before the solicitation opening date. A protest of a proposed award or of an award shall be personally delivered or served upon the City Purchasing Director within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

a. The name, address and telephone number of the protester;

b. The signature of the protester or its representative;
c. Identification of the solicitation or contract number;
d. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
e. The form of relief requested.

NON-EXCLUSIVE CONTRACT: This Request for Proposals shall be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to issue multiple awards and to purchase from other sources when necessary**.**

PAYMENT: The City shall issue checks twice monthly, the 15th and the 30th days. In order for the City to process an invoice in a timely manner, the invoice shall be received by the 8th or 22nd of each month.

CONFLICT OF INTEREST: Pursuant to A.R.S. § 38-511, the City may, within three years after its execution, cancel this Request for Proposals without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating this Request for Proposals on behalf of the City is, or becomes at any time while this Request for Proposals or an extension of this Request for Proposals is in effect, an employee of or a consultant to any other party to this Request for Proposals with respect to the subject matter of this Request for Proposals. The cancellation shall be effective when the vendor receives written notice of the cancellation unless the notice specifies a later time. In addition to the right to cancel this Request for Proposals, the City may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this Request for Proposals on behalf of the City from any other party to this Request for Proposals, arising as the result of this Request for Proposals.

GOVERNING LAW AND VENUE: This Request for Proposals shall be governed by and construed in accordance with the laws of the State of Arizona. Any action at law or in equity brought for the purpose of enforcing a right or rights provided for in the Request for Proposals shall be tried in a court of competent jurisdiction in Coconino County, Arizona.

COOPERATIVE USE OF CONTRACT: An Agreement resulting from this RFP may be extended for use by the members of the Flagstaff Alliance for the Second Century. An Intergovernmental Agreement (IGA) has been executed between the City, Coconino County Community College District, Northern Arizona University, Coconino County and Flagstaff Unified School District. The Request for Proposals may also be extended to other municipalities and government agencies of the state. Any such usage by other municipalities and government agencies must be in accordance with the ordinance, charter and/or rules and regulations of the respective political entity. Any public agencies not identified within this IFB who wish to cooperatively use the contract are subject to the approval of Vendor.

The City is also a member of S.A.V.E. (Strategic Alliance for Volume Expenditures), which consists of numerous municipalities, counties, universities, colleges, schools and other Arizona State agencies (See list of S.A.V.E. members below). These cooperatives are achieved through Intergovernmental Agreement (IGA) in accordance with provisions allowed by A.R.S. §11-952 and §41-2632. The IGAs permit purchases of material, equipment and services from Vendors at the prices, terms and conditions contained in contracts originated between any and all of these agencies and the Vendor(s) contract, as awarded.

Is your firm willing to offer the goods and services solicited under the terms and conditions of this solicitation to other members of the Flagstaff Alliance for the Second Century and S.A.V.E. under the same pricing, terms and conditions?

_____ Yes_____ No

CONTACT WITH CITY EMPLOYEES AND CONTRACTORS: All persons and/or Vendors that are interested in this purchase (including the Vendor's employees, representatives, agents, lobbyists, attorneys, and sub-contractors) will refrain, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process. This includes but is not limited to the evaluation panel, the City Manager, Deputy City Manager(s), Department Directors or other staff. This policy is intended to create a

level playing field for all potential Vendors, assure that contract decisions are made in public, and to protect the integrity of the selection process. All contact on this selection process should be addressed to the authorized representative identified in Additional Information, Instructions.

CONTACT WITH ELECTED OFFICIALS (MAYOR, CITY COUNCIL, ETC.): Any contact pertaining to this selection process with elected officials must be scheduled, in person, through the Flagstaff City Clerk's Office, 211 W. Aspen Avenue, Flagstaff AZ 86001, and are posted by the City Clerk at least twenty-four (24) hours prior to the scheduled meeting. The Clerk's posting shall include and detail the participants and the subject matter, and shall invite the public to participate. No contacts made by telephone, other than to schedule a public meeting, are permitted. Copies of contacts made by letter, facsimile, e-mail, or other written method shall be made available to the public, press, and all submitting firms.

CERTIFICATION: By signature on the Offer page, Proposer certifies that:

a. The submission of the Offer did not involve collusion or other anti-competitive practices.
b. Proposer has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in the rejection of the Offer. Signing the Offer with a false statement shall void the Offer and any resulting contract and may be subject to penalties provided by law.

GRATUITIES: The City may, by written notice to the Proposer, cancel any resulting contract if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Proposer or any agent or representative of the Proposer, to any officer or employee of the City with a view toward securing a contract, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such contract. In the event any resulting contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Proposer the amount of the gratuity.

OFFER BY PROPOSER: All responses to this RFP are offers to contract with the City and shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the RFP Package, including the Service Agreement. Offers do not become contracts unless and until they are formally accepted by the City. Formal acceptance may occur when the City Manager accepts an Offer, or when the City Council accepts the Offer or enters into the Service Agreement, as allowed under the Flagstaff City Charter. The City reserves the right to clarify any contractual terms with the concurrence of Proposer; however, any substantial non-conformity in the Offer shall be deemed non-responsive and the Offer rejected. No alteration on any contract resulting from an Offer may be made without the express written approval of the Director of Purchasing in the form of an official contract amendment. Any attempt to alter any such contract without such approval is a violation of the contract. Any such action is subject to legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the Proposer.

EXCEPTION TO THE SOLICITATION: Proposer shall identify and list all exceptions taken to all sections of this RFP Package and list these exceptions referencing the section (paragraph) where the exception exists and then identify the exceptions and the proposed wording for Proposer's exception. Proposer shall list these exceptions under the heading "Exception to the PROPOSAL Solicitation." Exceptions that surface elsewhere and that do not also appear under the heading "Exception to the Proposal Solicitation" shall be considered invalid and void and of no contractual significance.

The City reserves the right to reject, render the proposal non-responsive, enter into negotiation on any of the Proposer exceptions, or accept them outright.

RIGHTS AND REMEDIES – NO WAIVER: No provision in this document or in the RFP Packet shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract.

ADVERTISING: Proposer shall not advertise or publish information concerning the solicitation or the Service Agreement without the prior written consent of the City.

INSPECTION: All materials, services or construction are subject to final inspection and acceptance by the City. Materials, services or construction failing to conform to the specifications of the contract shall be held at Proposer's risk and may be returned to Proposer. If so returned, all costs shall be the responsibility of Proposer.

TITLE AND RISK OF LOSS: The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within the contract.

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

DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH: Proposer shall deliver conforming materials or services in each installment or lot of the contract and may not substitute nonconforming materials, or services. Delivery of nonconforming materials, and/or services, or a default of any nature, at the option of the City, shall constitute a breach of the contract as a whole.

LIENS: All goods, services and other deliverables supplied to the City under the Service Agreement shall be free of all liens, other than the security interest held by Proposer, until payment in full is made by the City. Upon request of the City, Proposer shall provide a formal release of all liens.

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

DISCUSSIONS AND REVISIONS TO PROPOSAL: Discussions may be conducted with responsible Proposers who submit proposals determined to be reasonably susceptible of being selected for award. Such discussions may facilitate the exchange of pertinent information to enable a more complete understanding of, and responsiveness to, the solicitation requirements. Should the City elect to call for 'best and final' offers, Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Proposers. The purposes of such discussions shall be to:

A. Determine in greater detail such Proposers' qualifications;

B. Explore with the Proposers the Scope of Services, the Proposers' proposed method of performance, and the relative utility of alternate methods of approach;

C. Determine that the Proposers shall make available the necessary personnel and facilities to perform within the required time; and

D. Agree upon compensation which is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity and nature of such services.

FINANCIAL STATUS: All Proposers shall make available upon request a current audited financial statement, a current audited financial report, or a copy of a current federal income tax return. Failure or refusal to provide this information within five (5) business days after communication of the request by the City shall be sufficient grounds for the City to reject a proposal and/or to declare a Proposer non-responsive or non-responsible.

If a Proposer is currently involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law, the Proposer must provide the City with that information as part of its proposal. The City may consider that information during evaluation of the proposal.

By submitting a proposal in response to this solicitation, Proposer agrees that, if, during the term of any contract it has with the City, it becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Proposer under federal bankruptcy law or any state insolvency law, Proposer shall immediately provide the City with a written notice to that effect, and shall provide the City with any relevant information it requests to determine whether the Proposer will meet its obligations to the City.

POINT OF CONTACT: The proposal must indicate the name of one individual who the City is to contact with any questions or clarifications in regards to the proposal.

ON-SITE INVESTIGATION: Proposers are strongly encouraged to view the City's facility that may be referenced in the Scope of Work prior to submitting their proposal. The Proposer shall be responsible for examining the facility site and comparing it with the descriptions and specifications, for carefully examining all of the RFP Package, including the sample contract and for satisfying themselves as to the conditions under which the work is to be performed before submitting a proposal and entering into the contract.

No allowance shall subsequently be made on behalf of Proposer on account of an error on its part or its negligence or failure to become acquainted with the conditions of the site, or surrounding areas.

SPECIAL TERMS AND CONDITIONS

INTENT: These specifications cover the furnishing of the latest production model that has been in production, proven and in field service for a minimum time period of two (2) years. All components are to be manufacturer's standard and no prototype units will be considered.

These specifications require the doing of all things necessary, or proper for, or incidental to the furnishings and delivery of said unit and associated equipment, preferably within the Southwest (300 mile radius from Flagstaff), so that if necessary the City can view the equipment in operation. All things not expressly mentioned in these specifications, but involved in carrying out their intent are required by these specifications, and the Vendor shall perform the same as though they were specifically mentioned, described, and delineated.

The Vendor is to submit a user list with in service date; phone number, email address and person to contact that are currently using the equipment offered in this RFP for consideration, so that if necessary the City can view the equipment in operation.

CONTRACT TYPE: Firm Fixed Price.

CONTRACT RENEWAL: The City reserves the right to unilaterally extend the period of the contract for ninety (90) days beyond the stated expiration date.

SUBSEQUENT PURCHASES: The City, with the consent of the successful Vendor(s), reserves the right to purchase additional items as listed in this RFP, if Vendor is willing to offer the same terms and conditions as submitted in this RFP, for a period of twelve (12) months from the date of City Council approval.

SALES TAX: The City shall compute the applicable sales tax on the Blowers that are not tax exempt.

PRODUCT INFORMATION SHEETS: In order to properly evaluate the blowers offered, Vendors shall provide product information sheets on the blowers they are offering.

FREIGHT: F.O.B. City of Flagstaff (delivery points listed) – All quotations shall be F.O.B. Destination. The term F.O.B. destination shall mean delivered and unloaded in-house or on-site service, with all charges for transportation and unloading prepaid by Vendor.

MISCELLANEOUS CHARGES: If any other charges are applied to Blower order, such charges shall be stated on the RFP form under "Miscellaneous Charges". No other charges shall be considered at a later date.

TOTAL COST OF OWNERSHIP: The City reserves the right to evaluate proposals on all associated costs for the life of the Blower being purchased.

BLOWER PRICING: All prices are maximum for the contract period.

DELIVERY: All new factory ordered Blowers shall be delivered within the specified delivery period identified in your submitted proposal upon receipt of the purchase order. Specify the actual number of calendar days for each item.

SPECIFICATIONS: The specifications provided in **Attachment A** establish a desired level for each feature on the equipment being requested. In order to facilitate the City's evaluation, Vendors shall indicate the specific level under the "Description" column. In the event information is not furnished in the appropriate column, the City shall assume Vendor's response to this RFP to equal or exceed the City's requirements at Vendor's risk of correcting or replacing the equipment at Vendor's own cost.

COMPLIANCE WITH FEDERAL IMMIGRATION LAWS AND REGULATIONS: Vendor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. 23-214.A. Vendor acknowledges that pursuant to A.R.S. 41-4401 a breach of this warranty is a

material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

INDEMNIFICATION AND INSURANCE REQUIREMENTS:

INDEMNIFICATION: Vendor (as "indemnitor") agrees to indemnify, defend and hold harmless the City (as "indemnitee") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of the acts or omissions of indemnitor, its officers, officials, agents, employees or volunteers relating to this Request for Proposals.

INSURANCE: Vendor shall procure and maintain until all of its obligations under this Request for Proposals have been discharged, including any warranty periods under this Request for Proposals are satisfied, insurance against claims for injury to persons or damage to property that may arise from or in connection with the purchase and or use of the commodity.

The insurance requirements herein are minimum requirements for this Request for Proposals and in no way limit the indemnity covenants contained in this Request for Proposals. The City in no way warrants that the minimum limits contained herein are sufficient to protect vendor from liabilities that might arise out of the performance of the work under this Request for Proposals by vendor, its agents, representatives, employees or sub-vendors and vendor is free to purchase such additional insurance as may be determined necessary.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE: Vendor shall provide coverage at least as broad and with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form
(Form CG 0001, ed. 10/93 or any replacements thereof)

General Aggregate	$2,000,000
Products-Completed Operations Aggregate	$1,000,000
Personal & Advertising Injury	$1,000,000
Each Occurrence	$1,000,000
Fire Damage (Any one fire)	$ 50,000
Medical Expense (Any one person)	Optional

2. Automobile Liability – Any Auto or Owned, Hired and Non-Owned Vehicles
(*Form CA 0001, ed. 12/93 or any replacement thereof.)*

Combined Single Limit Per Accident for Bodily Injury and Property Damage	$1,000,000

3. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	$ 500,000
Disease-Each Employee	$ 500,000
Disease-Policy Limit	$ 500,000

B. SELF-INSURED RETENTIONS/DEDUCTIBLES: Any self-insured retentions and deductibles shall be declared to and approved by the City.

C. OTHER INSURANCE REQUIREMENTS: The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverage's:

a. Vendor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, or employees shall be in excess to the coverage of vendor's insurance and shall not contribute to it.

b. Vendor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

c. Coverage provided by vendor shall not be limited to the liability assumed under the indemnification provisions of this Request for Proposals.

d. Vendor's insurance shall contain broad form contractual liability coverage.

2. Workers' Compensation and Employer's Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, agents, employees and volunteers for losses arising from vendor's operations, work or products that are the subject of this Request for Proposals.

D. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Request for Proposals shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City. Such notice shall be sent directly to: Patrick Brown, C.P.M., , Senior Procurement Specialist, Purchasing Division, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, AZ 86001 and shall be sent by certified mail, return receipt requested.

E. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less that A-: VII. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect vendor from potential insurer insolvency.

F. VERIFICATION OF COVERAGE: Vendor shall furnish the City with Certificates of Insurance (ACORD form) as required by this Request for Proposals. The certificates for each insurance policy are to 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.

All Certificates of Insurance shall be received and approved by the City before work commences. Failure to maintain the insurance policies as required by this Request for Proposals or to provide timely evidence of renewal shall be a material breach of this Request for Proposals.

All Certificates of Insurance required by this Request for Proposals shall be sent directly to: Patrick Brown, C.P.M., , Senior Procurement Specialist, Purchasing Division, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, AZ 86001. A description of the commodity is to be noted on the Certificate of Insurance. The City reserves the right to require complete, certified copies of all insurance policies and endorsements required by this Request for Proposals at any time.

G. APPROVAL: Any modification or variation from the insurance requirements in this Request for Proposals shall have prior approval from the City's Risk Manager, whose decision shall be final. Such action shall not require a formal contract amendment, but may be made by administrative action.

CITY OF FLAGSTAFF
WILDCAT HILL & RIO DE FLAG WASTEWATER TREATMENT PLANT BLOWERS
RFP 2014-18
SPECIFICATIONS/REQUIREMENTS OF RFP

The City of Flagstaff intends to establish a contract for the purchase of up to six (6) Wastewater Treatment Plant Blowers for the City of Flagstaff Utility Department as specified in **Attachment A.**

The City reserves the right to award by individual location, by individual blower, or as a total proposal for all blowers at all locations, whichever is deemed most advantageous to the City.

The City of Flagstaff owns and operates two wastewater treatment facilities known as the Wildcat Hills Wastewater Treatment Plant (WWTP) and the Rio De Flag WWTP. The Wildcat Hills WWTP has a permitted treatment capacity of 6 mgd, while the Rio De Flag WWTP has a permitted capacity of 4 mgd.

Both treatment facilities are currently equipped with centrifugal blowers. The Wildcat Hills WWTP is currently equipped with three (3) 450 hp centrifugal blowers while the Rio De Flag WWTP is equipped with three (3) 250 hp centrifugal blowers.

The City of Flagstaff desires to improve aeration and treatment efficiency at the Wildcat Hills WWTP to better handle diurnal waste loads and flows. As part of the aeration and treatment efficiency upgrades to the Wildcat Hills WWTP, the existing centrifugal blowers will be replaced with air bearing turbo style blowers.

The Rio De Flag WWTP existing centrifugal blowers are nearing their useful life and the City wishes to replace these blowers with the air bearing turbo style blowers.

The purpose of this process is to evaluate air bearing turbo blower manufacturers for ultimate selection and installation at the Flagstaff WWTPs.

SUMMARY OF WORK

1. LOCATION

The location of the project is within the City of Flagstaff, Arizona at the Wildcat Hill WWTP and Rio De Flag WWTP.

2. DESCRIPTION OF WORK

The Work includes:

a. Furnish and deliver three (3), 150 hp maximum, new air bearing, high speed turbo blower systems, master control panel and ancillary components as specified in Specification Section 11255 to the Rio De Flag WWTP.

b. Furnish and deliver three (3), 350 hp maximum, new air bearing, high speed turbo blower systems, master control panel and ancillary components as specified in Specification Section 11255 to the Wildcat Hill WWTP.

c. Turbo blower systems shall be delivered by the MANUFACTURER to each WWTP where the CONTRACTOR shall be responsible to remove the pre-purchased equipment from the MANUFACTURER's flat bed trailer to a storage location at each WWTP approved by the CITY OF FLAGSTAFF or other location that meets the requirements of 01610 and 11255.

d. Submittal preparation according to the Special Provisions and Specification Sections 01300 and 11255.

e. Factory and field testing of equipment according to Specification Sections 01660 and 11255.

f. Instruction of operations and maintenance personnel in accordance with Specification Section 01731.

g. Preparation and submittal of operations and maintenance manual in accordance with Specification Section 01730.

h. Provide spare parts in accordance with 01750.

i. Assist with commissioning in accordance with Specification Section 01810.

3. WORK RESPONSIBILITIES

A. The parties involved in this project are defined as follows:

i. MANUFACTURER – Entity that is responsible for the manufacture, programming, testing and training of the high speed turbo blower systems and master control panel. The MANUFACTURER will propose on the products and services outlined within this pre-purchase package.

ii. CONTRACTOR – Entity that is responsible for the installation of the products provided by the MANUFACTURER. The CONTRACTOR will be procured under a separate proposal package.

iii. OWNER – The OWNER is the City of Flagstaff who is the contracting authority for this pre-purchase package and the separate proposal package for the installation of the equipment procured under this pre-purchase package.

B. The responsibilities of the MANUFACTURER, CONTRACTOR and the OWNER are identified in the following table.

ENTITY	RESPONSIBILITIES
MANUFACTURER	1.Furnish and deliver three (3), 150 hp maximum, new air bearing, high speed turbo blower systems, master control panel and ancillary components as specified in Specification Section 11255 to the Rio De Flag WWTP. 2. Furnish and deliver three (3), 350 hp maximum, new air bearing, high speed turbo blower systems, master control panel and ancillary components as specified in Specification Section 11255 to the Wildcat Hill WWTP. 3. Delivery and inspection of turbo blower systems, blower master control panel and ancillary components and spare parts in accordance with Specification Section 01610. 4. Submittal preparation in accordance with Specification Sections 01300 and 11255. 5. Factory and Field testing of equipment in accordance with Specification Sections 01660 and 11255. 6. Preparation and submittal of operations and maintenance manual in accordance with Specification Section 01730 and 11255. 7. Coordination, preparation for and instruction of operations and maintenance personnel in accordance with Specification Section 01731 and 11255. 8. Provide spare parts in accordance with Specification Section 01750.

	9. Assist with commissioning in accordance with Specification Section 01810.
CONTRACTOR	1. Blower delivery inspection oversight and delivery report sign-off in accordance with Specification Section 01610. CONTRACTOR shall provide sufficient notice to both parties as to when delivery is required take place within the project schedule. 2. Relocation of blowers from delivery vehicle to lay down/storage area or blower equipment pads. 3. Installation of turbo blower systems, City of Flagstaff Wildcat Hill and Rio De Flag WWTPs Blowers Replacements – Pre-Purchase Package Summary of Work Section 01010–3 master control panel and ancillary components. 4. Coordination of field testing with the MANUFACTURER and OWNER. 5. Coordination of operations and maintenance instruction and commissioning with MANUFACTURER and OWNER. CONTRACTOR shall provide sufficient notice to both parties as to when these activities will take place within the project schedule. 6. Coordinate and perform commissioning in accordance with Specification Section 01810.
OWNER	1. Contract negotiation and execution with MANUFACTURER. 2. Submittals (shop drawings, schedule, pay requests) review and approval. 3. Blower delivery inspection coordination with MANUFACTURER and CONTRACTOR, delivery oversight and delivery report sign-off. 4. Participate in factory and field tests, as required. 5. Perform programming of the OWNER's SCADA system to interface with the blower master control panel furnished and programmed by the MANUFACTURER. 6. Scheduling of operations and maintenance instruction of personnel with MANUFACTURER and CONTRACTOR. This activity shall occur separately from the field tests. 7. Assist with commissioning in accordance with Specification Section 01810.

I. DELIVERY HOURS
   a. Delivery of equipment on weekends will not be allowed. The vendor must schedule delivery during normal hours, M-F 7 AM - 3:30 PM.

II. OFFLOADING AND DELIVERY
   a. The vendor is responsible for all costs associated the safe loading, delivery and unloading of blower equipment to the jobsite. A large forklift will be required to safely unload the equipment

III. FACTORY WITNESS TESTING
   a. The vendor will make arrangements for and pay for all factory tests associated with new blowers. If a test fails, the vendor shall be responsible for the cost of any resulting additional testing. All other required testing, except as described above, required under the Specifications shall be paid for and arranged by the vendor and/or fan manufacturer. The COF will be furnished a copy of the test results.

CITY OF FLAGSTAFF
WILDCAT HILL & RIO DE FLAG WASTEWATER TREATMENT PLANT AERATION BLOWERS
RFP 2014-18

Fee and Price Schedule

Item No.	Description	Appx. QTY	Unit		Amount Offer in Figures
Base Proposal - Offer Item 1 – Wildcat Hill WWTP Blower System (3 New Blowers)					
1A	Submittals	1	LS		
1B	Factory Testing and Witnessing Services	1	LS		
1C	Blower Package Systems	1	LS		
1D	Blower Master Control Panel	1	LS		
1E	Field Testing Services	1	LS		
1F	Operations and Maintenance Manuals	1	LS		
1G	Training	1	LS		
	Wildcat Hill WWTP (only) Base Offer Total			Total	
Proposal Alternate 1 - Offer Item 2 – Rio De Flag WWTP Blower System (3 New Blowers)					
2A	Submittals	1	LS		
2B	Factory Testing and Witnessing Services	1	LS		
2C	Blower Package Systems	1	LS		
2D	Blower Master Control Panel	1	LS		
2E	Field Testing Services	1	LS		
2F	Operations and Maintenance Manuals	1	LS		
2G	Training	1	LS		
	Rio De Flag WWTP (only) Offer Alternative 1 Total			Total	
Proposal Alternate 2 – Offer Item 3 - Wildcat Hill WWTP and Rio de Flag Blower System (6 New Blowers)					
3A	Submittals	1	LS		
3B	Factory Testing and Witnessing Services	1	LS		
3C	Blower Package Systems	1	LS		
3D	Blower Master Control Panel	1	LS		
3E	Field Testing Services	1	LS		
3F	Operations and Maintenance Manuals	1	LS		
3G	Training	1	LS		
	Combined Offer Alternate 2 Total			Total	

Warranty Information (include time period, coverage and any associated cost) _____

_____

Any other specifications not standard, but being specified, must be included here, with price.

Miscellaneous charges:_____

_____

(All charges must be included, no extra charges will be considered at a later date.)

DELIVERY:

Maximum number of calendar days to deliver after receipt of a purchase order. _____ Days.

PROPOSAL FORMAT

FORMAT AND CONTENT: To aid in the evaluation, all proposals must follow the same general format. The Evaluation Committee will evaluate firms submitting responses to this RFP based on the information provided in each of the Proposer's proposal response and interviews as necessary. To allow for a standard basis of evaluation, all Proposals are requested to follow a similar format. Proposals shall not exceed **twenty-five (25)** pages **total** in length excluding title, front and back cover pages, insurance summary, and addenda. Total allowable pages shall be double-sided 8 ½" x 11" with the exception that up to one page may consist of an 11" x 17" fold-out (not part of 25 page count). Proposals shall be tabbed in order to requirements below. Please provide an original plus six copies (total of seven) of your Proposal. Proposals should be organized with tabbed sections/dividers (excluded from page count) as follows:

Cover (excluded from page count):
The cover should contain the following relevant data as a minimum:

- Statement indicating response to: **Wildcat Hill & Rio De Flag Wastewater Treatment Plant Aeration Blowers**
- RFP No. 2014-18
- Submittal date
- Company name (and logo if desired)
- Other information/graphics as desired

Title Page (excluded from page count):
Include firm's name, address, e-mail/website address(es), phone and FAX numbers, name(s) of principals, and contact person that will direct the work and their contact information (phone number and e-mail address).

Executive Summary (1 page maximum):
Address issues of experience, key team members with discipline noted, ability and commitment to respond completely to the project scope, ability to keep the project on schedule and within budget. Include a brief summary of firm's history.

General Information

- Experience and Qualifications
- Support Services

Technical Requirements

- Power Consumption
- Blower Components
- Capital Costs
- Life Cycle

Fee and Price Schedule Form (excluded from page count)

Offer and Contract Award Form (excluded from page count)

Required Forms (excluded from page count)

- References
- Exceptions, Confidential and Additional Materials
- Questionnaire
- Disclosure Form
- Non-Collusion Affidavit

Addenda (excluded from page count)
Include all addenda issued by the City for this solicitation. All addenda are to be signed as indicated in the issued addenda.

Insurance Summary (excluded from page count)
Provide a summary of the firm's and sub consultant's insurance coverage. Minimum limits and types of insurance that are required to be maintained throughout the term of the project are identified in Attachment A (Sample Service Agreement).

EVALUATION CRITERIA

Proposals will be evaluated based on the Proposer's ability to meet the performance requirements and scope of work/specifications of this RFP Package. This section provides a description of the evaluation criteria that will be used to evaluate the Proposals. To be deemed responsive, it is important for the Proposer to provide appropriate detail to demonstrate satisfaction of each criterion and compliance with the performance provisions outlined in this RFP Package.

The following evaluation criteria will be used by the City of Flagstaff's evaluation committee for the selection of a Proposer to provide a **Wildcat Hill & Rio De Flag Wastewater Treatment Plant Aeration Blowers.** The evaluation committee will review the initial proposal responses and score them according to the criteria listed below. Depending on the total number of proposal responses to this RFP, the committee may "short list" the proposers receiving the highest scores and conduct formal discussions/presentations to make a final evaluation. After final evaluation of proposal responses, the City may narrow the total number of responses down to approximately three (3) and may request "Best and Final" offers.

The following evaluation criteria and points schedule will be used to determine the award of the contract(s):

Criteria	Method for Assignment of Points	Maximum # of Points	Points Awarded to Proposer
General Evaluation of Proposal Package			
Completeness of Proposal Package	5 – Complete 3 – Missing Some Information 0 - Incomplete	5	
Experience and Qualifications	5 – More than 100 installations in North America and Satisfactory Qualifications 3 – More than 50 Installations in North America, Incomplete Qualifications 1 – Less than 50 installations in North America and Unsatisfactory Qualifications	5	
Support Services	10 – Support services within the Southwest 5 – Support services within the US 0 – No support services within the US	10	
Evaluation of Technical Requirements			
Power Consumption	10 – Average of less than 5% different from the required power consumption 5 – Average of between 5 to 10% different from the required power consumption 1 – Average greater than 10% difference from the required power consumption	10	
Turbo Blower Mechanical, Electrical and Instrumentation Components meet Specifications	10 – All mechanical component requirements are met 5 – Most mechanical requirements are met 1 – Minimal mechanical requirements are met	10	
Fee Schedule - Capital Cost for Turbo Blower Packages	Proposer's offer price compared to the average offer price of the responsive proposal packages received. Points assessed will be inclusive of capital cost	30	

	evaluation of: 10 – Less than 15% percent different 5 – Between 15% and 25% percent difference 0 – More than 20% percent different		
Life Cycle Cost Evaluation (to be calculated by OWNER given information provided in RFP, items 10 and 11)	Proposer's Life Cycle Cost compared to the average Life Cycle Cost of the responsive proposal packages received. Points assessed will be inclusive of: 10 – Less than 15% percent different 5 – Between 15% and 25% percent difference 0 – More than 20% percent different	30	
	TOTAL	100	

This proposal will be evaluated on a cumulative point system.

PROPOSER'S REFERENCES

1. **REFERENCES.** Proposers shall submit references from relevant municipal officials for projects that are comparable in size, complexity, and scope of work sought by this RFP.
   - The references should also demonstrate the Proposer's experience with the service proposed. The histories of such projects that they have completed, firm resumes and resumes of key personnel should also be included as well as other such information believed to demonstrates the indicated types of experience.
   - All references should include the name, title, telephone number of both the current owner of the project and the owner of the project at time of work effort. Specific reasons for using the reference must also be provided.

Firm/Government Agency Name:	
Contact Person:	Phone:
Title:	Fax:
Address:	E-Mail Address:
	Reason for Selecting as Reference:
Project Size, Complexity, Scope and Duration:	

Firm/Government Agency Name:	
Contact Person:	Phone:
Title:	Fax:
Address:	E-Mail Address:
	Reason for Selecting as Reference:
Project Size, Complexity, Scope and Duration:	

Firm/Government Agency Name:	
Contact Person:	Phone:
Title:	Fax:
Address:	E-Mail Address:
	Reason for Selecting as Reference:
Project Size, Complexity, Scope and Duration:	

Firm/Government Agency Name:

Contact Person:	Phone:
Title:	Fax:
Address:	E-Mail Address:
	Reason for Selecting as Reference:
Project Size, Complexity, Scope and Duration:	

Firm/Government Agency Name:	
Contact Person:	Phone:
Title:	Fax:
Address:	E-Mail Address:
	Reason for Selecting as Reference:
Project Size, Complexity, Scope and Duration:	

EXCEPTIONS, CONFIDENTIAL AND ADDITIONAL MATERIALS

Proposers shall indicate any and all exceptions taken to the provisions or specifications in this solicitation document.

Exceptions (mark one):

_____ No exceptions

_____ Exceptions taken (describe--attach additional pages if needed)

Confidential/Proprietary Submittals (mark one):

_____ No confidential/proprietary materials have been included with this offer

_____ Confidential/Proprietary materials included. Proposers should identify below any portion of their offer deemed confidential or proprietary (see Standard Terms and Conditions, section **titled Confidential Information**). Identification of such materials in this section does not guarantee that disclosure will be prevented but that the item will be subject to review by the Proposer and the City prior to any public disclosure. Requests to deem the entire offer as confidential will not be considered.

All proposals shall become the property of the City of Flagstaff once submitted.

Additional Materials submitted (mark one):

_____ No additional materials have been included with this offer

_____ Additional Materials attached (describe--attach additional pages if needed)

VENDOR QUESTIONNAIRE

Company Legal/Corporate Name: _____

Doing Business As (if different than above): _____

Address: _____

City: _____ State: _____ Zip: _____-_____

Phone: _____ Fax: _____

E-Mail Address: _____ Website: _____

Taxpayer Identification Number: _____

Remit to Address (if different than above):

Address: _____

City: _____ State: _____ Zip: _____-_____

Contact for Questions about this proposal:

Name: _____ Fax: _____

Phone: _____ E-Mail Address: _____

Day-to-Day Project Manager (if awarded):

Name: _____ Fax: _____

Phone: _____ E-Mail Address: _____

Sales/Use Tax Information (check one):

____ Proposer is located outside Arizona (The City will pay use tax directly to the AZ Dept of Revenue)

____ Proposer is located in Arizona (The Offeror should invoice the applicable sales tax and remit to the appropriate taxing authorities)
State Sales Tax Number: _____
City Sales Tax Number: _____ City of: _____, AZ

____ Certified Small Business Certifying Agency: _____

____ Certified Minority, Woman or Disadvantaged Business Enterprise Certifying Agency: _____

Credit References: Provide the name and telephone number of at least three organizations that your company deals with on an on-going basis.

A. Company Name_____

Contact & Phone Number_____

B. Company Name_____

Contact & Phone Number_____

C. Company Name_____

Contact & Phone Number_____

Insurance - Name of insurance agent that will provide the specified coverage's.

_____

List any other information that may be helpful in determining your qualifications including sub-contracts to be utilized if any.

_____

_____

_____

Additional Information required:

a. Year firm was established (include former firm names and year each applied).
b. Identify the country and state in which the firm was incorporated or otherwise organized.
c. Type of ownership and parent company and subsidiaries, if any. Include dates of any corporate mergers and/or acquisitions including all present and former subsidiaries with dates of any and all re-structuring since the founding date.
d. A narrative description and organization chart depicting the management of the Proposer's organization and its relationship to any larger business entity.
e. A description of the overall operations of the Proposer, the number and scope of other projects currently ongoing or set to begin in the near future.
f. A narrative description of Proposer's familiarity with and prior operating experience in Arizona or the Southwestern United States.
g. Provide, at Proposer's option, any additional information not specifically listed above which demonstrates the qualifications of the Proposer to perform the scope of work specified in this RFP.

APPENDIX A
DETERMINATION OF RESPONSIBILITY

DETERMINATION OF RESPONSIBILITY OF PROPOSERS, FLAGSTAFF CITY CODE SECTION NUMBER 1-20-001-0004

A. For purposes of administering the provisions of Sections 2, 9, and 10 of Article VIII of the Flagstaff City Charter with respect to an Enumerated Contract, as hereinafter defined, and such other contracts as the City shall deem appropriate in accordance with the provisions of this Section 0004, no Proposer shall be determined to be "responsible" if that Person is a Habitual Violator, as defined herein.

B. For purposes of this Section 0004, the masculine shall include the feminine and/or neuter and the singular the plural, and vice-versa, as sense shall require, and the following capitalized terms shall have the meaning set forth in this Subsection B, as follows:

1. "Person" means any individual, corporation, partnership, association, unit of government, or legal entity, however organized.

2. "Violation" means any one of the following actions or an equivalent action by any regulatory agency, court, or other competent authority as a result of or in connection with a Covered Matter:

a. Final administrative order imposing monetary penalties, or otherwise requiring payments, in excess of $100,000;

b. Final permit revocation or suspension;

c. Fine or civil judgment imposing monetary penalties, or otherwise requiring payments, in excess of $100,000;

d. Judgment of conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, including a plea of nolo contendere or no contest;

e. Finding of contempt of any court order enforcing the provisions of any federal or state law pertaining to a Covered Matter;

f. Settlement agreement or consent order imposing monetary penalties, or otherwise requiring payments, in excess of $100,000; and

g. Debarment or equivalent exclusionary action by any public agency or instrumentality.

3. "Covered Matter" means any of the following:

a. Any offense indicating a lack of business integrity or honesty which affects the present responsibility of a Proposer, including but not limited to:

(I) Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement;

(ii) Bribery, embezzlement, false claims, false statements, falsification or destruction of records, forgery, obstruction of justice, receiving stolen property, or theft; or

(iii) Unlawful price fixing between competitors, allocation of customers between competitors, Proposal rigging, or any other violation of any federal or state antitrust law that relates to the submission of Proposals or proposals.

b. Violation of the terms of a public agreement so serious as to affect the present responsibility of a Proposer, including but not limited to:

(i) a willful or material failure to perform under one or more public agreements; or

(ii) a willful or material violation of a statutory or regulatory provision or requirement applicable to a public agreement.

c. Failure to pay a debt (including disallowed costs and overpayments) owed to any government agency or instrumentality, provided that the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted.

d. Violation of any law or regulation pertaining to the protection of public health or the environment.

4. "Parent" means any Person who owns or controls any other corporation, partnership, association, or legal entity, however organized.

5. "Subsidiary" means any corporation, partnership, association, or legal entity, however organized, owned or controlled by another Person.

6. "Affiliate": Persons are Affiliates of one another if, directly or indirectly, one owns, controls, or has the power to control the other, or a third Person owns, controls, or has the power to control both.

7. "Control" means the power to exercise, directly or indirectly, a controlling influence over the management, policies, or activities of a Person, whether through the ownership of stock or securities, through one or more intermediary Persons, or otherwise. For purposes of this Paragraph B.7, a Person who owns or has the power to vote, directly or indirectly, more than fifty percent (50%) of the outstanding voting securities of another Person, or more than fifty percent (50%) of value of the other Person. Such presumption may be rebutted by clear and convincing evidence. Other indicia of control shall include, but be not limited to: interlocking management or ownership; identity of interests among family members; shared facilities and equipment; common use of employees; or the power to appoint or actual appointment of directors or managers. For purposes of this Paragraph B.7, a person shall be treated as owning all stock and securities owned by: his siblings, spouse, and lineal descendants and ancestors; any trust of which such person or a member of such person's family is the grantor; and any corporation or other business entity in which such person or member of such person's family owns more than fifty percent (50%) of the value or voting power of such entity.

8. "Habitual Violator" means any Proposer who has incurred, or any of whose Parent, Subsidiary, or other Affiliates have incurred, in the aggregate, more than two Violations within five (5) years preceding the Proposal opening date.

9. "Enumerated Contract" shall mean any contract by which the City purchases services to be performed, which by its terms cannot be performed in less than one (1) year and which requires the payment of a stated sum of more than One Hundred Thousand Dollars ($100,000), but shall not include contracts for the provision of professional services (such as legal, accounting, architectural or engineering) or for the construction, improvement or repair of City buildings or other public improvements.

C. For purposes of this Section 0004, any administrative action or order, judgment or criminal conviction that has been ruled on appeal in favor of the Proposer by a final decision of a competent authority will not be considered to be a Violation. If the Proposer has an appeal pending, the outcome of which will affect the determination of whether the Proposer is a

responsible Proposer, the City shall not determine the Proposer to be a responsible Proposer until a final decision on the appeal is rendered.

D. Along with its Proposal or proposal documents, each Person Proposalding or proposing for an Enumerated Contract, or for any other contract for which the City shall choose to apply the provisions of this Section 0004 by due notice in the Proposal solicitation or request for proposals for such contract, shall provide such information as shall be necessary and appropriate for the evaluation of a Proposer under the provisions of this Section 0004, substantially in the form attached hereto as an Exhibit.

E. If information provided by the Proposer or otherwise available to the City shows that the Proposer, or its Parent, Subsidiary, or other Affiliates, have incurred in the aggregate more than two Violations within five (5) years preceding the Proposal opening date, the City shall notify the Proposer that the Proposer appears to be a Habitual Violator within the meaning of this Section 0004. Upon receipt of the notification, the Proposer shall have ten (10) days to produce clear and convincing evidence to the City that the Proposer is not a Habitual Violator within the meaning of this Section. If the City finds that the evidence, if any, produced by the Proposer is not clear and convincing evidence that the Proposer is not a Habitual Violator, the City shall determine the Proposer to be a Habitual Violator. If the City finds that the evidence produced by the Proposer is clear and convincing evidence that the Proposer is not a Habitual Violator, the City shall determine that the Proposer is not a Habitual Violator. Notwithstanding anything to the contrary contained herein, the City may, but shall not be required to, deem a Proposer not to be a Habitual Violator, or may waive, in whole or in part, the requirements of this Section 0004, if the City, in its sole discretion, shall determine that:

1. There is no other Proposer reasonably capable of performing the subject contract;
2. An emergency exists such that the expeditious award of the contract is essential to the public health, safety or welfare; or
3. A change of ownership, management or control of the Proposer demonstrates, by clear and convincing evidence, as determined by a vote of five (5) at any Council meeting duly held, that the history of the Proposer is not indicative of its current business practices.

F. Any Proposer who intentionally provides false information, or intentionally fails to provide complete information, to the City in accordance with the requirements of Subsection D hereof shall be determined to be not a responsible Proposer within the meaning of Sections 2, 9, and 10 of Article VIII of the Flagstaff City Charter.

G. For purposes of administering the provisions of Sections 2, 9, and 10 of Article VIII of the Flagstaff City Charter, if a Proposer is not a Habitual Violator, the City may consider any other information available to the City in determining whether a Proposer is responsible. The City's Purchasing Director or his designee may establish further specific criteria of responsibility with respect to particular solicitations or requests for proposals, which criteria shall be set forth in such solicitation or request for proposals. Further, the City's Purchasing Director or his designee may choose to apply some or all of the provisions of this Section 0004 to any contract other than an Enumerated Contract if the nature of such contract or other circumstances indicate that the Proposer's responsibility is or may be material in the performance or administration of such contract, provided that the application of such provisions shall be noted in the Proposal solicitation or request for proposals for such contract.

H. Any determination that a Proposer is not responsible, under Section 0004 shall be made in writing and shall set forth the grounds for such determination. A copy of such determination shall be promptly sent to such Proposer.

I. Nothing in this Section 0004 shall be construed to limit the right of the City to find any Proposer or proposer not responsible for purposes of Sections 2, 9, and 10 of Article VIII of the Flagstaff City Charter for any sufficient reason not enumerated herein, with respect to any City contract, whether or not the requirements of this Section 0004 are applicable to such contract.

J. If, during the course of administration or performance of any contract to which the requirements of this Section 0004 are applicable (whether by the terms hereof or by action of the City's Purchasing Director, as set forth in Subsection G hereof), either:

1. The City shall discover that the Proposer made a material omission or false statement in the course of providing the information required by Subsection D hereof; or

2. The Proposer shall commit a Violation as defined herein, which, in conjunction with other Violations committed by the Proposer or any Affiliate, would make it a Habitual Violator hereunder;

Then the City may terminate such contract forthwith, without penalty or further obligation (other than those as may already have accrued under the terms of the contract), except as may be otherwise expressly provided in such contract.

APPENDIX B
PROPOSER DISCLOSURE FORM

Information required to be solicited pursuant to City Code Section 1-20-001-0004.D

In accordance with City Code Section 1-20-001-0004, all Proposers are required to complete and sign the following checklist. For any item checked YES, you must provide as complete an explanation as possible on one or more attached sheets, including dates, company name(s), enforcing authority, court, agency, etc. Answering YES to one or more questions does not necessarily mean that you will be disqualified from this Proposal. HOWEVER, **FAILURE TO PROVIDE TRUE AND COMPLETE INFORMATION MAY RESULT IN DISQUALIFICATION FROM THIS PROPOSAL AND OTHER CONTRACTS FOR THE CITY OF FLAGSTAFF.** A copy of City Code Section 1-20-001-0004 may be obtained from the City of Flagstaff Purchasing Department.

Has your company or any affiliate* of your company, in the past 5 years, (i) had a permit revoked or suspended, (ii) been required to pay a fine, judgment or settlement of more than $100,000, (iii) been convicted of a criminal offense (including a plea of guilty or *nolo contendere*), (iv) been found in contempt of court, or (v) been debarred, disqualified or suspended from submitting proposals on public contracts, as a result of or in connection with any of the following:

1. Any offense indicating a lack of business integrity or honesty, including fraud, bribery, embezzlement, false claims, false statements, falsification or destruction of records, forgery, obstruction of justice, receiving stolen property, theft, or price fixing, Proposal rigging, restraint of trade or other antitrust law violation? YES_____ NO_____
2. Violation of the terms of any public contract? YES_____ NO_____
3. Failure to pay any uncontested debt to any government agency? YES_____ NO_____
4. Violation of any law or regulation pertaining to the protection of public health or the environment? YES_____ NO_____

*An "affiliate" of your company means any person, company or other entity that, either directly or indirectly (for example, through stock ownership by family members), controls, is controlled by, or is under common control with, your company.

I hereby verify that the foregoing information, and any explanation attached are to the best of my knowledge, true and complete.

_____	_____	_____
Signature	*Title*	*Date*

NON-COLLUSION AFFIDAVIT

State of_____)
) ss.
County of_____)

_____, affiant,

states that I am the_____
_____
(Title)

of_____
(Contractor/Proposer)
and I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this Proposal.

I state that:

a. The price(s) and amount of this Proposal has been arrived at independently and without consultation, communication or agreement with any other contractor, Proposer or potential Proposer.
b. Neither the price(s) nor the amount of this Proposal, and neither the approximate prices(s) nor approximate amount of this Proposal, have been disclosed to any other firm or person who is a Proposer or potential Proposer, and they will not be disclosed before Proposal opening.
c. No attempt has been made or will be made to induce any firm or person to refrain from Proposing on this contract, or to submit a Proposal higher than this Proposal, or to submit any intentionally high or noncompetitive Proposal or other form of complementary Proposal.
d. The Proposal of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Proposal.
e. _____, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to Proposing on any jurisdiction, involving conspiracy or collusion with respect to Proposing on any public contract.

_____

_____
(Title)

Subscribed and sworn to before me

this _____ day of _____, 20__.

_____
Signature of Notary Public

OFFER

TO THE CITY OF FLAGSTAFF:

The undersigned hereby offers and agrees to furnish the material, service, or construction in compliance with the RFP Package. Signature also certifies understanding and compliance with "Certification" as defined in Article 1 of the "Standard Terms and Conditions" of this Agreement.

For clarification of this offer, contact:

Name:_____ Phone:_____ Fax:_____

Company Name:_____

Address:_____

City, State, Zip:_____

_____ _____

Signature of Person Authorized to Sign Offer Title

_____ _____

Printed Name Date

CONTRACT AWARD

This form is to be completed upon completion of all evaluations and negotiations. The City will forward this form to the successful vendor along with a letter of intent to award. Vendor shall submit three originals of this form to the City.

TO THE CITY OF FLAGSTAFF:

The Undersigned hereby offers and agrees to furnish the products, materials, services or construction in compliance with all terms, conditions, specifications and amendments in the Request for Proposals, this Agreement and any written exceptions in the offer. Undersigned also certifies by signing and submitting this offer and Agreement that Undersigned has the legal authority to enter into a contract with the City.

This Agreement shall become effective on and from the day and year executed by the parties, indicated below, and shall continue in force until _____ unless sooner terminated as provided above. The City reserves the right to unilaterally extend the period of the Agreement for ninety (90) days beyond the stated termination date.

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

City of Flagstaff

_____
Vendor Name

_____
City Manager

_____
Name and Title

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

Date of Execution:_____

VENDOR CHECK LIST

YOU SHOULD IMMEDIATELY COMPLETE AND FAX THE FOLLOWING TO (928) 213-2209.

1. RFP Acknowledgment. _____

PRIOR TO SUBMITTING YOUR PROPOSAL YOU SHOULD VERIFY THAT THE FOLLOWING ITEMS HAVE BEEN COMPLETED.

1. Verified your extensions and proposal amounts? _____
2. Clearly noted all exceptions to City specifications? _____
3. Enclosed full descriptive information requested? _____
4. Attached all required drawings & specifications? _____
5. Addressed all RFP specification requirements? _____
6. Completed the sales tax information? _____
7. Returned complete proposal package? _____
8. Addressed proposal envelope per instructions? _____
9. Include insurance verification (If Requested). _____
10. Completed and signed the Offer and Contract Award? _____

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Michael O'Connor, Public Works Section Head

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Approval of Purchase Under National Intergovernmental Purchasing Alliance Contract: All-wheel-drive motor graders with snow wing attachments ***(Purchase of 3 all-wheel-drive motor graders from Empire Machinery of Flagstaff)***

RECOMMENDED ACTION:

Approve the purchase under National Intergovernmental Purchasing Alliance Contract with Empire Machinery of Flagstaff, Arizona (Empire Southwest, LLC) for the purchase of three (3) all-wheel-drive motor graders with snow wing attachments in the amount of $677,000, plus the trade in of two (2) 1989 motor graders, one (1) 1990 all-wheel-drive motor grader, two (2) 1988 loaders and one (1) 1991 loader.

Policy Decision or Reason for Action:

Public Works staff and the Fleet Committee reviews needs and replacement of older equipment with newer more efficient equipment. These purchases will allow the Streets Section to maintain its current level of service in a cost effective manner.

Financial Impact:

- The Streets Section has budgeted $677,000 in Fiscal Year 2015 for the purchase of three (3) all-wheel-drive motor graders with snow wing attachments in account number 040-6-161-0614-6-4401.
- The purchase of all-wheel-drive motor graders using the National contract is $373,000 X 3 = $1,119,000
- The trade in value for the two (2) motor graders and one (1) 1990 motor grader are $81,500 each totaling $244,500
- The trade in value for the two (2) 1988 loaders are $90,600 each totaling $181,200
- The trade in value for the one (1) 1991 loader is $16,800
- Total trade in value of all equipment is $442,500
- By trading in 6 pieces of equipment we are able to purchase three (3) motor graders for $677,000
- Net cost of each motor grader is $225,667

Connection to Council Goal:

Maintain and deliver quality, reliable infrastructure.

Has There Been Previous Council Decision on This:

None previously except by adoption of the annual budget where these projected expenditures were contained.

Options and Alternatives

- Option A: Accept National Intergovernmental Purchasing Alliance contract bid from Empire Machinery as the lowest, responsive bidder for the amount of $677,000 for the three (3) all-wheel-drive motor graders with snow wing attachments, and the trade in of two (2) motor graders, one (1) all-wheel-drive motor grader, and three (3) loaders.
- Option B: Conduct competitive bid process.
- Option C: Continue to use existing motor graders

Background/History:

Within the Streets fleet, the equipment has become aged and replacements have been deferred for a few years due to the declining Highway User Revenue Funds (HURF). This year it was identified that the HURF fund balance had the capacity to fund some equipment replacement. One of Streets' top needs was all-wheel-drive motor graders with snow wing attachments. Staff programmed money into the budget using projections from verbal quotes from two distributors. Within the next few years it is projected that equipment replacement needs will grow, and now we have the opportunity to address three needs. As the equipment can be purchased in groups, this is an opportunity to move the needs apart for future replacements. Streets currently has three (3) motor graders that meet the criteria for replacement. With this National contract, it would address these needs.

The two oldest motor graders are 25 years old (1989); one has 6,000 hours on it and life-to-date costs are $71,000. The other has 8,300 hours on it and life-to-date costs are $80,000. The main concern with these motor graders are that they have become under powered and the hydraulics have become very slow, which affects the efficient operation of the machines. A certified refurbish of these machines would be approximately $200,000 each, which would include an engine rebuild, injectors, fuel system parts and a turbo for the engines to increase the power. It would also include hydraulic cylinders and other major hydraulic parts, and a transmission rebuild. Streets has another motor grader that is 24 years old (1990) and the life-to-date costs are $130,000 due to it being a prototype for one of the first all-wheel-drive machines built. This piece of equipment has had many significant repairs (transmission, drive train and hydraulics) during its lifetime and the operation is similar to the other ones, as it is not as efficient in the daily operation. As these pieces of machinery are older it may be difficult to find parts. The Fleet Committee has reviewed the request to replace the motor graders and they voted unanimously in favor of replacing them.

Staff identified under-utilized loaders that would qualify for trade in to assist with this purchase.
The loaders are in need of a significant amount of repairs (major hydraulic repairs and drive train) that has become too expensive to keep in the Fleet. Streets can sustain their operations without these pieces of equipment as we have identified alternative ways to get the work completed. Staff researched using contractors for this work, utilizing savings in maintenance found by removing the loaders from the fleet, purchasing 3 new motor graders and using savings not hiring temporary labor, which has been difficult to find. The cost of contracting this work would be approximately $25,000 which we could sustain for approximately two years and then we could reevaluate the operation. The Fleet committee was very receptive to this idea, as it helps accomplish the goal of reducing the City's fleet.

The vendor agreed to accept trade in of all six (6) pieces of equipment with a total trade in value of $442,500, and provide three (3) new all-wheel-drive motor graders with snow wing attachments for a cost to the City of $677,000.

For future replacements, all-wheel-drive motor graders will still be preferred, as they are more efficient in dirt grading and snow plowing operations. The front steering wheels when engaged in all-wheel-drive

mode, help pull the material, utilizing the horsepower more evenly, therefore reducing the wear and tear on the machine. Due to the terrain and hills in Flagstaff, all-wheel drive motor graders would provide a safer operation and would help maintain the core services that the Street Section provides.

Staff also researched the availability of used equipment for purchase; however, all-wheel-drive motor graders are better for Streets' operation and they are not available on the market to purchase used or to rent.

Key Considerations:

When preparing to purchase the replacement motor graders, staff looked at the National Intergovernmental Purchasing Alliance contract and found pricing to be the most competitive for these motor grader equipment purchases. This is a national formal solicitation for bids to purchase motor graders. The process identified that Caterpillar Corporation as the most responsive bidder; our local Caterpillar vendor is Empire Machinery.

The warranty on the equipment is fully extended "bumper to bumper" to any defects in workmanship and materials for seven (7) years or 6,000 hours. The warranty does not cover items that are considered to be operating and maintenance items (tires, oil changes, brakes, etc.)

The City of Flagstaff has had a long working relationship with Empire Machinery, a local business, for the last twenty (20) plus years and has their equipment currently in the fleet. In this time, Fleet Maintenance staff and equipment operators have gained confidence in Empire's abilities to provide warranty work, preventive maintenance and product support needed with this purchase.

Expanded Financial Considerations:

With these purchases, it will allow the Street Section to have six (6) out of the nine (9) motor graders in the fleet that would be all-wheel-drive allowing the Street Section to meet the expected level of service as they are more efficient in their operation and will have reduced maintenance costs.

This would also help reduce the need of replacements in Streets fleet from $4.5M to $950,000 through FY15.

Community Benefits and Considerations:

This would help provide the quality and level of service the community expects.

Community Involvement:

Inform

Expanded Options and Alternatives:

- Option A: Accept National Intergovernmental Purchasing Alliance contract contract bid from Empire Machinery (Empire Southwest, LLC) as the lowest, responsive bidder for the amount of $677,000 for the three (3) all-wheel-drive motor graders with snow wing attachments, and the trade in of two (2) motor graders, one (1) all-wheel-drive motor grader, and three (3) loaders.
- Option B: Do not trade in three (3) loaders and accept National Intergovernmental Purchasing Alliance contract bid from Empire Machinery (Empire Southwest, LLC) as the lowest responsive bidder for the amount of $874,500 for three (3) all-wheel-drive motor graders with snow wing attachments, and trade in two (2) motor graders and one (1) all-wheel-drive motor grader. This would require additional $197,500 in funding.
- Option C: Conduct competitive bid process.
- Option D: Continue to use existing motor graders.

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Scott Mansfield, Police Lieutenant
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration and approval of Grant Agreement: Authorizing approval of an Agreement with the U.S. Department of Justice, through the Arizona Criminal Justice Commission, for the Edward Byrne Justice Assistance Grant funds in the amount of $291,660.00 for the Northern Arizona Street Crimes Task Force (METRO unit).

RECOMMENDED ACTION:

Approve the acceptance of the grant from the U.S. Department of Justice, through the Arizona Criminal Justice Commission, Edward Byrne Justice Assistance Grant funds in the amount of $291,660.00 for FY2015.

Policy Decision or Reason for Action:

Approval of this grant will provide the continued operation of the METRO unit to protect life, property, and the rights of the individuals by participating agencies through a sustained, coordinated, multi-agency effort to reduce drug and gang related crimes. This will be accomplished by vigorous investigations, apprehensions, prosecution, and community participation.

Financial Impact:

The grant award is in the amount of $218,745.00 (75%) with required matching funds of $72,915.00 (25%). The METRO board has authorized matching funds from the Rico account. The Rico account has provided matching funds in the past years and the board has agreed to provide the above matching funds for this years grant. This amount will include all city costs, estimated in kind and administrative costs if above normal departmental allocation. The grant award will be the 28th funding cycle (FY 2015) for the METRO unit. This grant is budgeted in Fiscal Year 2015.

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

Yes, the Flagstaff City Council has approved the acceptance of this grant money for the past twenty seven years.

Options and Alternatives:

Approve the acceptance of the grant or decline the acceptance of the grant.

Background/History:

As previously stated, this is the 28th cycle of this grant in which the Flagstaff City Council has approved the previous 27 cycles.

Key Considerations:

This grant and the investigative officers this funds is supported by nearly every law enforcement entity in Coconino County including the Coconino County Sheriff's Office, The Flagstaff Police Department, Northern Arizona University Police, ATF, FBI, DEA and the Department of Public Safety. This grant provides specialized police investigations to all the communities located within Coconino County.

Community Benefits and Considerations:

Officers in the METRO Unit continuously provide support to numerous community groups including Citizens Against Substance Abuse, local schools, Citizens Academy programs, etc. in the form of training and educational presentations, drug awareness, and proactive investigations.

Community Involvement:

To work directly with the public through the process to ensure that public issues and concerns are consistently understood and considered.

Expanded Options and Alternatives:

If approved the grant would allow for the acceptance of $291,660.00 in federal funds that will provide proactive enforcement that would otherwise not be available to our citizens.

Attachments: ACJC Grant Agreement DC-15-002

ARIZONA CRIMINAL JUSTICE COMMISSION
Drug, Gang, and Violent Crime Control
GRANT AGREEMENT

ACJC Grant Number DC-15-002
Catalog of Federal Domestic Assistance (CFDA) Number 16.738

This Grant Agreement is made this 1ST day of July, 2014, by and between the ARIZONA CRIMINAL JUSTICE COMMISSION hereinafter called "COMMISSION" and CITY OF FLAGSTAFF, through CITY OF FLAGSTAFF hereinafter called "GRANTEE". The COMMISSION enters into this Agreement pursuant to its authority under the provisions of A.R.S. § 41-2405 (B)(6), and having satisfied itself as to the qualification of GRANTEE;

NOW, THEREFORE, it is agreed between the parties as follows:

1. This Agreement will commence on July 1, 2014 and terminate on June 30, 2015. This Agreement expires at the end of the award period unless prior written approval for an extension has been obtained from the COMMISSION. A request for an extension must be received by the COMMISSION sixty (60) days prior to the end of the award period. The COMMISSION in its sole discretion may approve an extension that further the goals and objectives of the program and shall determine the length of any extension.

2. GRANTEE agrees that grant funds will be used in accordance with applicable program rules, guidelines and special conditions.

3. The COMMISSION will monitor GRANTEE performance against program goals and performance standards and those outlined in the grant application. Substandard performance as determined by the COMMISSION will constitute noncompliance with this Agreement. If the COMMISSION finds noncompliance, the GRANTEE will receive a written notice which identifies the area of noncompliance, and the appropriate corrective action to be taken. If the GRANTEE does not respond within thirty (30) calendar days to this notice, and does not provide sufficient information concerning the steps which are being taken to correct the problem, the COMMISSION may suspend funding, permanently terminate this Agreement or revoke the grant.

4. Any deviation or failure to comply with the purpose and/or conditions of this Agreement without prior written COMMISSION approval may constitute sufficient reason for the COMMISSION to terminate this Agreement, revoke the grant, require the return of all unspent funds, perform an audit of expended funds, and require the return of any previously spent funds which are deemed to have been spent in violation of the purpose or conditions of this grant.

5. This Agreement may be modified only by a written amendment signed by the Executive Director or by persons authorized by the Executive Director on behalf of the COMMISSION and GRANTEE. Any notice given pursuant to this Agreement shall be in writing and shall be considered to have been given when actually received by the following addressee or their agents or employees:
   A. If to the COMMISSION:

      Arizona Criminal Justice Commission
      1110 W. Washington Street, Suite 230
      Phoenix, Arizona 85007
      Attn: Program Manager

B. If to the GRANTEE:

City of Flagstaff
211 West Aspen
Flagstaff, Arizona 86001
Attn: **City Manager Kevin Burke**

6. For grant awards above $100,000, GRANTEE may make budget adjustments of up to ten (10) percent of the total grant within any approved budget category excluding equipment. Written approval from the COMMISSION in advance is required if GRANTEE wishes to make adjustments or reprogram in excess of ten (10) percent or if GRANTEE wishes to purchase equipment not previously approved.

   For grant awards less than $100,000, the GRANTEE may make budget adjustments within approved categories excluding equipment as long as there are no changes to the purpose or scope of the project. If GRANTEE wishes to purchase equipment not previously approved, written approval from the COMMISSION in advance is required.

APPROVED LINE ITEM PROGRAM BUDGET	
Personnel:	
Salaries	$134,641.00
Fringe Benefits (for salaries/overtime)*	$80,267.00
Overtime	Not Approved
Professional & Outside/Consultant & Contractual Services	$76,752.00
Travel In-State	Not Approved
Travel Out-of-State	Not Approved
Confidential Funds	Not Approved
Operating Expenses:	
Supplies	Not Approved
Registration/Training	Not Approved
Other	Not Approved
Equipment	
Capital	Not Approved
Noncapital	Not Approved
TOTAL	$291,660.00
Positions Funded: Flagstaff PD Sergeant (1.00), Flagstaff PD Investigator (1.00), Coconino SO Investigator (.90) **Equipment Type:** Not Approved	

*Reference the ACJC Grant Management Manual for definition of approved Fringe Benefit

7. The total to be paid by the COMMISSION under this Agreement shall not exceed $116,664.00 in federal funds awarded to the COMMISSION by the U.S. Department of Justice (USDOJ), Office of Justice Programs (OJP) and $102,081.00. If this grant has a matching requirement GRANTEE understands that other federal grant funds cannot be used as a match for this grant. The matching amount for this award is $72,915.00.

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

9. GRANTEE agrees that if it currently has an open award of federal funds or if it receives an award of federal funds other than this award, and those award funds have been, are being or

are to be used, in whole or in part, for one or more of the identical cost items for which funds are being provided under this award, GRANTEE will promptly notify, in writing, the COMMISSION, and if so requested by the COMMISSION, seek a budget modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

10. GRANTEE agrees to retain all books, account reports, files and other records, (paper and/or electronic) relating to this Agreement and the performance of this Agreement for no less than five (5) years from the last financial report submitted to the COMMISSION. All such documents shall be subject to inspection and audit at reasonable times, including such records of any subgrantee, contractor, or subcontractor. GRANTEE also understands and agrees that USDOJ and the United States General Accounting Office (USGAO) are authorized to interview any officer or employee of the GRANTEE (or of any subgrantee, contractor, or subcontractor) regarding transactions related to this award.

11. GRANTEE agrees that activities funded under this award will be closely coordinated with related activities supported with Office of Justice Programs (OJP), State, local or tribal funds. Grant funds may only be used for the purposes in the GRANTEE's approved application. GRANTEE shall not undertake any work or activities not described in the grant application, including staff, equipment, or other goods or services without prior approval from the COMMISSION.

12. GRANTEE agrees to track, account for, and report on all funds (including specific outcomes and benefits) separately from all other funds for the same or similar purposes or programs.

    Accordingly, the accounting systems of GRANTEE and all subgrantees must ensure that funds from this award are not commingled with funds from any other source.

13. GRANTEE agrees to abide by Federal and State laws and provide accounting, auditing and monitoring procedures to safeguard grant funds and keep such records to assure proper fiscal controls, management and the efficient disbursement of grant funds.

14. For the purpose of this grant, a capital expenditure is $5,000 or above. If GRANTEE'S policy defines a capital expenditure as less than $5,000, GRANTEE will use its own policy.

15. GRANTEE agrees to maintain property records for equipment purchased with grant funds and perform a physical inventory and reconciliation with property records at least every two years or more frequently based on GRANTEE policy. GRANTEE agrees that funds will not be used for the construction of new facilities.

16. GRANTEE agrees to follow equipment disposition policies outlined in *OMB Circulars A-102 or 2 CFR, Part 215 Uniform Administrative Requirements for Grants and Cooperative Agreements* as codified in (1) 28 CFR, Part 66 or (2) 28 CFR, Part 70 when the equipment is no longer needed for the grant program.
    Link: *OMB Circulars* http://www.whitehouse.gov/omb/grants_attach/

17. GRANTEE agrees that all salaried personnel (including subgrantee personnel) whose activities are to be charged to the award will maintain timesheets or certifications to document hours worked for activities related to this award and non-award related activities. GRANTEE agrees to keep time and attendance sheets for hourly employees signed by the employee and supervisory official having firsthand knowledge of the work performed by the grant-funded employees.

18. GRANTEE agrees that it will submit financial and activity reports to the COMMISSION in a format provided by the COMMISSION, documenting the activities supported by these grant

funds and providing an assessment of the impact of these activities which may include documentation of project milestones. In the event reports are not received on or before the indicated date(s), funding may be suspended until such time as delinquent report(s) are received.

19. These reports are to be submitted according to the following schedule(s):

ACTIVITY REPORTS	
Report Period:	**Due Date:**
July 1 to September 30	October 15
October 1 to December 31	January 15
January 1 to March 31	April 15
April 1 to June 30	July 15

FINANCIAL REPORTS			
Report Period:	**Due Date:**	**Report Period:**	**Due Date:**
July 1 – July 31	August 25	January 1 – January 31	February 25
August 1 – August 31	September 25	February 1 – February 29	March 25
September 1 – September 30	October 25	March 1 – March 31	April 25
October 1 – October 31	November 25	April 1 – April 30	May 25
November 1 – November 30	December 25	May 1 – May 31	June 25
December 1 – December 31	January 25	June 1 – June 30	July 25

More frequent reports may be required for GRANTEES who are considered high risk.

20. GRANTEE understands that financial reports are required as an accounting of expenditures for either reimbursement or COMMISSION-approved advance payments.

21. The final request for reimbursement of grant funds must be received by the COMMISSION no later than sixty (60) days after the last day of the award period.

22. All goods and services must be received or have reasonable expectations thereof and placed in service by GRANTEE by the expiration of this award.

23. GRANTEE agrees that all encumbered funds must be expended and that goods and services must be paid by GRANTEE within sixty (60) days of the expiration of this award.

24. GRANTEE agrees to remit all unexpended grant funds to the COMMISSION within thirty (30) days of written request from the COMMISSION.

25. GRANTEE agrees to account for interest earned on federal grant funds and shall remit interest earned in excess of the allowable amount as indicated in the *Office of Justice Programs Financial Guide.*
Link: *OJP Financial Guide* http://www.ojp.usdoj.gov/financialguide/

26. GRANTEE agrees to obtain written COMMISSION approval for all sole source procurements in excess of $100,000.

27. GRANTEE agrees to obtain written COMMISSION approval prior to the expenditure of grant funds for consultant fees in excess of $450 per day.

28. GRANTEE agrees not to use grant funds for food and/or beverage unless explicitly approved in writing by the COMMISSION.

29. GRANTEE agrees to comply with all applicable laws, regulations, policies and guidance (including specific cost limits, prior approvals and reporting requirements, where applicable) governing the use of grant funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events unless explicitly approved in writing by the COMMISSION.
    Link: www.ojp.gov/funding/confcost/htm

30. No funds shall be used to supplant federal, state, county or local funds that would otherwise be made available for such purposes. Supplanting means the deliberate reduction of state or local funds because of the existence of any grant funds.

31. GRANTEE assigns to the COMMISSION any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services applied by third parties to GRANTEE in exchange for grant funds provided under this Agreement.

32. The parties agree to use arbitration in the event of disputes in accordance with the provisions of A.R.S. § 12-1501-12-1518. The laws of the State of Arizona apply to questions arising under this Agreement and any litigation regarding this Agreement must be maintained in Arizona courts, except as pertaining to disputes which are subject to arbitration.

33. GRANTEE understands that grant funds may not be released until all delinquent reports and reversion of funds from prior grants are submitted to the COMMISSION.

34. GRANTEE agrees that grant funds are not to be expended for any indirect costs that may be incurred by GRANTEE for administering these funds unless explicitly approved in writing by the COMMISSION. This may include, but is not limited to, costs for services such as accounting, payroll, data processing, purchasing, personnel, and building use which may have been incurred by the GRANTEE.

35. Each party (as "Indemnitor") agrees to indemnify, defend and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses, (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indeminitor, its officers, officials, agents, employees, or volunteers. If the GRANTEE is a State agency this paragraph does not apply.

36. Unless GRANTEE is a State agency, GRANTEE shall cause its contractor(s), if any, to indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of GRANTEE'S contractor or any of its owners, officers, directors, agents, or employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Worker's Compensation Law or arising out of the failure of such contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligence or willful acts or omissions of the Indemnitee, be indemnified by contractor from and against any and all claims. It is agreed that contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is

applicable. In consideration of the award of this grant, the contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the contractor for the State of Arizona. Insurance requirements for any contractor used by GRANTEE are incorporated herein by this reference and attached to this Agreement as Exhibit "A".

37. GRANTEE agrees to notify the COMMISSION within ten (10) days in the event that the project official is replaced during the award period.

38. No rights or interest in this Agreement shall be assigned by GRANTEE without prior written approval of the COMMISSION.

39. GRANTEE will comply with the audit requirements of *OMB Circular A-133 Audits of States, Local Governments and Non-Profit Organizations* and provide the COMMISSION with the audit report and any findings within 90 days of receipt of such finding. If the report contains no findings, the GRANTEE must provide notification that the audit was completed.
Link: *OMB Circulars:* http://www.whitehouse.gov/omb/grants_attach/

40. GRANTEE certifies that it will comply with *OMB Circulars A-102 and 2 CFR, Part 215 Uniform Administrative Requirements for Grants and Cooperative Agreements* as codified in (1) 28 CFR, Part 66.32 or (2) 28 CFR, Part 70.34 and *Cost Principles (1) 2 CFR, Part 225, (2) 2 CFR, Part 220 or (3) 2 CFR, Part 230,* the OJP Financial Guide and the most current version of the ACJC Grant Management Reference Manual.
Link: *OMB Circulars* http://www.whitehouse.gov/omb/grants_attach/
OJP Financial guide: http://www.ojp.usdoj.gov/financialguide/
ACJC Grant Management Reference Manual:
http://azcjc.gov/pubs/home/021104_Manual_GrantReferenceManual.pdf

41. GRANTEE agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or sub award to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express written approval of the Office of Justice Programs through the COMMISSION.

42. GRANTEE understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

43. GRANTEE agrees not to do business with any individual, agency, company or corporation listed in the Excluded Parties Listing Service.
Link: *System for Award Management* https://www.sam.gov/portal/public/SAM/

44. GRANTEE agrees to ensure that, no later than the due date of the GRANTEE's first financial report after the award is made, GRANTEE and any subgrantees have a valid DUNS profile and active registration with the System for Award Management (SAM) database.

45. GRANTEE certifies that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

46. GRANTEE understands and agrees that any training or training materials developed or delivered with funding provided under this award must adhere to the *OJP Training Guide Principles for Grantees and Subgrantees*.
Link: *OJP Training Guide Principles for Grantees and Subgrantees*

http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm

47. GRANTEE agrees to cooperate and participate with any and all assessments, evaluation efforts or information and data collection requests, and acknowledges that the federal or state grantor agency has the right to obtain, reproduce, publish or use data provided under this award and may authorize others to receive and use such information.

48. GRANTEE shall provide the COMMISSION with a copy of all interim and final reports and proposed publications (including those prepared for conferences and other presentations) resulting from this Agreement. Submission of such materials must be prior to or simultaneous with their public release.

49. GRANTEE agrees that any publications (written, visual, or sound) excluding press releases and newsletters, whether published at the GRANTEE'S or COMMISSION'S expense, shall contain the following statement:

    "This was supported by Award No. 2013-DJ-BX-0049 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The opinions findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice."

50. GRANTEE agrees to comply with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, 42 USC §3789d(c)(1); Title VI of the Civil Rights Act of 1964, 42 USC §2000d; Section 504 of the Rehabilitation Act of 1973, 29 USC § 794; Subtitle A, Title II of the Americans with Disabilities Act of 1990, 42 USC § 12132; Title IX of the Education Amendments of 1972, 20 USC § 1681; the Age Discrimination Act of 1975, 42 USC § 6102; the Department of Justice implementing regulations, 28 CFR pt. 42, subpts. C, D, E, G, and I, 28 CFR pt. 35, and 28 CFR pt. 54; all applicable state laws of A.R.S. § 41-1463; and Executive Order 2009-9. The above-referenced federal laws prohibit discrimination on the basis of race, color, religion, sex, disability, and national origin (including limited English proficiency) in the delivery of services and employment practices, and prohibit discrimination on the basis of age in the delivery of services. In the event that a Federal or State Court or Federal or State administrative agency makes a finding of discrimination after a due process hearing against GRANTEE, GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the COMMISSION.

    "Applicants must certify that Limited English Proficiency persons have meaningful access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Street Act, the applicant is required to take reasonable steps to ensure that LEP persons have meaningful access to programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary."
    Link: *Limited English Proficiency A Federal Interagency Website* http://www.LEP.gov

51. GRANTEE agrees to comply with the applicable requirements of 28 CFR Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice financial assistance may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of Department of Justice financial assistance may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from GRANTEE must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs receiving financial assistance from the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion.

Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment.
Link: http://www.ojp.usdoj.gov/about/ocr/equal_fbo.htm

52. GRANTEE assures that it will comply with all state and federal laws regarding privacy during the course of the award. All information relating to clients is to be treated with confidentiality in accordance with 42 USC section 3789g or 42 USC 14132(b)(3) that are applicable to the collection, disclosure, use and revelation of data information. GRANTEE further agrees to submit a privacy Certificate that is in accordance with requirements of 28 CFR Part 22 if applicable to the program.

53. GRANTEE agrees to formulate and keep on file an Equal Employment Opportunity Plan (EEOP) (if GRANTEE is required pursuant to 28 CFR 42.302). GRANTEE certifies that they have forwarded to the Office for Civil Rights, Office of Justice Programs the EEOP, or certifications that they have prepared and have on file an EEOP, or that they are exempt from EEOP requirements. Failure to comply may result in suspension of grant funds. Copies of all submissions such as certifications to or correspondence with the Office for Civil Rights, Office of Justice Programs regarding this requirement must be provided to the COMMISSION by GRANTEE. In the event a federal or state court or federal or state administrative agency makes an adverse finding of discrimination against GRANTEE after a due process hearing, on the ground of race, color, religion, national origin, or sex, GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the COMMISSION.

54. GRANTEE agrees to participate in any required civil rights related training to ensure compliance with all federal and state civil rights laws. GRANTEE will inform the COMMISSION of the position responsible for civil rights compliance and will inform the COMMISSION of change in personnel responsible for civil rights compliance within ten days.
Link: http://www.acjc.state.az.us/ACJC.Web/Grants/civilrights/default.aspx

55. If GRANTEE is a governmental political subdivision, GRANTEE agrees to utilize the *Data Dictionary*, approved and distributed by the COMMISSION, as the data entry standard for information systems when improving or updating an existing information system. GRANTEE agrees to utilize the *Data Dictionary* as the data entry standard in any new system or when an existing information system is replaced. The *Data Dictionary* is available upon request to ACJC.

56. To support public safety and justice information sharing, GRANTEE, if a governmental subdivision, shall use the National Information Exchange Model (NIEM) specifications and guidelines for this grant. GRANTEE shall publish and make available without restrictions all schemas generated as a result of this grant to the component registry as specified in the guidelines.
Link: https://www.niem.gov/program-managers/Pages/implementation-guide.aspx

57. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at:
Link: http://www.it.ojp.gov/gsp_grantcondition.

    Grantee shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

58. To avoid duplicating existing networks or IT systems in any initiatives for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such

systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless GRANTEE can demonstrate to the satisfaction of the COMMISSION that this requirement would not be cost beneficial or would impair the functionality of an existing or proposed IT system.

59. If GRANTEE is a governmental political subdivision, the GRANTEE should, to the extent possible and practical; share criminal justice information with other authorized criminal justice agencies. The process control number (PCN) shall be used in accordance with A.R.S. § 41-1750 when sharing data with other criminal justice agencies as electronic data systems are developed or improved.

60. If GRANTEE is a state agency and the award is for the development of information technology projects for more than $25,000, GRANTEE must complete a Project Investment Justification (PIJ) and submit the justification to the Arizona Department of Administration (ADOA), with a copy to the COMMISSION. GRANTEE agrees to submit required project status reports to ADOA by the due dates and submit copies to the COMMISSION.

    If GRANTEE is not a state agency and the award is for the development of information technology projects, GRANTEE will follow local technology policies and guidelines.

61. GRANTEE must promptly refer to the COMMISSION any credible evidence that a principal, employee, agent, contractor, subgrantee, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. The COMMISSION shall forward the referral to the Department of Justice, Office of the Inspector General.

62. The COMMISSION encourages GRANTEE to establish workplace safety policies and conduct education, awareness and other outreach to decrease crashes caused by distracted drivers, including adopting and enforcing policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant. Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 2009).

63. GRANTEE certifies to comply with the Drug-Free Workplace Act of 1988, and implemented in 28 CFR Part 83, Subpart F, for grantees, as defined in 28 CFR, Part 83 Sections 83.620 and 83.650.

64. GRANTEE agrees to complete and keep on file, as appropriate, Immigration and Naturalization Form (I-9). This form is to be used by recipients to verify that persons are eligible to work in the United States. Additionally GRANTEE ensures compliance with A.R.S. § 41-4401 federal immigration laws by state employers and contractors.

65. GRANTEE acknowledges that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. GRANTEE warrants that they have registered with and participate with E-Verify. If the GRANTOR later determines that the GRANTEE has not complied with E-Verify, it will notify the non-compliant GRANTEE by certified mail of the determination and of the right to appeal the determination.

66. GRANTEE certifies that no federal funds will be paid, by or on behalf of, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the

making of any Federal loan, the entering into any cooperative agreement, and for the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. If any funds other than Federal funds are paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal award, grant loan, or cooperative agreement, the GRANTEE will complete and submit to the COMMISSION Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

67. GRANTEE understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy at any level of government, without the express prior written approval of the Commission.

68. GRANTEE agrees that no funds provided, or personnel employed under this Agreement shall be in any way, or to any extent, engaged in conduct of political activities in violation of USC Title 5, Part II, Chapter 15, section 1502.

69. GRANTEE understands and agrees that award funds may not be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

70. GRANTEE understands and agrees that- (a) no award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading and exchanging or pornography, and (b) nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

71. GRANTEE agrees to comply with all federal, state and local environmental laws and regulations applicable to the development and implementation of activities to be funded under this award. Additional requirements may be found in Grant Agreement Continuation Sheet.

72. GRANTEE agrees that all income generated as a direct result of this award shall be deemed program income. All program income must be accounted for and used for the purpose under the conditions applicable for the use of funds under this award, including the effective edition of the OJP Financial Guide and, as applicable, either (1) 28 CFR part 66 or (2) 28 CFR part 70 and OMB Circular A-102 & 2 CFR 215.

73. This Agreement is subject to cancellation pursuant to the provision of A.R.S. § 38-511. This Agreement may also be cancelled at the COMMISSION'S discretion if not returned with authorized signatures to the COMMISSION within 90 days of commencement of the award.

74. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall be in full force and effect.

75. GRANTEE agrees to comply with all Special Condition(s) included with this Agreement on the Grant Agreement Continuation Sheet.

76. GRANTEE understands that grant funds may not be released until GRANTEE is compliant with all requirements of grant agreement.

Arizona Criminal Justice Commission

Drug, Gang, and Violent Crime Control

GRANT AGREEMENT CONTINUATION SHEET

SPECIAL CONDITION(S)

1. GRANTEE agrees that within 120 days of award, for any law enforcement task force funded with these funds, the task force commander, agency executive, task force officers and other task force members of equivalent rank, will complete required online (internet-based) task force training to be provided free of charge through BJA's Center for Task Force Integrity and Leadership (www.ctfli.org). GRANTEE will compile and maintain a task force personnel roster and course completion certificates.

2. GRANTEE agrees to the completion of the ACJC Subgrantee Self-Assessment Questionnaire within 45 days of the start date of this award.

3. GRANTEE agrees that within 45 days of award, for any agency that receives income as a result of grant-funded activities, it will complete the ACJC Program Income Worksheet.

4. GRANTEE agrees to the completion of the Benchmarks Worksheet within 45 days of award.

5. GRANTEE assures if they are a state agency that the State Information Technology Point of Contact receive written notification regarding any information technology project funded by this grant. GRANTEE agrees to keep on file documentation showing that it has met this requirement.

6. GRANTEE agrees to comply with all federal, state and local environmental laws and regulations applicable to the development and implementation of activities to be funded under this award. The GRANTEE agrees and understands that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The GRANTEE further understands and agrees to requirements for implementation of a Mitigation Plan, as detailed at http://www.ojp.usdog.gov/BJA/resource/nepa.html for programs relating to methamphetamine laboratory operations.

7. GRANTEE agrees that any information technology system developed or supported by funds will comply with 28 CFR Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation be applicable. Should OJP determine 28 CFR Part 23 to be applicable, OJP may at its discretion, perform audits of the system, as per 28 CFR 23.20(g). Should any violation of 28 CFR Part 23 occur, GRANTEE may be fined as per 42 USC 3789g(c)-(d). GRANTEE may not satisfy such a fine with federal funds.

8. GRANTEE agrees that no JAG funds may be expended on unmanned aircraft, unmanned aircraft systems, or aerial vehicles (US, UAS, or UAV) without prior express written approval from Commission.

9. Grant funds shall be used to reduce drug crimes in support of the Arizona 2012-2015 Drug, Gang and Violent Crime Control State Strategy.

Authorized Official Initials:_____

IN WITNESS WHEREOF, the parties have made and executed the Agreement the day and year first above written.

FOR GRANTEE:

City Mayor or City Manager Date

Printed Name and Title

Approved as to form and authority to enter into Agreement:

Legal counsel for GRANTEE Date

Printed Name and Title

Statutory or other legal authority to enter into Agreement:

Appropriate A.R.S., ordinance, or charter reference

FOR CRIMINAL JUSTICE COMMISSION:

John A. Blackburn Jr., Executive Director Date
Arizona Criminal Justice Commission

ARIZONA CRIMINAL JUSTICE COMMISSION
GRANT AGREEMENT

Insurance Requirements
Exhibit "A"

***Insurance Requirements* for Governmental Parties to a Grant Agreement:**

None.

***Insurance Requirements* for Any Contractors Used by a Party to the Grant Agreement:**

(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.) The *insurance requirements* herein are minimum requirements and in no way limit the indemnity covenants contained in the Intergovernmental Agreement. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**
   Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

• General Aggregate	$2,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Blanket Contractual Liability – Written and Oral	$1,000,000
• Fire Legal Liability	$50,000
• Each Occurrence	$1,000,000

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

      (Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

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

Exhibit "A" Page 2

2. **Business Automobile Liability**
   Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

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

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

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

      (Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

3. **Worker's Compensation and Employers' Liability**

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

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

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

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies are to contain, or be endorsed to contain, the following provisions:

1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees *and the other governmental entity* shall be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by the Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insured's liability. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of its Contract with the other governmental entity(ies) party to the IGA.

Exhibit "A" Page 3

C. **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 the State of Arizona. Such notice shall be sent directly to the GRANTEE and the Arizona Criminal Justice Commission 1110 W. Washington, Suite 230, Phoenix, AZ 85007 and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the GRANTEE and the Arizona Criminal Justice Commission with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Agreement shall be sent directly to the GRANTEE and the Arizona Criminal Justice Commission 1110 W. Washington, Suite 230, Phoenix, AZ 85007. The Commission project/contract number and project description are to be noted on the certificate of insurance. The State of Arizona and the Arizona Criminal Justice Commission reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time**. DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

F. **SUBCONTRACTORS:** Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the county or local government agency responsible separate certificates for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the *insurance requirements* must have prior approval from the State of Arizona Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.

H. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Noah Eisenman, Environmental Program Manager

Co-Submitter: Rebecca Sayers, Sustainability & Env. Svcs. Director

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration of Intergovernmental Agreement: With Coconino County for use of the Hazardous Products Center (HPC) ***(Approve IGA with Coconino County which will allow the City to continue to accept hazardous wastes from Coconino County households and small businesses at the HPC)***.

RECOMMENDED ACTION:

Approve Intergovernmental Agreement with Coconino County.

Policy Decision or Reason for Action:

The existing IGA with Coconino County will expire in August, 2014. Approval of this Intergovernmental Agreement will allow Coconino County residents and small businesses to continue utilizing the HPC to properly and safely dispose of hazardous waste. The City is also taking the opportunity to increase the rate of reimbursement from the County.

Financial Impact:

As explained in this Intergovernmental Agreement, Coconino County will be invoiced quarterly based on the percentage of HPC usage by Coconino County households. This percentage will be used as a multiplier to determine hazardous waste disposal costs and operational costs to be paid by Coconino County. Coconino County will also pay 15% of total labor costs to operate the HPC. No additional costs to the City of Flagstaff are forecast as this process is already being used. Last Fiscal Year the County was invoiced a total of approximately $40,000.00.

Connection to Council Goal(s) and/or Regional Pla:

Effective governance

Has There Been Previous Council Decision on This:

This has been an ongoing agreement since 2002. This agreement was last approved by Council in 2011.

Options and Alternatives:

1. Approve agreement as written.
2. Suggest changes to staff.
3. Reject agreement.

Background/History:

The City of Flagstaff's Hazardous Products Center (HPC) opened in October 2002, providing City of Flagstaff residents safe and proper disposal of hazardous waste. In an effort to extend this disposal option to include all of Coconino County, this Intergovernmental Agreement was created. As part of this agreement, small businesses within the County have been allowed to utilize the HPC since 2007 through the Small Business Waste Program.

Key Considerations:

The only change to this agreement is the 5% increase in labor costs to Coconino County, described below. This increase was referenced in the previous agreement.

Expanded Financial Considerations:

The percentage of labor costs to be paid by Coconino County has been increased from 10% to 15% and will continue to increase in subsequent agreements until the percentage accurately reflects County usage. The current usage by County residents accounts for approximately 40% of total household use.

Community Benefits and Considerations:

Accepting hazardous wastes from households and small businesses within Coconino County will continue to provide a service for hazardous waste disposal option available to all County households and qualifying small businesses. The community benefits from increased disposal options in Northern Arizona by protecting our landfill and reducing the potential disposal of hazardous wastes to the environment through illegal dumping.

Community Involvement:

Inform

Expanded Options and Alternatives:

1. Approve agreement as written.
2. Suggest changes to staff.
3. Reject agreement.

Attachments: HPC IGA 2014

When recorded, mail to:
Clerk's Office
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE CITY OF FLAGSTAFF

AND

COCONINO COUNTY

This Agreement (the "Agreement") is made as of July ____, 2014 by and between the City of Flagstaff (the "City"), an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and Coconino County (the "County").

RECITALS

Currently, households and small businesses within the County are permitted to bring hazardous wastes to the City of Flagstaff's Hazardous Products Center (the "Center") for safe and proper disposal. Per the 2012 Agreement, the County has reimbursed the City 10% of the facility's total labor cost as well as a percentage of the facility's total operation expenses. As stated in the 2012 Agreement, the reimbursement rate for total labor costs shall now be increased to 15% and continue to increase in subsequent agreements, because County usage of the Center is typically around 35% to 40%. Small businesses located within the County are permitted to use the Center and pay for hazardous waste disposal independently. This Intergovernmental Agreement seeks to extend the arrangement between the City and the County.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Intergovernmental Agreement, the Parties agree as follows:

1. City's Acceptance of Hazardous Wastes

The City agrees to accept hazardous wastes from Coconino County households and small businesses located within the County at the Center.

Hours of Operation. The County shall be responsible for informing its residents of the Center's hours of operation. Operational hours are Wednesdays and Fridays from 9:00 AM to 3:00 PM and Saturdays from 8:00 AM to 2:00 PM. Household hazardous waste will not be accepted outside the Center's designated hours of operation. The City shall have the right to modify the days and hours during which the Center will operate. The City shall immediately notify the County of any changes in the Center's hours of operation. Notwithstanding this subsection, the Center shall not operate on any official state holidays.

Residency. Households within the County using the Center will be required to show proof of residency within the County. Proof of residency or domicile within the County shall be shown by a valid Arizona Driver's License, state-issued identification card, or a current utility bill which reasonably substantiates current residence or domicile within the County.

Small businesses using the Center shall provide proof of business residency within the County by a verifiable business license issued by the County or a City within the County. In addition, small businesses must be qualified as a Conditionally Exempt Small Quantity Generator ("CESQG") according to the United States Environmental Protection Agency. According to the Code of Federal Regulations (40 CFR 261.5), a CESQG is a generator (business owner) that meets the following criteria:

1) Generates less than 220 pounds of hazardous waste (defined by the Resources and Conservation Recovery Act{RCRA}) in a calendar month; and
2) Accumulates at any time or generates less than 2.2 pounds of acute hazardous waste in a calendar month (acute hazardous waste begins with an Environmental Protection Code of "P" or the following "F" codes F020, F021, F022, F026, and F027); and
3) Accumulates no more than 2,200 pounds of hazardous waste (defined by RCRA) at any one time.

Any businesses participating in the program are required to fill out a Generator Certification form stating the business is qualified as a CESQG.

2. Expenditures and Accounting

The County shall reimburse the City for 15% (fifteen percent) of the City's total labor costs incurred as a result of operating the Center. In addition, the County shall reimburse the City for a percentage of the Center's total operational expenses. Average County usage from Fiscal Year 2014 will be used to bill the County for Fiscal Year 2015. Each year, residential County usage will be re-calculated and the new usage percentage will be used for the subsequent year. The County's operational expense percentage shall be based on the ratio of Coconino County households that use the Center to the total number of households using the Center multiplied by total operational expenses (e.g. if thirty-nine County households use the Center and sixty-one non-County households use the Center, the County shall reimburse the City 39/100 or 39% of the City's total operational expenses). Operational expenses shall reflect the actual cost for the services provided including, but not limited to: transportation, disposal costs, containers, equipment rental, advertising and other expenses directly related to the Center's operation. The City shall submit to the County reports which include, but are not limited to, the number of County households that use the Center, total number of households using the Center, total labor costs and total operational expenses. The City shall provide reports generated pursuant to this section to the County on a quarterly basis including total amounts of hazardous waste generated. Said reports shall be submitted quarterly with an invoice.

Small businesses located within Coconino County that qualify as a CESQG using the Center shall pay a yearly registration fee in the amount of $50.00 (Fifty Dollars) due when hazardous waste is brought to the Center. The fee will be valid for one year after the date of payment. In

addition, small businesses using the Center shall pay a disposal fee at the time of delivery. Disposal fees shall reflect the actual cost of disposal plus related operational expenses. Disposal fees for small businesses shall be posted on the City's website and made available at both the Center and Flagstaff City Hall.

3. Authority to Contract

Each party represents and warrants that it has full power and authority to enter into this Agreement and perform its obligations hereunder and has taken all required acts or actions necessary to authorize the same.

4. Notices

Unless otherwise specified herein, any notice or other communication required or permitted to be given under this Agreement will be in writing and sent to the address given below for the party to be notified, or to such other address notice of which is given in compliance with this Section:

If to the City:	If to Coconino County:
Public Works Director City of Flagstaff 211 West Aspen Flagstaff, AZ 86001	Solid Waste Manager Coconino County Public Works Department 5600 E Commerce Avenue Flagstaff, AZ 86004

5. Term

This Agreement shall be effective on the date first set forth above and shall continue in force and effect for a period of 2 years. This Agreement may be terminated by either party upon thirty (30) days written notice of termination delivered to the other party.

6. Integration; Modification

Each of the Parties acknowledges and agrees that it has not relied upon any statements, representations, agreements or warranties, except as expressed herein, and that this Agreement constitutes the parties' entire agreement with respect to the matters addressed in the Agreement. All prior or contemporaneous agreements and understandings, oral or written, with respect to such matters are hereby superseded and merged in the Agreement. This Agreement may be modified or amended only by written agreement executed by both of the parties and duly filed with the Coconino County Recorder. Any such modification or amendment will become effective no earlier than the date of such filing.

7. Waiver

No failure to enforce any condition or covenant of the Agreement will imply or constitute a waiver of the right to insist upon performance of such condition or covenant, or of any other provision, nor will 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.

8. Severability

In the event that a court of competent jurisdiction will hold any part or provision of this Agreement void or of no effect, the remaining provisions of the Agreement will remain in full force and effect to the extent that the continued enforcement of such remaining terms will continue to reflect substantially the intent of the parties.

9. Governing Law

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

10. **Litigation and Attorneys' Fees**

Except as otherwise agreed by the parties, any litigation brought by either party against the other to enforce the provisions of this Agreement must be filed in the Coconino County Superior Court. In the event any action at law or in equity is instituted between the parties in connection with this Agreement, the prevailing party in the action will be entitled to its costs including reasonable attorneys' fees and court costs from the non-prevailing party.

11. Non-discrimination

The parties agree to comply with Arizona Executive Order 99-4, prohibiting discrimination in employment by government contractors, to the extent applicable to this contract.

12. Attachment

Attached is an example invoice.

13. Cancellation for Conflict of Interest

The parties agree that this contract may be cancelled for conflict of interest in accordance with A.R.S. § 38-511.

14. **Indemnification**

To the fullest extent permitted by law, each Party to this Agreement shall indemnify, defend and hold harmless the other Party, their members, directors, officers, employees, agents, attorneys and assigns from and against any and all claims, losses, liability, costs or expenses resulting from the

negligent, reckless, or intentional wrongful conduct of the indemnifying Party or Parties. This indemnification shall survive termination of this Agreement or the termination of the participation of any of its Parties. The amount and type of insurance coverage requirements set forth in this Agreement shall in no way be construed as limiting the scope of the indemnity in this paragraph.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year written below.

City of Flagstaff	**Coconino County Board of Supervisors**
_____	_____
By: _____, Mayor	By: _____, Chairman
ATTEST:	ATTEST:
_____	_____
City Clerk	Clerk of the Board
APPROVED AS TO FORM:	APPROVED AS TO FORM:
_____	_____
City Attorney	Deputy County Attorney

10. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Erin Young, Water Resources Manager
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration and Approval of Joint Funding Request: Gauging Station at Newman Canyon Wash.

RECOMMENDED ACTION:

Approve the Agreement with the U.S. Geological Survey (USGS) to contribute $74,300.

Policy Decision or Reason for Action:

In order to better monitor and understand the volume, timing and quality of surface water recharge into the lake from the surrounding forested areas, the U.S. Geological Survey (USGS) in conjunction with the City of Flagstaff will install a gaging station to record flow through the largest tributary into the Lake, Newman Canyon Wash.

Financial Impact:

This Joint Funding Request will provide a commitment on the City's behalf in the amount of $74,300. The funding sources for the City's portion over the next five fiscal years will be $54,300 from the Water Fund and $20,000 from the Flagstaff Watershed Protection Project Fund (FWPP). The Water Fund will be reimbursed $31,250 from the National Park Service Foundation via agreement with the Lake Mary-Walnut Creek Technical Advisory Committee (LM-WC TAC) as approved by Council on April 1, 2014.

Connection to Council Goal:

5. Retain, expand, and diversify economic base;
11. Effective governance.
This agreement will demonstrate continued collaboration of the City with other entities that benefit from a healthy watershed.

Has There Been Previous Council Decision on This:

Yes. Council gave approval to the LM-WC TAC to fund this project on April 1, 2014, from a restricted fund with the National Park Service Foundation (current balance is $127,000).

Options and Alternatives:

1) Authorize the signing of the agreement with the USGS and support the collective effort to monitor water quality and water quantity into Upper Lake Mary from the surrounding forested areas.
2) Do not authorize the signing of the agreement with the USGS and ask City Staff to install and operate a flow gage at the same location

Background/History:

In 2001 a Stipulation (Civil No. 6417) was signed by the City of Flagstaff and the United States on behalf of the National Park Service (NPS) Flagstaff Area National Monuments and the Forest Service (USFS) Coconino National Forest recognizing & confirming the water rights of each Party within the Walnut Creek Watershed. It was agreed that either Party would not object to, dispute, or challenge these rights in the Little Colorado River Adjudication. In this Stipulation the parties agreed to cooperate in good faith to meet the objectives identified in the Stipulation. As part of the Stipulation, the City made a one-time contribution of $100,000 (now $127,000 with interest) to a trust account that may be used to fund studies to accomplish objectives to identify best management practices and to evaluate methods that may increase the likelihood of flood flows and improve the inner-canyon environment in Walnut Canyon National Monuments, as defined in the Stipulation. A Memorandum of Understanding (MOU) to cooperate in the establishment of a Technical Advisory Committee (TAC) was signed by the Parties on September 2, 2003 with a 10-year term. That MOU was revised by the TAC and signed by Mayor Nabours on January 22, 2013. On April 1, 2014 City Council approved this project as recommended by the LM-WC TAC.

Key Considerations:

Upper Lake Mary serves as an important water source for the City of Flagstaff, and has therefore drawn much attention by foresters and hydrologists regarding the watershed's risk and vulnerability to catastrophic fires and climate change. By approving this Joint Funding Agreement the City recognizes the importance of the USGS monitoring rainfall/sediment/streamflow gage in Newman Canyon Wash, the largest tributary of the lake, in order to better monitor and understand the volume, timing and quality of surface water recharge into the lake from the surrounding forested areas. The proposed gage will be installed by the USGS, with annual operating costs funded under cooperation with the City Utilities Division, LM-WC TAC and FWPP. The gage will collect rainfall and stream flow data in real-time (as it occurs) and store it in a database for future analysis. These data will also be available on the USGS website within minutes of occurring, which will allow water managers to know when and at what level the wash is flowing and therefore, when water quality and sediment sampling from this intermittent/ephemeral wash may be possible. The data may also be useful in evaluating change in water quality and water quantity that result from forest thinning projects that will be occurring within the watershed. Additionally, data from the gage will support essential data collection efforts required to document the effectiveness of the planned FWPP and 4FRI forest treatments for the Upper Lake Mary watershed, which, based on the results of similar projects as demonstrated by researchers with NAU, should increase flood flows and/or frequency into Upper Lake Mary. Flow data collected by this project may be used as part of a greater effort to research forest treatments to maintain and fund by the watershed protection fund; those that demonstrate increased flood flow and/or frequency within the Upper Lake Mary watershed.

Expanded Financial Considerations:

Fiscal Year	Total City Portion	LM-WC TAC	FWPP	Water Fund
2015	$ 34,650	$ 24,650	$ 5,000	$ 5,000
2016	12,200	2,200	5,000	5,000
2017	12,200	2,200	5,000	5,000
2018	12,200	2,200	5,000	5,000
2019	12,200	0	0	3,050
	$ 74,300	$ 31,250	$ 20,000	$ 23,050

The USGS can provide matching funds to non-federal dollars. The cost of the equipment and installation of the Newman Canyon gage will be split 60% City and 40% USGS. The annual operating cost for monitoring the equipment will be split 50% City and 50% USGS. The total for the five year agreement will be $74,300 to the City (split between LM-WC TAC, Water Funds, and FWPP) and $66,200 to USGS. Future spending authorizations for this project after FY 2015 will require budget authority by future Councils. For FY 2015 the FWPP funding is available in account 407-09-425-3277-1-4290 project number GG3270MO and the Water Fund funding is available in 202-08-301-1014-0-4314 ($5,000) and 202-08-304-6165-0-4360 ($24,650). The funding for the City portion by fiscal years is presented in the table.

Community Benefits and Considerations:

The intent of the Stipulation between the City, NPS & USFS is to increase flood flows in Walnut Creek by improving the surface water supply. More runoff into Upper Lake Mary would not only benefit our municipal surface water supply, but increases the chance for water to flow over the dam and through the Walnut Canyon National Monument. Additionally, this project will support community goals of FWPP, which concern water quality and quantity in Upper Lake Mary, and reducing the risk of catastrophic fire in the watershed.

Community Involvement:

Inform Consult Involve Collaborate

Attachments: USGS Agreement

United States Department of the Interior

U.S. GEOLOGICAL SURVEY
Arizona Water Science Center
520 North Park Avenue, Suite 221
Tucson, Arizona 85719
DUNS: 137882127 TIN: 53-0196958 ALC: 14-08-0001 CC: GGCMZF
(520) 670-6671 FAX (520) 670-5592
http://az.water.usgs.gov/

June 26, 2014

6000000790/AZ006
Erin Young, Water Resources Manager
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001

Dear Ms. Young:

Enclosed are two revised copies of our Joint Funding Agreement (JFA) for the installation and monitoring of a gaging station at the Newman Canyon Wash covering five fiscal years. The cost of the project is $140,500 with $74,300 from the City of Flagstaff and $66,200 from the USGS Cooperative Water Program. Billing will be on a quarterly basis with an initial bill issued on August 29, 2014 for $25,500 and subsequent bills of $3,050 in December, March, June and August through 2018. Work performed with funds from this agreement will be conducted on a fixed-price basis. The results of all work under this agreement will be available for publication by the USGS.

Please return a signed copy of the JFA to this office. If you have any questions regarding the work, please contact Jon Mason in our Flagstaff office at (928) 556-7354.

Sincerely,

James M. Leenhouts
Director

Enclosures (2)

Form 9-1366
(Oct. 2005)

U.S. DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

Customer #:	6000000790/AZ006
Agreement #:	14WSAZ03600
Project #:	ZF009DQ
TIN #:	86-6000244
Fixed Cost Agreement	YES

JOINT FUNDING AGREEMENT

FOR

WATER RESOURCES INVESTIGATIONS

THIS AGREEMENT is entered into as of the, 25th day of June, 2014 by the U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the CITY OF FLAGSTAFF, party of the second part.

1. The parties hereto agree that subject to availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation a program for the installation and monitoring of a gaging station as described in the attached work plan herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50; and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) includes In-Kind Services in the amount of $0.00 .

   (a) by the party of the first part during the period

Amount	Date	to	Date
$66,200.00	July 1, 2014		September 30, 2018

   (b) by the party of the second part during the period

Amount	Date	to	Date
$74,300.00	July 1, 2014		September 30, 2018

   Total = $140,500

   (c) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

   (d) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records, or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records, or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at costs, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records, or reports published by either party shall contain a statement of the cooperative relations between the parties.

9. USGS will issue billings utilizing Department of the Interior Bill for Collection (form DI-1040). Billing documents are to be rendered quarterly. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30 day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983).

U.S. Geological Survey United States Department of the Interior		CITY OF FLAGSTAFF	
USGS Point of Contact		**Customer Point of Contact**	
Name:	James M. Leenhouts	Name:	Erin Young, Water Resources Manager
Address:	Arizona Water Science Center 520 N. Park Ave., #221 Tucson, AZ 85719	Address:	City of Flagstaff 211 W. Aspen Ave. Flagstaff, AZ 86001
Telephone:	520-670-6671 x278	Telephone:	928-213-2405
Email:	leenhout@usgs.gov	Email:	eyoung@flagstaffaz.gov

Signatures and Date

Signature:	Date:	Signature:	Date:
James M. Leenhouts 6/27/14			
Name: James M. Leenhouts		Name:	
Title: Director		Title: Mayor	
Signature:	Date:	Signature:	Date:
Name:		Name:	
Title:		Title: City Clerk	
Signature:	Date:	Signature:	Date:
Name:		Name:	
Title:		Title: City Attorney	

Newman Canyon Rainfall, Streamflow and Sediment Gage Work Plan

Background

Upper Lake Mary serves as an important water source for the City of Flagstaff. In order to better monitor and understand the volume, timing and quality of surface water recharge into the lake from the surrounding forested areas, the U.S. Geological Survey (USGS) in cooperation with the City of Flagstaff will install a gaging station. The gaging station will collect rainfall and streamflow data continuously at 15-minute intervals and store it in a database for future analysis. These data will also be available on the internet, which will allow water managers to know when and at what level the wash is flowing. In addition to collecting continuous rainfall and streamflow data, the gage will collect intermittent sediment samples using an automatic pump sampler. These data may be useful in evaluating changes in water quality and water quantity that result from forest thinning projects that will be occurring within the watershed.

The gaging site will be located in Ponderosa Pine forest on US Forest Service property at an elevation of approximately 6860 feet. The equipment will be installed, as shown in the figure below, on the right bank of Newman Canyon Wash approximately 1,500 feet upstream of the mouth of the canyon at: 111° 29' 25.06"W; 35° 03' 24.4"N, in the NW ¼ , SW ¼ , Section 6, Township 19 North, Range 9 East.

The drainage area of Newman Canyon Wash at the gage site is 22.3 square miles (14,276 acres). This location was chosen because the wash cuts through rock at this point, creating a relatively narrow canyon with a stable cross section. The streambed also drops abruptly 6-8 feet at this point and it appears that most of the low flows are directed through a narrow notch in the rock. This should help minimize backwater effects and hysteresis in the rating curve and make it easier to measure the full range of streamflow.

USGS Installation and Maintenance

The initial cost of installing the Newman Canyon streamflow gage will be $30,000 and the annual cost of maintenance will be $16,400/year. An example of a similar USGS site is shown in the photograph below.

In addition to collecting streamflow data, the USGS will install an automatic pump sampler to collect suspended sediment samples. This sampler (example shown in photograph below) will be programmed to collect water samples automatically when the stream level reaches a predetermined height. The water samples will be retrieved from the sampler after streamflow events. The collected water samples will be analyzed for suspended sediment concentration. The initial cost of installing an automatic pump sampler will be $6,800 and the annual cost of maintenance will be $8,000/year.

As part of the Water Cooperative Program for the current fiscal year (FY2014) there are USGS matching funds available that will be used towards installing and operating the streamflow gaging station and automatic pump sampler in Newman Canyon. Additional matching funds may be available in subsequent years to contribute towards maintenance and operation of the streamflow gage and pump sampler.

Budget for Installing Streamflow Gaging Station in Newman Canyon

	City of Flagstaff Cost	USGS Contribution
Installation of streamflow gaging station including: environmental shelter, data logger, non-submersible pressure transducer, satellite transmitting system, solar charging system, tipping bucket rain gage, stage-discharge relationship	$18,300	$11,700
Installation of automatic pump sampler	$4,150	$2,650
Total	**$22,450**	**$14,350**

Budget for Maintenance and Operation (July 1, 2014 – September 30, 2014)

	City of Flagstaff Cost	USGS Contribution
Operation and maintenance of streamflow gage and rain gage including quality assurance/quality control and archiving of streamflow data	$2,050	$2,050
Operation and maintenance of automatic pump sampler and analysis of water-quality samples for suspended sediment concentration*	$1,000	$1,000
Total	**$3,050**	**$3,050**

*Suspended sediment concentration is the only analyte that will be measured.

Annual Budget for Maintenance and Operation Fiscal Years 2015 through 2018 (Oct 1, 2014 - Sept 30, 2018)

	City of Flagstaff Cost	USGS Contribution
Operation and maintenance of streamflow gage and rain gage including quality assurance/quality control and archiving of streamflow data	$8,200	$8,200
Operation and maintenance of automatic pump sampler and analysis of water-quality samples for suspended sediment concentration*	$4,000	$4,000
Total	**$12,200**	**$12,200**

*Suspended sediment concentration is the only analyte that will be measured.

Total Agreement

City of Flagstaff	$74,300
USGS	$66,200
TOTAL	$140,500

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Barbara Goodrich, Management Services Director

Co-Submitter: Patrick Bourque

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Adoption of Ordinance No. 2014-19: An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 7, Health and Sanitation, Chapter 7-04, Municipal Solid Waste Collection Service, Section 7-04-001-0009, Fees, by reinstating the $2.50 per ton Environmental Maintenance Facility Fee, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. ***(Reinstate the $2.50 per ton landfill tipping fee).***

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-19 by title only for the final time
2) City Clerk reads Ordinance No.2014-19 by title only for the final time (if approved above)
3) Adopt Ordinance No. 2014-19 (effective September 1, 2014)

Policy Decision or Reason for Action:

City staff have narrowed options on the Core Services Maintenance Facility to two viable properties. Extensive analysis was completed on these properties and staff is bringing forward additional discussion to Council on June 24, 2014.

Once the final property decision is made, City staff will be able to quickly move forward with a formal solicitation process to construct the facility. The reinstatement of this fee will allow the City to pay for design and/or construction costs prior to the debt being issued. Once construction is complete, this fee will be used to fund approximately $4.4 million in debt service.

Financial Impact:

This fee is proposed to be reinstated at the prior level of $2.50 per ton at the landfill. At this rate, the fee is estimated to generate $300,000 annually. $300,000 on an annual basis will support an estimated amount of debt of $4.1 million to $4.7 million dependent on market rate conditions and the term for which the debt would be issued.

Connection to Council Goal:

Address Core Services Maintenance Facility

Has There Been Previous Council Decision on This:

Yes. There was a Council decision to implement the $2.50 landfill fee in October, 2007 with a one year sunset and three Council decisions to extend the fee; once in November, 2008 for an additional year; once in November, 2009 until May, 2010; once in May, 2010 for an additional year. Additionally, first read of the ordinance was held July 1, 2014.

Options and Alternatives:

- Adopt the fee to be in effect on September 1, 2014
- Adopt the fee to be in effect for a date certain other than September 1, 2014
- Delay the adoption of the fee

Background/History:

In October, 2007, staff initiated a discussion with the City Council regarding the need for a new Public Works Maintenance Facility (now Core Services Maintenance Facility). The consensus of Council was that there is a compelling need to research and develop a plan to pursue a new facility. At that time, Council approved a $2.50 per ton fee at the landfill, with a one year sunset, to begin collecting funds for a capital reserve for Environmental Services' (now Solid Waste) proportionate share of debt service for a new facility. Staff was to provide to Council key components for a facility including facility location, property size, public involvement, and funding options.

In November, 2008, staff provided Council with a list of alternative site locations, facility space needs, and a conceptual layout plan. Staff requested a renewal of the fee until the project could be completed. Council approved the extension of the $2.50 fee for another year instructing staff to produce 1) a property/location selection; 2) conceptual site plan development; and 3) preliminary cost estimate.

In November, 2009, progress had been made on the Core Services Maintenance Facility. As of that date, Staff had 1) completed a property/location selection for the facility, identified the space needs for each Section of the Division, selected a consultant, which Council approved at its August 18, 2009 meeting, who now had the information and was working on the 2) conceptual site plan development which would provide us with the 3) preliminary cost estimate. Council approved the extension of the $2.50 fee until May, 2010 in order to see and decide on a completed conceptual site plan and preliminary cost estimate for the Facility.

In May, 2010, Council extended the collection of the fee for an additional year until it was decided if the Core Services Maintenance Facility would be selected for the November bond election and, if so, the outcome of that election. The $42 million Facility was selected for the bond election but failed and the fee sunset in May, 2011.

Key Considerations:

The City then re-designed the facility that now has an estimated cost of $21.4 million to $27.8 million dependent on whether the City builds on City land or purchases land at a different site. In 2012, the City successfully passed a $14 million dollar secondary property tax/ bond measure to assist with the construction.

The key consideration is the timing of the construction and the accumulation of funds needed to complete the facility as designed. It is estimated that this capital reserve will have a balance of $865,000 at June 30, 2014. Should the fee be reinstated on September 1, 2014, the fee will generate an additional $250,000 in FY2015, for a total of $1.1 million available to be used for the design and/or construction.

When this dedicated landfill fee is collected for a full year, $300,000 is expected to be generated annually. This $300,000 will support an estimated additional $4.4 million dollars in debt. This fee is a critical component to the overall sources needed to fund the construction.

The current posted landfill fee per ton is $41.67. In addition, each ton is assessed $0.25 for a State Recycling Surcharge by ADEQ. By reinstating the $2.50 Capital Reserve amount, the landfill fee per ton will increase to a combined rate of $44.42.

Expanded Financial Considerations:

The total resources available for the project to date include:

$14 million General Obligation Bonds
$1.1 million in capital reserve (should the landfill fee be reinstated effective September 1, 2014)
$4.4 million in Revenue Debt secured by the estimated $300,000 annual landfill fee proposed by this action
$2.3 million - $4.4 million in land sale/trade proceeds dependent if the City constructs or sells the McAllister Property.

Total resources are $21.8 million - $23.9 million.

Community Benefits and Considerations:

The City will benefit in a number of ways by moving from the current location and constructing a modernized facility. By vacating the current site, an infill opportunity in the downtown area of Flagstaff will be available. No planned alternate use has been determined at this time.

By constructing a new facility, the City will be able to better protect and maintain the 420 pieces of equipment currently used on a daily or seasonal basis. Additional capacity will also be provided to Streets, Parks and Facilities for equipment and materials storage as well as consolidating the service personnel for Streets, Parks, Facilities, Fleet Services, Solid Waste Collections and Public Works Administration.

Community Involvement:

Consult - the City has provided numerous work sessions and agendized council sessions to discuss the progress in the development of the Core Services Maintenance Facility.

Involve - the community will be further engaged as the future of the current Public Works Yard site is determined.

Empower - The community approved the 2012 bond election authorizing the $14 million dollars in funding to be used for this project.

Expanded Options and Alternatives:

- Adopt the fee to be in effect for September 1, 2014
- Adopt the fee to be in effect for a date certain other than September 1, 2014
- Delay the adoption of the fee

Attachments: Ord. 2014-19

ORDINANCE NO. 2014-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 7, *HEALTH AND SANITATION,* CHAPTER 7-04, *MUNICIPAL SOLID WASTE COLLECTION SERVICE,* SECTION 7-04-001-0009, *FEES*, BY REINSTATING THE $2.50 PER TON ENVIRONMENTAL MAINTENANCE FACILITY FEE, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City Council implemented a $2.50 per ton Environmental Maintenance Facility Fee in 2007; and

WHEREAS, the purpose of the Environmental Maintenance Facility Fee was to fund the facilities that support the activities associated with municipal solid waste collection; and

WHEREAS, the Environmental Maintenance Facility Fee implemented in 2007 had a one year sunset clause and was subsequently extended by the City Council, in 2008, 2009, and 2010; and

WHEREAS, the Environmental Maintenance Facility Fee was allowed to sunset on May 3, 2011; and

WHEREAS, the City Council finds that it is in the best interests of the community to reinstate the $2.50 per ton Environmental Maintenance Facility Fee in order to assist in funding the construction of a Core Services Maintenance Facility.

ENACTMENTS

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

The Flagstaff City Code, Title 7, Health and Sanitation, Chapter 7-04, Municipal Solid Waste Collection Service*,* Section 7-04-001-0009(H)(1), Environmental Maintenance Facility Fee*,* is hereby amended as follows:

SECTION 1. In General.

H. Landfill Fees:

Landfill fees shall be calculated at the actual cost per ton plus an additional amount to be determined by City Council to establish a capital account to fund future projects and equipment purchases. The City shall establish a legal reserve within the Environmental Services Fund for the purpose of funding costs of closing the landfill as required by the EPA or its designee. Monies shall be appropriated and set aside monthly in an amount to meet the estimated capital costs, to include; liner system; methane collection and cover material. Interest shall accrue to this account to be used for all the same purposes mentioned above.

1. Environmental Maintenance Facility Fee. The City shall collect ~~establish~~ a fee of $2.50 per ton to fund the facilities that support the activities associated with municipal solid waste collection. Monies shall be allocated annually in the amount of $2.50 of the per-ton tipping fee on scaled tonnage based on the posted landfill tipping fee. Environmental Maintenance Facility Fee funds shall be used, in part, to service the debt associated with construction of the Core Services Maintenance Facility. The City shall establish a legal reserve fund for this purpose. Interest shall accrue to this account to be used for all of the same purposes mentioned above.

The $2.50 per ton fee referenced in this subsection shall remain in effect until retirement of the debt associated with construction of the Core Services Maintenance Facility. ~~May 3, 2011, and shall be renewed upon development of a plan for the design and construction of facilities that support the activities associated with municipal solid waste collection.~~ (Ord. No. 2003-01; Ord No. 2007-40, Amended; Res. No. 2008, 10/07/08; Res. No. 2009-51, 11/03/09 Amended; Res. 2010-27, 05/03/10 Amended).

SECTION 2. 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 3. Severability.

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

SECTION 4. Clerical Corrections.

The City Clerk is hereby authorized to correct 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 5. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 2014.

_____
MAYOR

ATTEST:

_____

CITY CLERK

APPROVED AS TO FORM:

_____

CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Barbara Goodrich, Management Services Director

Co-Submitter: Brian Grube

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Adoption of Ordinance No. 2014-18: An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 3, Business Regulations, Chapter 10, User Fees, Section 3-10-001-0005, Recreation Fees, by increasing certain Parks and Recreation Fees; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. ***(Increasing recreation fees)***

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-18 by title only for the final time
2) City Clerk reads Ordinance No. 2014-18 by title only for the final time (if approved above)
3) Adopt Ordinance No. 2014-18 (and establish an effective for the recreation fees of September 1, 2014)

Policy Decision or Reason for Action:

At the Council Budget Hearings held April 23, 2014 through April 25, 2014 the City Council directed the increase of recreation fees by 7% to balance the FY2015 budget. City fees are set forth in Title 3, Chapter 10 User Fees of the City Municipal code

Financial Impact:

This fee amendment will increase General Fund revenues by an estimated $70,000 annually.

Connection to Council Goal:

Effective governance

Has There Been Previous Council Decision on This:

Final FY2015 budget adoption June 17, 2014
Council budget study sessions April 23 - 25, 2014
Council budget study sessions April 24 - 24, 2013
First read of the Ordinance July 1, 2014

Options and Alternatives:

Approve Ordinance No. 2014-18 as written
Approve Ordinance No. 2014-18 with amendments
Do not approve Ordinance No. 2014-18

Background/History:

As part of the FY2014 budget process, the City Council approved fee increases of 21% to generate additional revenue of approximately $210,000. To ease the impact on our citizens that use Recreation Services, the City Council directed staff to implement the fee increase at 7% per year over a three-year period, realizing additional incremental revenue of approximately $70,000 per year. FY2015 is the second year of the three year implementation plan.

Key Considerations:

This fee increase was an integral component of the Council budget add's as agreed upon at the April 23 - 25, 2014, Council budget study sessions.

Expanded Financial Considerations:

The General Fund is dependent on increased fees in order to maintain a structural balance. Should the fees not be adopted, the General Fund will have to re-evaluate those line items funded with this increase. While the recreation fees were not the sole source of the funds, they are a component of funding the Police market pay adjustment, Police and Fire assignment pay increases, and Police and Fire uniform allowance increases.

Community Benefits and Considerations:

The primary community benefit is through a continued structurally balanced budget.

Community Involvement:

Inform: Posted on City website from April 28, 2014 to date. An informational letter was sent out in late May discussing the proposed fee increase and notice of the public meeting on July 1. This was sent to all registered Recreation users. Posters and flyers have been placed at all Recreation facilities in early May alerting the public about the proposed fee increase and notification of the July 1 meeting. The Parks and Recreaton Commission approved the proposed fee increase at their April meeting.

Collaborate. As the Recreation fee increases were being considered last year, representatives from many community sectors that utilize these services provided feedback to the Council. The community was overall supportive of the increases, but asked that the fees be phased in over a three-year period. Council agreed with that recommendation and provided that direction to staff.

Expanded Options and Alternatives:

Approve Ordinance No. 2014-18 as written
Approve Ordinance No. 2014-18 with amendments
Do not approve Ordinance No. 2014-18

Attachments: Ord. 2014-18

ORDINANCE NO. 2014-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, *BUSINESS REGULATIONS,* CHAPTER 10, *USER FEES,* SECTION 3-10-001-0005, *RECREATION FEES*, BY INCREASING CERTAIN PARKS AND RECREATION FEES; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff strives to provide quality parks and recreation services; and

WHEREAS, the City Council finds that it is in the best interests of the community to recover a greater portion of the costs of providing parks and recreation services.

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Code, Title 3, *Business Regulations*, Chapter 10, *User Fees,* Section 3-10-001-0005, *Recreation Fees,* is hereby amended by deleting the current fee schedule in its entirety and replacing it with a new fee schedule and subsection A, and by adding new subsections B and C related to civil penalties and enforcement of fees (additions shown in capitalized text) to read as follows:

A. ANY PERSON SEEKING TO USE OR USING CITY PARKS AND RECREATION FACILITIES SHALL PAY THE APPLICABLE RECREATION USER FEES AS SET FORTH IN THE FOLLOWING SCHEDULE.

Admission/Pass/Facility/Equipment	**9/1/2014**
Ice Arena	
Admissions - single entry per person	
Preschool (4 & under)	N/C w/paid CG
Child (5-11)	$3.50
Youth (12-17)	$3.50
Adult (18 & over)	$6.75
Senior (55+)	$5.00
Active Military	$5.00
Chaperoned Youth Group Participant (15 or more youth, 1:15 ratio)	$3.00

Specialty Session (ex. Scrimmage, Stick Time)	$13.50
Admissions - punch cards	
Child (5-11) - 20 admissions	$49.00
Youth (12-17) - 20 admissions	$49.00
Adult (18+) - 20 admissions	$98.00
Senior (55+)- 20 admissions	$75.00
Active Military - 20 admissions	$75.00
Specialty Session (10 admissions)	$98.00
Skate Rental/Sharpening - per person	
Figure/Hockey Skates Rental	$4.00
Skate Rental Punch Pass (20 rentals)	$59.00
Skate Shapening	$6.75
Deposit for Room/Facility Rentals (refundable)	
Room And Facility Deposit (25% of total rental costs)	25%
Arena Rental (*Note 1, 8*) - hourly, plus tax	
Non-Public Arena Time	
Individuals	$130.25
Youth Non-Profit Community Organizations	$65.25
Adult Non-Profit Community Organizations	$141.25
Commercial, For-Profit, or Out of Community Organizations	$282.75
Holiday Rental (add 25% to facility charges)	25%
Public Session Arena "Buy Out" Time *- hourly, plus tax (entire session only)*	
Individuals	Not Available
Youth Non-Profit Community Organizations	$325.50
Adult Non-Profit Community Organizations	$651.00
Commercial, For-Profit, or Out of Community Organizations	$1,302.25
Holiday Rental (add 25% to facility charges)	25%
Arena Rental Without Ice *(Note 3) (May-Jun subject to avail.) - hourly, plus tax*	
Individuals	$39.50
Youth Non-Profit Community Organizations	$20.00
Adult Non-Profit Community Organizations	$39.50
Commercial, For-Profit, or Out of Community Organizations	$78.50
Holiday Rental (add 25% to facility charges)	25%
Spectator Admission (*Note 2*) - single entry per person	

Preschool (4 & under)	N/C w/paid CG
Child (5-11)	$1.75
Youth (12-17)	$1.75
Adult (18 & over)	$3.00
Senior (55+)	$2.25
Active Military	$2.25
Facility Permits	
Concession/Merchandise Table - per table, per event	$9.00
Party/Meeting Room (Note 3, 8) - hourly, plus tax	
Individuals	$21.25
Youth Non-Profit Community Organizations	$12.00
Adult Non-Profit Community Organizations	$21.25
Commercial, For-Profit, or Out of Community Organizations	$39.50
Holiday Rental (add 25% to facility charges)	25%
Training Room (Note 3, 8) - hourly, plus tax	
Individuals	$18.50
Youth Non-Profit Community Organizations	$9.50
Adult Non-Profit Community Organizations	$18.50
Commercial, For-Profit, or Out of Community Organizations	$36.75
Holiday Rental (add 25% to facility charges)	25%
Flagstaff Recreation Center	
Deposit for Room/Facility Rentals (refundable)	
Room Deposit (per room)	$50.00
Facility Rental Deposit (5 rooms or more)	$200.00
Club Annual Meeting Permit - during regular hours only (Note 3, 8) - plus tax	
1-3 meetings/yr	$35.50
4-12 meetings/yr	$64.00
13-26 meetings/yr	$92.00
27-52 meetings/yr	$120.50

53 + meetings/yr	$148.50
Meeting Room (Note 3, 8) - hourly, plus tax	
Individuals	$21.25
Youth Non-Profit Community Organizations	$12.00
Adult Non-Profit Community Organizations	$21.25
Commercial, For-Profit, or Out of Community Organizations	$39.25
Holiday Rental (add 25% to facility charges)	
Gymnasium - hourly, plus tax	
Individuals	$34.25
Youth Non-Profit Community Organizations	$17.25
Adult Non-Profit Community Organizations	$34.25
Commercial, For-Profit, or Out of Community Organizations	$78.50
Holiday Rental (add 25% to facility charges)	25%
Concession/Merchandise Table - per table, per event	$9.00
Annual Weight Room Pass - per person	
Youth (12-17)	$20.00
Adult (18+)	$59.00
Senior (55+)	$48.25
Active Military	$48.25
Monthly Weight Room Pass - per person	
Youth (12-17)	$2.25
Adult (18+)	$6.50
Senior (55+)	$5.50
Active Military	$5.50
Joe C. Montoya Community & Senior Center	
Deposit for Room/Facility Rentals (refundable)	
Room Deposit (per room)	$50.00
Facility Rental Deposit (5 rooms or more)	$200.00
Club Annual Meeting Permit - during regular hours only, (Note 3, 8) - plus tax	
1-3 meetings/yr	$35.50

4-12 meetings/yr	$64.00
13-26 meetings/yr	$92.00
27-52 meetings/yr	$120.50
53 + meetings/yr	$148.50
Facility Rental (Note 3, 8) - hourly, plus tax	
Standard Room	
Individuals	$21.25
Youth Non-Profit Community Organizations	$12.00
Adult Non-Profit Community Organizations	$21.25
Commercial, For-Profit, or Out of Community Organizations	$39.00
Holiday Rental (add 25% to facility charges)	25%
Allen Room (includes both sections)	
Individuals	$44.75
Youth Non-Profit Community Organizations	$22.50
Adult Non-Profit Community Organizations	$44.75
Commercial, For-Profit, or Out of Community Organizations	$89.00
Holiday Rental (add 25% to facility charges)	25%
Kitchen *(special rules apply)*	
Individuals	$20.00
Youth Non-Profit Community Organizations	$10.25
Adult Non-Profit Community Organizations	$20.00
Commercial, For-Profit, or Out of Community Organizations	$39.50
Holiday Rental (add 25% to facility charges)	25%
Concession/Merchandise Table - per table, per event	$9.00
Annual Weight Room Pass - per person	
Youth (12-17)	$75.25
Adult (18 & over)	$97.75
Senior (55+)	$65.50
Active Military	$65.50
Monthly Weight Room Pass - per person	
Youth (12-17)	$6.75
Adult (18 & over)	$8.75
Senior (55+)	$6.00
Active Military	$6.00
Aquaplex	
Admissions - single entry per person	
Preschool (4 & under) Resident	N/C w/paid CG

Preschool (4 & under) Non-Resident	N/C w/paid CG
Child (5-11) Resident	$3.75
Child (5-11) Non-Resident	$4.00
Youth (12-17) Resident	$5.00
Youth (12-17) Non-Resident	$6.50
Adult (18-54) Resident	$6.50
Adult (18-54) Non-Resident	$9.50
Adult 55+ Resident	$5.00
Adult 55+ Non-Resident	$6.50
Household Resident	$25.25
Household Non-Resident	$32.75
Active Military Resident	$5.00
Active Military Non-Resident	$6.00
Chaperoned Youth Group Resident (15 or more participants)	10%
Chaperoned Youth Group Non-Resident (15 or more participants)	10%
Aquaplex Passes	
Business Pass Program Discount (applies to 12 month passes only)	
1-3 Years	10%
4-6 Years	15%
7-10 Years	20%
12 Month Pass	
Child Resident	$176.00
Child Non Resident	$203.00
Youth Resident	$223.00
Youth Non-Resident	$257.00
Adult Resident	$365.00
Adult Non-Resident	$418.00
Adult 55+ Resident	$224.00
Adult 55+ Non-Resident	$257.00
2 Member HH Resident	$500.00
2 Member Household Non-Resident	$576.00
Household Pass Resident	$589.00
Household Pass Non-Resident	$677.00

Active Military Resident	$224.00
Active Military Non-Resident	$257.00
6 Month Pass	
Child Resident	$106.00
Child Non Resident	$122.00
Youth Resident	$129.00
Youth Non-Resident	$149.00
Adult Resident	$206.00
Adult Non-Resident	$236.00
Adult 55+ Resident	$129.00
Adult 55+ Non-Resident	$149.00
2 Member HH Resident	$276.00
2 Member Household Non-Resident	$315.00
Household Pass Resident	$324.00
Household Pass Non-Resident	$372.00
Active Military Resident	$129.00
Active Military Non-Resident	$149.00
3 Month Pass	
Child Resident	$59.00
Child Non Resident	$67.00
Youth Resident	$76.00
Youth Non-Resident	$87.00
Adult Resident	$124.00
Adult Non-Resident	$142.00
Adult 55+ Resident	$77.00
Adult 55+ Non-Resident	$88.00
2 Member HH Resident	$174.00
2 Member Household Non-Resident	$202.00
Household Pass Resident	$205.00
Household Pass Non-Resident	$236.00
Active Military Resident	$77.00
Active Military Non-Resident	$87.00
Additional HH Member Discount For Passes (more than 5 members in a HH)	25%
Deposit for Room/Facility Rentals (refundable)	
Room And Facility Deposit (of total rental costs)	25%
Meeting Rooms - per hour, plus tax	
Non-Profit Community Organizations/Individuals	
Room Without Kitchen	

Non-Peak Time	$29.50
Peak-Time	$47.00
Room With Kitchen	
Non-Peak Time	$41.25
Peak-Time	$59.00
Combined Rooms	
Non-Peak Time	$70.75
Peak-Time	$88.25
Commerical, For Profit, Out of Community	
Room Without Kitchen	
Non-Peak Time	$47.00
Peak-Time	$59.00
Room With Kitchen	
Non-Peak Time	$59.00
Peak-Time	$70.75
Combined Rooms	
Non-Peak Time	$106.00
Peak-Time	$129.50
Internal City Rate	
Room Without Kitchen	
Non-Peak Time	$14.75
Peak-Time	$23.50
Room With Kitchen	
Non-Peak Time	$20.75
Peak-Time	$29.50
Combined Rooms	
Non-Peak Time	$35.25
Peak-Time	$44.25
Gymnasium - per hour, plus tax	
Non-Profit Community Organizations/Individuals	
Non-Peak Time	$62.75
Peak-Time	$87.75
Commerical, For Profit, Out of Community	
Non-Peak Time	$87.75
Peak-Time	$119.00
Internal City Rate	
Non-Peak Time	$31.25

Peak-Time	$44.00
Aerobics Room - per hour, plus tax	
Non-Profit Community Organizations/Individuals	
Non-Peak Time	$37.75
Peak-Time	$50.25
Commerical, For Profit, Out of Community	
Non-Peak Time	$50.25
Peak-Time	$62.50
Internal City Rate	
Non-Peak Time	$19.00
Peak-Time	$25.25
Climbing Wall - per hour, plus tax	
Non-Profit Community Organizations/Individuals	
Non-Peak Time	$37.75
Peak-Time	$50.50
Commerical, For Profit, Out of Community	
Non-Peak Time	$50.25
Peak-Time	$62.50
Internal City Rate	
Non-Peak Time	$19.00
Peak-Time	$25.25
Party Room - per hour, plus tax	
Non-Profit Community Organizations/Individuals	
Room Rental	$25.25
Commerical, For Profit, Out of Community	
Room Rental	Not Available
Pool Rental (Note 1,3) - per hour, 2 hour minimum, plus tax **(only available after hours of operation)**	
Non-Profit Community Organizations/Individuals	
1-50 individuals	$275.50
51-100 individuals	$501.00
101-150 individuals	$626.00
Commerical, For Profit, Out of Community	
1-50 individuals	$438.25

51-100 individuals	$563.50
101-150 individuals	$688.50
Internal City Rate	
1-50 individuals	$187.75
51-100 individuals	$250.50
101-150 individuals	$313.00
Pool Buyout (Note 1,3) - per hour, 2 hour minimum, plus tax	
Non-Profit Community Organizations/Individuals	
1-50 individuals - Non Peak Time	$751.25
1-50 individuals - Peak Time	$813.75
51-100 individuals Non Peak Time	$1,001.50
51-100 individuals - Peak Time	$1,095.50
101-150 individuals - Non-Peak Time (5 hr. min.)	$1,252.00
101-150 individuals - Peak Time (5 hr. min.)	$1,377.00

Commerical, For Profit, Out of Community	
1-50 individuals - Non Peak Time	$813.75
1-50 individuals - Peak Time	$876.25
51-100 individuals Non Peak Time	$1,095.50
51-100 individuals - Peak Time	$1,189.50
101-150 individuals - Non-Peak Time (5 hr. min.)	$1,377.00
101-150 individuals - Peak Time (5 hr. min.)	$1,565.00
Entire Facility Including Pool (Note 1,3) **-** per hour, 2 hour min, plus tax	
Non-Profit Community Organizations/Individuals	
After Hours	$939.00
Non-Peak Time	$1,189.25
Peak-Time	$1,565.00
Commerical, For Profit, Out of Community	
After Hours	$1,565.00
Non-Peak Time	$1,815.25
Peak-Time	$1,878.00
Internal City Rate	
After Hours	$469.50
Non-Peak Time	$595.00

Peak-Time	$782.50
Ramadas - per hour	
Level A (Bushmaster South, Foxglenn 1, Thorpe)	$13.50
Level B (Bushmaster North, Foxglenn 2 & 3, Arroyo, Ponderosa)	$10.25
Level C (Buffalo, Mobile Haven, Old Town Springs, Ponderosa Trls)	$6.75
Equipment Rental - each, per day	
Equipment/Picnic Bag	$21.50
Outdoor Courts	
Basketball, Handball, Horseshoe, Volleyball - hourly per court	
Reserved Practice and Game Allocations	
Individuals	$3.50
Youth Non-Profit Community Organizations	$2.00
Adult Non-Profit Community Organizations	$3.50
Commercial, For-Profit, or Out of Community Organizations	$6.75
Holiday Rental (add 25% to facility charges)	25%
Reserved Tournament Rentals	
Individuals	$6.75
Youth Non-Profit Community Organizations	$3.50
Adult Non-Profit Community Organizations	$6.75
Commercial, For-Profit, or Out of Community Organizations	$13.50
Holiday Rental (add 25% to facility charges)	
Tennis Courts - hourly per court	
Reserved Practice and Game Allocations	
Individuals	$6.75
Youth Non-Profit Community Organizations	$2.75
Adult Non-Profit Community Organizations	$6.75
Commercial, For-Profit, or Out of Community Organizations	$13.50
Holiday Rental (add 25% to facility charges)	25%
Reserved Tournament Rentals	
Individuals	$13.50
Youth Non-Profit Community Organizations	$6.75
Adult Non-Profit Community Organizations	$13.50

Commercial, For-Profit, or Out of Community Organizations	$26.75
Holiday Rental (add 25% to facility charges)	25%
Outdoor Fields	
Baseball, Softball - hourly per field	
Practice and Game Allocations	
Individuals	$6.75
Youth Non-Profit Community Organizations - per participant, per season $16 maximum per family	$6.75
Adult Non-Profit Community Organizations	$6.75
Commercial, For-Profit, or Out of Community Organizations	$13.50
Holiday Rental (add 25% to facility charges)	25%

Tournament Rentals (Note 4)	
Individuals	$13.50
Youth Non-Profit Community Organizations - per team, per tournament	$6.75
Adult Non-Profit Community Organizations	$13.50
Commercial, For-Profit, or Out of Community Organizations	$26.75
Holiday Rental (add 25% to facility charges)	25%
Soccer - hourly per field	
Practice and Game Allocations	
Individuals	$6.75
Youth Non-Profit Community Organizations - per participant, per season $16 maximum per family	$6.75
Adult Non-Profit Community Organizations	$6.75
Commercial, For-Profit, or Out of Community Organizations	$13.50
Holiday Rental (add 25% to facility charges)	25%
Tournament Rentals *(Note 4)*	
Individuals	$13.50
Youth Non-Profit Community Organizations - per team, per tournament	$6.75
Adult Non-Profit Community Organizations	$13.50
Commercial, For-Profit, or Out of Community Organizations	$26.75
Additional Field Prep. - Per Field	$21.50
Holiday Rental (add 25% to facility charges)	25%
Field & Court Concession Permits (per hours, per week and number of fields/courts allocated at site)	
Concession/Merchandise Stand	$9.00

Concession Permits for Allocated Fields (per month), based on electrical and water usage	
Small concession buildings (WFlag LL Fields, Montalvo Field)	$100.50
Large Concession buildings (Contiental LL)	$140.00
Field and Court Lights	
Sport Courts - per court, per hour	$13.50
Sport Fields - per field, per hour	$39.50
Sport Fields - Youth Non-Profit Community Organizations - per field, per hour	$13.50
Field/Facility Fee	
For City Athletic Programs	
Adult Fee - Per Participant	$7.50
Youth Fee - Per Particpant	$0.00
Special Events - Other Areas Reserved in Parks for Exclusive Use (Note 5, 9)	
Refundable Deposits (per event)	
A & B Events	$350.00
C Events	$100.00
Special Event Application Fee	
"A" Events	$70.25
"B" Events	$53.50
"C" Events	$35.50
Late Fee	
"A" Events	$125.25
"B" Events	$94.00
"C" Events	$65.25
Most Sites - excludes Wheeler, Heritage Square, Parking, Street Closure, Event Series, Ramada Rental (Note 5, 9, 10)	
Half Day - 7 Hours or Less	
Individuals/Private Gatherings on City Property	$26.50
Non-Profit Community Organizations/Public Gatherings on City Property	$52.50
Commercial, For-Profit, or Out of Community Organizations on City Property	$104.50
Full Day - More than 7 Hours	
Individuals/Private Gatherings on City Property	$42.00

Non-Profit Community Organizations/Public Gatherings on City Property	$83.75
Commercial, For-Profit, or Out of Community Organizations on City Property	$169.75
Heritage Square/Wheeler Park (Note 5)	
Half Day - 7 Hours or Less	
Individuals/Private Gatherings on City Property	$59.00
Non-Profit Community Organizations/Public Gatherings on City Property	$59.00
Commercial, For-Profit, or Out of Community Organizations on City Property	$117.75
Full Day More than 7 Hours	
Individuals/Private Gatherings on City Property	$91.50
Non-Profit Community Organizations/Public Gatherings on City Property	$91.50
Commercial, For-Profit, or Out of Community Organizations on City Property	$183.00
Event Series (Note 5,9) - each day, per event	
Half Day - 7 Hours or Less	
3-6 events	$23.50
7-12 events	$20.00
13-24	$15.75
25+	$12.00

Full Day - More than 7 Hours	
3-6 events	$32.00
7-12 events	$26.25
13-24	$21.50
25+	$16.00
Half Day Commercial - 7 Hours or Less	
3-6 events	$36.00
7-12 events	$30.00
13-24	$24.00
25+	$18.00
Full Day Commercial -More than 7 Hours	
3-6 events	$50.00
7-12 events	$41.75
13-24	$34.25
25+	$25.75
Parking Lot Closure for Events -excludes Wheeler and City Hall Lots (Note 5)	
Half Day - 7 Hours or Less	
Individuals/Private Gatherings on City Property	$29.00
Non-Profit Community Organizations/Public Gatherings on City Property	$29.00

Commercial, For-Profit, or Out of Community Organizations on City Property	$57.75
Full Day - More than 7 Hours	
Individuals/Private Gatherings on City Property	$45.75
Non-Profit Community Organizations/Public Gatherings on City Property	$45.75
Commercial, For-Profit, or Out of Community Organizations on City Property	$91.50
Wheeler Park & City Hall Parking Lot Closure for Event (Note 5)	
Half Day - 7 Hours or Less	
Individuals/Private Gatherings on City Property	$56.50
Non-profit/Community Organiztion on City Property	$39.50
Commercial, For-Profit, or Out of Community Organizations on City Property	$78.50
Full Day - More than 7 Hours	
Individuals/Private Gatherings on City Property	$65.25
Non-Profit Community Organizations/Public Gatherings on City Property	$65.25
Commercial, For-Profit, or Out of Community Organizations on City Property	$130.25
Street Closure/Parade - Per Street Block (Note 5)	
Staging Area	$31.25
Half Day - 7 Hours or Less	
Non-Profit	$12.50
Commercial, For-Profit, or Out of Community Organization	$25.25
Full Day - More than 7 Hours	
Non-Profit	$19.00
Commercial, For-Profit, or Out of Community Organization	$37.75
Overnight (10pm - 8am)	$26.50
Wheeler Park & Heritage Square Electrical Use	
Half Day - 7 Hours or Less	
"A", "B" Events	$42.00
"C" Events	$22.00
Full Day - More than 7 Hours	
"A", "B" Events	$70.25
"C" Events	$35.25
Event Series - Each Day of Use	
Half Day - 7 Hours or Less	
"A", "B" Events	$11.50

Full Day - More than 7 Hours	
"A", "B" Events	$22.75
Event Equipment Rental - each pair, per event	
Banner poles (pair)	$8.50
Downtown Banner (Note 7) **-** each	
North Downtown	
A Pricing (Premium)	
1-3 month display	$64.50
4-6 month display	$80.75
7-9 month display	$106.00
10-12 month display	$133.00
B Pricing (Mid-Range)	
1-3 month display	$42.00
4-6 month display	$64.00
7-9 month display	$84.00
10-12 month display	$106.00
C Pricing (Outlining Areas)	
1-3 month display	$35.25
4-6 month display	$52.75
7-9 month display	$70.50
10-12 month display	$87.50
South Downtown	
4-6 month display	$53.75
7-9 month display	$80.75
10-12 month display	$133.25

Notes for Parks and Recreation Fee Schedule

1. Pool and arena rentals include one Site Supervisor. Additional payment is required for Lifeguard or Rink Guard staff, the number of which will be determined by guard/participant safety ratios, identified at the time of reservation. Minimum charge for guard is $10.00 per hour (minimum 2 hrs.) per guard.

2. Local non-profit organizations desiring to collect "at door" admissions will be assessed a surcharge per spectator, or they have the option of renting the facility at the full commercial rate and retaining all admission fees. Organizations may be required to hire off-duty police or provide security personnel if determined to be in the best interest of the City of Flagstaff.

3. When use is not during established public operating hours, indoor recreation center facility rentals require additional payment for additional staffing at $10.00 per hour, per staff

member. Organizations may be required to hire off-duty police or provide security personnel if determined to be in the best interest of the City of Flagstaff.

4. Payment of the commercial tournament rate includes one beginning of day field lining.

5. Other fees may apply for special events based upon review of application. Organizations may be required to hire off-duty police or provide security personnel if determined to be in the best interest of the City of Flagstaff.

6. An event series consists of a minimum quantity of regularly scheduled public entertainments of the same type which is identified at the time of application for the permit. The series is scheduled in a manner that forms a pattern, i.e., every other Thursday at 6 p.m. or the first Friday of each month.

7. Installation and removal provided by City Staff (Parks, Recreation, or Streets).

8.Non-profit community organizations may receive credits against rentals for quantifiable support of facility construction and improvement. Projects must be pre-approved by the Public Works Director and receipts for materials and professional labor must be provided. Program operating costs are not eligible for credit consideration. Credits are intended for fixed assets that remain with the property, not consumables.

9. Special events that need exclusive use of a park with multiple amenities or are so large as to affect the rental of those amenities may be required to rent all major amenities within the park. Major amenities may include rental of soccer fields, baseball fields, softball fields, volleyball courts, ramadas, parking lots, tennis courts and basketball courts. If rented for more than a 24 hour period they will be charged a maximum of 12 hours per day at either the Adult Non-Profit Community Organizations rate or the Commercial, For-Profit, or Out of Community Organizations rate. Playgrounds, skate parks, and BMX parks may not be rented and must be kept free and accessible to the general public.

10. Special Events at Ponderosa Park, Bushmaster Park, and Mobile Haven Park will be charged one half of the established rate for facilities and amenities within the park (excludes application fees).

B. ANY PERSON FOUND IN VIOLATION OF SECTION 3-10-001-0005(A) SHALL BE GUILTY OF A CIVIL INFRACTION AND SHALL BE FINED A SUM NOT TO EXCEED FIVE HUNDRED DOLLARS ($500.00). ANY VIOLATION WHICH IS CONTINUING IN NATURE SHALL CONSTITUTE A SEPARATE OFFENSE ON EACH SUCCESSIVE DATE THE VIOLATION CONTINUES, UNLESS OTHERWISE PROVIDED. ANY ENFORCEMENT ACTION IS SUJBECT TO THE CIVIL ENFORCEMENT PROCEDURES SET FORTH IN SECTION 1-15-001-0011.

C. THE CITY RECREATION SERVICES DIRECTOR OR HIS DESIGNEE MAY REQUIRE ANY PERSON SEEKING TO USE CITY PARKS AND RECREATION FACILITIES TO ENTER INTO A CONTRACT RELATED TO PAYMENT OF FEES, DEPOSITS, INDEMNIFICATION OF THE CITY AND/OR CONDITIONS OF USE. THE IMPOSITION OF A CIVIL PENALTY FOR A VIOLATION OF THIS SECTION SHALL NOT PREVENT THE CITY FROM FILING A CIVIL ACTION TO COLLECT THE BALANCE OF ANY UNPAID FEES OR AMOUNTS OWED PURSUANT TO SUCH CONTRACT.

SECTION 2. 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 3. Severability.

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

SECTION 4. Clerical Corrections.

The City Clerk is hereby authorized to correct 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 5. Effective Date.

This ordinance shall become effective from and after September 1, 2014.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Andy Wagemaker, Revenue Director

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Possible Adoption of Resolution No. 2014-23 and Ordinance No. 2014-15: A Resolution of the City Council of the City of Flagstaff, Arizona, Declaring that Certain Document Known as "The 2014 BBB Tax Re-Codification Amendments as a Public Record, and Providing for an Effective Date; and an Ordinance of the City Council of the City of Flagstaff, Amending the Flagstaff City Code, Title 3, *Business Regulations*, Chapter 3-06, *Privilege and Excise Taxes,* Chapter 3-06, *Lodging, Restaurant and Lounge Tax,* are Hereby Amended by Adopting "The 2014 BBB Tax Re-Codification Amendments" as Set Forth in that Public Record on File with the City Clerk; Providing for Penalties, Repeal of Conflicting Ordinances, Severability, Authority for Clerical Corrections, and Establishing Effective Dates. ***(Recodification of BBB Tax)***

RECOMMENDED ACTION:

1) Adopt Resolution No. 2014-12
2) Read Ordinance No. 2014-15 by title only for the final time
3) City Clerk reads Ordinance No. 2014-15 by title only for the final time (if approved above)
4) Adopt Ordinance No. 2014-15

Policy Decision or Reason for Action:

The Model City Tax Code is the City of Flagstaff's guiding tax document. By adopting the proposed ordinance, the City is doing its part to help in the Governor's Transaction Privilege Tax Simplification Task Force's efforts to simplify municipal tax collections. The recommended action re-codifies portions of Chapter 3-06 of the City Code and will not establish new taxes or increase taxes on any taxpayer. The recommended action will also aid in the transition to tax collections performed by the State of Arizona's Department of Revenue, set to begin on January 1, 2015.

Financial Impact:

None. The proposed ordinance does not make any changes to City policies and or practices. The proposed ordinance merely consolidates the tax rate in the City Tax Code to be more uniform with the Model City Tax Code. This consolidation makes it easier for the taxpayer to understand the City Tax Code and increases compliance.

Connection to Council Goal:

Effective governance

Has There Been Previous Council Decision on This:

Public Hearing and first of the ordinance was held on July 1, 2014, along with reading the resolution by title only.

Options and Alternatives:

1) Adopt the proposed resolution and proposed ordinance and re-codify Chapter 3-06 of the Flagstaff City Code.
2) Do not adopt the proposed resolution and proposed ordinance and do not re-codify Chapter 3-06 of the Flagstaff City Code.

Background/History:

Model City Tax Code

In 1987 the City of Flagstaff and other Arizona cities and towns adopted the Model City Tax Code. The Model City Tax Code enables businesses to be taxed uniformly. Cities have the option of establishing the rate (%) of tax applied to gross income, and there are model and local options under the Model City Tax Code which cities may adopt. The City's base tax rate is currently 1.721% and there is an additional voter approved 2% BBB tax levied on the restaurant/bar and the hotel/motel classifications.

City of Flagstaff Bed, Board, and Beverage (BBB) Tax

In 1987, the City of Flagstaff adopted a lodging, restaurant, and lounge tax, often referred to as the Bed, Board, and Beverage, or BBB, tax. The tax was adopted as an additional 2% tax levied on the restaurant/bar and the hotel/motel classifications. The details of the 2% tax are outlined in Chapter 3-06 of the City Code. In general, the Chapter allocates the 2% tax into separate funds (Section 3-06-001-0003 Distribution) and creates commissions and establishes uses of the revenues (Section 3-06-001-0004 Financial Control). Chapter 3-06 is attached to this summary for more detail.

Proposed Bed, Board, and Beverage Tax Code Changes

The attached ordinance consolidates and re-codifies the additional 2% tax approved by voters and levied on the restaurant/bar and the hotel/motel classifications and incorporates the additional 2% tax into the Model City Tax Code. Currently, the City levies the additional 2% tax outside of the Model City Tax Code in a separate ordinance. The 2% tax is levied as an additional line item on taxpayer transaction privilege tax returns for those businesses that report under the restaurant/bar or hotel/motel categories. In essence, taxpayers reporting under the previously mentioned categories pay a total of 3.721% (1.721% + 2%) on two lines of the tax return. The proposed ordinance will allow the City to collect the 3.721% on one line and aid in the Governor's Transaction Privilege Tax Simplification Task Force's efforts to make the Model City Tax Code simpler to follow.

The consolidation and re-codification of the additional 2% tax will not result in new or increased tax on any taxpayer, nor will it change how revenues are distributed for Tourism, Beautification, Economic development, Parks and Recreation, and Arts and Sciences. It will simplify the City's Tax Code by locating the total restaurant/bar and hotel/motel tax rates in one place.

Key Considerations:

The City of Flagstaff and other Cities in the State of Arizona abide by the rules and regulations found in the Model City Tax Code. The proposed re-codification is another part of the Governor's Transaction Privilege Tax Simplification Task Force's efforts to make the Model City Tax Code more uniform. If the City chose not to adopt the ordinance, the City's Tax Code would continue to include a separate section with an additional 2% tax rate for restaurants/bars and hotel/motel categories. The separate code section has worked for the City in the past as City staff was able to enforce the code. However, with the takeover of transaction privilege tax collections by the State of Arizona on January 1, 2015, there is no guarantee the separate code section would be as fastidiously enforced. The re-codification will make enforcement by the State of Arizona much simpler, ensuring the continued collection of revenues vital to the City of Flagstaff.

Expanded Financial Considerations:

None.

Community Benefits and Considerations:

The proposed re-codification of Chapter 3-06 of the City Code will make it much easier for the Arizona Department of Revenue to collect transaction privilege taxes and to enforce the City of Flagstaff Tax Code. In turn, the City will continue to receive important BBB revenues that the voters have approved.

Community Involvement:

Inform.

Attachments: Res. 2014-23
Ord. No. 2014-15

RESOLUTION NO. 2014-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING THAT CERTAIN DOCUMENT KNOWN AS "THE 2014 BBB TAX RE-CODIFICATION AMENDMENTS" AS A PUBLIC RECORD, AND PROVIDING FOR AN EFFECTIVE DATE

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provisions of the City Code by reference to a public record, provided that the adopting ordinance is published in full;

ENACTMENTS:

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

SECTION 1.

That certain document known as "The 2014 BBB Tax Re-Codification Amendments" attached hereto as Exhibit A is hereby declared to be a public record, and three (3) copies shall remain on file with the City Clerk.

SECTION 2.

This resolution shall be 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 15th day of July, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Attachment: Exhibit A The 2014 BBB Tax Re-Codification Amendments

EXHIBIT A

THE 2014 BBB TAX RE-CODIFICATION AMENDMENTS

The Flagstaff City Code, Title 3 *Business Regulations,* Chapter 3-06 *Privilege and Excise* Section 3-05-004-0444 *Hotels* and Section 3-05-004-0455 *Restaurants and Bars* are hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

3-05-004-0444 HOTELS:

The tax rate shall be at an amount equal to THREE ~~one~~ and seven hundred, twenty-onethousandths percent (3.721%) ~~(1.721%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or space furnished to any:

(a) Reserved.

(b) Transient. "Transient" means any person who, for any period of not more than twenty-nine (29) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any lodging space in any hotel for which lodging or use of lodging space a charge is made.)

(c) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this section.

3-05-004-0455 RESTAURANTS AND BARS:

(a) The tax rate shall be at an amount equal to THREE ~~one~~ and seven hundred, twenty-onethousandths percent (3.721%) ~~(1.721%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of preparing or serving food or beverage in a bar, cocktail lounge, restaurant, or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises, including also the activity of catering. Cover charges and minimum charges must be included in the gross income of this business activity.

(b) Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off premises, shall also be allowed to exclude separately charged delivery, set-up, and clean-up charges, provided that the charges are also maintained separately in the books and records. When a taxpayer delivers food and/or serves such food off premises, his regular business location shall still be deemed the location of the transaction for the purposes of the tax imposed by this Section.

(c) The tax imposed by this Section shall not apply to sales to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(d) The tax imposed by this Section shall not apply to sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. § 42-1310.01(a)(48), that serves the food and beverages to its passengers, without additional charge, for consumption in flight.

(e) The tax imposed by this Section shall not apply to sales of prepared food, beverages, condiments or accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours.

(f) For the purposes of this Section, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

The Flagstaff City Code, Title 3 *Business Regulations,* Chapter 3-06 *Lodging, Restaurant and Lounge Tax,* is hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

CHAPTER 3-06
~~LODGING, RESTAURANT AND LOUNGE TAX~~
HOSPITALITY INDUSTRY TAX REVENUES

3-6-001-0001 DEFINITIONS:

ARTS AND SCIENCES: Support for Flagstaff arts, scientific and cultural activities, events and organizations to provide direct and indirect citizen participation and enhancement of the overall quality of life and community image including support of public art.

~~BAR/LOUNGE: Any public or private establishment where spirituous liquor, as defined by Arizona Revised Statutes, section 4-101.26, is sold for consumption on the premises.~~

BEAUTIFICATION: Any modification of the urban physical environment to increase pleasure to the senses or pleasurably exalt the mind or spirit or strengthen the urban design framework of the City.

ECONOMIC DEVELOPMENT: The encouragement, promotion and assistance of the expansion of economic activity for the purposes of expanding revenue and providing jobs to the community.

HOSPITALITY INDUSTRY: Those establishments engaged in business as bar/lounge, restaurant or hotel/motel/campground.

HOSPITALITY INDUSTRY TAX REVENUES: A SHARE OF THE LOCAL TRANSACTION PRIVILEGE TAX REVENUES COLLECTED AND RECEIVED PURSUANT TO THE CITY TAX CODE, SECTION 3-05-0004-0444 HOTELS AND 3-05-004-0455 RESTAURANTS AND BARS, WHICH SHARE IS EQUIVALENT TO TWO DIVIDED BY THREE AND SEVEN HUNDRED, TWENTY-ONETHOUSANDTHS (2 ÷ 3.721) OR APPROXIMATELY 53.749% OF ALL SUCH REVENUES.

~~HOTEL/MOTEL/CAMPGROUNDS: Any public or private establishment which provides transient lodging for compensation; except hospitals, rest homes, nursing homes, foster homes, sheltered care homes or residential treatment facilities operated on a not-for-profit basis.~~

PARKS AND RECREATION: The development and management of public parks, recreational facilities, and programs which are available to the residents and visitors including funding the Flagstaff Urban Trail System.

~~RESTAURANT: Any business activity where articles of food, drink or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this Chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports or similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant", and not a "retailer".~~

TOURISM: The guidance, management, marketing, accommodation, promotion and encouragement of tourists.

TOURISTS/VISITORS: Individuals or groups which visit Flagstaff and surrounding areas for business, recreational, educational, scientific or cultural purposes.

~~TRANSIENT: Person who obtains, at his own or another's expense, lodging for a period of thirty (30) days or less.~~

~~**3-06-001-0002 TAX RATE:**~~

~~There is hereby levied against all hotels/motels/campgrounds, bars and restaurants a tax in the amount of two percent (2%) on the gross sales of that portion of all revenue defined as hotel/motel/ campgrounds, bar or restaurant business. This tax shall be in addition to all other taxes.~~

3-06-001-~~0003~~0002 ~~DISTRIBUTION:~~ DISTRIBUTION OF HOSPITALITY INDUSTRY TAX REVENUES:

There shall be a separate accounting for all ~~funds~~ HOSPITALITY INDUSTRY TAX REVENUES collected ~~under this Chapter~~. Said funds shall be distributed and expended ~~in an manner~~ consistent with CITY ORDINANCES, the City Charter and State law. The funds collected ~~under this Chapter~~ shall be allocated as follows:

~~A. An initial allocation of $40,000 in 1997, $30,000 in 1998, $20,000 in 1999 and $10,000 in 2000, shall be made for economic development purposes.~~

~~B. After the initial allocation above, the balance of the tax collected shall be distributed as follows:~~

1. Thirty percent (30%) for tourism in conformance with ~~sub~~section 3-06-001-0003(A) ~~3-06-001-0004(A)~~.

2. Twenty percent (20%) for beautification in conformance with ~~sub~~section 3-06-001-0003(B) ~~3-06-001-0004(B).~~

3. Nine and one-half percent (9.5%) for economic development in conformance with subsection 3-06-001-0003(C) ~~3-06-001-0004(C)~~.

4. Thirty-three percent (33%) for Parks and Recreation, in conformance with Section 3-0-001-0003(D) ~~3-06-001-0004(D)~~.

5. Seven and one-half percent (7.5%) for Arts and Science in conformance with Section 3-06-001-0003(E) ~~3-06-001-0004(E)~~.

3-06-001-~~000~~40003 FINANCIAL CONTROL:

A. Tourism: Those funds designated for tourism shall be administered as follows:

1. The City Council shall appoint a Tourism Commission composed of nine (9) members, five (5) of whom shall be from the hospitality industry. Recommendations for members will be made by the Flagstaff tourism industry; or

2. The City Council shall designate an appropriate public or private agency to form a Tourism Committee. Said Committee shall be composed of one City Council person and additional members as required, the majority of whom will be from the hospitality industry.

3. This public or private agency, or Commission shall review the expenditure of the portion of this tax to be applied to tourist related activities and projects and;

   a. Develop and transmit to the Council an annual master plan outlining the Commission's or public or private agency's program recommendations for the upcoming year.

   b. Make recommendations to the Council concerning the annual budgetary allocation of the tourism portion of this tax to include, but not be limited to:

      (1) Providing funding to the qualified, established public or private agency to administer, on a contract basis, tourism programs as required.

      (2) Developing and implementing a marketing plan. Major elements of the marketing plan will include, but not be limited to, developing a specific image for Flagstaff, identifying target market segments, implementing a promotional plan directed to target market segments.

      (3) Establishing visitor information center(s) to include, but not be limited to, a high profile location, easy visitor access, adequate staffing, a toll-free telephone number for visitor information, and develop other facilities as needed to benefit visitors and the community.

(4) Establishing an educational program to include, but not be limited to, scholarships for hospitality education at Northern Arizona University.

(5) Promoting activities that enhance the community's image and the overall quality of life.

(6) Retaining of appropriate staff to implement approved programs.

c. Perform those additional duties determined by the Council as set forth by ordinance.

B. Beautification: Those funds designated for beautification and public art shall be administered as follows:

1. The City Council shall appoint a Beautification and Public Art Commission composed of nine (9) members to review the expenditure of the portion of this tax to be applied to beautification activities and projects. Funds for the public art program shall be derived from an allocation of the arts and sciences portion of this tax as set out in Section 3-06-001-0003(E) ~~3-06-001-0004(E)~~ and from other monies as the City Council may consider appropriate.

2. The Beautification and Public Art Commission shall:

(a) Make recommendations concerning the allocation of this tax.

(b) Make recommendations to the Council concerning the annual budgetary allocation of the beautification and public art portions of this tax and other monies as deemed appropriate, to include but not be limited to:

(1) Purchase, installation or modification of landscaping and irrigation systems

.

(2) Purchase, removal or modification of billboards and nonconforming signs.

(3) Beautification of buildings and facilities, streetscapes and gateways.

(4) Development and support of the City's public art program.

(5) Purchase or lease of easements or property necessary for beautification projects.

3. Perform those additional duties determined by the Council as set forth by ordinance.

C. Economic Development: Those funds designated for economic development shall be administered as follows:

The City Council shall:

1. Appoint or act as an Economic Development Commission;

2. Designate an appropriate public or private economic development agency. Said agency shall be composed of at least two City Council persons and additional members as required;

3. This public or private agency, shall:

   a. Develop and transmit to the Council an annual master plan outlining the Commission's or public or private agency's program recommendations for the upcoming year. Said plan shall be presented to the Council prior to April 1 of each year.

   b. Make recommendations to the Council concerning the annual budgetary allocation of the economic development portion of this tax, to include but not be limited to:

      (1) Developing, acquiring and distributing advertising material to promote economic development.

      (2) Providing financial assistance programs to stimulate relocation and retention of industrial prospects to Flagstaff.

      (3) Retaining of appropriate staff to implement approved programs.

      (4) Perform those additional duties determined by the Council as set forth by ordinance.

D. PARKS AND RECREATION: Those funds designated for Parks and Recreation shall be administered as follows:

The City Council shall:

1. Appoint a Parks and Recreation Commission which shall:

   a. Review the expenditure of the portion of this tax to be applied to Parks and Recreation related activities and projects.

   b. Develop and transmit to the Council an annual operating plan outlining the Commission's program recommendations for the upcoming year.

   c. Make recommendations to the Council concerning the annual budgetary allocation of the Parks and Recreation portion of this tax, to include but not be limited to:

(1) Developing Parks and Recreation facilities, and programs as needed to benefit the community and its visitors.

(2) Funding for the Flagstaff Urban Trails System development and maintenance.

(3) Developing, acquiring and distributing material to promote Parks and Recreation.

(4) Retaining of appropriate staff to implement approved programs.

d. Perform those additional duties determined by the Council as set forth by ordinance.

E. ARTS AND SCIENCE: Those funds designated for Arts and Science shall be administered as follows:

The City Council shall:

1. Allocate an annual amount for the support and development of the City's public art program to be administered by the Beautification Commission as provided in Section 3-06-001-003(B) ~~3-06-001-0004(B)~~.

2. Designate an appropriate public or private arts and science agency or board.

3. This public or private agency or board, shall:

a. Review the expenditure of the portion of this tax to be applied to arts and science related activities and projects; and

b. Develop and transmit to the Council an Annual Plan outlining program recommendations for the upcoming year in conjunction with the City's annual budgetary process.

c. Make recommendations to the Council concerning the annual budgetary allocation of the Arts and Science portion of this tax, to include but not be limited to:

(1) Developing and supporting the Flagstaff arts, scientific and cultural activities, events and organizations to provide direct and indirect citizen participation, and opportunities for enhancement of the overall quality of life and community image.

(2) Developing, acquiring and distributing material to promote arts and science.

(3) Developing financial assistance programs to stimulate artistic and scientific activities in Flagstaff.

(4) Retaining of appropriate staff to implement approved programs.

d. Perform those additional duties determined by the Council as set forth by ordinance.

~~**3-06-001-0005 TECHNICAL ADMINISTRATION:**~~

~~The tax shall be collected by the City of Flagstaff. Technical administration, collection, audits, appeals not covered by this Chapter shall be in accordance with the City of Flagstaff Transaction Privilege Tax Ordinance No. 1491 and its amendments.[1] Should any conflict arise between this Chapter and the City of Flagstaff Transaction Privilege Tax Ordinance, this Chapter shall prevail as it relates to the lodging, restaurant and lounge tax.~~

3-06-001-~~0006~~ 0004 EXEMPTION:

The HOSPITALITY INDUSTRY TAX REVENUES ~~tax~~ shall be exempt from the limits imposed on spending by article IX, section 20, of the Arizona State Constitution.

ORDINANCE NO. 2014-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, *BUSINESS REGULATIONS,* CHAPTER 3-05, *PRIVILEGE AND EXCISE TAXES,* CHAPTER 3-06, *LODGING, RESTAURANT AND LOUNGE TAX,* ARE HEREBY AMENDED BY ADOPTING "THE 2014 BBB TAX RE-CODIFICATION AMENDMENTS" BY REFERENCE, AS SET FORTH IN THAT PUBLIC RECORD ON FILE WITH THE CITY CLERK; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff imposes a local transaction privilege tax rate of 1.721% on the gross income received from engaging in the business of hotels, restaurants and bars, as set forth in Chapter 3-05 of the City Code (the City Tax Code); and

WHEREAS, the City of Flagstaff imposes an additional local transaction privilege tax rate of 2% on the gross income received from engaging in such business, as set forth in Chapter 3-06 of the City Code, commonly known as the "bed, board and beverage tax", "BBB tax", or "hospitality industry tax"; and

WHEREAS, the City desires to consolidate all tax provisions within the City Tax Code to simplify tax collection and reporting; and

WHEREAS, consolidation and re-codification will not result in a new or increased tax on any taxpayer; and

WHEREAS, consolidation and re-codification will not change how tax revenues are distributed for tourism, beautification, economic development, Parks and Recreation, and Arts and Sciences.

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Code, Title 3, *Business Regulations*, Chapter 3-05, *Privilege and Excise Taxes,* and Chapter 3-06, *Lodging, Restaurant and Lounge Tax,* are hereby amended by adoption of the amendments set forth in that document known as the "2014 BBB Tax Re-Codification Amendments," declared a public record by Resolution No. 2014-23 and on file with the City Clerk.

SECTION 2. Penalties.

Any person convicted of a violation of Section 3-05-0004-0444, *Hotels,* or Section 3-05-004-0455 *Restaurants and Bars,* of the City Code as amended by this ordinance is guilty of a misdemeanor and shall be fined a sum not to exceed two thousand five hundred dollars ($2,500.00) and may be sentenced to confinement in jail for a period not to exceed six (6) months for any one offense, all in accordance with Section 3-05-0005-0580, *Criminal Penalties,* of the City Code, and may owe interest and penalties pursuant to Section 3-05-005-0540, *Interest and Civil Penalties,* of the City Code. Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

SECTION 4. Severability.

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

SECTION 5. Clerical Corrections.

The City Clerk is hereby authorized to correct 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 6. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the Mayor and City Council of the City of Flagstaff this 15th day of July, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Andy Wagemaker, Revenue Director

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Adoption of Ordinance No. 2014-17: An ordinance of the City Council of the City of Flagstaff, Arizona, amending the Flagstaff City Code, Title 7, Health and Sanitation, Chapter 7-3, City Water System Regulations, Section 7-03-001-0003, Deposit Required, to change water service deposits; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. ***(Changing the amount of water service deposits)***

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-17 by title only for the final time
2) City Clerk reads Ordinance No. 2014-17 by title only for the final time
3) Adopt Ordinance No. 2014-17 and establish an effective date for the deposit adjustments of September 1, 2014

Policy Decision or Reason for Action:

The City has charged a $25 deposit for residential accounts and a two month estimate for non-residential accounts for approximately 20 years. The proposed deposit adjustments will help realign the deposit amount to help mitigate the losses from customers that do not pay the final bill on utility accounts. This will also aid in reducing the total amount of write-offs per year.

Financial Impact:

The financial impact of the increase in utility deposits is the reduction in the amount of write-offs processed each fiscal year. Many times, the initial deposit is applied to the final bill on the customer's account, reducing the total amount owed on the final bill. However, there is often a balance remaining on the account after the deposit is applied. Customers often neglect to pay the final balance on the account and the account is eventually placed on the write-off list after collection efforts are exhausted. The increased deposit will help reduce or eliminate the balances left on the final bill, increasing the amount of money the City is able to collect on final bills. Based on FY14 write off data, the proposed deposits could have reduced the total amount written off by approximately $40,000.

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

Public Hearing and first read of this ordinance was held on July 1, 2014.

Options and Alternatives:

1) Adopt the ordinance as presented with an effective date of September 1, 2014.
2) Do not adopt the ordinance as presented and do not establish an effective date of September 1, 2014.

Background/History:

As previously noted, the water service deposits for the City of Flagstaff have remained the same for approximately 20 years. The amount of the deposit has lagged behind increases in utility rates and fees.

The proposed increases will bring the City's deposits closer to the average of other municipalities throughout the state. With available data, staff was able to calculate an average residential deposit of $143.37, as of April 4, 2014. There is no exact average available for non-residential deposits due to the varying calculations used. However, a recommended ratio of non-residential deposit to residential deposit of 2.00 was derived using readily available information.

There are several steps a municipality must complete as required by state law to consider and adopt changes to its utility rates, fees and charges. All utility rates, fees and charges must be just and reasonable; and therefore a written report and/or data supporting the changes to utility deposits is required. This staff report along with the attached data are intended to satisfy this legal requirement. The following calendar provides a brief outline of the required steps and the dates identified by staff for the City to fully comply with Arizona Revised Statutes (A.R.S. § 9-511).

April 28, 2014	Notice of proposed changes placed on main City website page at least 60 days prior to Council action.
May 20, 2014	Written report and data supporting the utility deposit changes placed on file at the City Clerk's office. Council adopts "Notice of Intention" by motion - notice to the public that the City is considering a new or adjusted rate, fee, or charge and setting a public hearing date, time and place.
June 1, 2014	Publish Notice of Intention in a newspaper of general circulation in the area of the municipality with the date, time, and place of the public hearing.
July 1, 2014	Hold a public hearing and consider adoption of ordinance amending Section 7-03-001-0003 of the City Code; read the ordinance for the first time.
July 15, 2014	Read the ordinance for the second and final time.
On or about September 1, 2014	If approved, the new deposit rates become effective 30 days after adoption of the ordinance.

Key Considerations:

The current deposit the City charges is significantly lower than other municipal utilities throughout the state. With available data, staff was able to calculate an average residential deposit of $143.37, as of April 4, 2014. There is no exact average available for non-residential deposits due to the varying calculations used. However, a recommended ratio of non-residential deposit to residential deposit of 2.00 was derived using readily available information. With the proposed increases to the deposits, the City will also allow new customers to have the deposits billed in a maximum of three monthly installments, upon request.

Community Benefits and Considerations:

The increase in utility deposits will reduce the final amount of accounts that are written-off each year.

Community Involvement:

Inform.

Attachments: Ord. 2014-17

Utility Deposit Report

ORDINANCE NO. 2014-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 7, *HEALTH AND SANITATION,* CHAPTER 7-3, *CITY WATER SYSTEM REGULATIONS*, SECTION 7-03-001-0003, *DEPOSIT REQUIRED,* TO CHANGE WATER SERVICE DEPOSITS; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff desires to change the deposits required to obtain residential or non-residential water service in an effort to reduce financial losses incurred when customers fail to pay for water service and to provide for a more uniform system of deposits;

WHEREAS, consistent with the spirit of A.R.S. § 9-499.15 the City has posted notice on its website concerning proposed changes to water service deposits;

WHEREAS, pursuant to A.R.S. § 9-511.11 the City has filed a written report with data supporting changes to the water service deposits with the City Clerk, published a notice of a public hearing, and conducted a public hearing concerning the proposed changes; and

WHEREAS, the City Council hereby finds it is in the best interests of the community to change the deposits required to obtain residential and commercial water service;

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

SECTION 1. In General.

The Flagstaff City Code, Title 7 *Health and Sanitation,* Chapter 7-03, *City Water System Regulations,* Section 7-03-001-0003, *Deposit Required* is hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

7-03-001-0003. DEPOSIT REQUIRED.

A. Deposit Required: There shall be charged all persons applying for RESIDENTIAL water service to be provided to any premises, a non-interest bearing deposit of ~~twenty-five dollars for residence service inside the City, twenty-seven dollars and fifty cents ($27.50) for residence outside the City and for all other service, a non-interest bearing deposit equal to twice estimated amount of the monthly bill.~~ ONE HUNDRED FIFTY DOLLARS ($150). THERE SHALL BE CHARGED ALL PERSONS APPLYING FOR NON-RESIDENTIAL WATER SERVICE TO BE PROVIDED TO ANY PREMISES, A NON-INTEREST BEARING DEPOSIT OF THREE HUNDRED DOLLARS ($300). THE DEPOSIT MUST BE PAID IN FULL AT THE TIME OF ACCOUNT SETUP OR, IF REQUESTED BY THE CUSTOMER, IN THREE EQUAL INSTALLMENTS. IF THE DEPOSIT IS PAID IN INSTALLMENTS, THE FIRST INSTALLMENT IS DUE AT THE TIME OF ACCOUNT SETUP, THE NEXT INSTALLMENT WILL BE BILLED WITH THE FIRST MONTHLY ACCOUNT BILL, AND THE FINAL INSTALLMENT WILL BE BILLED

WITH THE SECOND MONTHLY ACCOUNT BILL. Specific exemption from this provision shall apply to churches, nonprofit community organizations and other utilities. Additionally, persons who have qualified for a deposit refund pursuant to paragraph (B) below and have no other Municipal account delinquency shall be exempt from any deposit requirement or additional or new water service. New customers providing the City with a recent letter from a present or previous utility supplier which shows a good payment history may be exempted from the deposit requirements.

B. Deposit Refund: Except as provided below, a customer shall be entitled to a refund of deposits on hand ~~either one year after the effective date of this Section or~~ one year after the required deposit is deposited with the City OR WHEN THE ACCOUNT IS CLOSED ~~whichever occurs later~~. However, in the event a customer fails to make timely payment of a monthly billing, or allows any arrearage to accrue on the customer's account, then the customer shall not be entitled to a refund until the customer has first established a one-year record of timely payments with no arrearage. ~~If a customer should be issued a turn-off notice (appear on a cut-off listing) due to nonpayment, a new or additional deposit may be required. This deposit shall be the greater of either the basic deposit required under subsection (A) of this Section or twice the amount of the highest monthly billing during the preceding twelve (12) months.~~ A DEPOSIT ON A CLOSED ACCOUNT WILL BE REFUNDED, LESS ANY AMOUNTS OWED. No interest shall be paid by the City upon any deposit refund.

The Flagstaff City Code, Title 7 *Health and Sanitation,* Chapter 7-03, *City Water System Regulations,* Section 7-03-001-0008, *Accounts Payable* is hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

7-03-001-0008. ACCOUNTS PAYABLE.

A. All water accounts charges for water sold and furnished to customers by the City shall be due and payable at the office of the Treasurer during regular business hours as established by the Treasurer for the collection of such accounts, Monday through Friday, inclusive, holidays excepted.

B. All water accounts shall be due and payable upon presentation by the office of the Treasurer of invoice statement therefor, and shall become delinquent thirty (30) days thereafter. If such charges are not paid within ten (10) days after such delinquent date, water service may be discontinued without notice AND THE CITY MAY PURSUE ALL REMEDIES AVAILABLE AT LAW. The Treasurer is hereby authorized to consolidate more than one charge for City services into one itemized statement of charges at appropriate billing levels.

OPTION 1 CIVIL SANCTION [add clause C below; delete Section 2 general penalty clause; renumber Sections 3, 4, 5 as 2, 3, 4]

C. ANY PERSON FOUND IN VIOLATION OF THIS SECTION SHALL BE GUILTY OF A CIVIL INFRACTION AND SHALL BE FINED A SUM NOT TO EXCEED FIVE HUNDRED DOLLARS ($500.00). ANY VIOLATION WHICH IS CONTINUING IN NATURE SHALL CONSTITUTE A SEPARATE OFFENSE ON EACH SUCCESSIVE DATE THE VIOLATION CONTINUES, UNLESS OTHERWISE PROVIDED. ANY ENFORCEMENT ACTION IS SUJBECT TO THE CIVIL ENFORCEMENT PROCEDURES SET FORTH IN SECTION 1-15-001-0011.

<u>OPTION 2 MISDEMEANOR [no clause C, adopt Section 2 general penalty clause below]</u>

<u>OPTION 3 NO CIVIL SANCTION AND NO MISDEMEANOR [add clause C below; delete section 2 general penalty clause; renumber sections 3, 4, 5 as 2, 3, 4; delete reference to penalties in caption]</u>

C. NO CIVIL SANCTION OR CRIMINAL PENALTY IS ESTABLISHED FOR A VIOLATION OF THIS SECTION.

SECTION 2. Penalties.

Any person convicted of a violation of this ordinance is guilty of a misdemeanor and shall be fined a sum not to exceed two thousand five hundred dollars ($2,500.00) and may be sentenced to confinement in jail for a period not to exceed ninety (90) days for any one offense, all in accordance with the Flagstaff City Code Chapter 1-04. Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

SECTION 4. Severability.

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

SECTION 5. Clerical Corrections.

The City Clerk is hereby authorized to correct 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 6. Effective Date.

This ordinance shall become effective on September 1, 2014 following adoption by the City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 20__.

_____
MAYOR

ATTEST:

_____

CITY CLERK

APPROVED AS TO FORM:

_____

CITY ATTORNEY

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City of Flagstaff

Water Service Utility Deposit Report

May 20, 2014

Andy Wagemaker, Revenue Director

I. Background

The City of Flagstaff operates water, reclaimed water, and wastewater networks within the City. These networks serve an estimated 20,000 residential and non-residential utility accounts.

The water service utility deposits for the City of Flagstaff have remained the same for approximately 20 years. The current amount of the deposit has lagged behind increases in utility rates and fees. The most recent rate study, completed in 2010, updated water, reclaimed water, and wastewater rates, leaving all other fees and charges the same. This report serves as a recommendation for revised residential and non-residential deposits.

II. Objective

The current analysis will address the following objectives:

- Calculate a water service utility deposit charge for residential accounts.
- Calculate a water service utility deposit charge for non-residential accounts.

III. Deposit Calculation

The deposit calculation for residential accounts is based upon the 2012-2013 winter sewer average calculation of 4,448 gallons. For purposes of the deposit calculation, a typical residential account with a reduced amount of 4,000 gallons is used. A two month average is used to best approximate charges on the final bill sent to a customer. Utilizing current rates effective January 1, 2014, the deposit is calculated as follows:

RESIDENTIAL DEPOSIT CALCULATION		
	Monthly Consumption (in gallons)	**Dollar Amount**
3/4" Meter Base Charge	N/A	$ 13.03
Water Charge	4,000	$ 10.96
Water Energy Surcharge	4,000	$ 3.60
Sewer Charge	4,000	$ 15.20
Environmental Fee	N/A	$ 4.00
Trash Charge	N/A	$ 17.73
Stormwater Charge	N/A	$ 3.90
Sales Tax	N/A	$ 2.33
ADEQ Tax	N/A	$ 0.02
TOTAL:		$ 70.77
	2 Months Average Bill:	$ 141.54
	Recommended Deposit:	**$ 150.00**

Due to the varied rate classes and consumption patterns of non-residential accounts, the deposit calculation for non-residential accounts is based upon a review of other Arizona municipalities with readily available information that charge a flat non-residential deposit. Based upon that information, an average ratio of the non-residential deposit amount to the residential deposit amount was calculated at 1.70, as found in the table below.

NON-RESIDENTIAL TO RESIDENTIAL DEPOSIT RATIO CALCULATION			
	Residential Deposit	**Non-Residential Deposit**	**Ratio**
Prescott	$ 125.00	$ 125.00	1.00
Tempe	$ 50.00	$ 150.00	3.00
Gilbert	$ 200.00	$ 200.00	1.00
Surprise	$ 182.40	$ 249.72	1.37
Glendale	$ 200.00	$ 250.00	1.25
Winslow	$ 100.00	$ 275.00	2.75
Avondale	$ 175.00	$ 300.00	1.71
El Mirage	$ 200.00	$ 300.00	1.50
	AVERAGES:	$ 231.22	1.70
		Recommended Ratio:	**2.00**

Using the recommended ratio of 2.00, the deposit is calculated as follows:

NON-RESIDENTIAL DEPOSIT CALCULATION	
Residential Deposit:	$ 150.00
2x Residential Deposit:	$ 300.00
Recommended Deposit:	**$ 300.00**

IV. Conclusion

City staff developed recommended deposits from internally available information. This information forms the basis for the updated deposit recommendations of $150 for residential accounts and $300 for non-residential accounts. Staff will continue to periodically analyze internal deposits and provide updates as changes in operations occur.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Andy Wagemaker, Revenue Director

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Adoption of Resolution No. 2014-24, and Consideration and Adoption of Ordinance No. 2014-16: A Resolution of the City Council of the City of Flagstaff, Arizona, Declaring that Certain Document Known as "The 2014 Use Tax Adoption and Related City Tax Code Amendments" as a Public Record, and Providing for an Effective Date; and an Ordinance of the City Council of the City of Flagstaff, Arizona, Amending the Flagstaff City Code, Title 3, *Business Regulations,* Chapter 3-05, *Privilege and Excise Taxes,* is Hereby Amended by Adopting "The 2014 Use Tax Adoption and Related City Tax Code Amendments" by reference as Set Forth in that Public Record on File with the City Clerk; Providing for Penalties, Repeal of Conflicting Ordinances, Severability, Authority for Clerical Corrections, and Establishing an Effective Date. ***(Adoption of local 1% use tax)***

RECOMMENDED ACTION:

1) Adopt Resolution No. 2014-24
2) Read Ordinance No. 2014-16 by title only for the final time
3) City Clerk reads Ordinance No. 2014-16 by title only for the final time (if approved above)
4) Adopt Ordinance No. 2014-16

Policy Decision or Reason for Action:

As part of the FY15 budget preparations, a list of possible revenue sources was presented to City Council. After further discussion at FY15 budget retreats, City Council requested staff to proceed with steps necessary for adoption of a use tax at the base rate of 1%. The public hearing, resolution adoption, and ordinance adoption are the formal procedures required to adopt the use tax.

Subsidiary Decisions Points: None.

Financial Impact:

The City does not currently levy a use tax. If the proposed resolution and ordinance are approved, the City will levy a use tax at a rate of 1%. The estimated revenue for the first year is $100,000. Future years are estimated at $250,000 per year.

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

Yes. Use tax has been discussed multiple times during budget preparations for FY15. Public Hearing and first read of the ordinance was held on July 1, 2014, along with reading the resolution by title only.

Options and Alternatives:

1) Adopt the proposed resolution and proposed ordinance and set an effective date of October 1, 2014.
2) Do not adopt the proposed resolution and proposed ordinance and do not set an effective date of October 1, 2014.

Background/History:

Model City Tax Code; Use Taxes

Arizona cities and towns have had the ability to impose local taxes since before statehood. Local taxes include local transaction privilege taxes, use taxes, license taxes, and property taxes. In 1987 the City of Flagstaff and other Arizona cities and towns approved the Model City Tax Code ("MCTC"), a uniform tax code that includes several options for imposition of a local transaction privilege tax, use tax, and some exemptions. Each city has the right to set its own tax rates. A copy of all MCTC options is located on the Arizona Department of Revenue website, www.azdor.gov. The City of Flagstaff's adopted version of the MCTC is located at Chapter 3-05 of the City Code and can be accessed on the City website, www.flagstaffaz.gov. The City imposes a local transaction privilege tax ("TPT"), which is a tax on gross income or gross proceeds from engaging in business within the City. This is a tax on certain businesses, although businesses may elect to "pass through" the tax to the customer. The City's base TPT rate is currently 1.721% and there is an additional voter approved 2% levied on the restaurant/bar and the hotel/motel classifications ("BBB Tax"). The City Charter requires voters to approve any rate change in the TPT.

The City is considering adoption of a use tax. A use tax is a tax on storage or use of tangible personal property in the City. The use tax is similar to the local transaction privilege tax but is an "affiliated excise tax." A use tax is imposed on the user, not the business that sold the item. However in some instances the business may collect and remit the use tax. A use tax is typically imposed in the situation where a person has purchased an item outside the state of Arizona where there is no sales tax (such as Oregon), but uses the item within the City. The City will not collect a use tax from anyone who has already paid an equivalent local transaction privilege tax. Many times, the use tax is considered an equitability tax because it creates a level playing field for all businesses. Local businesses that are required to levy a transaction privilege tax will not have an unfair disadvantage over those non-City businesses that can sell products tax free. The City Charter does not require or allow voters to approve a use tax.

Use tax is a common tax levied throughout the United States and within the State of Arizona. The State of Arizona collects use tax. 52% of all Arizona cities collect a use tax. Of Arizona cities with a population over 20,000, 73% collect a use tax. Of Arizona cities larger than Flagstaff, 83% collect a use tax.

Examples of Use Tax Remittance

Three examples of use tax remittance are noted below.

Example 1: New Car Sales from Outside the State of Arizona

A vehicle is purchased from an out-of-state car dealer and brought back to Arizona. The purchaser did not pay any local sales tax in the other state. The owner of the vehicle lives in Flagstaff and registers the car in Flagstaff. The owner is subject to Arizona and Flagstaff Use Tax.

Example 2: New Chain Restaurant Opens in Flagstaff

A new chain restaurant is opened in Flagstaff. Fixtures and equipment are purchased from out-of-state and delivered to Flagstaff. The purchaser did not pay any local sales tax in the other state. The new store's fixtures and equipment are subject to Arizona and Flagstaff Use Tax.

Example 3: New Equipment for Dental Office in Flagstaff

A dentist in Flagstaff purchases dental equipment from an out-of-state vendor. The purchaser did not pay any local sales tax in the other state. The dentist is subject to Arizona and Flagstaff Use Tax.

Important Points

There are exemptions within the use tax category that will apply with a use tax adoption. Key exemptions are noted below.

- New residents that move to Flagstaff and transfer their possessions from other areas are not subject to a use tax on such transfers.
- An item purchased by an individual for less than $1,000 for personal use and enjoyment is not subject to a use tax.
- Casual sales between individuals are not subject to a use tax.
- Purchases where an equivalent sales tax is paid are not subject to a use tax.

Propose Use Tax Code Changes

Model Option 15 (Proposed City Code Division 3-05-006)

In order to implement a use tax, City Council must remove Model Option 15. The removal of this option will allow the City to impose a use tax.

Local Option AA (Proposed City Code Section 3-05-006-0660(X))

Staff recommends adopting Local Option AA and exempt cost of restaurant employee meals from use tax. The amount of revenue from this portion of the use tax is projected to be relatively small and it may be an undue burden on businesses to report.

Local Option HH (Proposed City Code Section 3-05-006-0660(Y))

Staff recommends adopting Local Option HH and exempt cost of charitable donations from use tax. The amount of revenue from this portion of the use tax is projected to be relatively small and it may hamper future donations by individuals or businesses if there is a tax associated with the donation.

Local Option JJ (Information Only) (Proposed City Code Section 3-05-006-0660(Z)(Reserved)

There is no decision for Council on Local Option JJ. However, staff wanted Council to be aware that the City does not exempt itself from the remittance of use tax. The City currently pays use tax to the state and if the resolution and ordinance are passed, the City will start paying use tax to itself.

Key Considerations:

If the Council adopts the proposed resolution and ordinance, staff will perform outreach to notify Flagstaff area businesses. Examples of outreach staff will perform, include, but are not limited to: informational inserts in transaction privilege tax returns, mailers, newspaper releases, web notices, and tax information sessions.

Expanded Financial Considerations:

None.

Community Involvement:

Inform. The public has been made aware of the possible adoption of a proposed use tax via the following: A use tax was discussed at the FY15 budget meetings held in April, which were public meetings, and information concerning budget discussions was reported in the local paper, the Arizona Daily Sun. Notice of a proposed use tax has been posted on the homepages of the City website continuously since April 28, 2014. In addition, notice of a public hearing on the proposed use tax was published in the newspaper at least ten (10) days prior to the July 1, 2014 Council Meeting. The public hearing enables the public to voice their support or concerns. In addition, City staff has personally contacted some taxpayers to discuss possible impact of the tax.

Attachments: Res. 2014-24
Ord. 2014-16

RESOLUTION NO. 2014-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING THAT CERTAIN DOCUMENT KNOWN AS "THE 2014 USE TAX ADOPTION AND RELATED CITY TAX CODE AMENDMENTS" AS A PUBLIC RECORD, AND PROVIDING FOR AN EFFECTIVE DATE

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provisions of the City Code by reference to a public record, provided that the adopting ordinance is published in full.

ENACTMENTS:

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

SECTION 1.

That certain document known as "The 2014 Use Tax Adoption and Related City Tax Code Amendments" attached hereto as Exhibit A is hereby declared to be a public record, and three (3) copies shall remain on file with the City Clerk.

SECTION 2.

This resolution shall be 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 15th day of July, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Attachment: Exhibit A The 2014 Use Tax Adoption and Related City Tax Code Amendments

EXHIBIT A

THE 2014 USE TAX ADOPTION AND RELATED TAX CODE AMENDMENTS

The Flagstaff City Code, Title 3, *Business Regulations,* Chapter 3-05, *Privilege and Excise Taxes,* Division 3-05-002, *Determination of Gross Income,* Section 3-05-002-0270, *Exclusion Of Gross Income of Persons Deemed Not Engaged in Business,* is hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

3-05-002-0270 EXCLUSION OF GROSS INCOME OF PERSONS DEEMED NOT ENGAGED IN BUSINESS:

A. For the purposes of this Section, the following definitions shall apply:

1. FEDERALLY EXEMPT ORGANIZATION: An organization which has received a determination of exemption, or qualifies for such exemption, under 26 U.S.C. Section 501(c) and rules and regulations of the Commissioner of Internal Revenue pertaining to same, but not including a "governmental entity", "nonlicensed business", or " public educational entity".

2. GOVERNMENTAL ENTITY: The Federal government, the State of Arizona, any other state, or any political subdivision, department, or agency of any of the foregoing; provided further that persons contracting with such a governmental entity to operate any part of a governmentally adopted and controlled program to provide urban mass transportation shall be deemed a governmental entity in all activities such person performs when engaged in said contract.

3. NONLICENSED BUSINESS: Any person conducting any business activity for gain or profit, whether or not actually realized, which person is not required to be licensed for the conduct or transaction of activities subject to the tax imposed under this Chapter.

4. PROPRIETARY CLUB: Any club which has qualified or would otherwise qualify as an exempt club under the provisions of 26 U.S.C. Section 502(c)(7), (8), and (9), notwithstanding the fact that some or all of the members may own a proprietary interest in the property and assets of the club.

5. PUBLIC EDUCATIONAL ENTITY: Any educational entity operated pursuant to any provisions of Title 15, Arizona Revised Statutes.

B. Transactions which, if conducted by any other person, would produce gross income subject to tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a public educational entity; governmental entity, except "proprietary activities" of municipalities as provided by regulation; or nonlicensed business.

C. Transactions which, if conducted by any other person, would produce gross income subject to the tax under this Chapter shall not be subject to the tax if conducted entirely by a federally exempt organization or proprietary club with the following exceptions:

1. Transactions involving proprietary clubs and organizations exempt under 26 U.S.C.

Section 501(c)(7), (8), and (9), where the gross revenue of the activity received from persons other than members and bona-fide guests of members is in an amount in excess of fifteen percent (15%) of total gross revenue, as prescribed by regulation. In the event this fifteen percent (15%) limit is exceeded, the entire gross income of such entity shall be subject to the applicable tax.

2. Gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512, including all statutory definitions and determinations, the rules and regulations of the Commissioner of Internal Revenue, and the administrative interpretations and guidelines.

3. Reserved

D. Except as may be provided elsewhere in this Chapter, transactions where customers are exempt organizations, proprietary clubs, public educational entities, governmental entities, or nonlicensed businesses shall be deemed taxable transactions for the purpose of the imposition of taxes under this Chapter, notwithstanding that property so acquired may in fact be resold or leased by the acquiring person to others. In the case of sales, rentals, leases, or licenses to proprietary clubs or exempt organizations, the vendor may be relieved from the responsibility for reporting and paying tax on such income only by obtaining from its vendee a verified statement that includes:

1. A statement that when the property so acquired is resold, rented, leased, or licensed, that the otherwise exempt vendee chooses, or is required to pay City privilege tax or an equivalent excise tax on its gross income from such transactions and does in fact file returns on same; and

2. The privilege license number of the otherwise exempt vendee; and

3. Such other information as the Tax Collector may require.

E. Franchisees or concessionaires operating businesses for or on behalf of any exempt organization, governmental entity, public educational entity, proprietary club, or nonlicensed business shall not be considered to be such an exempt organization, club, entity, or nonlicensed business, but shall be deemed to be a taxpayer subject to the provisions of this Chapter, except as provided in the definition of governmental entity, regarding urban mass transit.

F. ~~Reserved.~~ IN ANY CASE, IF A FEDERALLY EXEMPT ORGANIZATION, PROPRIETARY CLUB, OR NON-LICENSED BUSINESS RENTS, LEASES, LICENSES, OR PURCHASES ANY TANGIBLE PERSONAL PROPERTY FOR ITS OWN STORAGE OR USE, AND NO CITY PRIVILEGE OR USE TAX OR EQUIVALENT EXCISE TAX HAS BEEN PAID ON SUCH TRANSACTION, SAID ORGANIZATION, CLUB, OR BUSINESS SHALL BE LIABLE FOR THE USE TAX UPON SUCH ACQUISITIONS OR USE OF SUCH PROPERTY.

…

The Flagstaff City Code, Title 3, *Business Regulations,* Chapter 3-05, *Privilege and Excise Taxes,* Division 3-05-003, *Licensing and Recordkeeping*, Section 3-0-003-0300, *Licensing Requirements,* is hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

3-05-003-0300 LICENSING REQUIREMENTS:

A. The following persons shall make application to the Tax Collector for a privilege license, accompanied by a nonrefundable fee of forty-six dollars ($46.00), and no person shall engage or continue in business or engage in such activities until he shall have such a license:

1. Every person desiring to engage or continue in business activities within the City upon which a privilege tax is imposed by this Chapter.

2. ~~Reserved.~~ EVERY PERSON, ENGAGING OR CONTINUING IN BUSINESS WITHIN THE CITY, STORING OR USING TANGIBLE PERSONAL PROPERTY IN THIS CITY UPON WHICH A USE TAX IS IMPOSED BY THIS CHAPTER.

3. Reserved.

B. A person engaged in more than one activity subject to City privilege and use taxes at any one business location is not required to obtain a separate license for each activity; provided that, at the time such person makes application for a license, he shall list on such application each category of activity in which he is engaged. The licensee shall inform the Tax Collector of any changes in his business activities, location, or mailing address within thirty (30) days.

C. Limitation: The issuance of a privilege license by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.

…

The Flagstaff City Code, Title 3, *Business Regulations,* Chapter 3-05 *Privilege and Excise Taxes,* Division 3-05-004 *Privilege Taxes,* Section 3-05-004-0415 *Construction Contracting; Construction Contractors,* Section 3-05-004-0416 *Construction Contracting*; *Speculative Builders,* Section 3-05-004-0417 *Construction Contracting*; *Owner Builders who are not Speculative Builders,* are hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

3-05-004-0415 CONSTRUCTION CONTRACTING; CONSTRUCTION CONTRACTORS

(a) The tax rate shall be at an amount equal to one and seven hundred twenty-one thousandths percent (1.721%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.

(1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by Arizona Revised Statutes Section 45-604.

(2) Reserved.

(3) Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 3-05-004-0427.

(4) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(b) Deductions and exemptions:

(1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.

(2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).

(3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(A) Section 3-05-004-0465, Subsections (g) and (p)

(B) ~~(Reserved)~~ SECTION 3-05-006-0660, SUBSECTIONS (G) AND (P)
Shall be exempt or deductible, respectively, from the tax imposed by this section.

(4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 3-05-001-0110, that is deducted from the retail classification pursuant to Section 3-05-004-0465(g) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "Permanent Attachment" means at least one of the following:

(A) To be incorporated into real property.

(B) To become so affixed to real property that it becomes part of the real property.

(C) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

(6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 3-05-004-0465, subsection (g) shall be exempt from the tax imposed under this section.

(7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water, or land pollution shall be exempt from the tax imposed under this section.

(8) The gross proceeds of sales or gross income received from a post-construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this section.

(9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. § 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the City:

(A) The certificate of qualification of the lake facility development issued by the City pursuant to A.R.S. § 9-499.08, subsection D.

(B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.

(C) Any other information considered to be necessary.

(10) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(A) the attributable amount shall not exceed the value of the development fees actually imposed.

(B) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(C) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(11) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(c) Subcontractor means a construction contractor performing work for either:

(1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his city Privilege License number.

(2) an owner-builder who has provided the subcontractor with a written declaration that:

(A) the owner-builder is improving the property for sale; and

(B) the owner-builder is liable for the tax for such construction contracting activity; and

(C) the owner-builder has provided the contractor his city Privilege License number.

(3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his City Privilege License number.
Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.

3-05-004-0416 CONSTRUCTION CONTRACTING; SPECULATIVE BUILDERS:

(a) The tax shall be equal to one and seven hundred twenty-one thousandths percent (1.721%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City.

(1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.

(2) "Improved real property" means any real property:

(A) Upon which a structure has been constructed; or

(B) Where improvements have been made to land containing no structure (such as paving or landscaping); or

(C) Which has been reconstructed as provided by regulation; or

(D) Where water, power, and streets have been constructed to the property line.

(3) "Sale of improved real property," includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.

(4) "Partially Improved Residential Real Property," as used in this Section means any improved real property, as defined in Subsection A.2. above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.

(b) Exclusions:

(1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by regulation.

(2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this section.

(3) Reserved.

(4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in A.4. above to another speculative builder only if all of the following conditions are satisfied:

(A) The speculative builder purchasing the partially improved residential real property has a valid City privilege license for construction contracting as a speculative builder; and

(B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the City at the time of sale of the partially improved residential real property; and

(C) The seller also:

(i) Maintains proper records of such transactions in a manner similar to the requirements provided in this Chapter relating to sales for resale; and

(ii) Retains a copy of the written declaration provided by the buyer for the transaction; and

(iii) Is properly licensed with the City as a speculative builder and provides the City with a written declaration attached to the City privilege tax return where he claims the exclusion.

(5) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to deductions and tax credits.

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(i) Section 3-05-004-0465, subsections (g) and (p)

(ii) ~~(Reserved)~~ SECTION 3-05-006-0660, SUBSECTIONS (G) AND (P)
Shall be exempt or deductible, respectively, from the tax imposed by this section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 3-05-004-0465, subsection (g) shall be exempt from the tax imposed under this section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water, or land pollution shall be exempt from the tax imposed under this section.

(E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:

(i) the attributable amount shall not exceed the value of the development fees actually imposed.

(ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair, or maintenance of income-producing capital equipment, as defined in Section 3-05-110, that is deducted from the retail classification pursuant to Section 3-05-004-0465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "Permanent Attachment" means at least one of the following:

(i) To be incorporated into real property.

(ii) To become so affixed to real property that it becomes part of the real property.

(iii) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(3) Tax Credits.

The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the Tax Collector:

(A) A tax credit equal to the amount of City Privilege or Use Tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

(B) A tax credit equal to the amount of Privilege Taxes paid to this City, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

(C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

3-05-004-0417 CONSTRUCTION CONTRACTING; OWNER-BUILDERS WHO ARE NOT SPECULATIVE BUILDERS

(a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to one and seven hundred twenty-one thousandths percent (1.721%) of:

(1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in subsection 3-05-004-0415 C.2.; and

(2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

(b) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) The tax liability of this Section is subject to the following provisions, relating to exemptions, deductions and tax credits.

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(i) Section 3-05-004-0465, subsections (g) and (p)
(ii) ~~(Reserved)~~ SECTION 3-05-006-0660 SUBSECTIONS (G) AND (P)

Shall be exempt or deductible, respectively, from the tax imposed by this section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 3-05-004-0465, subsection (g) shall be exempt from the tax imposed under this section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water, or land pollution shall be exempt from the tax imposed under this section.

(E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:

(i) the attributable amount shall not exceed the value of the development fees actually imposed.

(ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S.

Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair, or maintenance of income-producing capital equipment, as defined in Section 3-05-001-0110, that is deducted from the retail classification pursuant to Section 3-05-004-0465(g) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "Permanent Attachment" means at least one of the following:

(i) To be incorporated into real property.

(ii) To become so affixed to real property that it becomes part of the real property.

(iii) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(3) Tax Credits.

The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the Tax Collector:

(A) A tax credit equal to the amount of City Privilege or Use Tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

(B) A tax credit equal to the amount of Privilege Taxes paid to this City, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

(C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

(d) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 3-05-005-0540, will be based on reportable date.

(e) Reserved.

…

The Flagstaff City Code, Title 3, *Business Regulations,* Chapter 3-05, *Privilege and Excise Taxes,* Division 3-05-006, *Miscellaneous Provisions,* is amended by renumbering such division as Division 3-05-008, and by renumbering sections 3-05-006-0600 through 3-05-006-0610 as 3-05-006-0800 through 3-05-006-0810.

…

The Flagstaff City Code, Title 3, *Business Regulations,* Chapter 3-05, *Privilege and Excise Taxes,* is amended by adopting a new Division 3-05-006, *Use Tax,* as set forth below (additions shown as capitalized text):

DIVISION 3-05-006
USE TAX

SECTIONS:

3-05-006-0600	USE TAX: DEFINITIONS.
3-05-006-0610	USE TAX: IMPOSTION OF TAX; PRESUMPTION.
3-05-006-0620	USE TAX: LIABILITY FOR TAX.
3-05-006-0630	USE TAX: RECORDKEEPING REQUIREMNTS.
3-05-006-0640	USE TAX: CREDIT FOR EQUIVALENT EXCISE TAXES PAID TO ANOTHER JURISDICTION
3-05-006-0650	USE TAX: EXCLUSION WHEN ACQUISITION SUBJECT TO USE TAX IS TAXED OR TAXABLE ELSEWHERE IN THIS CHAPTER; LIMITATION.
3-05-006-0660	USE TAX: USE TAX EXEMPTIONS.

SEC. 3-05-006-0600. USE TAX: DEFINITIONS.

FOR THE PURPOSES OF THIS DIVISION ONLY, THE FOLLOWING DEFINITIONS SHALL APPLY, IN ADDITION TO THE DEFINITIONS PROVIDED IN DIVISION 3-05-001:

"<u>ACQUIRE (FOR STORAGE OR USE)</u>" MEANS PURCHASE, RENT, LEASE, OR LICENSE FOR STORAGE OR USE.

"RETAILER" ALSO MEANS ANY PERSON SELLING, RENTING, LICENSING FOR USE, OR LEASING TANGIBLE PERSONAL PROPERTY UNDER CIRCUMSTANCES WHICH WOULD RENDER SUCH TRANSACTIONS SUBJECT TO THE TAXES IMPOSED IN DIVISION 3-05-004, IF SUCH TRANSACTIONS HAD OCCURRED WITHIN THIS CITY.

"STORAGE (WITHIN THE CITY)" MEANS THE KEEPING OR RETAINING OF TANGIBLE PERSONAL PROPERTY AT A PLACE WITHIN THE CITY FOR ANY PURPOSE, EXCEPT FOR THOSE ITEMS ACQUIRED SPECIFICALLY AND SOLELY FOR THE PURPOSE OF SALE, RENTAL, LEASE, OR LICENSE FOR USE IN THE REGULAR COURSE OF BUSINESS OR FOR THE PURPOSE OF SUBSEQUENT USE SOLELY OUTSIDE THE CITY.

"USE (OF TANGIBLE PERSONAL PROPERTY)" MEANS CONSUMPTION OR EXERCISE OF ANY OTHER RIGHT OR POWER OVER TANGIBLE PERSONAL PROPERTY INCIDENT TO THE OWNERSHIP THEREOF EXCEPT THE HOLDING FOR THE SALE, RENTAL, LEASE, OR LICENSE FOR USE OF SUCH PROPERTY IN THE REGULAR COURSE OF BUSINESS.

SEC. 3-05-006-0601. (RESERVED).

SEC. 3-05-006-602. (RESERVED).

SEC. 3-05-006-610. USE TAX: IMPOSITION OF TAX; PRESUMPTION.

(A) THERE IS HEREBY LEVIED AND IMPOSED, SUBJECT TO ALL OTHER PROVISIONS OF THIS CHAPTER, AN EXCISE TAX ON THE STORAGE OR USE IN THE CITY OF TANGIBLE PERSONAL PROPERTY, FOR THE PURPOSE OF RAISING REVENUE TO BE USED IN DEFRAYING THE NECESSARY EXPENSES OF THE CITY, SUCH TAXES TO BE COLLECTED BY THE TAX COLLECTOR.

(B) THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO ONE PERCENT (1.0%) OF THE:

(1) COST OF TANGIBLE PERSONAL PROPERTY ACQUIRED FROM A RETAILER, UPON EVERY PERSON STORING OR USING SUCH PROPERTY IN THIS CITY.

(2) GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY PERSON MEETING THE REQUIREMENTS OF SUBSECTION 3-05-006-0620(B) OR (C) WHO IS ENGAGED OR CONTINUING IN THE BUSINESS ACTIVITY OF SALES, RENTALS, LEASES, OR LICENSES OF TANGIBLE PERSONAL PROPERTY TO PERSONS WITHIN THE CITY FOR STORAGE OR USE WITHIN THE CITY, TO THE EXTENT THAT TAX HAS BEEN COLLECTED UPON SUCH TRANSACTION.

(3) COST OF THE TANGIBLE PERSONAL PROPERTY PROVIDED UNDER THE CONDITIONS OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT.

(4) COST OF COMPLIMENTARY ITEMS PROVIDED TO PATRONS WITHOUT ITEMIZED CHARGE BY A RESTAURANT, HOTEL, OR OTHER BUSINESS.

(5) (RESERVED)

(C) IT SHALL BE PRESUMED THAT ALL TANGIBLE PERSONAL PROPERTY ACQUIRED BY ANY PERSON WHO AT THE TIME OF SUCH ACQUISITION RESIDES IN THE CITY IS

ACQUIRED FOR STORAGE OR USE IN THIS CITY, UNTIL THE CONTRARY IS ESTABLISHED BY THE TAXPAYER.

(D) EXCLUSIONS. FOR THE PURPOSES OF THIS DIVISION, THE ACQUISITION OF THE FOLLOWING SHALL NOT BE DEEMED TO BE THE PURCHASE, RENTAL, LEASE, OR LICENSE OF TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE WITHIN THE CITY:

(1) STOCKS, BONDS, OPTIONS, OR OTHER SIMILAR MATERIALS.

(2) LOTTERY TICKETS OR SHARES SOLD PURSUANT TO ARTICLE I, CHAPTER 5, TITLE 5, ARIZONA REVISED STATUTES.

(3) PLATINUM, BULLION, OR MONETIZED BULLION, EXCEPT MINTED OR MANUFACTURED COINS TRANSFERRED OR ACQUIRED PRIMARILY FOR THEIR NUMISMATIC VALUE AS PRESCRIBED BY REGULATION.

(E) (RESERVED)

(F) (RESERVED)

SEC. 3-05-006-0620. USE TAX: LIABILITY FOR TAX.

THE FOLLOWING PERSONS SHALL BE DEEMED LIABLE FOR THE TAX IMPOSED BY THIS DIVISION; AND SUCH LIABILITY SHALL NOT BE EXTINGUISHED UNTIL THE TAX HAS BEEN PAID TO THIS CITY, EXCEPT THAT A RECEIPT FROM A RETAILER SEPARATELY CHARGING THE TAX IMPOSED BY THIS CHAPTER IS SUFFICIENT TO RELIEVE THE PERSON ACQUIRING SUCH PROPERTY FROM FURTHER LIABILITY FOR THE TAX TO WHICH THE RECEIPT REFERS:

(A) ANY PERSON WHO ACQUIRES TANGIBLE PERSONAL PROPERTY FROM A RETAILER, WHETHER OR NOT SUCH RETAILER IS LOCATED IN THIS CITY, WHEN SUCH PERSON STORES OR USES SAID PROPERTY WITHIN THE CITY.

(B) ANY RETAILER NOT LOCATED WITHIN THE CITY, SELLING, RENTING, LEASING, OR LICENSING TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE OF SUCH PROPERTY WITHIN THE CITY, MAY OBTAIN A LICENSE FROM THE TAX COLLECTOR AND COLLECT THE USE TAX ON SUCH TRANSACTIONS. SUCH RETAILER SHALL BE LIABLE FOR THE USE TAX TO THE EXTENT SUCH USE TAX IS COLLECTED FROM HIS CUSTOMERS.

(C) EVERY AGENT WITHIN THE CITY OF ANY RETAILER NOT MAINTAINING AN OFFICE OR PLACE OF BUSINESS IN THIS CITY, WHEN SUCH PERSON SELLS, RENTS, LEASES, OR LICENSES TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE IN THIS CITY SHALL, AT THE TIME OF SUCH TRANSACTION, COLLECT AND BE LIABLE FOR THE TAX IMPOSED BY THIS DIVISION UPON THE STORAGE OR USE OF THE PROPERTY SO TRANSFERRED, UNLESS SUCH RETAILER OR AGENT IS LIABLE FOR AN EQUIVALENT EXCISE TAX UPON THE TRANSACTION.

(D) ANY PERSON WHO ACQUIRES TANGIBLE PERSONAL PROPERTY FROM A RETAILER LOCATED IN THE CITY AND SUCH PERSON CLAIMS TO BE EXEMPT FROM

THE CITY PRIVILEGE OR USE TAX AT THE TIME OF THE TRANSACTION, AND UPON WHICH NO CITY PRIVILEGE TAX WAS CHARGED OR PAID, WHEN SUCH CLAIM IS NOT SUSTAINABLE.

(E) EVERY PERSON STORING OR USING TANGIBLE PERSONAL PROPERTY UNDER THE CONDITIONS OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT.

SEC. 3-05-006-0630. USE TAX: RECORDKEEPING REQUIREMENTS.

ALL DEDUCTIONS, EXCLUSIONS, EXEMPTIONS, AND CREDITS PROVIDED IN THIS DIVISION ARE CONDITIONAL UPON ADEQUATE PROOF OF DOCUMENTATION AS REQUIRED BY DIVISION 3-05-003 OR ELSEWHERE IN THIS CHAPTER.

SEC. 3-05-006-0-640. USE TAX: CREDIT FOR EQUIVALENT EXCISE TAXES PAID ANOTHER JURISDICTION.

IN THE EVENT THAT AN EQUIVALENT EXCISE TAX HAS BEEN LEVIED AND PAID UPON TANGIBLE PERSONAL PROPERTY WHICH IS ACQUIRED TO BE STORED OR USED WITHIN THIS CITY, FULL CREDIT FOR ANY AND ALL SUCH TAXES SO PAID SHALL BE ALLOWED BY THE TAX COLLECTOR BUT ONLY TO THE EXTENT USE TAX IS IMPOSED UPON THAT TRANSACTION BY THIS DIVISION.

SEC. 3-05-006-0650. USE TAX: EXCLUSION WHEN ACQUISITION SUBJECT TO USE TAX IS TAXED OR TAXABLE ELSEWHERE IN THIS CHAPTER; LIMITATION.

THE TAX LEVIED BY THIS DIVISION DOES NOT APPLY TO THE STORAGE OR USE IN THIS CITY OF TANGIBLE PERSONAL PROPERTY ACQUIRED IN THIS CITY, THE GROSS INCOME FROM THE SALE, RENTAL, LEASE, OR LICENSE OF WHICH WERE INCLUDED IN THE MEASURE OF THE TAX IMPOSED BY DIVISION 3-05-004 OF THIS CHAPTER; PROVIDED, HOWEVER, THAT ANY PERSON WHO HAS ACQUIRED TANGIBLE PERSONAL PROPERTY FROM A VENDOR IN THIS CITY WITHOUT PAYING THE CITY PRIVILEGE TAX BECAUSE OF A REPRESENTATION TO THE VENDOR THAT THE PROPERTY WAS NOT SUBJECT TO SUCH TAX, WHEN SUCH CLAIM IS NOT SUSTAINABLE, MAY NOT CLAIM THE EXCLUSION FROM SUCH USE TAX PROVIDED BY THIS SECTION.

SEC. 3-05-006-0660. USE TAX: EXEMPTIONS.

THE STORAGE OR USE IN THIS CITY OF THE FOLLOWING TANGIBLE PERSONAL PROPERTY IS EXEMPT FROM THE USE TAX IMPOSED BY THIS DIVISION:

(A) TANGIBLE PERSONAL PROPERTY BROUGHT INTO THE CITY BY AN INDIVIDUAL WHO WAS NOT A RESIDENT OF THE CITY AT THE TIME THE PROPERTY WAS ACQUIRED FOR HIS OWN USE, IF THE FIRST ACTUAL USE OF SUCH PROPERTY WAS OUTSIDE THE CITY, UNLESS SUCH PROPERTY IS USED IN CONDUCTING A BUSINESS IN THIS CITY.

(B) TANGIBLE PERSONAL PROPERTY, THE VALUE OF WHICH DOES NOT EXCEED THE AMOUNT OF ONE THOUSAND DOLLARS ($1,000) PER ITEM, ACQUIRED BY AN INDIVIDUAL OUTSIDE THE LIMITS OF THE CITY FOR HIS PERSONAL USE AND ENJOYMENT.

(C) CHARGES FOR DELIVERY, INSTALLATION, OR OTHER CUSTOMER SERVICES, AS PRESCRIBED BY REGULATION.

(D) CHARGES FOR REPAIR SERVICES, AS PRESCRIBED BY REGULATION.

(E) SEPARATELY ITEMIZED CHARGES FOR WARRANTY, MAINTENANCE, AND SERVICE CONTRACTS.

(F) PROSTHETICS.

(G) INCOME-PRODUCING CAPITAL EQUIPMENT.

(H) RENTAL EQUIPMENT AND RENTAL SUPPLIES.

(I) MINING AND METALLURGICAL SUPPLIES.

(J) MOTOR VEHICLE FUEL AND USE FUEL WHICH ARE USED UPON THE HIGHWAYS OF THIS STATE AND UPON WHICH A TAX HAS BEEN IMPOSED UNDER THE PROVISIONS OF ARTICLE I OR II, CHAPTER 16, TITLE 28, ARIZONA REVISED STATUTES.

(K) TANGIBLE PERSONAL PROPERTY PURCHASED BY A CONSTRUCTION CONTRACTOR, BUT NOT AN OWNER-BUILDER, WHEN SUCH PERSON HOLDS A VALID PRIVILEGE LICENSE FOR ENGAGING OR CONTINUING IN THE BUSINESS OF CONSTRUCTION CONTRACTING, AND WHERE THE PROPERTY ACQUIRED IS INCORPORATED INTO ANY STRUCTURE OR IMPROVEMENT TO REAL PROPERTY IN FULFILLMENT OF A CONSTRUCTION CONTRACT.

(L) SALES OF MOTOR VEHICLES TO NONRESIDENTS OF THIS STATE FOR USE OUTSIDE THIS STATE IF THE VENDOR SHIPS OR DELIVERS THE MOTOR VEHICLE TO A DESTINATION OUTSIDE THIS STATE.

(M) TANGIBLE PERSONAL PROPERTY WHICH DIRECTLY ENTERS INTO AND BECOMES AN INGREDIENT OR COMPONENT PART OF A PRODUCT SOLD IN THE REGULAR COURSE OF THE BUSINESS OF JOB PRINTING, MANUFACTURING, OR PUBLICATION OF NEWSPAPERS, MAGAZINES OR OTHER PERIODICALS. TANGIBLE PERSONAL PROPERTY WHICH IS CONSUMED OR USED UP IN A MANUFACTURING, JOB PRINTING, PUBLISHING, OR PRODUCTION PROCESS IS NOT AN INGREDIENT NOR COMPONENT PART OF A PRODUCT.

(N) RENTAL, LEASING, OR LICENSING FOR USE OF FILM, TAPE, OR SLIDES BY A THEATER OR OTHER PERSON TAXED UNDER SECTION 3-05-004-0410, OR BY A RADIO STATION, TELEVISION STATION, OR SUBSCRIPTION TELEVISION SYSTEM.

(O) FOOD SERVED TO PATRONS FOR A CONSIDERATION BY ANY PERSON ENGAGED IN A BUSINESS PROPERLY LICENSED AND TAXED UNDER SECTION 3-05-004-0455, BUT NOT FOOD CONSUMED BY OWNERS, AGENTS, OR EMPLOYEES OF SUCH BUSINESS.

(P) TANGIBLE PERSONAL PROPERTY ACQUIRED BY A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION, EXCEPT WHEN THE PROPERTY IS IN FACT USED IN ACTIVITIES

RESULTING IN GROSS INCOME FROM UNRELATED BUSINESS INCOME AS THAT TERM IS DEFINED IN 26 U.S.C. SECTION 512.

(Q) (RESERVED).

(R) (RESERVED)

(1) (RESERVED)

(2) (RESERVED)

(3) (RESERVED)

(4) (RESERVED)

(S) GROUNDWATER MEASURING DEVICES REQUIRED BY A.R.S. SECTION 45-604.

(T) (RESERVED)

(U) AIRCRAFT ACQUIRED FOR USE OUTSIDE THE STATE, AS PRESCRIBED BY REGULATION.

(V) SALES OF FOOD PRODUCTS BY PRODUCERS AS PROVIDED FOR BY A.R.S. SECTION 3-561, 3-562 AND 3-563.

(W) (RESERVED)

(X) FOOD AND DRINK PROVIDED BY A PERSON WHO IS ENGAGED IN BUSINESS THAT IS CLASSIFIED UNDER THE RESTAURANT CLASSIFICATION WITHOUT MONETARY CHARGE TO ITS EMPLOYEES FOR THEIR OWN CONSUMPTION ON THE PREMISES DURING SUCH EMPLOYEES' HOURS OF EMPLOYMENT.

(Y) TANGIBLE PERSONAL PROPERTY DONATED TO AN ORGANIZATION OR ENTITY QUALIFYING AS AN EXEMPT ORGANIZATION UNDER 26 U.S.C SECTION 501(C)(3); IF AND ONLY IF:

(1) THE DONOR IS ENGAGED OR CONTINUING IN A BUSINESS ACTIVITY SUBJECT TO A TAX IMPOSED BY DIVISION 3-05-004; AND

(2) THE DONOR ORIGINALLY PURCHASED THE DONATED PROPERTY FOR RESALE IN THE ORDINARY COURSE OF THE DONOR'S BUSINESS; AND

(3) THE DONOR OBTAINED FROM THE DONEE A LETTER OR OTHER EVIDENCE SATISFACTORY TO THE TAX COLLECTOR OF QUALIFICATION UNDER 26 U.S.C. SECTION 501(C)(3) FROM THE INTERNAL REVENUE SERVICE OR OTHER APPROPRIATE FEDERAL AGENCY; AND

(4) THE DONOR MAINTAINS, AND PROVIDES UPON DEMAND, SUCH EVIDENCE TO THE TAX COLLECTOR, IN A MANNER SIMILAR TO OTHER DOCUMENTATION REQUIRED UNDER 3-05-003.

(Z) (RESERVED)

(AA) TANGIBLE PERSONAL PROPERTY USED IN REMEDIATION CONTRACTING AS DEFINED IN SECTION 3-05-100 AND REGULATION 3-05-100.5.

(BB) MATERIALS THAT ARE PURCHASED BY OR FOR PUBLICLY FUNDED LIBRARIES INCLUDING SCHOOL DISTRICT LIBRARIES, CHARTER SCHOOL LIBRARIES, COMMUNITY COLLEGE LIBRARIES, STATE UNIVERSITY LIBRARIES OR FEDERAL, STATE, COUNTY OR MUNICIPAL LIBRARIES FOR USE BY THE PUBLIC AS FOLLOWS:

(1) PRINTED OR PHOTOGRAPHIC MATERIALS.

(2) ELECTRONIC OR DIGITAL MEDIA MATERIALS.

(CC) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES USED FOR SERVING FOOD AND BEVERAGES BY A COMMERCIAL AIRLINE, AS DEFINED IN A.R.S. SECTION 42-5061(A)(49), THAT SERVES THE FOOD AND BEVERAGES TO ITS PASSENGERS, WITHOUT ADDITIONAL CHARGE, FOR CONSUMPTION IN FLIGHT. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.

(DD) WIRELESS TELECOMMUNICATION EQUIPMENT THAT IS HELD FOR SALE OR TRANSFER TO A CUSTOMER AS AN INDUCEMENT TO ENTER INTO OR CONTINUE A CONTRACT FOR TELECOMMUNICATION SERVICES THAT ARE TAXABLE UNDER SECTION 3-05-004--0470.

(EE) (RESERVED)

(FF) ALTERNATIVE FUEL AS DEFINED IN A.R.S. SECTION 1-215, BY A USED OIL FUEL BURNER WHO HAS RECEIVED A DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT TO BURN USED OIL OR USED OIL FUEL UNDER A.R.S. SECTION 49-426 OR SECTION 49-480.

(GG) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES PURCHASED BY OR FOR A PUBLIC EDUCATIONAL ENTITY, PURSUANT TO ANY OF THE PROVISIONS OF TITLE 15, ARIZONA REVISED STATUTES,INCLUDING A REGULARLY ORGANIZED PRIVATE OR PAROCHIAL SCHOOL THAT OFFERS AN EDUCATIONAL PROGRAM FOR GRADE TWELVE OR UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION FOR A PUBLIC SCHOOL PURSUANT TO A.R.S. 15-802; TO THE EXTENT SUCH ITEMS ARE TO BE PREPARED OR SERVED TO INDIVIDUALS FOR CONSUMPTION ON THE PREMISES OF A PUBLIC EDUCATIONAL ENTITY DURING SCHOOL HOURS. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.

(HH) PERSONAL HYGIENE ITEMS PURCHASED BY A PERSON ENGAGED IN THE BUSINESS OF AND SUBJECT TO TAX UNDER SECTION 3-05-004-0444 OF THIS CODE IF

THE TANGIBLE PERSONAL PROPERTY IS FURNISHED WITHOUT ADDITIONAL CHARGE TO AND INTENDED TO BE CONSUMED BY THE PERSON DURING HIS OCCUPANCY.

(II) THE DIVERSION OF GAS FROM A PIPELINE BY A PERSON ENGAGED IN THE BUSINESS OF OPERATING A NATURAL OR ARTIFICIAL GAS PIPELINE, FOR THE SOLE PURPOSE OF FUELING COMPRESSOR EQUIPMENT TO PRESSURIZE THE PIPELINE, IS NOT A SALE OF THE GAS TO THE OPERATOR OF THE PIPELINE.

(JJ) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES PURCHASED BY OR FOR A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED AS AN EXEMPT ORGANIZATION UNDER 26 U.S.C SECTION 501(C)(3) AND REGULARLY SERVES MEALS TO THE NEEDY AND INDIGENT ON A CONTINUING BASIS AT NO COST. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.

(KK) SALES OF MOTOR VEHICLES THAT USE ALTERNATIVE FUEL IF SUCH VEHICLE WAS MANUFACTURED AS A DIESEL FUEL VEHICLE AND CONVERTED TO OPERATE ON ALTERNATIVE FUEL AND SALES OF EQUIPMENT THAT IS INSTALLED IN A CONVENTIONAL DIESEL FUEL MOTOR VEHICLE TO CONVERT THE VEHICLE TO OPERATE ON AN ALTERNATIVE FUEL, AS DEFINED IN A.R.S. SECTION 1-215 .

(LL) THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY IN THE CITY OR TOWN BY A SCHOOL DISTRICT OR CHARTER SCHOOL.

(MM) RENEWABLE ENERGY CREDITS OR ANY OTHER UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A PUBLIC POWER UTILITY TO TRACK KILOWATT HOURS OF ELECTRICITY DERIVED FROM A RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.

(NN) MAGAZINES OR OTHER PERIODICALS OR OTHER PUBLICATIONS BY THIS STATE TO ENCOURAGE TOURIST TRAVEL.

(OO) PAPER MACHINE CLOTHING, SUCH AS FORMING FABRICS AND DRYER FELTS, SOLD TO A PAPER MANUFACTURER AND DIRECTLY USED OR CONSUMED IN PAPER MANUFACTURING.

(PP) OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS USED IN PERFORMING A CONTRACT BETWEEN THE UNITED STATES GOVERNMENT AND A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, INCLUDING PROPERTY USED IN PERFORMING A SUBCONTRACT WITH A GOVERNMENT CONTRACTOR WHO IS A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, TO WHICH TITLE PASSES TO THE GOVERNMENT UNDER THE TERMS OF THE CONTRACT OR SUBCONTRACT.

(QQ) COAL, PETROLEUM, COKE, NATURAL GAS, VIRGIN FUEL OIL AND ELECTRICITY SOLD TO A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR AS DEFINED IN A.R.S. SECTION 41-1514.02 AND DIRECTLY USED OR CONSUMED IN THE GENERATION OR PROVISION OF ON-SITE POWER OR ENERGY SOLELY FOR ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING OR ENVIRONMENTAL PROTECTION. THIS PARAGRAPH SHALL APPLY FOR TWENTY FULL CONSECUTIVE CALENDAR OR FISCAL YEARS FROM THE DATE THE FIRST PAPER MANUFACTURING MACHINE IS PLACED IN SERVICE. IN THE CASE OF AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR WHO DOES NOT MANUFACTURE PAPER, THE TIME PERIOD SHALL BEGIN WITH THE DATE THE FIRST MANUFACTURING, PROCESSING OR PRODUCTION EQUIPMENT IS PLACED IN SERVICE.

(RR) MACHINERY, EQUIPMENT, MATERIALS AND OTHER TANGIBLE PERSONAL PROPERTY USED DIRECTLY AND PREDOMINANTLY TO CONSTRUCT A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING FACILITY AS DESCRIBED IN A.R.S. SECTION 41-1514.02. THIS SUBSECTION APPLIES FOR TEN FULL CONSECUTIVE CALENDAR OR FISCAL YEARS AFTER THE START OF INITIAL CONSTRUCTION.

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The Flagstaff City Code, Title 3, *Business Regulations,* Chapter 3-05, *Privilege and Excise Taxes,* Division 3-05-007, *Regulations-Privilege and Excise Taxes*, Reg. 3-5-115.1 *Computer Hardware, Software, and Data Services,* Reg. 3-5-300.1, *Who must apply for a License,* Reg. 3-5-350.2, *Recordkeeping; Expenditures;* Reg. 3-5-520.1, *Reports made to the City,* are hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

Reg. 3-5-115.1. COMPUTER HARDWARE, SOFTWARE, AND DATA SERVICES:

(a) Definitions.

(1) "Computer Hardware" (also called "computer equipment" or "peripherals") is the components and accessories which constitute the physical computer assembly, including but not limited to: central processing unit, keyboard, console, monitor, memory unit, disk drive, tape drive or reader, terminal, printer, plotter, modem, document sorter, optical reader and/or digitizer, network.

(2) "Computer Software" (also called "computer program") is tangible personal property, and includes:

(A) "Operating Program (Software)" (also called "executive program (software)"), which is the programming system or technical language upon which or by means of which the basic operating procedures of the computer are recorded. The operating program serves as an interface with user applied programs and allows the user to access the computer’s processing capabilities.

(B) "Applied Program (Software)", which is the programming system or technical language (including the tape, disk, cards, or other medium upon which such language

or program is recorded) designed either for application in a specialized use, or upon which or by means of which a plan for the solution of a particular problem is based. Typically, applied programs can be transferred from one computer to another via storage media. Examples of applied programs include: Payroll processing, general ledger, sales data, spreadsheet, word processing, and data management programs.

(3) "Storage Medium" is any hard disk, compact disk, floppy disk, diskette, diskpack, magnetic tape, cards, or other medium used for storage of information in a form readable by a computer, but not including the memory of the computer itself.

(4) A "Terminal Arrangement" (also called "'on-line' arrangement") is any agreement allowing access to a remote central processing unit through telecommunications via hardware.

(5) A "Computer Services Agreement" (also called "data services agreement") is an agreement allowing access to a computer through a third-party operator.

(b) For the purposes of this Chapter, transfer of title and possession of the following are deemed sales of tangible personal property and any other transfer of title, possession, or right to use for a consideration of the following is deemed rental, leasing, or licensing of tangible personal property:

(1) Computer hardware or storage media. Rental, leasing, or licensing for use of computer hardware or storage media includes the lessee's use of such hardware or storage media on the lessor's premises.

(2) Computer software which is not custom computer programming. Such prewritten ("canned") programs may be transferred to a customer in the form of punched cards, magnetic tape, or other storage medium, or by listing the program instructions on coding sheets. Transfer is deemed to have occurred whether title to the storage medium upon which the program is recorded, coded, or punched passes to the customer or the program is recorded, coded, or punched on storage medium furnished by the customer. Gross income from the transfer of such prewritten programs includes:

(A) The entire amount charged to the customer for the sale, rental, lease, or license for use of the storage medium or coding sheets on which or into which the prewritten program has been recorded, coded, or punched.

(B) The entire amount charged for the temporary transfer or possession of a prewritten program to be directly used or to be recorded, coded, or punched by the customer on the customer's premises.

(C) License fees, royalty fees, or program design fees; any fee present or future, whether for a period of minimum use or of use for extended periods, relating to the use of a prewritten program.

(D) The entire amount charged for transfer of a prewritten ("canned") program by remote telecommunications from the transferor's place of business to or through the customer's computer.

(E) Any charge for the purchase of a maintenance contract which entitles the

customer to receive storage media on which prewritten program improvements or error corrections have been recorded or to receive telephone or on-site consultation services, provided that:

(i) if such maintenance contract is not optional with the customer, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(ii) if such maintenance contract is optional with the customer but the customer does not have the option to purchase the consultation services separately from the storage media containing the improvements or error corrections, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(iii) if such maintenance contract is optional with the customer and the customer may purchase the consultation services separately from the storage media containing the improvements or error corrections, then only the charges for such improvements or error corrections are deemed gross income from the transfer of a prewritten program and charges for consultation are deemed to be charges for professional services.

(c) Producing the following by means of computer hardware is deemed to be the activity of job printing for the purposes of this Chapter:

(1) Statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer; except as provided in subsection (e) below.

(2) Additional copies of records, reports, manuals, tabulations, etc. "Additional Copies" are any copies in excess to those produced simultaneously with the production of the original and on the same printer, whether such copies are prepared by running the same program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means.

(d) Charges for the use of communications channel in conjunction with a terminal arrangement or data services agreement are deemed gross income from the activity of providing telecommunication services.

(e) The following transactions are deemed direct customer services, provided that charges for such services are separately stated and maintained as provided by Regulation 3-5-100.2 (e):

(1) "Custom (Computer) Programming", which is any computer software which is written or prepared for a single customer, including those services represented by separately stated charges for the modification of existing prewritten programs.

(A) Customer computer programming is deemed a professional service regardless of the form in which the programming is transferred.

(B) Custom programming includes such programming performed in connection with the sale, rental, lease, or license for use of computer hardware, provided that the charges for such are separately stated from the charges for the hardware.

(C) Custom computer programming includes a program prepared to the special order of a customer who will use the program to produce copies of the program for sale, rental, lease, or license. The subsequent sale, rental, lease, or license of such a program is deemed the sale, rental, lease, or license of a prewritten program.

(2) Training services related to computer hardware or software, provided further that:

(A) The provider of such training services is deemed the ultimate consumer of all tangible personal property used in training others or provided to such trainees without separately itemized charge for the materials provided.

(B) Training deemed a direct customer service does not include:

(i) training materials, books, manuals, etc. furnished to customers for a charge separate from the charge for training services.

(ii) training provided to customers without separate charge as part of the sale, rental, lease, or license of computer hardware or software, or as part of a terminal arrangement or data services agreement.

(3) The use of computer time through the use of a terminal arrangement or a data service agreement, but not charges for computer hardware located at the customer's place of business (for example, the terminal, a printer attached to the terminal, a modem used to communicate with the remote central processing unit over a telephone line).

(4) Compiling and producing, as part of a terminal arrangement or computer services agreement, original copies of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or other information for the same person who supplied the raw data used to create such reports.

(F) THE PURCHASE, RENTAL, LEASE, OR LICENSE FOR USE OF COMPUTER HARDWARE, STORAGE MEDIA, OR COMPUTER SOFTWARE WHICH IS NOT DEEMED CUSTOM PROGRAMMING IS DEEMED THE USE OR STORAGE OF TANGIBLE PERSONAL PROPERTY FOR THE PURPOSE OF THIS CHAPTER, AND THE AMOUNT WHICH MAY BE SUBJECT TO USE TAX SHALL BE DETERMINED IN THE SAME MANNER AS THE DETERMINATION OF THE GROSS INCOME FROM THE SALE, RENTAL, LEASE, OR LICENSE FOR USE OF SUCH.

...

Reg. 3-5-300.1. WHO MUST APPLY FOR A LICENSE:

(a) For the purposes of determining whether a license is required under Section 3-05-003-0300, a person shall be deemed to be "engaged in or continuing in business" within the City, if he meets any of the following conditions:

(1) He is engaged in any activity subject to the City's Privilege Taxes as principal or broker.

(2) He has or maintains within the City directly, or if a corporation by a subsidiary, an

office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this City under the authority of such person or if a corporation its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily or whether such person or subsidiary is authorized or licensed to do business in this State or this City.

(3) He is soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the City from customers, consumers, or users located within the City, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means of catalogs or other advertising, whether such orders are received or accepted within or without this City.

(4) ~~Reserved.~~ HE IS REGULARLY ENGAGED IN ANY ACTIVITY SUBJECT TO THE CITY'S USE TAX; PROVIDED, HOWEVER, THAT INDIVIDUALS ARE NOT NORMALLY REQUIRED TO OBTAIN A LICENSE BECAUSE THEY ACQUIRE ITEMS OUTSIDE THE CITY FOR THEIR OWN OR THEIR FAMILY'S PERSONAL USE AND ENJOYMENT.

(5) Reserved.

(b) Reserved.

…

Reg. 3-5-350.2. RECORDKEEPING: EXPENDITURES:

The minimum records required for persons having expenditures, costs, purchases and rental or lease or license expenses subject to, or exempt or excluded from, tax by this Chapter are:

(a) The total price of all goods acquired for use or storage in the City.

(b) The date of acquisition and the name and business address of the seller or lessor of all goods acquired for use or storage in the City.

(c) Documentation of taxes, freight, and direct customer service labor separately charged and paid for each purchase, rental, lease, or license.

(d) The gross price of each acquisition claimed as exempt from tax, and with respect to each transaction so claimed, sufficient evidence to satisfy the Tax Collector that the exemption claimed is applicable.

(e) As applicable to each taxpayer, documentation sufficient to the Tax Collector, so that he may ascertain:

(1) All construction expenditures and all Privilege and Use Taxes claimed paid, relating to owner-builders and speculative builders.

(2) Disbursement of collected gratuities and related payroll information required of restaurants.

(3) (RESERVED). ~~Franchise and license fee payments and computations thereto which relate to:~~

(A) (RESERVED) ~~Utility service~~

(B) (RESERVED) ~~Telecommunication service.~~

(4) The validity of any claims of proof of exemption, as provided by Regulation.

(5) A claimed alternative prior value for reconstruction.

(6) ~~Reserved.~~ ALL CLAIMED EXEMPTIONS TO THE USE TAX IMPOSED BY DIVISION 3-05-006 OF THIS CHAPTER.

(7) Costs used to compute the "computed charge" claimed for retail service and repair.

(8) Payments of tax to the Arizona Department of Transportation and computations therefor, when a motor-vehicle transporter claims such the exemption.

(9) Reserved.

(f) Any additional documentation as the Tax Collector, by Regulation, shall deem necessary for any specific class of taxpayer by reason of the specialized business activity of specific exemptions afforded to that class of taxpayer.

(g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded expenditures as defined by this Chapter.

…

Reg. 3-5-520.1. REPORTS MADE TO THE CITY:

(a) Each taxpayer shall provide, as a minimum, all of the following when reporting taxes due as provided in this Chapter:

(1) Legal business name of the taxpayer or his agent.

(2) Mailing address of the taxpayer.

(3) City Privilege License number of the taxpayer.

(4) Period of time for which the report is intended.

(5) For each category of income to which the taxpayer is subject, for the reporting period, as provided on the official City tax return:

(A) All amounts subject to, excluded from, exempt from, or deductible from the tax imposed upon that category of business activity, summarized in total as "gross receipts" of that category of business activity.

(B) The total amount claimed as excludable, exempted, or deducted from such

"gross receipts", itemized as provided on the official City tax return, and summarized in total as "total deductions" for that category.

(C) The difference between such "gross receipts" and "total deductions" as "net taxable" for that category.

(D) The tax due and payable for that category.

(6) ~~Reserved.~~ THAT TOTAL AMOUNT SUBJECT TO USE TAX, SUMMARIZED AS "NET TAXABLE", AND THE USE TAX DUE AND PAYABLE FOR THAT REPORTING PERIOD.

(7) Any excess tax collected which is due and payable.

(8) Any claimed tax credits against taxes due and payable.

(9) Total amount remitted with the return.

(10) A statement verifying that the information provided on the return is accurate to the best of the preparer's knowledge. Such statement must be accompanied by a dated signature of the preparer, and also show the preparer's title or relationship to the taxpayer.

(11) The tax collector may prescribe and will notify taxpayers of alternative methods for signing, subscribing or verifying any report or statement required to be filed, including, but not limited to, electronic signatures and/or security codes, and such methods shall have the same validity and consequence as the actual signature or written declaration of the taxpayer or other person required to sign, subscribe or verify the return, statement, or other document.

ORDINANCE NO. 2014-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, *BUSINESS REGULATIONS,* CHAPTER 3-05, *PRIVILEGE AND EXCISE TAXES,* IS HEREBY AMENDED BY ADOPTING "THE 2014 USE TAX ADOPTION AND RELATED CITY TAX CODE AMENDMENTS" AS SET FORTH IN THAT PUBLIC RECORD ON FILE WITH THE CITY CLERK; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING EFFECTIVE DATES

RECITALS:

WHEREAS, the City of Flagstaff imposes a local transaction privilege tax on the gross income received from engaging in certain business within the City limits, as set forth in Chapter 3-05 of the City Code (the City Tax Code); and

WHEREAS, the City Council finds that adoption of a use tax will have the indirect effect of encouraging purchase of goods from local businesses versus businesses outside City limits which are not subject to an equivalent tax.

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Code, Title 3, *Business Regulations*, Chapter 3-05, *Privilege and Excise Taxes,* is hereby amended by adoption of the amendments set forth in that document known as "The 2014 Use Tax Adoption and Related City Tax Code Amendments," declared a public record by Resolution No. 2014-24 and on file with the City Clerk.

SECTION 2. Penalties.

Any person convicted of a violation of the City Code as amended by this ordinance is guilty of a misdemeanor and shall be fined a sum not to exceed two thousand five hundred dollars ($2,500.00) and may be sentenced to confinement in jail for a period not to exceed six (6) months for any one offense, all in accordance with Section 3-05-005-0580, *Criminal Penalties,* of the City Code, and may owe interest and penalties pursuant to Section 3-05-005-0540, *Interest and Civil Penalties,* of the City Code. Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

SECTION 4. Severability.

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

SECTION 5. Clerical Corrections.

The City Clerk is hereby authorized to correct 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 6. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 20___.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Elizabeth A. Burke, City Clerk
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Reconsideration of Prior Action: **Resolution No. 2014-25:** A resolution authorizing the execution of a Development Agreement between City of Flagstaff and Evergreen - Trax, L.L.C. related to the development of approximately 33.6 acres of real property generally located at the intersection of Route 66 and Fourth Street, Flagstaff, Arizona.

RECOMMENDED ACTION:

Should the Council wish to reconsider this item, a motion to reconsider Resolution No. 2014-25 would be required to be made (by a member voting with the majority).

Policy Decision or Reason for Action:

Attached is a request from Councilmember Brewster to reconsider Resolution No. 2014-25, the Development Agreement with Evergreen - TRAX. In accordance with Rule 10.9 of the adopted City Council Rules of Procedure, *"after the decision on any question, any member who voted with the majority may move for a reconsideration of any action at the same meeting or at the next regular meeting that occurs at least one week after the date the action was taken."* Since Councilmember Brewster voted with the majority, she is permitted to request a reconsideration.

Financial Impact:

Connection to Council Goal and/or Regional Plan:

11. Effective governance

Previous Council Decision on This:

No previous discussion was held on reconsideration; however, the Resolution requesting to be reconsidered was voted on (as amended) at the July 1, 2014, Council meeting.

Options and Alternatives:

1) Approve reconsideration

2) Deny reconsideration

Background/History:

After discussion by the City Council at their July 1, 2014, Resolution No. 2014-25, approving a Development Agreement for the Evergreen-TRAX project, was adopted after amending the DA, with a 6-1 vote. The following day, Councilmember Brewster delivered a letter to the City Clerk's Office (attached) stating that she had misunderstood the vote and requested that the Resolution be reconsidered.

Should there be a majority vote to reconsider, the next agenda item would be the actual resolution and related Development Agreement. Should the Development Agreement revert to what had originally been proposed at that meeting, and approved, the next agenda item (Amended Purchase Agreement), which was previously removed from the agenda, would then be considered.

Community Involvement:

Inform

Attachments: Request
Rules of Procedure

City of Flagstaff

July 2, 2014

Elizabeth Burke
Flagstaff City Clerk
211 W. Aspen Ave.
Flagstaff, AZ 86001

Re: July 1, 2014 Meeting Agenda Item 10 (C) Evergreen Development Agreement

At the city council meeting on July 1, 2014, I had a misunderstanding about the final form and effect of the proposed Resolution 2014-25 and the related Development Agreement. As you will recall, the Development Agreement we finally voted on was different from that form in our agenda packet.

I voted in favor of the Resolution and Development Agreement on July 1, 2014. Pursuant to the council Rules of Procedure, rule 10.09, I ask to have the Resolution and Development Agreement reconsidered at the next regular meeting.

Thank you,

Karla Brewster

Karla Brewster
Flagstaff City Council

10.09 Motion to Reconsider

After the decision on any question, any member who voted with the majority may move for a reconsideration of any action at the same meeting or at the next regular meeting that occurs at least one week after the date the action was taken. In the event of a tie vote on a motion, any Councilmember may move for reconsideration at the next regular meeting of the City Council that occurs at least one week after the date the action was taken, but not thereafter. To ensure that the matter will be included on the posted agenda in conformance with the Open Meeting Law, any Councilmember who wishes to have a decision reconsidered must alert the city clerk in writing at least five (5) days, exclusive of Saturdays, Sundays, and intermediate holidays, prior to the meeting at which the motion to reconsider will be made, unless the motion to reconsider was made and seconded at a Council meeting. A motion to reconsider shall require the affirmative vote of the majority of the members present at the time of reconsideration. After a motion for reconsideration has once been acted on, no other motion for reconsideration of the same subject shall be made without unanimous consent of all Councilmembers.

After the reconsideration time period has expired, the same matter may be placed on a later Council meeting agenda under Council Possible Future Agenda Items at the request of any Councilmember. It shall require the sponsorship of three Councilmembers during Possible Future Agenda Items to be placed on a future agenda as an action item. If the matter is considered for formal action on a future meeting, the motion for or against taking an action need not be made by a member of the prevailing vote.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Elaine Averitt, Planning Development Manager

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Adoption of Resolution No. 2014-25: A resolution authorizing the execution of a Development Agreement between City of Flagstaff and Evergreen - Trax, L.L.C. related to the development of approximately 33.6 acres of real property generally located at the intersection of Route 66 and Fourth Street, Flagstaff, Arizona.

RECOMMENDED ACTION:

1) Read Resolution No. 2014-25 by title only.
2) City Clerk reads Resolution No. 2014-25 by title only (if approved above).
3) Adopt Resolution No. 2014-25.

Policy Decision or Reason for Action:

State law allows cities to enter into development agreements by resolution. The proposed Development Agreement ensures that the development of the Property complies with City standards for development and engineering improvements, and the City believes that development of the Property pursuant to this Agreement will result in planning, safety and other benefits to the City and its residents.

This request is the first of two related items; the second item is the consideration and approval of Second Amendment of Purchase and Sale Agreement Item 10.J. .

On June 17, 2014, the City Council conducted a Public Hearing concerning the Zoning Map amendment request for The Trax development. On June 17, 2014, the City Council unanimously approved the Zoning Map amendment for the first time. On July 1, 2014, the City Council approved an amended development agreement and adopted the Zoning Map amendment for the final time (Ordinance No. 2014-14).

Subsidiary Decisions Points:
A resolution approving a Development Agreement which includes a Waiver of Claims for Diminution of Value ~~is~~ was ~~included~~ approved by Council on ~~the Council agenda for the~~ July 1, 2014. ~~meeting to be read and, at the Council's direction, approved prior to the second reading and approval of Zoning Map Amendment Ordinance No. 2014-14~~. After the July 1 meeting, one of the councilmembers submitted a formal request to the City Clerk to reconsider the Evergreen Development Agreement (DA) agenda item 10 (C). Consequently, the DA may be reconsidered at the July 15, 2014 City Council meeting. Staff has prepared two separate Development Agreement options:

Options:

A. Staff has attached a version of the Development Agreement that **does** require payment towards the

4th Street bridge widening.

B. Staff has attached a version of the Development Agreement that **does not** require payment towards the 4th Street bridge widening.

Financial Impact:

None.

Connection to Council Goal:

Retain, expand, and diversify economic base
Effective governance

Has There Been Previous Council Decision on This:

~~No previous Council discussion has occurred as it relates to this Development Agreement.~~ Yes, Council approved the Development Agreement that required contribution to the 4th street bridge at their July 1, 2014 meeting. See discussion under "Subsidiary Decision Points." The ~~Developer has processed~~ Council approved applications for a Regional Land Use and Transportation Plan amendment and a Zoning Map amendment for the subject property ~~concurrently with the processing of this application~~.

If the Council does not require within the Development Agreement the bridge contribution, a revised purchase and sales agreement that corresponds to this direction will be considered in the next Agenda item. If the Council confirms the previous approval which **did** require the bridge contribution, the purchase and sales agreement **does not require consideration.**

The Council also approved a purchase agreement for the sale of this property and have also amended that agreement. Prior to the consideration of this application, the Council has taken action on the previously identified amendments.

Options and Alternatives:

The City Council may approve, deny, or modify the agreement as necessary to ensure that the development meets the objectives of the Regional Land Use and Transportation Plan, the Zoning Code, and the City's development goals.

Background/History:

The Developer has requested a Regional Land Use and Transportation Plan amendment and a Zoning Map amendment to accommodate the development of approximately 250,000 square feet of leasable building space to be named "The Trax" shopping center. The City and the Developer have agreed to development standards, guiding principles, obligations, phasing, process and other general provisions detailed in the Development Agreement. The Development Agreement addresses Developer responsibilities for constructing a FUTS trail, providing outdoor public space, preserving the historic trestle bridge, complying with Drive-through Facility requirements as detailed in the Zoning Code, and ensuring that construction of public improvements coincide with the phased development of the project. Additionally, the Developer will be required to contribute ~~$320,000.00 towards I-40 Bridge improvements, and to contribute~~ $179,000.00 to cover a pedestrian crossing study and any recommended improvements to Route 66 related to the development of the Property. On July 15, 2014, if reconsideration of the July 1, 2014 vote is approved, the Council will consider a Development Agreement which either does, or does not, require a monetary contribution towards I-40 (at 4th St) Bridge improvements, and may or may not require an amendment to the purchase and sale agreement.

Key Considerations:

State law allows the City to enter into development agreements by resolution. The proposed Development Agreement, along with the Rezoning Ordinance, would govern the terms and conditions of the zoning and development of The Trax proposal.

~~The amended agreement (attached) is currently in Evergreen's office for review and we should have a final agreement for Council consideration at the July 1, 2014, meeting~~. The development agreement as presented at the July 1, 2014 meeting (no bridge contribution) was accepted, signed and notarized by Evergreen Devco before the meeting on July 1, 2014.

Expanded Financial Considerations:

None

Community Benefits and Considerations:

The Trax development area is anticipated to be a significant contribution to the regional economy which is needed in the east side of the Flagstaff community and directly to the Sunnyside neighborhood. Additionally, this development disperses the shopping and services geographically to assure efficiencies in the delivery of private/public services and investment within the community.

Community Involvement:

Inform.

Development agreements do not require public or neighborhood notification. However, this agreement is tied to the proposed Regional Land Use and Transportation Plan amendment and Zoning Map amendments which require public notifications, and have had public hearings before the Planning and Zoning Commission and the City Council.

Expanded Options and Alternatives:

None.

Attachments: Res. 2014-25
Option A_DA
D.A. Exhibits
Option B_DA
PZC Staff Report (excluding attachments)

RESOLUTION NO. 2014-25

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL APPROVING A DEVELOPMENT AGREEMENT AND WAIVER OF CLAIMS FOR DIMINUTION IN VALUE FOR LAND USE LAWS APPLICABLE TO REAL PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF ROUTE 66 AND FOURTH STREET, FLAGSTAFF, ARIZONA

RECITALS:

WHEREAS, Arizona Revised Statutes Sections 12-1131 through 12-1138 specifically recognize that private property owners can enter into agreements with political subdivisions to waive any claim for diminution in value of property if any land use law enacted after the date property is transferred to the owner reduces the fair market value of that property, and

WHEREAS, Arizona law, A.R.S. § 9-500.05, authorizes the City and the owner of property to enter into a development agreement relating to the development of the Property, and

WHEREAS, the parties seek to avoid any potential argument that a rezoning for the subject property will impose any land use law that will reduce the fair market value of the subject property or constitute a diminution in value of the subject property entitling any owner of the subject property, now or in the future, to seek compensation.

ENACTMENTS:

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

SECTION 1. That the Mayor and City Council of the City of Flagstaff hereby approve the "Development Agreement and Waiver" by and between the City of Flagstaff and Evergreen - TRAX, LLC, attached to the staff summary in support of this Resolution, or as modified on the record at the public meeting at which this Resolution is approved and authorize the Mayor to sign the Development Agreement and Waiver on behalf of the City.

SECTION 2. That within ten days of execution of this Agreement the Clerk for the City of Flagstaff record this Agreement in the Office of the Coconino County Recorder.

PASSED AND ADOPTED by the Council and approved by the Mayor of the City of Flagstaff, this __ day of _____, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____

CITY ATTORNEY

When recorded, mail to:

City Clerk
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

DEVELOPMENT AGREEMENT AND WAIVER
between
City of Flagstaff
and
Evergreen – TRAX, L.L.C.

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is entered into this _____ day of _____, 2014, by and between the City of Flagstaff, an Arizona municipal corporation ("**City**"), and Evergreen - TRAX, LLC, an Arizona limited liability company ("**Developer**"). City and Developer are sometimes referred to herein collectively as the "**Parties**."

RECITALS

A. A.R.S. § 9-500.05 authorizes the City to enter into development agreements with landowners and persons having an interest in real property located in the City.

B. Developer is the owner of approximately 33.6 acres of real property generally located at the intersection of Route 66 & Fourth Street, within the corporate limits of Flagstaff, Arizona, more specifically described and depicted in ***Exhibit "A"*** (the "**Property**").

C. The Property is currently zoned Light Industrial ("**LI**") and Light Industrial – Open ("**LI-O**") and the Developer is requesting a zoning map amendment to Highway Commercial ("**HC**").

D. Under the 2001 Flagstaff Regional Land Use and Transportation Plan, in effect on the date Developer first made application, the Property is currently designated Office/Business Park/Light Industrial and Light/Medium Industrial and the Developer is requesting an amendment to Community/Regional Commercial.

E. The City has an interest in ensuring that the development of the Property complies with City standards for development and engineering improvements, and the City believes that development of the Property pursuant to this Agreement will result in planning, safety, and other benefits to the City and its residents.

F. The Developer acknowledges that development of the Property pursuant to this Agreement will be beneficial and advantageous to the Developer by providing assurances to the Developer that it will have the ability to develop the Property within the City pursuant to this Agreement, under the zoning described in Recital C above, and in accordance with the Conceptual Site Plan.

G. The City and Developer acknowledge that this Agreement is a development agreement pursuant to the provisions of A.R.S. § 9-500.05.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in order to fulfill the foregoing objectives, the Parties agree as follows:

1. INCORPORATION OF RECITALS

Each of the recitals set forth above is incorporated into this Agreement as though fully set forth herein.

2. DEFINITIONS

The following terms shall have the meanings set forth below whenever used in this Agreement, except where the context clearly indicates otherwise:

2.1 "**City**" shall mean and refer to the City of Flagstaff, an Arizona municipal corporation, and any successor public body or entity.

2.2 "**Developer**" shall mean and refer to Evergreen - TRAX, LLC, an Arizona limited liability company, and any permitted successor-in-interest or assignee of Evergreen - TRAX, LLC acquiring a specific Phase of the Project as contemplated pursuant to Section 11.14.

2.3 "**Improvements**" shall mean and refer to all the improvements which may be constructed from time to time as part of the Project, including, without limitation, public roads, utilities, driveways, landscaping and other improvements of any type or kind to be built by Developer.

2.4 "**Phase**" shall mean and refer to each separate component or portion of the Project which is or may be developed by Developer pursuant to this Agreement.

2.5 "**Project**" shall mean and refer to the development of the Property for the uses, intensities and densities currently shown in the approved Conceptual Site Plan.

2.6 "**Property**" shall mean and refer to all of the real property which is legally described in ***Exhibit "A"***.

2.7 "**Purchase and Sale Agreement**" shall mean and refer to the Purchase and Sale Agreement entered into between the City and Evergreen Devco, Inc., dated June 12, 2013, assigned to Developer via Assignment and Assumption of Contracts and Intangible Property Agreement dated August 13, 2013, and as amended pursuant to First Amendment to Purchase and Sale Agreement, dated June 6, 2014 and any further amendments.

3. CONCEPTUAL SITE PLAN

The City and Developer hereby acknowledge that the City approved the Conceptual Site Plan for the Project on April 3, 2014, attached hereto as ***Exhibit "B"*** and incorporated herein by this reference (the "**Conceptual Site Plan**"). The Conceptual Site Plan sets forth the basic land uses, intensity and density of such uses, relative height, bulk and size of buildings and structures proposed by Developer and approved by the City for development within the Property. Notwithstanding anything contained in the foregoing, however, the City acknowledges that while the Developer intends to develop the Project in general conformance with the Conceptual Site Plan, in order to make the Project economically viable and otherwise feasible, as the Project progresses through formal site plan review, Developer may request modifications to the Conceptual Site Plan and shall incorporate modifications as set forth in this Agreement. The City shall process all submittals made by Developer in conformance with below, and nothing contained herein shall preclude the City from the exercise of its normal review process and requirements in connection with its approval of such submittals. Modifications to the Conceptual Site Plan that exceed the thresholds set forth in Flagstaff Zoning Code Section 10-20.40.090.B.2 shall require a Zoning Map Amendment to process the requested modifications to the approved Conceptual Site Plans.

4. DEVELOPMENT STANDARDS

Development of the Property shall be governed by the City's codes, ordinances, regulations, rules, guidelines and policies controlling permitted uses of the Property, design review standards, the density and intensity of uses, the maximum height and size of the buildings within the Property, as well as the standards for off-site and on-site public improvements in existence as of the Effective Date of this Agreement, except as modified herein and by the Purchase and Sale Agreement; provided, however, that Developer obtains off-site construction permits for one or more components of the Project within two (2) years following the Effective Date of this Agreement. If Developer fails to obtain any off-site construction permits within this two (2) year period, then development of the Project shall be subject to the City's codes, ordinances, regulations, rules, guidelines and policies in effect at the time Developer applies for such construction permits. Notwithstanding the above, the parties expressly acknowledge and agree that the City reserves the right to adopt future ordinances assessing or imposing development fees under the authority of A.R.S. § 9-463.05, which shall be applicable to development of the Property. Developer agrees and understands that upon the Effective Date of this Agreement, all building permits and other fees normally applicable to construction within the City shall apply to the Project.

5. GUIDING PRINCIPLES

The Parties acknowledge that development activities for the Property may extend over several years, and that many of the requirements and procedures provided for in this Agreement contemplate that use of the Property in the future and may be subject to procedures, requirements, regulations, and ordinances not presently in effect, as well as actions and decisions by City staff and officials which cannot be provided for with particularity at the time the

Agreement was executed. With respect to such, the Parties agree that they will act in good faith and with reasonableness in implementing, operating under, and exercising the rights, powers, privileges and benefits conferred or reserved by this Agreement or by law. However, denying a permit for the Developer's failure to meet the City's criteria for such permit shall not be deemed a breach by the City of this Agreement.

6. PROJECT DESCRIPTION, SITE LAYOUT AND DESIGN STANDARDS

6.1 Commercial Development. The Project, as contemplated by this Agreement and as depicted in the Conceptual Site Plan, will consist of approximately two hundred fifty thousand (250,000) square feet of building space. The site layout of the commercial portion of the Project must conform generally to the arrangement of buildings as depicted in the Conceptual Site Plan. Developer may submit commercial buildings individually or in groups of buildings to the City for development review approval, and the approval process for such submissions will proceed for the building or buildings submitted without the requirement that other buildings proceed through the development review process simultaneously.

6.2 Pedestrian Pathways. Clear, direct, safely lit, and continuous pedestrian pathways are required between public sidewalks and adjacent commercial buildings located within the Project, as generally depicted in the Conceptual Site Plan. In addition, clear, direct, safely lit, and continuous pedestrian pathways are required through private parking lots between adjacent commercial buildings located within the Project. These pedestrian pathways will include a distinct, all-weather surface material, such as stamped or colored concrete, and will be located in conjunction with landscape islands. To the maximum extent feasible, the location of pedestrian pathways shall be coordinated with FUTS access pathways, as described in Section 7.2, Flagstaff Urban Trail System, below.

6.3 Design Standards. Developer will follow the City's architectural standards with regard to exterior building materials and colors, which will conform to the City's Design Review standards. Developer will ensure that massing, bulk and scale of commercial buildings will also conform to these standards.

7. DEVELOPER OBLIGATIONS

7.1 Construction of Public and Other Related Improvements. Prior to issuance of a grading permit for any phase or component of the Project, Developer shall provide security, in a form satisfactory to the City as set forth in the City's Zoning Code, that public and other related improvements will be constructed in accordance with approved plans. Developer shall, at its sole expense, construct or cause to be constructed all public and other related improvements as required by the City's codes, ordinances, and this Agreement, and in accordance with approved specifications, as well as those public and related improvements required by the Arizona Department of Transportation ("**ADOT**") as a condition of approval. Following the construction of the described public improvements, and dedication of same to the City, unless otherwise provided, the City shall assume, at its expense, the maintenance and repairs of all public improvements in accordance with City policies. The Developer agrees that the construction of

the public and other related improvements will coincide with the phased development of the Project.

7.2 Right-of-Way Acquisition. Developer shall be responsible for acquiring the right(s)-of-way necessary for all public improvements required by the State of Arizona, Department of Transportation ("ADOT") through good-faith negotiation with the property owner. Developer shall follow the requirements in Title 12 of the Arizona Revised Statutes for acquisition of the property as if the Developer was a government entity obtaining property by eminent domain. Developer will work with the City's Real Estate Manager from the beginning of the negotiation process to ensure compliance with statute and to expedite the process. Developer will use its best efforts to design the public-improvement project required by ADOT in a method that requires the least amount of property acquisition.

If the Developer is unable to acquire the right(s)-of-way within a reasonable timeframe and after the exercise of reasonable diligence, then Developer shall request in writing that the City initiate eminent-domain proceedings to acquire the right(s)-of-way. The City shall be the arbiter of whether or not the Developer has exhausted its ability to negotiate with the property owner(s), but shall be reasonable in its judgment. Once it has been determined by the City that the Developer has exhausted its ability to negotiate with the property owner(s), the City shall promptly proceed in accordance with the state's eminent domain laws, (ARS 12-1111, et. seq.) and use its best efforts to expedite acquisition.

The City's obligation to initiate eminent domain proceedings is contingent upon: 1) ADOT entering into an Agreement with the City that allows the City to exercise eminent domain to acquire right-of-way for the public improvements within the ADOT's jurisdiction; 2) a determination by the City Engineer that the construction plans for the project indicate that : a) no property that will be acquired for right-of-way that contains a habitable structure, and b) the Developer has used its best efforts to design the public improvements to minimize the amount of property needed for the project relative to the right-of-way acquistion, and 3) Developer providing funding for all costs of such right(s)-of-way acquisition, including the fair-market value of the subject property, severance damage, cost to cure, appraisal costs, expert witnesses, legal costs including attorneys' fees, and City staff and administrative costs, as the City may deem necessary and appropriate. The City shall be responsible for choosing the attorneys, appraisers and any other experts who will handle the eminent domain proceedings, with approval by the Developer. If City's final costs exceed the amount deposited by Developer, Developer shall pay the balance to the City promptly upon request by the City. If city's final costs are less than the amount deposited by Developer, City shall promptly pay the difference to Developer upon a court's issuance of a final order of condemnation.

7.3 Flagstaff Urban Trail System ("**FUTS**"). The Developer, at its sole cost and expense, shall construct a concrete high-speed FUTS trail in accordance with City standards, except as modified by the Purchase and Sale Agreement, through a portion of the Property, as generally depicted in the Conceptual Site Plan. This FUTS trail cross section shall consist of a minimum ten foot (10') wide concrete trail, with a minimum two foot (2') wide shoulder adjacent to that portion of the FUTS trail fronting the railroad right-of-way, and a minimum five foot (5') wide landscaping buffer adjacent to that portion of the FUTS trail fronting the Project,

except for that portion of the FUTS trail abutting that parking lot directly serving the building designated as "Major A" on the Conceptual Site Plan. This portion of trail need not meet the minimum five foot (5') wide landscaping buffer, and, at the Developer's discretion, may be reduced to two feet (2'). The construction of the FUTS trail shall be phased and coordinated in conjunction with the overall phasing of the Project, as set forth in Section 8, Phasing, below. For any phase of the Project occurring in any one of those sections of the Property designated Area A, B and C on the Conceptual Site Plan, a corresponding section of the FUTS trail, extending the entire length of either Area A, B or C, shall be constructed unless otherwise approved by City staff. In addition, until the entire FUTS alignment has been constructed and opened to the public, Developer agrees to maintain pedestrian and bicycle connectivity between any phase of FUTS construction and the current FUTS alignment. Such temporary connection(s) shall be ten feet (10') in width and paved in accordance with City standards and specifications unless otherwise approved by City staff. Further, Developer agrees to provide three (3) FUTS access pathways through the Project. Such pathways shall serve as a connection between those pedestrian and bicycle resources adjacent to Route 66 and the FUTS trail. FUTS access points shall be located in the general area of the intersection of Route 66 & Arrowhead Avenue, Route 66 & First Street, and Route 66 & Postal Boulevard. FUTS access pathways shall not be gated or otherwise obstructed and shall be open to the general public at all times.

7.4 Outdoor Public Space. Pursuant to Section 10-30.60.060.B.1 of the Flagstaff Zoning Code, Developer agrees that a minimum five percent (5%) of the Property, seventy-two thousand nine hundred sixty-three (72,963) sq. ft. ("**Outdoor Public Space Requirement**"), shall be devoted to outdoor pedestrian amenity areas which shall act as transition spaces between parking areas and the entrance(s) to adjacent commercial buildings. Outdoor pedestrian amenity areas shall include landscaping, structures providing protection from the weather, benches, tables, or other pedestrian friendly features. At the Developer's sole discretion, that portion of the Property necessary for fulfilling Developer's FUTS obligations, forty-seven thousand eight hundred (47,800) sq. ft., may be treated as an offset against the Outdoor Public Space Requirement. Developer agrees that the areas on both sides of the historic trestle bridge, described in Section 7.4, below, shall, to the maximum extent feasible, be used as outdoor pedestrian amenity areas.

7.5 Trestle Bridge. Developer agrees that the historic trestle bridge spanning the Spruce Avenue Wash, currently connecting those portions of the Property designated Area A and Area C on the Conceptual Site Plan, shall be preserved in its current location and in its current form, and shall be used to provide vehicular and/or pedestrian connectivity between Area A and Area C.

7.6 Drive-through Facilities. Developer agrees that drive-through facilities shall be designed to ensure the safe movement of pedestrians from public sidewalks to commercial building entrances, as well as the safe movement of vehicular traffic in parking lots. To the maximum extent feasible, Developer agrees to comply with the "Specific to Uses" requirements as detailed in Section 10-40.60.160, Drive-through Retail, of the City's Zoning Code.

7.7 Fourth Street Bridge Spanning Interstate 40 ("**I-40 Bridge**"). In addition to those obligations set forth in Section 7.1, Developer agrees to contribute three hundred twenty

thousand dollars ($320,000.00) ("**I-40 Bridge Contribution**") towards I-40 Bridge improvements. Such sum constitutes the Developer's pro-rata "fair share" contribution towards mitigating the Project's traffic impact on the I-40 Bridge, in accordance with the City's Transportation Engineering Program Memorandum dated February 20, 2014. Developer's I-40 Bridge Contribution shall be phased in conjunction with the overall phasing of the Project. Prior to the City issuing a building permit for any development occurring in any one of those sections of the Property designated Area A, B , C and D on the Conceptual Site Plan, Developer shall place eighty thousand dollars ($80,000.00) into the City's I-40 Bridge improvement escrow account, for a total of three hundred twenty thousand dollars ($320,000.00). Notwithstanding the foregoing, the Parties agree that if development has not occurred in all four (4) Areas of the Project within ten (10) years of the Effective Date of this Agreement, Developer shall pay the remaining unpaid balance of the I-40 Bridge Contribution on the tenth (10th) anniversary of this Agreement. The Parties agree that should the I-40 Bridge improvements be funded through alternate funding sources, including capital bonding, the three hundred twenty thousand dollars ($320,000.00) in escrowed funds shall be used to retire or repay any outstanding debt obligation(s) the City has incurred related to Fourth Street improvements; to construct, fund or contribute to future improvements along the Fourth Street commercial corridor that benefit, directly, indirectly or in any manner whatsoever, the Project; or to construct, fund or contribute to those pedestrian crossing improvements identified in the pedestrian crossing study, as detailed in Section 7.7, below. Alternate funding sources for I-40 Bridge improvements, if available prior to full payment of the I-40 Bridge Contribution, shall in no way relieve the Developer of their obligations with respect to I-40 Bridge Contribution payment(s). Should alternate funding sources become available prior to full payout, all monies due shall be used for the secondary purposes set forth in this Section. In no event will the Developer be entitled to any credit, refund, or reimbursement of any portion of the funds placed in escrow pursuant to this section. Following the placement of the full I-40 Bridge Contribution into the City's I-40 Bridge improvement escrow account, Developer shall have no further obligations or liability, financial or otherwise, with respect to the I-40 Bridge.

7.8 Pedestrian Crossing Study and Improvements. Prior to the recording of the Final Plat for the Property, Developer agrees to place One Hundred Seventy Nine Thousand Dollars and 00/100 ($179,000.00) ("**Pedestrian Study Contribution**") into a dedicated City escrow account to be used for a pedestrian crossing study and any recommended improvements to Route 66 related to the development of the Property. Specifically, these escrowed funds shall be utilized by the City for (i) a pedestrian crossing study which will evaluate the crossing patterns of pedestrians to, through, and from the Project; and (ii) additional pedestrian safety improvements on Route 66, if any, identified in the study. Following the placement of the Pedestrian Study Contribution into the City's dedicated escrow account, Developer shall have no further obligations or liability, financial or otherwise, with respect to the pedestrian crossing study or the installation or maintenance of those improvements identified therein.

7.9 Route 66 Lighting. Developer agrees to implement those measures set forth in the Arizona Department of Transportation Submittal Review Memorandum dated February 8, 2014 ("ADOT Memorandum"), attached hereto as ***Exhibit "C"*** and incorporated herein by this reference, detailing those improvements that Developer is obligated to make to ADOT owned fixtures, facilities, improvements, and rights-of-way. In particular, Developer agrees to improve

the street lighting along the entire frontage of Route 66 adjacent to the property to a standard of PGP 700 and AASHTO's Roadway Lighting Design Guidelines with a modification to utilize Low Pressure Sodium source of lighting exclusively. Upon acceptance, Developer shall not be responsible for the maintenance, repair, or replacement of those improvements required as a condition of ADOT approval, as set forth in the ADOT Memorandum. The Parties agree that ***Exhibit "C"*** shall be automatically amended, without further action of the Parties, at such time as ADOT provides developer with a revised Submittal Review Memorandum addressing Developer's obligations in regard to ADOT owned fixtures, facilities, improvements, and rights-of-way resulting from the Project.

7.10 Dedication of Public Easements. Public utility and drainage easements with respect to the Project must be identified on the construction plans and dedicated prior to issuance of building permits. Dimensions for these easements must be in accordance with City and ADOT requirements. A minimum fifty foot (50') wide public utility easement, generally located in the area of the Spruce Wash and specifically identified on Sheet SP01 of the Conceptual Site Plan, shall be identified on all relevant construction plans.

7.11 Water and Sewer. Water and sewer mains must be designed and extended by Developer at Developer's cost in accordance with the approved water and sewer impact analysis and the 2012 City of Flagstaff Engineering and Design Standards.

7.12 Dedication of Public Rights-Of-Way. Public rights-of-way for all streets must be identified on the Final Plat and dedicated with Final Plat approval. Dimensions for these rights-of-way and easements must be in accordance with City standards and requirements.

7.13 Existing and Modified Streetscape Landscaping. Existing streetscape landscaping along adjacent public rights-of-way must be maintained, transplanted to equivalent locations, or replaced with landscaping of a similar species in equivalent locations. Existing streetscape landscaping can be used to offset the landscape requirements of the Flagstaff Zoning Code. Pursuant to the Flagstaff Zoning Code, a minimum ten foot (10') wide landscaping buffer adjacent to public thoroughfares, which does not include public right-of-way, is required for those sections of the Property designated Area A, B, C and D on the Conceptual Site Plan. However, the Parties agree that in Area A, B, or C, the Developer may utilize public right-of-way to meet the ten foot (10') wide landscaping buffer requirement. The Parties agree that a minimum five foot (5') wide buffer, not including a sidewalk, shall be maintained behind public right-of-way when adjacent to buildings. For parking lots fronting the right-of-way, the Developer shall construct a three-and-a-half foot (3.5') high screen wall in combination with the required ten foot (10') wide landscaping buffer requirement.

7.14 Zoning. Developer hereby agrees to be subject to all the terms, conditions, and stipulations of City Ordinance No. 2014-14, attached hereto as ***Exhibit "D"*** and incorporated herein by this reference.

7.15 Permits and Building Fees. Developer agrees and understands that upon the Effective Date of this Agreement, all building permits, development fees, and other fees normally applicable to construction within the City shall apply to the Project.

8. PHASING

The Parties acknowledge that development of the Project will be affected by numerous factors outside the control of the Developer, e.g., general economic conditions, interest rates, and market demand. Accordingly, the City acknowledges that the Developer may submit multiple applications from time-to-time to develop and/or construct portions of the Conceptual Site Plan for the Project in phases as long as each phase provides for the logical extension of vehicle and pedestrian connectivity, infrastructure, and utilities through the Project, as approved by the City, in compliance with the terms of this Agreement and other applicable provisions of the City's codes, ordinances, regulations, rules, guidelines, and policies. Further, each phase of this development must be designed and constructed to stand alone in perpetuity per Subdivision Regulation 11-20.130.010.B, as well as the approved water and sewer, traffic and drainage impact analyses. Specific phasing for the FUTS trail is addressed in Section 7.2, Flagstaff Urban Trail System, above.

9. DEVELOPMENT PROCESS

9.1 Diligence in Responding to Approval Requests. The City hereby acknowledges and agrees that development of the Property may occur over a span of a number of years and will require the City's ongoing participation in the review and approval of modifications and amendments to any phasing plans, site plans, infrastructure plans, drainage plans, design plans, building plans, grading permits, building permits, archaeological and historic preservation review and disposition, and other plans, permit applications, and inspections, which are a part of the City's current building and development requirements (hereinafter collectively called "**Approval Requests**"). The City hereby agrees that, in connection with all such Approval Requests relating to the planning or development of the Property or any portion thereof, and the construction of Improvements thereon, it shall cooperate with Developer in good faith to process all such Approval Requests.

9.2 Manager's Power to Consent. The City hereby acknowledges and agrees that any unnecessary delay hereunder would adversely affect the Developer and/or the development of the Property, and hereby authorizes and empowers the City Manager or designee to consent to any and all requests of the Developer requiring the consent of the City hereunder without further action of the City Council, except for any actions requiring City Council approval as a matter of law.

10. DEFAULT; REMEDIES

10.1 Events Constituting Default. A party hereunder shall be deemed to be in default under this Agreement if such party breaches any obligation required to be performed by the respective party hereunder within any time period required for such performance, and such breach or default continues for a period of thirty (30) days, unless such breach or default cannot be fully resolved in thirty (30) days and such remedy is being diligently pursued, after written notice thereof from the party not in default hereunder. For purposes of determining default and termination, those Developer obligations set forth in Section 7, Developer Obligations, are

severable, and each individual obligation shall terminate upon the successive completion of the individual obligation.

10.2 Dispute Resolution. In the event that there is a dispute hereunder which the Parties cannot resolve between themselves, the Parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the parties agree to attempt to settle the dispute by nonbinding mediation before the commencement of litigation. The mediations shall be held under the commercial mediation rules of the American Arbitration Association. The mediator selected shall have at least five (5) years experience in mediating or arbitrating disputes relating to commercial property development. The costs of any such mediation shall be divided equally between the City and the Developer or in such other fashion as the mediator may order. The results of the mediation shall be nonbinding on the Parties and any party shall be free to initiate litigation upon the conclusion of mediation.

10.3 Developer's Remedies. In the event that the City is in default under this Agreement and fails to cure any such default within the time period required therefore as set forth in Section 10.1 above, then, in that event, in addition to all other legal and equitable remedies which the Developer may have, the Developer may terminate this Agreement by written notice delivered to the City.

10.4 City's Remedies. In the event that the Developer is in default under this Agreement, and the Developer thereafter fails to cure any such default within the time period described in Section 10.1 above, then, in that event, in addition to all other legal and equitable remedies which the City may have, the City may terminate this Agreement by written notice delivered to the Developer.

10.5 Development Rights in the Event of Termination. With the exception of a termination that occurs under Section 10.3 above, upon the termination of this Agreement as provided herein, the Developer shall have no further rights to develop the Property pursuant to this Agreement.

10.6 No Personal Liability. No current or former member, official or employee of the City or Developer when acting within the scope of their official capacity shall be personally liable (a) in the event of any default or breach by the City or Developer, as applicable; (b) for any amount which may become due to the nonbreaching party or its successor or assigns; or (c) pursuant to any obligation of the City or Developer, as applicable, under the terms of this Agreement.

10.7 Liability and Indemnification. Developer shall indemnify, protect, defend and hold harmless the City, its Council members, officers, employees and agents for, from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, out of the performance of this Agreement by City or Developer, or nonperformance of this Agreement by the Developer.

11. GENERAL PROVISIONS

11.1 Effective Date and Term. This Agreement shall be effective (the "**Effective Date**") upon execution by the Parties hereto and recordation in accordance with A.R.S. § 9-500.05 (as amended). The term of this Agreement shall extend from the Effective Date of this Agreement and shall automatically terminate thirty (30) years from such date.

11.2 Notices. All notices and communications provided for herein, or given in connection herewith, shall be validly made if in writing and delivered personally or sent by registered or certified United States Postal Service mail, return receipt requested, postage prepaid, or by overnight mail by a reliable overnight delivery service to:

To City:

City Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

To Developer:

Evergreen – Trax, LLC
c/o Laura Ortiz
Evergreen Devco, Inc
2390 East Camelback, #410
Phoenix, Arizona 85016

With copy to:

Trax Investors, LLC
Robert Karber
2828 N. Central, Suite 1110
Phoenix, Arizona 85004

or to such other addresses as either party may from time to time designate in writing and deliver in a like manner. Any such change of address notice shall be given at least ten (10) days before the date on which the change is to become effective. Notices given by mail shall be deemed delivered seventy-two (72) hours following deposit with the United States Postal Service in the manner set forth above.

11.3 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.

11.4 Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Agreement.

11.5 Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. The Developer represents and warrants that it is duly formed

and validly existing under the laws of the State of Arizona and that it is duly qualified to do business in the State of Arizona and is in good standing under applicable state laws. The Developer and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the party on whose behalf each individual is signing. The Developer represents to the City that by entering into this Agreement, the Developer has bound the Property and all persons and entities having any legal or equitable interest therein to the terms of the Agreement.

11.6 Entire Agreement. This Agreement, including the following exhibits which are incorporated into this Agreement by reference, constitutes the entire agreement between the Parties and supersedes any prior written or oral understandings or agreements between the Parties. This provision applies only to the entirety of this Agreement; additional and separate zoning stipulations and agreements with the City may apply to the Property, and this provision has no effect on them.

Exhibit "A" Legal Description of Property
Exhibit "B" Conceptual Site Plans
Exhibit "C" ADOT Submittal Review Memorandum dated February 8, 2014
Exhibit "D" Ordinance No. 2014-14

11.7 Amendment of the Agreement. This Agreement may be amended, in whole or in part, and with respect to all or any portion of the Property, only with the mutual written consent of the Parties to this Agreement or by their successors in interest or assigns. The City shall record the amendment or cancellation in the official records of the Coconino County Recorder.

11.8 Severability. If any other provision of the Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect.

11.9 Governing Law. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement. This Agreement has been made and entered into in Coconino County, Arizona.

11.10 Recordation of Agreement and Subsequent Amendment; Cancellation. The City will record this Agreement, and any amendment or cancellation of it, in the official records of the Coconino County Recorder no later than ten (10) days after the City and the Developer execute the Agreement, amendment, or cancellation, as required by A.R.S. § 9-500.05.

11.11 No Partnership; Third-Party. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture, or other arrangement between Developer and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

11.12 Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official, or employee of the City shall have a personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511.

11.13 Compliance with All Laws. Developer will comply with all applicable Federal, State, and County laws, as well as with all applicable City ordinances, regulations, and policies.

11.14 Successors and Assigns. Upon prior written notice to City, Developer may assign its interest in this Agreement, in whole or in part, to any entity that controls, is controlled by, or is under common control with Developer (including but not limited to a limited liability company of which the original Developer is a member), who undertakes to proceed with development of the Project. Provided that the assignee has provided City with the name, address and designated representative of the assignee, and has assumed the rights, liabilities and obligations of Developer under this Agreement pursuant to a written instrument (a true and correct copy of which shall be provided to City), then the assignor shall be released from any obligations or liabilities arising under this Agreement from and after the date of assignment. Neither Developer nor any permitted assignee of Developer may otherwise assign its interest in this Agreement, in whole or in part, without the prior written consent of the City, which consent may be reasonably withheld by the City. This Agreement shall be personal to Developer and its permitted successors and assigns, and shall not run with the land.

11.15 Vested Rights. Nothing in this Development Agreement shall preclude the Developer from claiming that the Developer has vested rights to complete the development of the Project in accordance with currently applicable regulations based on the significant investment and improvements made on the Property by the Developer.

12. WAIVER OF CLAIM FOR DIMINUTION IN VALUE

Developer hereby waives and fully releases any and all financial loss, injury, claims, and causes of action that the Developer may have, now or in the future, for any "diminution in value" and for any "just compensation" under the Private Property Rights Protection Act (the "**Act**"), codified in A.R.S §§ 12-1131 through 12-1138, in connection with the application of the City's existing land use laws and including City Ordinance No. 2011-01 regarding the Property. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under the Act with regard to the subject Property. Developer agrees to indemnify, hold harmless, and defend the City, its officers, employees, and agents, from any and all claims, causes of actions, demands, losses, and expenses, including attorney's fees and litigation costs, that may be asserted by or may result from any of the present or future owners of any interest in the Property seeking potential compensation, damages, attorney's fees or costs under the Act that they may have, as a result of the application of the City's existing land use laws, including City Ordinance No. 2014-14, upon the Property.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

City of Flagstaff

_____
Gerald W. Nabours, Mayor

Attest:

_____
City Clerk

Approved as to form and authority:

_____
City Attorney

Evergreen – TRAX, LLC, an Arizona limited liability company

By: TRAX Investors, LLC, an Arizona limited liability company
Its: Manager

By:_____

Name:_____

Its:_____

STATE OF ARIZONA)
COUNTY OF _____)

ACKNOWLEDGMENT

On this _____ day of _____, 2014, before me, a Notary Public, personally appeared _____, 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 Evergreen - TRAX LLC, an Arizona limited liability company, Manager of TRAX Investors, LLC, an Arizona limited liability company, for the purposes therein contained.

_____
Notary Public
My Commission Expires:_____

EXHIBIT A

LEGAL DESCRIPTIONS OF THREE PARCELS FOR "THE TRAX" PROJECT

Consists of:

EXHIBIT "A": Written Description of Parcels

EXHIBIT 'B-1': Map/Survey of Parcel A, APN #107-13-010 (part)

EXHIBIT 'B-2': Map/Survey of Parcel A, APN #107-13-010 (part)

EXHIBIT 'B-3': Map/Survey of Parcel B, APN #107-13-009

EXHIBIT 'B-4': Map/Survey of Parcel D, APN #107-13-011

"EXHIBIT A"

LEGAL DESCRIPTION

There are three parcels for The Trax project (collectively referred to herein as the "Property"):
1. Parcel 107-13-010 (Shown on the Concept Plan as Areas A & C)
2. Parcel 107-13-009 (Shown on the Concept Plan as Area B)
3. Parcel 107-13-011 (Shown on the Concept Plan as Area D)

PARCELS A, B AND D AS SET FORTH ON COF CONSOLIDATION MAP RECORDED IN 2006-3396857, OFFICIAL RECORDS OF COCONINO COUNTY ARIZONA AND MORE PARTICULARLY DESCRIBED BELOW; AND EXCEPT FROM SAID PARCELS ALL MINERALS CONTAINED THEREIN INCLUDING, WITHOUT LIMITING THE GENERALITY THEREOF, OIL, GAS AND OTHER HYDROCARBON SUBSTANCES, AS WELL AS METALLIC OR OTHER SOLID MINERALS AS RESERVED BY THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A DELAWARE CORPORATION IN DEED RECORDED IN DOCKET 1442, PAGE 754.

PARCEL A

THE FOLLOWING DESCRIBES A PARCEL OF LAND, PORTIONS OF THE EXISTING BURLINGTON NORTHERN SANTA FE RAILWAY, HUNTINGTON DRIVE AS DESCRIBED IN DOCKET 861, PAGE 914 AND DOCKET 918, PAGE 574; PARCELS A, B, AND C RECORDED IN BOOK 8, PAGE 57; AND THE PARCEL DESCRIBED IN DOCKET 1442, PAGE 754, COCONINO COUNTY RECORDS; LYING IN SECTIONS 13 AND 14, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN; FLAGSTAFF, COCONINO COUNTY, ARIZONA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING FOR REFERENCE AT A POINT ON A TANGENT IN THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF ROUTE 66, MONUMENTED BY A FOUND BRASS CAP; THENCE NORTH 71 DEGREES 20 MINUTES 56 SECONDS EAST ALONG SAID SOUTHEASTERLY RIGHT- OF-WAY LINE, 78.35 FEET TO A POINT OF CURVATURE THEREIN; THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE AND ALONG SAID CURVE, CONCAVE NORTHWESTERLY, WITH RADIUS 2000.00 FEET AND CENTRAL ANGLE 34 DEGREES 02 MINUTES 50 SECONDS, AN ARC LENGTH OF 1188.48 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUE NORTHEASTERLY ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE AND ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01 DEGREES 56 MINUTES 54 SECONDS AN ARC LENGTH OF 68.01 FEET; THENCE NORTH 35 DEGREES 21 MINUTES 12 SECONDS EAST ALONG SAID SOUTHEASTERLY RIGHT - OF-WAY LINE, 2555.80 FEET; THENCE NORTH 41 DEGREES 08 MINUTES 46 SECONDS EAST 103.31 FEET; THENCE NORTH 36 DEGREES 26 MINUTES 28 SECONDS EAST, 258.30 FEET; THENCE NORTH 44 DEGREES 14 MINUTES 44 SECONDS EAST, 153.19 FEET TO THE BEGINNING OF A NONTANGENT CURVE, TO WHICH POINT A RADIAL LINE BEARS NORTH 50 DEGREES 35 MINUTES 21 SECONDSWEST; THENCE NORTHEASTERLY ALONG SAID CURVE, CONCAVE SOUTHEASTERLY, WITH RADIUS 3745.72 FEET AND CENTRAL ANGLE 04 DEGREES 42 MINUTES 36 SECONDS, AN ARC LENGTH OF 307.92 FEET; THENCE NORTH 76 DEGREES 35 MINUTES 19 SECONDS EAST 37.30 FEET;
THENCE SOUTH 40 DEGREES 09 MINUTES 12 SECONDS EAST, PARALLELWITH AND 74 FEET SOUTHWESTERLY FROM THE NEW FOURTH STREET CENTERLINE SHOWN THEREON , 136.09 FEET;
THENCE SOUTH 45 DEGREES 52 MINUTES 40 SECONDS EAST 77.10 FEET;
THENCE SOUTH 47 DEGREES 28 MINUTES 57 SECONDS EAST 81.84 FEET;
THENCE NORTH 45 DEGREES 36 MINUTES 00 SECONDS EAST 3.00 FEET;
THENCE SOUTH 42 DEGREES 59 MINUTES 24 SECONDS EAST, PARALLELWITH AND 59 FEET SOUTHWESTERLY FROM SAID NEWFOURTH STREET CENTERLINE, 47.26 FEET TO THE NORTHWESTERLY LINE OF THE NEW RAILWAY SHOWN THEREON;

THENCE SOUTH 41 DEGREES 56 MINUTES 14 SECONDS WEST, ALONG SAID NORTHWESTERLY LINE, 3431.57 FEET TO THE NORTHWESTERLY LINE OF THE EXISTING RAILWAY SHOWN THEREON;
THENCE NORTH 52 DEGREES 41 MINUTES 54 SECONDS WEST, RADIAL TO SAID SOUTHEASTERLY RIGHT-OF-WAY LINE OF ROUTE 66, 41.69 FEET TO THE TRUE POINT BEGINNING. THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS THE LINE BETWEEN THE EAST AND SOUTH QUARTER CORNERS OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN,WITH BEARING SOUTH 43 DEGREES 20 MINUTES 20 SECONDS WEST PER CITY OF FLAGSTAFF COORDINATE-SYSTEM DATA DATED NOVEMBER 1997.

PARCEL B

THE FOLLOWING DESCRIBES A PARCEL OF LAND, PORTIONS OF THE EXISTING BURLINGTON NORTHERN SANTA FE RAILWAY; INDUSTRIAL DRIVE DESCRIBED IN DOCKET 918, PAGE 574; AND PARCEL 1 DESCRIBED IN DOCKET 1967, PAGE 587, RECORDS OF COCONINO COUNTY, LYING IN THE LOT 2 OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN; FLAGSTAFF, COCONINO COUNTY, ARIZONA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING FOR REFERENCE AT A POINT OF TANGENCY IN THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF ROUTE 66 NORTHEAST OF FOURTH STREET; THENCE NORTH 56 DEGREES 57 MINUTES 16 SECONDS EAST ALONG SAID SOUTHEASTERLY RIGHT-0FWAY LINE, 35.78 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUE NORTH 58 DEGREES 57 MINUTES 16 SECONDS EAST, ALONG SAID SOUTHEASTERLY RIGHTOF-WAY LINE 1154.90 FEET; THENCE SOUTH 33 DEGREES 02 MINUTES 44 SECONDS EAST, PERPENDICULAR TO SAID SOUTHEASTERLY RIGHTOF-WAY LINE, 39.49 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF THE EXISTING BURLINGTON NORTHERN SANTA FE RAILWAY AND THE BEGINNING OF A NON- TANGENT CURVE, TO WHICH POINT A RADIAL LINE BEAR NORTH 37 DEGREES 26 MINUTES 34 SECONDS WEST; THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF THE NEW RAILWAY SHOWN THEREON AND ALONG SAID CURVE, CONCAVE SOUTHEASTERLY,WITH RADIUS 7718.99 FEET AND CENTRAL ANGLE 10 DEGREES 37 MINUTES 12 SECONDS, AN ARC LENGTH OF 1430.75 FEET; THENCE SOUTH 41 DEGREES 56 MINUTES 14 SECONDSWEST, ALONG SAID NORTHWESTERLY LINE, 205.84 FEET; THENCE SOUTH 48 DEGREES 03 MINUTES 46 SECONDS EAST, ALONG SAID NORTHWESTERLY LINE, 12.00 FEET; THENCE SOUTH 41 DEGREES 56 MINUTES 14 SECONDSWEST, ALONG SAID NORTHWESTERLY LINE, 373.32 FEET; THENCE NORTH 42 DEGREES 59 MINUTES 24 SECONDS WEST, PARALLELWITH AND 52 FEET EASTERLY FROM THE NEWFOURTH STREET CENTERLINE SHOWN THEREON 53.01 FEET; THENCE NORTH 28 DEGREES 59 MINUTES 56 SECONDS WEST, 60.86 FEET; THENCE NORTH 40 DEGREES 09 MINUTES 12 SECONDS WEST, 223.43 FEET; THENCE NORTH 05 DEGREES 56 MINUTES 36 SECONDS EAST, 37.99 FEET TO THE BEGINNING OF A NONTANGENT CURVE, TO WHICH POINT A RADIAL LINE BEARS NORTH 42 DEGREES 46 MINUTES 55 SECONDSWEST; THENCE NORTHEASTERLY ALONG SAID CURVE, CONCAVE SOUTHEASTERLY, RADIUS 3750.72 FEET AND CENTRAL ANGLE 02 DEGREES 37 MINUTES 04 SECONDS, AN ARC LENGTH OF 171.37 FEET;
THENCE NORTH 31 DEGREES 15 MINUTES 33 SECONDS EAST, 21.79 FEET TO THE BEGINNING OF A NONTANGENT CURVE, TO WHICH POINT A RADIAL LINE BEARS NORTH 39 DEGREES 50 MINUTES 57 SECONDSWEST; THENCE NORTHEASTERLY ALONG SAID CURVE, CONCAVE SOUTHEASTERLY,WITH RADIUS 3757.72 FEET AND CENTRAL ANGLE 01 DEGREES 47 MINUTES 06 SECONDS, AN ARC LENGTH OF 117.07 FEET; THENCE NORTH 51 DEGREES 55 MINUTES 35 SECONDS EAST, 141.45 FEET TO THE BEGINNING OF A NONTANGENT CURVE, TO WHICH POINT A RADIAL LINE BEARS NORTH 38 DEGREES 03 MINUTES 52 SECONDSWEST; THENCE NORTHEASTERLY ALONG SAID CURVE, CONCAVE SOUTHEASTERLY,WITH RADIUS 3860.32 FEET AND CENTRAL ANGLE 05 DEGREES 05 MINUTES 23 SECONDS, AN ARC LENGTH OF 342.92 FEET; THENCE NORTH 49 DEGREES 02 MINUTES 29 SECONDS EAST, 29.52 FEET TO THE TRUE POINT OF BEGINNING. THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS THE LINE BETWEEN THE EAST AND SOUTH QUARTER CORNERS OF SECTION 14, TOWNSHIP 21 NORTH,

RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN,WITH BEARING SOUTH 43 DEGREES 20 MINUTES 20 SECONDS WEST PER CITY OF FLAGSTAFF COORDINATE—SYSTEM DATA DATED NOVEMBER 1997.

PARCEL D

THE FOLLOWING DESCRIBES A PARCEL OF LAND, PORTIONS OF PARCEL 2 DESCRIBED IN DOCKET 1967, PAGE 587 AND OF THE PARCEL DESCRIBED IN INSTRUMENT 2001-3104611, RECORDS OF COCONINO COUNTY, LYING IN THE WEST HALF OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN; FLAGSTAFF, COCONINO COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 2 DESCRIBED IN DOCKET 1904, PAGE 288, RECORDS OF COCONINO COUNTY, MONUMENTED BY A FOUND ALUMINUM CAP MARKED "ARENCO LS 13010 LS 18297; THENCE NORTH 00 DEGREES 32 MINUTES 48 SECONDS WEST ALONG THE WESTERLY LINE OF PARCEL 2 DESCRIBED IN SAID DOCKET 1967, PAGE 587, PARALLEL WITH AND 40 FEET EASTERLY FROM THEWEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, 0.29 FEET TO AN ANGLE POINT THEREIN; THENCE NORTH 00 DEGREES 33 MINUTES 37 SECONDS WEST, CONTINUING ALONG SAID WESTERLY LINE, PARALLELWITH AND 40 FEET EASTERLY FROM THE WEST LINE OF THE LOT 2 OF SAID SECTION 13, 66.44 FEET TO THE SOUTHEASTERLY LINE OF THE NEW RAILWAY SHOWN THEREON; THENCE NORTH 41 DEGREES 56 MINUTES 14 SECONDS EAST, ALONG SAID SOUTHEASTERLY LINE, 639.20 FEET; THENCE SOUTH 42 DEGREES 59 MINUTES 24 SECONDS EAST, PARALLELWITH AND 57 FEET SOUTHWESTERLY FROM THE NEW FOURTH STREET CENTERLINE SHOWN HEREON, 59.42 FEET;
THENCE SOUTH 39 DEGREES 10 MINUTES 34 SECONDS EAST 180.40 FEET;
THENCE SOUTH 42 DEGREES 59 MINUTES 24 SECONDS EAST, PARALLELWITH AND 69 FEET SOUTHWESTERLY FROM SAID NEWFOURTH STREET CENTERLINE, 255.07 FEET TO THE BEGINNING OF A 25-FOOT CORNER CUTOFF; THENCE SOUTH 00 DEGREES 30 MINUTES 36 SECONDSWEST, ALONG SAID CORNER CUTOFF, 36.27 FEET TO THE END THEREOF; THENCE SOUTH 44 DEGREES 00 MINUTES 36 SECONDSWEST, PARALLELWITH AND 40 FEET NORTHWESTERLY FROM THE NEW HUNTINGTON DRIVE CENTERLINE SHOWN THEREON, 586.47 FEET TO THE EAST LINE OF PARCEL 1 DESCRIBED IN SAID DOCKET 1904, PAGE 288; THENCE NORTH 00 DEGREES 32 MINUTES 55 SECONDS WEST ALONG SAID EAST LINE, 136.52 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 1, MONUMENTED BY A FOUND ALUMINUM CAP MARKED "AEC LS 13010 LS 18297; THENCE NORTH 36 DEGREES 08 MINUTES 55 SECONDS WEST, ALONG THE EASTERLY LINE OF PARCEL 2 DESCRIBED IN SAID DOCKET 1904, PAGE 288, 185.56 FEET TO THE NORTHEASTERLY CORNER THEREOF, MONUMENTED BY A FOUND ALUMINUM CAP MARKED "NES LS 14671; THENCE SOUTH 89 DEGREES 51 MINUTES 25 SECONDSWEST, ALONG THE LINE BETWEEN THE SOUTHWEST QUARTER OF SECTION 13 AND LOT 2 THEREOF, AND ALONG THE NORTH LINE OF SAID PARCEL 2, 236.39 FEET TO THE POINT OF BEGINNING.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS THE LINE BETWEEN THE EAST AND SOUTH QUARTER CORNERS OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN, WITH BEARING SOUTH 43 DEGREES 20 MINUTES 20 SECONDS WEST PER CITY OF FLAGSTAFF COORDINATE-SYSTEM DATA DATED NOVEMBER 1997.

EXHIBIT B

CONCEPTUAL SITE PLANS

PARKING BREAKDOWN

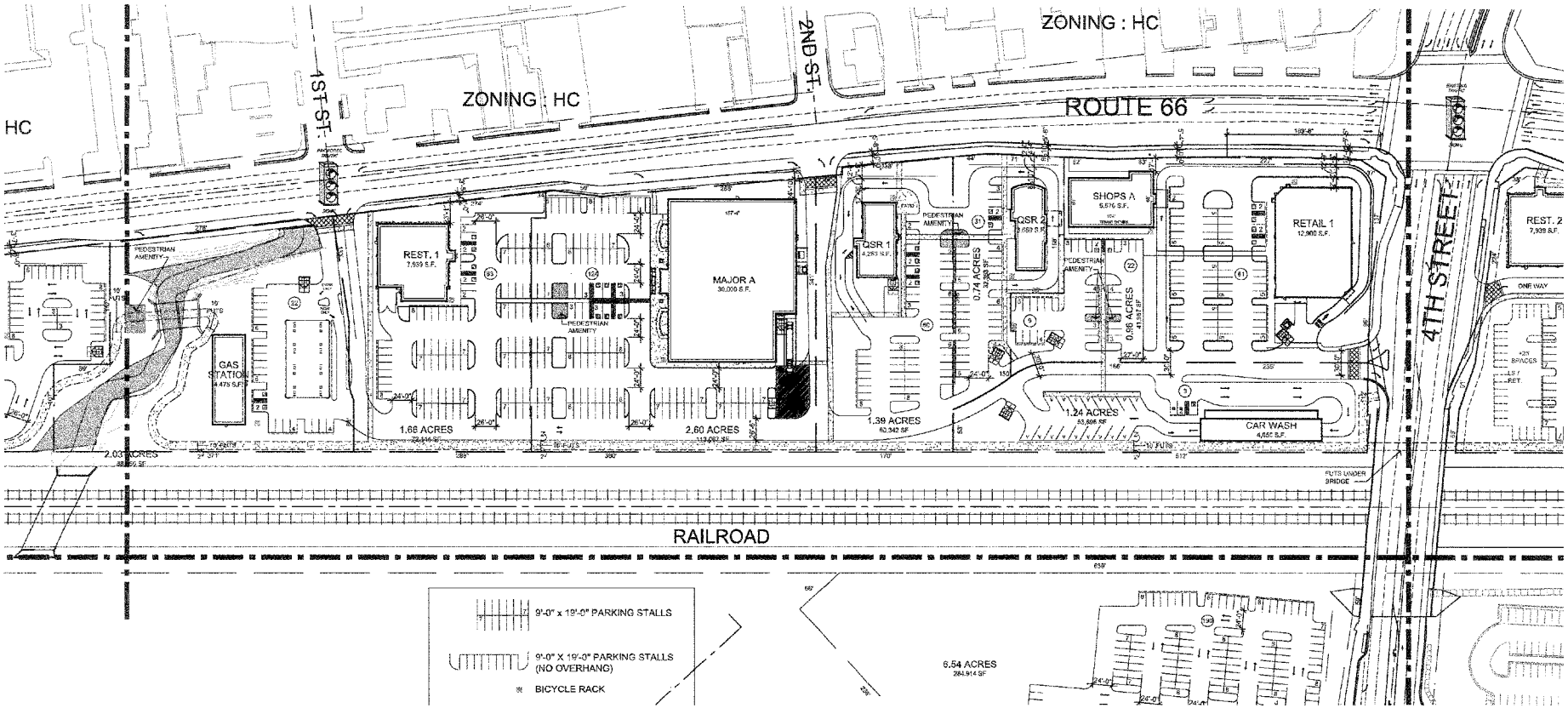
Standard Stall: 9' x 18' / Accessible Stall: 11' x 20' (HC included in overall count for each user)

Area A

QSR1: (1/100 + 10)	53 spaces required (3 HC) **50 spaces provided** (HC provided: 4 spaces)	Major A: (1/300)	100 space required (5 HC) **124 spaces provided** (HC provided: 6 spaces)	Shops A (1/300)	28 space required (2 HC) **31 spaces provided** (HC provided: 2 spaces)
Gas Station: (1/300)	20 spaces required (1 HC) **22 spaces provided** (HC provided: 2 spaces)	QSR 2 (1/100 + 10)	53 space required (3 HC) **31 spaces provided** (HC provided: 4 spaces)	Retail 1 (1/300)	43 space required (3 HC) **61 spaces provided** (HC provided: 4 spaces)
		Rest 1 (1/100 + 20)	100 space required (5 HC) **83 spaces provided** (HC provided: 4 spaces)	Car Wash (1.5 + Drive Thru)	3 space required (1 HC) **3 spaces provided** (HC provided: 1 space)

SCALE: 1" = 60'

AREA A



THE TRAX

FOURTH STREET / ROUTE 66

PROPOSED REDEVELOPMENT SITE

Flagstaff, Arizona

03-21-14
11086-ST17

Evergreen
Development | Services | Investments

Butler Design Group, Inc
architects & planners

PARKING BREAKDOWN

Standard Stall: 9' x 18' / Accessible Stall: 11' x 20' (HC included in overall count for each user)

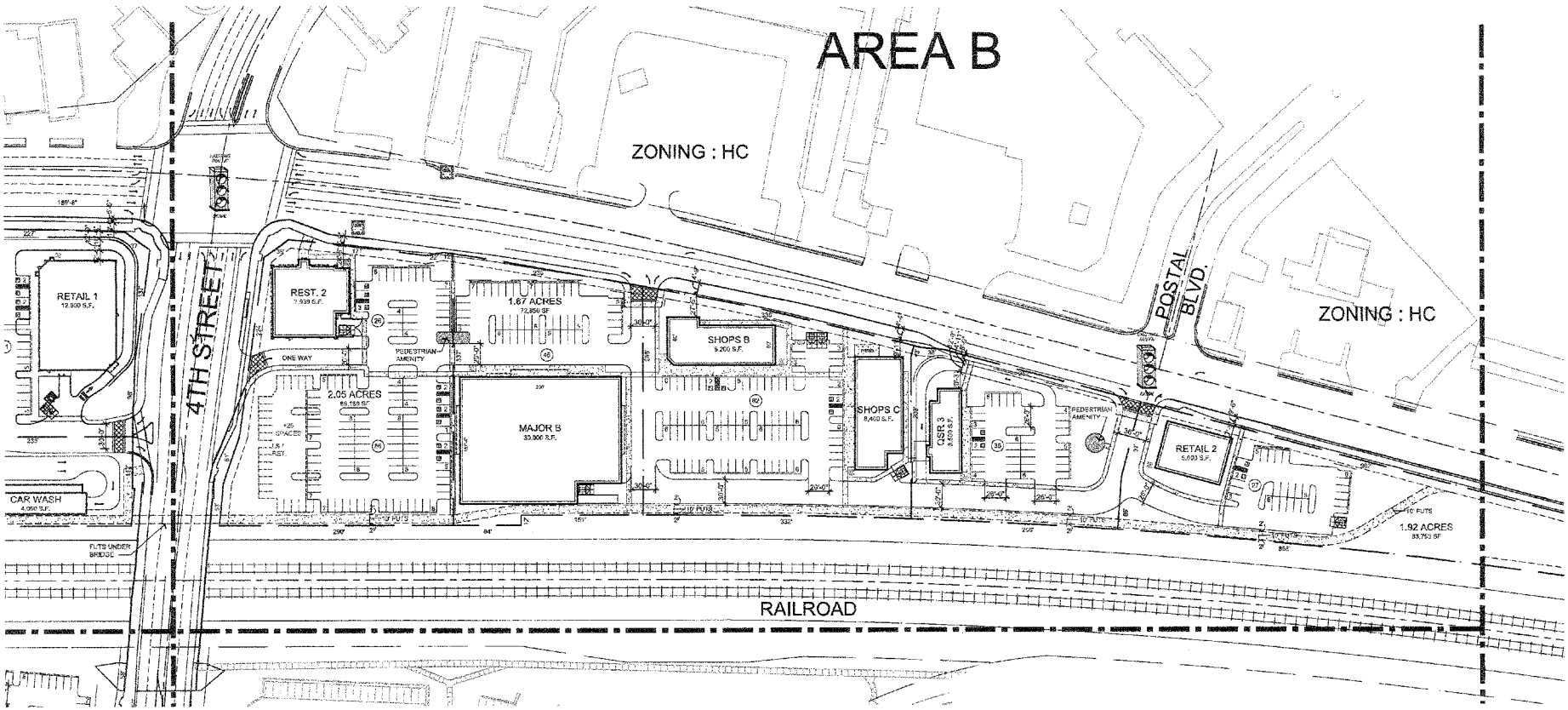
Area B

Rest 2: (1/100 + 20)	100 spaces required (5 HC) **26 spaces provided** (HC provided: 3 spaces)	Shops C (1/300)	28 space required (2 HC) **41 spaces provided** (HC provided: 2 spaces)
Major B: (1/300)	100 spaces required (5 HC) **132 spaces provided** (HC provided: 6 spaces)	QSR 3 (1/100 + 10)	45 space required (3 HC) **35 spaces provided** (HC provided: 2 spaces)
Shops B: (1/300)	28 space required (2 HC) **41 spaces provided** (HC provided: 2 spaces)	Retail 2 (1/300)	17 space required (1 HC) **27 spaces provided** (HC provided: 2 spaces)

Note: 25 Additional (future) spaces located South of Rest 2.

SCALE: 1" = 60'

AREA B



THE TRAX

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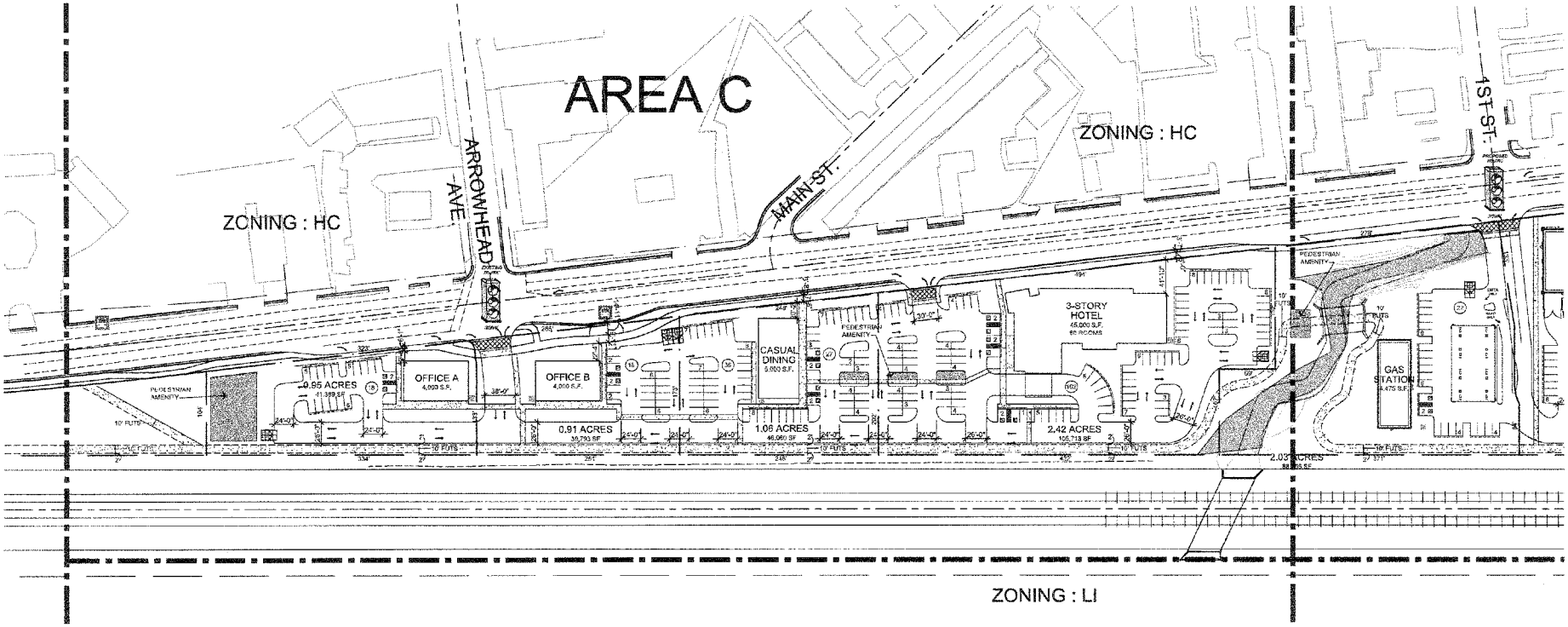
PARKING BREAKDOWN

Area C

Office A: (1/300)	14 spaces required (1 HC) **18 spaces provided** (HC provided: 2 spaces)	Casual Dining: (1/100 + 20)	70 space required (4 HC) **63 spaces provided** (HC provided: 4 spaces)
Office B: (1/300)	14 spaces required (1 HC) **18 spaces provided** (HC provided: 2 spaces)	Hotel (1 Per Room) (1 per 3 employees) (1 per 3 people - meeting room)	100 spaces required (5 HC) **102 spaces provided** (HC provided: 6 spaces)

SCALE: 1" = 60'

AREA C



THE TRAX

FOURTH STREET / ROUTE 66

PROPOSED REDEVELOPMENT SITE

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11086-ST17

Butler Design Group, Inc
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PARKING BREAKDOWN

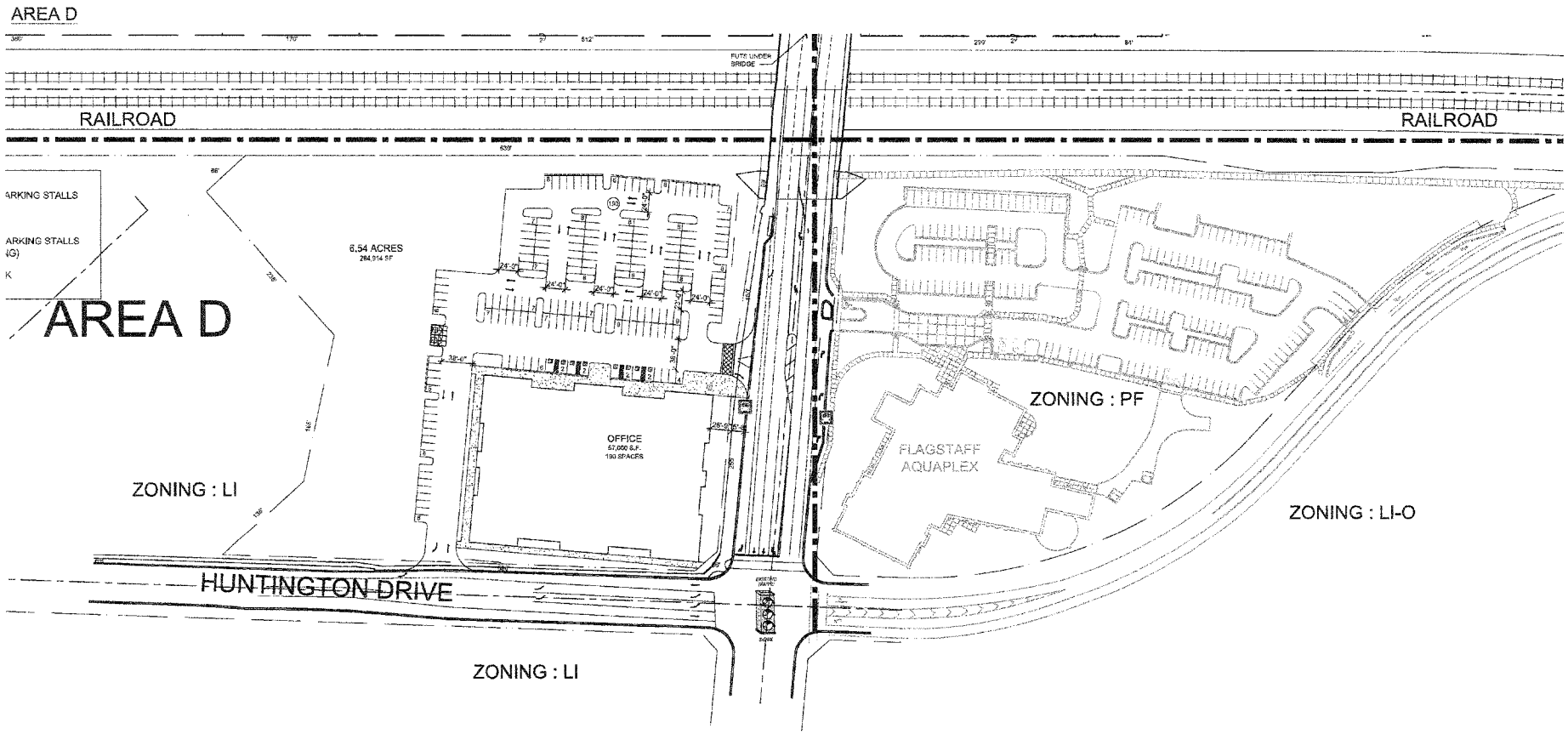
Standard Stall: 9' x 18' / Accessible Stall: 11' x 20' (HC included in overall count for each user)

Area D

Office: (1/300) 190 spaces required (7 HC)

190 spaces provided

(HC provided: 8 spaces)



THE TRAX

FOURTH STREET / ROUTE 66

PROPOSED REDEVELOPMENT SITE

Flagstaff, Arizona

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03-21-14

11086-ST17

Butler Design Group, inc

architects & planners

PROJECT TEAM

Developer:
Evergreen 2390 East
Camelback Rd.
Suite 410
Phoenix, AZ 85016
602-808-8600
Contact: Danny Backling

Architect:
Butler Design Group
3017 E. Washington St.
Suite 107
Phoenix, AZ 85034
602-957-7800
Contact: John Moganski

PROJECT NARRATIVE

The project consists of a multi-phase retail development in Flagstaff, Arizona.
The Site for Areas A, B and C are located at southwest and southeast corners of Route 66 and 4th Street.
The Site for Area D is located at the Northwest corner of 4th Street and Huntington Drive.
See separate project narrative for additional information.

SITE DATA

Site:

APN:	107-13-010(Area A & C) 107-13-009 (Area B) 107-13-011(Area D)
Existing Zoning:	LI (Light Industrial)
Proposed Zoning:	HC (Highway Commercial)
Site Area	
Area A & C :	800,750 S.F. (18.4 AC.)
(Area A):	*523,883 S.F. (12.0 AC.)*
(Area C):	*276,867 S.F. (6.4 AC.)*
Area B :	380,898 S.F. (8.7 AC.)
Area D :	284,914 S.F. (6.5 AC.)

BUILDING DATA:

Building:

Building Area (Area A):	73,856 S.F.
% Coverage:	14%
FAR:	.14
Building Area (Area B):	63,039 S.F.
% Coverage:	16.6 %
FAR:	.17
Building Area (Area C):	58,000 S.F.
% Coverage:	20.9%
FAR:	.21
Building Area (Area D):	57,000 S.F.
% Coverage:	20 %
FAR:	.20
Max. Building Height (10-40-30.040):	60 Feet

PARKING DATA:

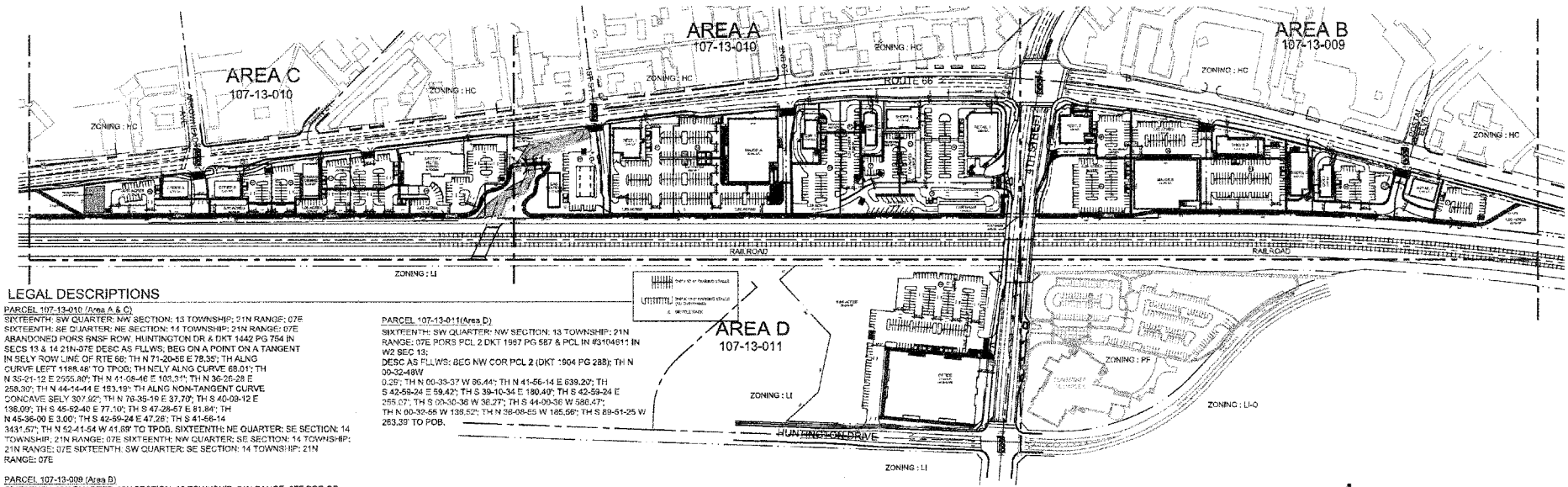
Standard Stall: 9' x 18' / Accessible Stall: 11' x 20' (HC included in overall count for each user)

Parking Spaces Totals:

Parking Required / Provided (Area A):	400 / 405
Parking Required / Provided (Area B):	318 / 302
Optional Parking (Area B):	25
Parking Required / Provided (Area C):	198 / 201
Parking Required / Provided (Area D):	180 / 190
TOTALS:	1106 / 1123

(See Area Sheets for Breakdowns)

0 75' 150' 300'
SCALE: 1" = 150'



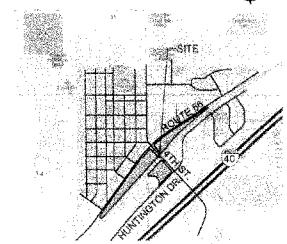
LEGAL DESCRIPTIONS

PARCEL 107-13-010 (Area A & C)
SIXTEENTH: SW QUARTER: NW SECTION: 13 TOWNSHIP: 21N RANGE: 07E
SIXTEENTH: SE QUARTER: NE SECTION: 14 TOWNSHIP: 21N RANGE: 07E
ABANDONED PORS BNSF ROW, HUNTINGTON DR & DKT 1442 PG 754 IN SECS 13 & 14 21N-07E DESC AS FLLWS; BEG ON A POINT ON A TANGENT IN SELY ROW LINE OF RTE 66; TH N 71-20-56 E 78.35'; TH ALNG CURVE LEFT 1188.48' TO TPOB; TH NELY ALNG CURVE 68.01'; TH N 35-21-12 E 2555.80'; TH N 41-08-46 E 103.31'; TH N 36-26-28 E 258.30'; TH N 44-14-44 E 153.19'; TH ALNG NON-TANGENT CURVE CONCAVE SELY 307.92'; TH N 78-35-19 E 37.70'; TH S 40-09-12 E 138.09'; TH S 45-52-40 E 77.10'; TH S 47-28-57 E 81.84'; TH N 45-36-00 E 3.00'; TH S 42-59-24 E 47.28'; TH S 41-56-14 3431.57'; TH N 52-41-54 W 41.89' TO TPOB. SIXTEENTH: NE QUARTER: SE SECTION: 14 TOWNSHIP: 21N RANGE: 07E SIXTEENTH: NW QUARTER: SE SECTION: 14 TOWNSHIP: 21N RANGE: 07E SIXTEENTH: SW QUARTER: SE SECTION: 14 TOWNSHIP: 21N RANGE: 07E

PARCEL 107-13-009 (Area B)
SIXTEENTH: NW QUARTER: NW SECTION: 13 TOWNSHIP: 21N RANGE: 07E POR OF BNSF RR (DKT 918 PG 574) & PCL 1 (DKT 1987 PG 587) IN LOT 2 SEC 13; DESC AS FLLWS: BEG POINT OF TANGENCY IN SELY ROW OF RTE 66 NE OF 4TH ST; TH N 56-57-16 E 35.78' TO TPOB; TH N 58-57-16 E 1154.90'; TH S 33-02-44 E 38.46'; TH ALNG NON-TANGENT CURVE CONCAVE SELY 1430.75'; TH S 41-56-14 W 205.84'; TH S 48-03-46 E 12.00'; TH S 41-56-14 W 373.32'; TH N 42-59-24 W 53.01'; TH N 28-59-56 W 50.86'; TH N 40-09-12 W 223.43'; TH N 05-56-36 E 37.99'; TH ALNG NON-TANGENT CURVE CONCAVE SELY 171.37'; TH N 31-15-33 E 21.79'; TH ALNG NON-TANGENT CURVE CONCAVE SELY 117.07'; TH N 51-55-35 E 141.45'; TH ALNG NON-TANGENT CURVE CONCAVE SELY 342.92'; TH N 49-02-29 E 29.52' TO TPOB. SIXTEENTH: SW QUARTER: NW SECTION: 13 TOWNSHIP: 21N RANGE: 07E

PARCEL 107-13-011(Area D)
SIXTEENTH: SW QUARTER: NW SECTION: 13 TOWNSHIP: 21N RANGE: 07E PORS PCL 2 DKT 1987 PG 587 & PCL IN #3104611 IN W2 SEC 13;
DESC AS FLLWS: BEG NW COR PCL 2 (DKT 1904 PG 288); TH N 00-32-49W 0.26'; TH N 00-33-37 W 86.44'; TH N 41-56-14 E 639.20'; TH S 42-59-24 E 59.42'; TH S 39-10-34 E 180.40'; TH S 42-59-24 E 255.07'; TH S 00-30-36 W 36.27'; TH S 44-00-36 W 586.47'; TH N 00-32-55 W 138.52'; TH N 38-08-55 W 185.56'; TH S 89-51-25 W 263.39' TO POB.

VICINITY MAP



THE TRAX

FOURTH STREET / ROUTE 66

PROPOSED REDEVELOPMENT SITE

Flagstaff, Arizona

03-21-14
11086-ST17

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architects & planners

EXHIBIT C

ADOT Memorandum Dated February 8, 2014

MEMORANDUM

TO: Warren Sutphen, Flagstaff District Permits Office

FROM: Walter K. Link, Northern Regional Traffic Office (NRT)

DATE: February 8, 2014

RE: Trax Development, 2nd submittal, received December 16, 2013

Review comments on the 2nd submittal consist of evaluation to responses from the initial review. Only responses from the permittee that require additional comments or follow-up are presented. The following are recommendations to the Flagstaff District Permits Office concerning traffic engineering related concepts.

Item Number 1 (1st St. Signal):

Comment from initial review concerning the traffic signal warrant analysis at First Street/B40:

The traffic signal warrant analysis for the First Street/ Route 66/ Site Driveway needs to be more rigorous and provide some narrative about the decision to signalize. The Department requires explanation and justification to signalize in addition to meeting the numerical criteria. Please consult ADOT PGP 611 for a discussion on estimating or projecting warrants. Also, please provide a diagram of the expected layout of the signalized intersection including roadway geometrics, parking (internal throat distances), driveways, sidewalks, etc. pertinent to the study. The needs study should also include an analysis of and the need for and location of pedestrian signals, pedestrian push-buttons, and marked crosswalks. Access to existing business on the North side of Route 66 should be depicted and impact to their driveways discussed with mitigation.

Permittee response: Conceptual design and additional signal warrant detail will be provided with permit submittal.

NRT Comment: The above review comment stands: it is unwise to wait until a permit submittal to establish whether a traffic signal at First St/B40 will be allowed. Substantial delay will be incurred during the permitting process. If a traffic signal is approved, PGP 614(Review Process of Traffic Signals for Permits) must be followed; this process is also time-consuming.

Item Number 2 (Pedestrian Crossing):

Comment from initial review concerning pedestrian crossing of B40 to access development:

The TIA briefly discusses earlier ADOT concerns over pedestrian crossings of B40 to access the development. This remains a concern and given the distances of 1,200 feet and 1,400 feet between a potential traffic signal at 1st Street and Arrowhead and 4th St. signals respectively, the situation may not wait for an area wide planning effort as the TIA suggests. There is no such planning effort or project underway using public money to address this concern. As the TRAX development is the primary driving mechanism for these likely pedestrian movements the TIA needs to further analyze and either satisfy the Department these crossings are unlikely to occur or provide alternative solutions.

Permittee response: Additional discussion was added to the TIA and is paraphrased here. Medians were investigated and existing pavement width was found to be inadequate for pedestrian refuge. Further, there would be impact to existing driveways on the north side. "Median configuration and access control changes would best be addressed in the context of an area wide planning effort to address improvements to mitigate regional traffic demand" Further, the TIA discusses the distances between existing traffic signals and the proposed 1st St signal would provide approximately 600 feet between signalized crossings. "Since the likely pedestrian paths for potential users of the site will utilize routes that pass by signalized pedestrian crossings, additional pedestrian crossing provisions are not anticipated to be needed"

NRT Comment: The regional traffic engineer remains concerned the development has not made provision to address potential pedestrian crossing issues created expressly by the development. Admittedly, it is difficult to predict pedestrian volumes and crossing paths. The permittee should enter discussion with the City of Flagstaff (COF) regarding bonded provisions for an independent engineering study and pedestrian mitigation construction following the opening of the development and settling of vehicle and pedestrian traffic. After sufficient time, pedestrian volumes, patterns and concerns should be evident. This time could occur up to 12 months after the last parcel is developed. If the study did not develop into a project, any remaining bonded funds would be returned to the permittee. Until such agreement is made, or other analysis and/or mitigation provided, recommendation to approve access permits for the development cannot be provided.

Item Number 3 (Lighting):

Comment from the initial review concerning roadway and pathway lighting levels along the south side of B40 along the development frontage:

Recommend the TIA be modified to provide a stronger position on roadway and pathway lighting than it "should be considered". The Regional Traffic Office recommends an encroachment permit not be issued until a satisfactory study is completed and approved. This study will need to precede construction documents. Although the City of Flagstaff maintains lighting within the ADOT Right-of Way in City Limits via an intergovernmental agreement - the roadway lighting must be designed utilizing the illuminance method with appropriate design values and uniformity ratio selected. ADOT PGP 700 and AASHTO's Roadway Lighting Design Guide would be the primary reference documents.

Permittee response: Additional lighting discussion added. "Due to the increase in activity along the Route 66 frontage of the project and the addition of new access points, lighting levels should be

reviewed along Route 66 to ensure adequate visibility for motorist and pedestrians. It should be implemented according to local standards and practices during the permitting process. A lighting analysis should be provided along with the encroachment permit submittal"

NRT Comment: Although the City of Flagstaff will maintain the roadway lighting after its construction, the lighting design and target values will need to be approved by ADOT. It is recommended this analysis and design approach be completed prior to the permit submittal. Typically, the permit submittal would contain the construction plans for the lighting system: the target values for maintained illuminance and uniformity ratio and related discussions should take place prior to avoid excessive delay in the permitting process.

Item Number 4 (2nd Street):

Comment from the initial review concerning the site access driveway at 2nd Street and Route 66:

> *Site Driveway at 2nd Street. As above, please provide the Synchro HCM unsignalized capacity analysis report. Independent work suggests both AM and PM peak hour level of service for the NB left is poor. The westbound dedicated left-turn lane described in the report would appear to result in access issues for at least one property on the north side of Route 66. Please discuss and suggest mitigation for both concerns.*

Permittee response: The access point is intended to be full-movement. HCM 2010 TWSC worksheets were included.

NRT Comment: Volumes for the SB movements from 2nd St and the EB left from Route 66 were not included in the analysis; however, with and without those volumes the NB left onto WB Route 66 is anticipated to have a Level of Service of F in both the AM and PM peak hours. Typically, an LOS of F for any individual movement for a new site driveway would be cause to eliminate the movement through a raised island. At this location, I would recommend allowing the driveway to be permitted as outlined in the TIA. The low volumes estimated to make this turn coupled with the availability of the proposed traffic signal at 1st St. should allow this driveway to function in an overall acceptable manner. As the encroachment permit is not a static permit, the permittee can be approached at a later time if the NB left movement onto Route 66 creates concerns. A likely mitigation would be the construction of a raised island preventing a left out movement from this driveway.

The TIA recommends a Westbound Left-Turn lane on Route 66 with 240 feet of storage be implemented through striping. After field-reviewing this location, it is recommended a dedicated left-turn lane **not be implemented through re-striping.** Rather, the Two-Way-Center-Turn-Lane (TWCTL) continues to function as it currently is. If the TWCTL is removed and replaced, access into and out of driveways on the north side of Route 66 will be impacted. Although left-turning movements across double-yellow striping are a legal maneuver, driver behavior often does not follow the specifics of law in this case. Additionally, utilizing the TWCTL is consistent with other locations at non-signalized intersections in the area.

Item Number 5 (4th St/Rte 66):

Comment from the initial review concerning 4th St. and Route 66:

Analysis presented for 4th St/Rte 66 in the 2015 Total Traffic Scenario predicts the EB left and the WB left will deteriorate to LOS E and F respectively. Under ADOT Policy 240, mitigation is needed.

Permittee response: Discussion of impact of background traffic growth and lack of mitigation and alternative land use options added.

NRT Comment: The development will cause deterioration in the Level of Service at the Route 66/4th Street intersection. ADOT Policy acknowledges and allows a deterioration in urban areas to an LOS of D. The project will deteriorate all four left turning movements to below LOS D by 2017 when all parcels are complete. The NB left movement from 4th Street onto WB Route 66 in the PM peak hour will deteriorate from an LOS of D (2015 background) to LOS F in 2017 with Total traffic. Other left-turn movements will deteriorate from D to E. Typically, ADOT policy would require mitigation in a manner to not allow further degradation of the approach delay from LOS D or lower. The Route 66/4th St. intersection is currently at a maximum practical configuration by providing dual left-turn lanes in all directions. The ability to prevent individual movements from deteriorating below LOS D cannot be achieved by timing alone and geometric changes are not feasible. Complex interactions between travel patterns and demand use by the public combined with other retail developments in the area constantly changing in location and scope, can mitigate travel patterns in ways hard to predict. It is recommended that adherence to policy at this location be waived as compliance would likely require such fundamental change in the development as to render it infeasible.

Item Number 6 (Main St. – Site Driveway D1/Route 66):

NRT Comment: The TIA recommends a Westbound Left-Turn lane on Route 66 with 200 feet of storage be implemented through striping. After field-reviewing this location, it is recommended a dedicated left-turn lane **not be implemented through re-striping.** Rather, the Two-Way-Center-Turn-Lane (TWCTL) continues to function as it currently is. The same rationale discussed in Item Number 4 above.

Comments prepared by:

By: Walter K. Link Date: 2-8-14

Walter K. Link, P.E.
Northern Region Traffic Engineer
Arizona Department of Transportation
State of Arizona (Civil), License 25979

EXHIBIT D

Ordinance No. 2014-14

ORDINANCE NO. 2014-14

AN ORDINANCE AMENDING THE FLAGSTAFF ZONING MAP DESIGNATION OF APPROXIMATELY 33.6 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF ROUTE 66 AND FOURTH STREET, FROM LIGHT INDUSTRIAL ("LI") AND LIGHT INDUSTRIAL OPEN ("LI-O"), TO HIGHWAY COMMERCIAL ("HC").

RECITALS:

WHEREAS, the applicant has applied for a Zoning Map amendment of approximately 33.6 acres of real property located within the City of Flagstaff, a legal description of which is designated as **Exhibit "A"**, attached hereto and incorporated by this reference, from "LI," Light Industrial, and "LI-O," Light Industrial Open, to "HC," Highway Commercial, for purposes of developing a commercial retail center with approximately 250,000 square feet of commercial building space; and

WHEREAS, the Council finds that the applicant has complied with all application requirements set forth in Chapter 10-20 of the Flagstaff Zoning Code; and

WHEREAS, the Planning and Zoning Commission has formally considered the proposed Zoning Map amendment application, following proper notice and hearings, on May 14, 2014 and May 28, 2014, with the result that the Planning and Zoning Commission has recommended approval of the requested Zoning Map amendment application, subject to the following conditions:

1. That the subject property is developed in substantial accordance to the entire conceptual plans approved by the Inter-Division Staff (IDS) on April 3, 2014, with the zoning map amendment request.
2. That all terms, conditions and restrictions detailed within "Development Agreement and Waiver between City of Flagstaff and Evergreen-TRAX, L.L.C." are fully satisfied.

WHEREAS, the City Council has read and considered the staff reports prepared by Current Planning Division staff and has considered the narrative prepared by the applicant; and

WHEREAS, staff recommends approval of the Zoning Map amendment application, subject to the condition proposed by the Planning and Zoning Commission, and the Council has considered the condition and has found it to be appropriate for the site; and

WHEREAS, the Council finds that the proposed Zoning Map amendment with the condition will not be detrimental to the uses of adjoining parcels or to other uses within the vicinity;

ENACTMENTS:

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

SECTION 1. The foregoing recitals are incorporated as if fully set forth herein.

SECTION 2. The zoning map designation for the subject property is amended to "HC," Highway Commercial.

SECTION 3. That City staff is hereby authorized to take such other and further measures and actions as are necessary and appropriate to carry out the terms, provisions and intents of this Ordinance.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

When recorded, mail to:

City Clerk
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

DEVELOPMENT AGREEMENT AND WAIVER
between
City of Flagstaff
and
Evergreen – TRAX, L.L.C.

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is entered into this _____ day of _____, 2014, by and between the City of Flagstaff, an Arizona municipal corporation ("**City**"), and Evergreen - TRAX, LLC, an Arizona limited liability company ("**Developer**"). City and Developer are sometimes referred to herein collectively as the "**Parties**."

RECITALS

A. A.R.S. § 9-500.05 authorizes the City to enter into development agreements with landowners and persons having an interest in real property located in the City.

B. Developer is the owner of approximately 33.6 acres of real property generally located at the intersection of Route 66 & Fourth Street, within the corporate limits of Flagstaff, Arizona, more specifically described and depicted in ***Exhibit "A"*** (the "**Property**").

C. The Property is currently zoned Light Industrial ("**LI**") and Light Industrial – Open ("**LI-O**") and the Developer is requesting a zoning map amendment to Highway Commercial ("**HC**").

D. Under the 2001 Flagstaff Regional Land Use and Transportation Plan, in effect on the date Developer first made application, the Property is currently designated Office/Business Park/Light Industrial and Light/Medium Industrial and the Developer is requesting an amendment to Community/Regional Commercial.

E. The City has an interest in ensuring that the development of the Property complies with City standards for development and engineering improvements, and the City believes that development of the Property pursuant to this Agreement will result in planning, safety, and other benefits to the City and its residents.

F. The Developer acknowledges that development of the Property pursuant to this Agreement will be beneficial and advantageous to the Developer by providing assurances to the Developer that it will have the ability to develop the Property within the City pursuant to this Agreement, under the zoning described in Recital C above, and in accordance with the Conceptual Site Plan.

G. The City and Developer acknowledge that this Agreement is a development agreement pursuant to the provisions of A.R.S. § 9-500.05.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in order to fulfill the foregoing objectives, the Parties agree as follows:

1. INCORPORATION OF RECITALS

Each of the recitals set forth above is incorporated into this Agreement as though fully set forth herein.

2. DEFINITIONS

The following terms shall have the meanings set forth below whenever used in this Agreement, except where the context clearly indicates otherwise:

2.1 "**City**" shall mean and refer to the City of Flagstaff, an Arizona municipal corporation, and any successor public body or entity.

2.2 "**Developer**" shall mean and refer to Evergreen - TRAX, LLC, an Arizona limited liability company, and any permitted successor-in-interest or assignee of Evergreen - TRAX, LLC acquiring a specific Phase of the Project as contemplated pursuant to Section 11.14.

2.3 "**Improvements**" shall mean and refer to all the improvements which may be constructed from time to time as part of the Project, including, without limitation, public roads, utilities, driveways, landscaping and other improvements of any type or kind to be built by Developer.

2.4 "**Phase**" shall mean and refer to each separate component or portion of the Project which is or may be developed by Developer pursuant to this Agreement.

2.5 "**Project**" shall mean and refer to the development of the Property for the uses, intensities and densities currently shown in the approved Conceptual Site Plan.

2.6 "**Property**" shall mean and refer to all of the real property which is legally described in ***Exhibit "A"***.

2.7 "**Purchase and Sale Agreement**" shall mean and refer to the Purchase and Sale Agreement entered into between the City and Evergreen Devco, Inc., dated June 12, 2013, assigned to Developer via Assignment and Assumption of Contracts and Intangible Property Agreement dated August 13, 2013, and as amended pursuant to First Amendment to Purchase and Sale Agreement, dated June 6, 2014 and any further amendments.

3. CONCEPTUAL SITE PLAN

The City and Developer hereby acknowledge that the City approved the Conceptual Site Plan for the Project on April 3, 2014, attached hereto as ***Exhibit "B"*** and incorporated herein by this reference (the "**Conceptual Site Plan**"). The Conceptual Site Plan sets forth the basic land uses, intensity and density of such uses, relative height, bulk and size of buildings and structures proposed by Developer and approved by the City for development within the Property. Notwithstanding anything contained in the foregoing, however, the City acknowledges that while the Developer intends to develop the Project in general conformance with the Conceptual Site Plan, in order to make the Project economically viable and otherwise feasible, as the Project progresses through formal site plan review, Developer may request modifications to the Conceptual Site Plan and shall incorporate modifications as set forth in this Agreement. The City shall process all submittals made by Developer in conformance with below, and nothing contained herein shall preclude the City from the exercise of its normal review process and requirements in connection with its approval of such submittals. Modifications to the Conceptual Site Plan that exceed the thresholds set forth in Flagstaff Zoning Code Section 10-20.40.090.B.2 shall require a Zoning Map Amendment to process the requested modifications to the approved Conceptual Site Plans.

4. DEVELOPMENT STANDARDS

Development of the Property shall be governed by the City's codes, ordinances, regulations, rules, guidelines and policies controlling permitted uses of the Property, design review standards, the density and intensity of uses, the maximum height and size of the buildings within the Property, as well as the standards for off-site and on-site public improvements in existence as of the Effective Date of this Agreement, except as modified herein and by the Purchase and Sale Agreement; provided, however, that Developer obtains off-site construction permits for one or more components of the Project within two (2) years following the Effective Date of this Agreement. If Developer fails to obtain any off-site construction permits within this two (2) year period, then development of the Project shall be subject to the City's codes, ordinances, regulations, rules, guidelines and policies in effect at the time Developer applies for such construction permits. Notwithstanding the above, the parties expressly acknowledge and agree that the City reserves the right to adopt future ordinances assessing or imposing development fees under the authority of A.R.S. § 9-463.05, which shall be applicable to development of the Property. Developer agrees and understands that upon the Effective Date of this Agreement, all building permits and other fees normally applicable to construction within the City shall apply to the Project.

5. GUIDING PRINCIPLES

The Parties acknowledge that development activities for the Property may extend over several years, and that many of the requirements and procedures provided for in this Agreement contemplate that use of the Property in the future and may be subject to procedures, requirements, regulations, and ordinances not presently in effect, as well as actions and decisions by City staff and officials which cannot be provided for with particularity at the time the

Agreement was executed. With respect to such, the Parties agree that they will act in good faith and with reasonableness in implementing, operating under, and exercising the rights, powers, privileges and benefits conferred or reserved by this Agreement or by law. However, denying a permit for the Developer's failure to meet the City's criteria for such permit shall not be deemed a breach by the City of this Agreement.

6. PROJECT DESCRIPTION, SITE LAYOUT AND DESIGN STANDARDS

6.1 Commercial Development. The Project, as contemplated by this Agreement and as depicted in the Conceptual Site Plan, will consist of approximately two hundred fifty thousand (250,000) square feet of building space. The site layout of the commercial portion of the Project must conform generally to the arrangement of buildings as depicted in the Conceptual Site Plan. Developer may submit commercial buildings individually or in groups of buildings to the City for development review approval, and the approval process for such submissions will proceed for the building or buildings submitted without the requirement that other buildings proceed through the development review process simultaneously.

6.2 Pedestrian Pathways. Clear, direct, safely lit, and continuous pedestrian pathways are required between public sidewalks and adjacent commercial buildings located within the Project, as generally depicted in the Conceptual Site Plan. In addition, clear, direct, safely lit, and continuous pedestrian pathways are required through private parking lots between adjacent commercial buildings located within the Project. These pedestrian pathways will include a distinct, all-weather surface material, such as stamped or colored concrete, and will be located in conjunction with landscape islands. To the maximum extent feasible, the location of pedestrian pathways shall be coordinated with FUTS access pathways, as described in Section 7.2, Flagstaff Urban Trail System, below.

6.3 Design Standards. Developer will follow the City's architectural standards with regard to exterior building materials and colors, which will conform to the City's Design Review standards. Developer will ensure that massing, bulk and scale of commercial buildings will also conform to these standards.

7. DEVELOPER OBLIGATIONS

7.1 Construction of Public and Other Related Improvements. Prior to issuance of a grading permit for any phase or component of the Project, Developer shall provide security, in a form satisfactory to the City as set forth in the City's Zoning Code, that public and other related improvements will be constructed in accordance with approved plans. Developer shall, at its sole expense, construct or cause to be constructed all public and other related improvements as required by the City's codes, ordinances, and this Agreement, and in accordance with approved specifications, as well as those public and related improvements required by the Arizona Department of Transportation ("**ADOT**") as a condition of approval. Following the construction of the described public improvements, and dedication of same to the City, unless otherwise provided, the City shall assume, at its expense, the maintenance and repairs of all public improvements in accordance with City policies. The Developer agrees that the construction of

the public and other related improvements will coincide with the phased development of the Project.

7.2 Right-of-Way Acquisition. Developer shall be responsible for acquiring the right(s)-of-way necessary for all public improvements required by the State of Arizona, Department of Transportation ("ADOT") through good-faith negotiation with the property owner. Developer shall follow the requirements in Title 12 of the Arizona Revised Statutes for acquisition of the property as if the Developer was a government entity obtaining property by eminent domain. Developer will work with the City's Real Estate Manager from the beginning of the negotiation process to ensure compliance with statute and to expedite the process. Developer will use its best efforts to design the public-improvement project required by ADOT in a method that requires the least amount of property acquisition.

If the Developer is unable to acquire the right(s)-of-way within a reasonable timeframe and after the exercise of reasonable diligence, then Developer shall request in writing that the City initiate eminent-domain proceedings to acquire the right(s)-of-way. The City shall be the arbiter of whether or not the Developer has exhausted its ability to negotiate with the property owner(s), but shall be reasonable in its judgment. Once it has been determined by the City that the Developer has exhausted its ability to negotiate with the property owner(s), the City shall promptly proceed in accordance with the state's eminent domain laws, (ARS 12-1111, et. seq.) and use its best efforts to expedite acquisition.

The City's obligation to initiate eminent domain proceedings is contingent upon: 1) ADOT entering into an Agreement with the City that allows the City to exercise eminent domain to acquire right-of-way for the public improvements within the ADOT's jurisdiction; 2) a determination by the City Engineer that the construction plans for the project indicate that : a) no property that will be acquired for right-of-way that contains a habitable structure, and b) the Developer has used its best efforts to design the public improvements to minimize the amount of property needed for the project relative to the right-of-way acquisition, and 3) Developer providing funding for all costs of such right(s)-of-way acquisition, including the fair-market value of the subject property, severance damage, cost to cure, appraisal costs, expert witnesses, legal costs including attorneys' fees, and City staff and administrative costs, as the City may deem necessary and appropriate. The City shall be responsible for choosing the attorneys, appraisers and any other experts who will handle the eminent domain proceedings, with approval by the Developer. If City's final costs exceed the amount deposited by Developer, Developer shall pay the balance to the City promptly upon request by the City. If city's final costs are less than the amount deposited by Developer, City shall promptly pay the difference to Developer upon a court's issuance of a final order of condemnation.

7.3 Flagstaff Urban Trail System ("**FUTS**"). The Developer, at its sole cost and expense, shall construct a concrete high-speed FUTS trail in accordance with City standards, except as modified by the Purchase and Sale Agreement, through a portion of the Property, as generally depicted in the Conceptual Site Plan. This FUTS trail cross section shall consist of a minimum ten foot (10') wide concrete trail, with a minimum two foot (2') wide shoulder adjacent to that portion of the FUTS trail fronting the railroad right-of-way, and a minimum five foot (5') wide landscaping buffer adjacent to that portion of the FUTS trail fronting the Project,

except for that portion of the FUTS trail abutting that parking lot directly serving the building designated as "Major A" on the Conceptual Site Plan. This portion of trail need not meet the minimum five foot (5') wide landscaping buffer, and, at the Developer's discretion, may be reduced to two feet (2'). The construction of the FUTS trail shall be phased and coordinated in conjunction with the overall phasing of the Project, as set forth in Section 8, Phasing, below. For any phase of the Project occurring in any one of those sections of the Property designated Area A, B and C on the Conceptual Site Plan, a corresponding section of the FUTS trail, extending the entire length of either Area A, B or C, shall be constructed unless otherwise approved by City staff. In addition, until the entire FUTS alignment has been constructed and opened to the public, Developer agrees to maintain pedestrian and bicycle connectivity between any phase of FUTS construction and the current FUTS alignment. Such temporary connection(s) shall be ten feet (10') in width and paved in accordance with City standards and specifications unless otherwise approved by City staff. Further, Developer agrees to provide three (3) FUTS access pathways through the Project. Such pathways shall serve as a connection between those pedestrian and bicycle resources adjacent to Route 66 and the FUTS trail. FUTS access points shall be located in the general area of the intersection of Route 66 & Arrowhead Avenue, Route 66 & First Street, and Route 66 & Postal Boulevard. FUTS access pathways shall not be gated or otherwise obstructed and shall be open to the general public at all times.

7.4 Outdoor Public Space. Pursuant to Section 10-30.60.060.B.1 of the Flagstaff Zoning Code, Developer agrees that a minimum five percent (5%) of the Property, seventy-two thousand nine hundred sixty-three (72,963) sq. ft. ("**Outdoor Public Space Requirement**"), shall be devoted to outdoor pedestrian amenity areas which shall act as transition spaces between parking areas and the entrance(s) to adjacent commercial buildings. Outdoor pedestrian amenity areas shall include landscaping, structures providing protection from the weather, benches, tables, or other pedestrian friendly features. At the Developer's sole discretion, that portion of the Property necessary for fulfilling Developer's FUTS obligations, forty-seven thousand eight hundred (47,800) sq. ft., may be treated as an offset against the Outdoor Public Space Requirement. Developer agrees that the areas on both sides of the historic trestle bridge, described in Section 7.4, below, shall, to the maximum extent feasible, be used as outdoor pedestrian amenity areas.

7.5 Trestle Bridge. Developer agrees that the historic trestle bridge spanning the Spruce Avenue Wash, currently connecting those portions of the Property designated Area A and Area C on the Conceptual Site Plan, shall be preserved in its current location and in its current form, and shall be used to provide vehicular and/or pedestrian connectivity between Area A and Area C.

7.6 Drive-through Facilities. Developer agrees that drive-through facilities shall be designed to ensure the safe movement of pedestrians from public sidewalks to commercial building entrances, as well as the safe movement of vehicular traffic in parking lots. To the maximum extent feasible, Developer agrees to comply with the "Specific to Uses" requirements as detailed in Section 10-40.60.160, Drive-through Retail, of the City's Zoning Code.

7.7 Pedestrian Crossing Study and Improvements. Prior to the recording of the Final Plat for the Property, Developer agrees to place One Hundred Seventy Nine Thousand Dollars

and 00/100 ($179,000.00) ("**Pedestrian Study Contribution**") into a dedicated City escrow account to be used for a pedestrian crossing study and any recommended improvements to Route 66 related to the development of the Property. Specifically, these escrowed funds shall be utilized by the City for (i) a pedestrian crossing study which will evaluate the crossing patterns of pedestrians to, through, and from the Project; and (ii) additional pedestrian safety improvements on Route 66, if any, identified in the study. Following the placement of the Pedestrian Study Contribution into the City's dedicated escrow account, Developer shall have no further obligations or liability, financial or otherwise, with respect to the pedestrian crossing study or the installation or maintenance of those improvements identified therein. Should the pedestrian crossing study recommend no improvements or improvements that cost less than the Pedestrian Study Contribution, the monies in the escrow account will be refunded to the City first, up to the City's $59,000.00 contribution. Any remaining funds in the escrow account after the refund to the City will be refunded to Developer.

7.8 Route 66 Lighting. Developer agrees to implement those measures set forth in the Arizona Department of Transportation Submittal Review Memorandum dated February 8, 2014 ("ADOT Memorandum"), attached hereto as ***Exhibit "C"*** and incorporated herein by this reference, detailing those improvements that Developer is obligated to make to ADOT owned fixtures, facilities, improvements, and rights-of-way. In particular, Developer agrees to improve the street lighting along the entire frontage of Route 66 adjacent to the property to a standard of PGP 700 and AASHTO's Roadway Lighting Design Guidelines with a modification to utilize Low Pressure Sodium source of lighting exclusively. Upon acceptance, Developer shall not be responsible for the maintenance, repair, or replacement of those improvements required as a condition of ADOT approval, as set forth in the ADOT Memorandum. The Parties agree that ***Exhibit "C"*** shall be automatically amended, without further action of the Parties, at such time as ADOT provides developer with a revised Submittal Review Memorandum addressing Developer's obligations in regard to ADOT owned fixtures, facilities, improvements, and rights-of-way resulting from the Project.

7.9 Dedication of Public Easements. Public utility and drainage easements with respect to the Project must be identified on the construction plans and dedicated prior to issuance of building permits. Dimensions for these easements must be in accordance with City and ADOT requirements. A minimum fifty foot (50') wide public utility easement, generally located in the area of the Spruce Wash and specifically identified on Sheet SP01 of the Conceptual Site Plan, shall be identified on all relevant construction plans.

7.10 Water and Sewer. Water and sewer mains must be designed and extended by Developer at Developer's cost in accordance with the approved water and sewer impact analysis and the 2012 City of Flagstaff Engineering and Design Standards.

7.11 Dedication of Public Rights-Of-Way. Public rights-of-way for all streets must be identified on the Final Plat and dedicated with Final Plat approval. Dimensions for these rights-of-way and easements must be in accordance with City standards and requirements.

7.12 Existing and Modified Streetscape Landscaping. Existing streetscape landscaping along adjacent public rights-of-way must be maintained, transplanted to equivalent locations, or

replaced with landscaping of a similar species in equivalent locations. Existing streetscape landscaping can be used to offset the landscape requirements of the Flagstaff Zoning Code. Pursuant to the Flagstaff Zoning Code, a minimum ten foot (10') wide landscaping buffer adjacent to public thoroughfares, which does not include public right-of-way, is required for those sections of the Property designated Area A, B, C and D on the Conceptual Site Plan. However, the Parties agree that in Area A, B, or C, the Developer may utilize public right-of-way to meet the ten foot (10') wide landscaping buffer requirement. The Parties agree that a minimum five foot (5') wide buffer, not including a sidewalk, shall be maintained behind public right-of-way when adjacent to buildings. For parking lots fronting the right-of-way, the Developer shall construct a three-and-a-half foot (3.5') high screen wall in combination with the required ten foot (10') wide landscaping buffer requirement.

7.13 Zoning. Developer hereby agrees to be subject to all the terms, conditions, and stipulations of City Ordinance No. 2014-14, attached hereto as ***Exhibit "D"*** and incorporated herein by this reference.

7.14 Permits and Building Fees. Developer agrees and understands that upon the Effective Date of this Agreement, all building permits, development fees, and other fees normally applicable to construction within the City shall apply to the Project.

8. PHASING

The Parties acknowledge that development of the Project will be affected by numerous factors outside the control of the Developer, e.g., general economic conditions, interest rates, and market demand. Accordingly, the City acknowledges that the Developer may submit multiple applications from time-to-time to develop and/or construct portions of the Conceptual Site Plan for the Project in phases as long as each phase provides for the logical extension of vehicle and pedestrian connectivity, infrastructure, and utilities through the Project, as approved by the City, in compliance with the terms of this Agreement and other applicable provisions of the City's codes, ordinances, regulations, rules, guidelines, and policies. Further, each phase of this development must be designed and constructed to stand alone in perpetuity per Subdivision Regulation 11-20.130.010.B, as well as the approved water and sewer, traffic and drainage impact analyses. Specific phasing for the FUTS trail is addressed in Section 7.2, Flagstaff Urban Trail System, above.

9. DEVELOPMENT PROCESS

9.1 Diligence in Responding to Approval Requests. The City hereby acknowledges and agrees that development of the Property may occur over a span of a number of years and will require the City's ongoing participation in the review and approval of modifications and amendments to any phasing plans, site plans, infrastructure plans, drainage plans, design plans, building plans, grading permits, building permits, archaeological and historic preservation review and disposition, and other plans, permit applications, and inspections, which are a part of the City's current building and development requirements (hereinafter collectively called "**Approval Requests**"). The City hereby agrees that, in connection with all such Approval Requests relating to the planning or development of the Property or any portion thereof, and the

construction of Improvements thereon, it shall cooperate with Developer in good faith to process all such Approval Requests.

9.2 Manager's Power to Consent. The City hereby acknowledges and agrees that any unnecessary delay hereunder would adversely affect the Developer and/or the development of the Property, and hereby authorizes and empowers the City Manager or designee to consent to any and all requests of the Developer requiring the consent of the City hereunder without further action of the City Council, except for any actions requiring City Council approval as a matter of law.

10. DEFAULT; REMEDIES

10.1 Events Constituting Default. A party hereunder shall be deemed to be in default under this Agreement if such party breaches any obligation required to be performed by the respective party hereunder within any time period required for such performance, and such breach or default continues for a period of thirty (30) days, unless such breach or default cannot be fully resolved in thirty (30) days and such remedy is being diligently pursued, after written notice thereof from the party not in default hereunder. For purposes of determining default and termination, those Developer obligations set forth in Section 7, Developer Obligations, are severable, and each individual obligation shall terminate upon the successive completion of the individual obligation.

10.2 Dispute Resolution. In the event that there is a dispute hereunder which the Parties cannot resolve between themselves, the Parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the parties agree to attempt to settle the dispute by nonbinding mediation before the commencement of litigation. The mediations shall be held under the commercial mediation rules of the American Arbitration Association. The mediator selected shall have at least five (5) years experience in mediating or arbitrating disputes relating to commercial property development. The costs of any such mediation shall be divided equally between the City and the Developer or in such other fashion as the mediator may order. The results of the mediation shall be nonbinding on the Parties and any party shall be free to initiate litigation upon the conclusion of mediation.

10.3 Developer's Remedies. In the event that the City is in default under this Agreement and fails to cure any such default within the time period required therefore as set forth in Section 10.1 above, then, in that event, in addition to all other legal and equitable remedies which the Developer may have, the Developer may terminate this Agreement by written notice delivered to the City.

10.4 City's Remedies. In the event that the Developer is in default under this Agreement, and the Developer thereafter fails to cure any such default within the time period described in Section 10.1 above, then, in that event, in addition to all other legal and equitable remedies which the City may have, the City may terminate this Agreement by written notice delivered to the Developer.

10.5 Development Rights in the Event of Termination. With the exception of a termination that occurs under Section 10.3 above, upon the termination of this Agreement as provided herein, the Developer shall have no further rights to develop the Property pursuant to this Agreement.

10.6 No Personal Liability. No current or former member, official or employee of the City or Developer when acting within the scope of their official capacity shall be personally liable (a) in the event of any default or breach by the City or Developer, as applicable; (b) for any amount which may become due to the nonbreaching party or its successor or assigns; or (c) pursuant to any obligation of the City or Developer, as applicable, under the terms of this Agreement.

10.7 Liability and Indemnification. Developer shall indemnify, protect, defend and hold harmless the City, its Council members, officers, employees and agents for, from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, out of the performance of this Agreement by City or Developer, or nonperformance of this Agreement by the Developer.

11. GENERAL PROVISIONS

11.1 Effective Date and Term. This Agreement shall be effective (the "**Effective Date**") upon execution by the Parties hereto and recordation in accordance with A.R.S. § 9-500.05 (as amended). The term of this Agreement shall extend from the Effective Date of this Agreement and shall automatically terminate thirty (30) years from such date.

11.2 Notices. All notices and communications provided for herein, or given in connection herewith, shall be validly made if in writing and delivered personally or sent by registered or certified United States Postal Service mail, return receipt requested, postage prepaid, or by overnight mail by a reliable overnight delivery service to:

To City:

City Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

To Developer:

Evergreen – Trax, LLC
c/o Laura Ortiz
Evergreen Devco, Inc
2390 East Camelback, #410
Phoenix, Arizona 85016

With copy to:

Trax Investors, LLC
Robert Karber
2828 N. Central, Suite 1110
Phoenix, Arizona 85004

or to such other addresses as either party may from time to time designate in writing and deliver in a like manner. Any such change of address notice shall be given at least ten (10) days before the date on which the change is to become effective. Notices given by mail shall be deemed delivered seventy-two (72) hours following deposit with the United States Postal Service in the manner set forth above.

11.3 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.

11.4 Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Agreement.

11.5 Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. The Developer represents and warrants that it is duly formed and validly existing under the laws of the State of Arizona and that it is duly qualified to do business in the State of Arizona and is in good standing under applicable state laws. The Developer and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the party on whose behalf each individual is signing. The Developer represents to the City that by entering into this Agreement, the Developer has bound the Property and all persons and entities having any legal or equitable interest therein to the terms of the Agreement.

11.6 Entire Agreement. This Agreement, including the following exhibits which are incorporated into this Agreement by reference, constitutes the entire agreement between the Parties and supersedes any prior written or oral understandings or agreements between the Parties. This provision applies only to the entirety of this Agreement; additional and separate zoning stipulations and agreements with the City may apply to the Property, and this provision has no effect on them.

Exhibit "A" Legal Description of Property
Exhibit "B" Conceptual Site Plans
Exhibit "C" ADOT Submittal Review Memorandum dated February 8, 2014
Exhibit "D" Ordinance No. 2014-14

11.7 Amendment of the Agreement. This Agreement may be amended, in whole or in part, and with respect to all or any portion of the Property, only with the mutual written consent of the Parties to this Agreement or by their successors in interest or assigns. The City shall record the amendment or cancellation in the official records of the Coconino County Recorder.

11.8 Severability. If any other provision of the Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect.

11.9 Governing Law. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement. This Agreement has been made and entered into in Coconino County, Arizona.

11.10 Recordation of Agreement and Subsequent Amendment; Cancellation. The City will record this Agreement, and any amendment or cancellation of it, in the official records of the Coconino County Recorder no later than ten (10) days after the City and the Developer execute the Agreement, amendment, or cancellation, as required by A.R.S. § 9-500.05.

11.11 No Partnership; Third-Party. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture, or other arrangement between Developer and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

11.12 Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official, or employee of the City shall have a personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511.

11.13 Compliance with All Laws. Developer will comply with all applicable Federal, State, and County laws, as well as with all applicable City ordinances, regulations, and policies.

11.14 Successors and Assigns. Upon prior written notice to City, Developer may assign its interest in this Agreement, in whole or in part, to any entity that controls, is controlled by, or is under common control with Developer (including but not limited to a limited liability company of which the original Developer is a member), who undertakes to proceed with development of the Project. Provided that the assignee has provided City with the name, address and designated representative of the assignee, and has assumed the rights, liabilities and obligations of Developer under this Agreement pursuant to a written instrument (a true and correct copy of which shall be provided to City), then the assignor shall be released from any obligations or liabilities arising under this Agreement from and after the date of assignment. Neither Developer nor any permitted assignee of Developer may otherwise assign its interest in this Agreement, in whole or in part, without the prior written consent of the City, which consent may be reasonably withheld by the City. This Agreement shall be personal to Developer and its permitted successors and assigns, and shall not run with the land.

11.15 Vested Rights. Nothing in this Development Agreement shall preclude the Developer from claiming that the Developer has vested rights to complete the development of

the Project in accordance with currently applicable regulations based on the significant investment and improvements made on the Property by the Developer.

12. WAIVER OF CLAIM FOR DIMINUTION IN VALUE

Developer hereby waives and fully releases any and all financial loss, injury, claims, and causes of action that the Developer may have, now or in the future, for any "diminution in value" and for any "just compensation" under the Private Property Rights Protection Act (the "**Act**"), codified in A.R.S §§ 12-1131 through 12-1138, in connection with the application of the City's existing land use laws and including City Ordinance No. 2011-01 regarding the Property. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under the Act with regard to the subject Property. Developer agrees to indemnify, hold harmless, and defend the City, its officers, employees, and agents, from any and all claims, causes of actions, demands, losses, and expenses, including attorney's fees and litigation costs, that may be asserted by or may result from any of the present or future owners of any interest in the Property seeking potential compensation, damages, attorney's fees or costs under the Act that they may have, as a result of the application of the City's existing land use laws, including City Ordinance No. 2014-14, upon the Property.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

City of Flagstaff

_____
Gerald W. Nabours, Mayor

Attest:

_____
City Clerk

Approved as to form and authority:

_____
City Attorney

STATE OF ARIZONA)
COUNTY OF _____)

Evergreen – TRAX, LLC, an Arizona limited liability company

By: TRAX Investors, LLC, an Arizona limited liability company
Its: Manager

By:_____

Name:_____

Its:_____

ACKNOWLEDGMENT

On this _____ day of _____, 2014, before me, a Notary Public, personally appeared _____, 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 Evergreen - TRAX LLC, an Arizona limited liability company, Manager of TRAX Investors, LLC, an Arizona limited liability company, for the purposes therein contained.

_____
Notary Public
My Commission Expires:_____

PLANNING AND DEVELOPMENT SERVICES REPORT
ZONING MAP AMENDMENT

PUBLIC HEARING	**DATE:**	**May 6, 2014**
PREZ 2014-0002	**MEETING DATE:**	**May 14, 2014 & May 28, 2014**
	REPORT BY:	**Elaine Averitt**
	CONTACT:	**928-213-2616**

REQUEST:

Zoning Map Amendment to the official Zoning Map for approximately 33.6 acres to rezone property from Light Industrial (LI) and Light Industrial-Open (LI-O) to Highway Commercial (HC), located at the southwest and southeast corners of Route 66 and 4th Street, and the northwest corner of Huntington Drive and 4th Street on parcel numbers 107-13-009, 107-13-010, and 107-13-011.

STAFF RECOMMENDATION:

On May 14, 2014, open the Public Hearing, receive input and close the Public Hearing. On May 28, 2014, staff recommends approval of PREZ 2014-0002 with the conditions as noted in the Recommendation section of this report.

PRESENT LAND USE:

Undeveloped land in the Light Industrial (LI) and Light Industrial-Open (LI-O) zones.

PROPOSED LAND USE:

A commercial development, consisting of approximately 250,000 square feet of retail, service and office uses to be constructed on these three sites.

NEIGHBORHOOD DEVELOPMENT:

North:	Route 66, then Commercial Uses, HC Zone;
East:	Aquaplex, Light Industrial-Open Zone; Undeveloped Land, Light Industrial Zone;
South:	BNSF Railway, Industrial Uses and Undeveloped Land, Light Industrial Zone; Aquaplex is south of Area B, Light Industrial-Open Zone; Gore is south of Area D, Light Industrial zone;
West:	Undeveloped Land and Industrial Uses, Light Industrial Zone.

REQUIRED FINDINGS:

STAFF REVIEW. An application for an amendment to the Zoning Map shall be submitted to the Planning Director and shall be reviewed and a recommendation prepared. The Planning Director's recommendation shall be transmitted to the Planning Commission in the form of a staff report prior to a scheduled public hearing. The recommendation shall set forth whether the Zoning Map amendment should be granted, granted with conditions to mitigate anticipated impacts caused by the proposed development, or denied; and shall include an evaluation of the consistency and conformance of the proposed amendment with the goals of the General Plan and any applicable specific plans; and a recommendation on the amendment based on the standards of the zones set forth in Division 10-40.20 (Establishment of Zones).

FINDINGS FOR REVIEWING PROPOSED AMENDMENTS: All proposed amendments shall be evaluated as to whether the application is consistent with and conforms to the goals of the General Plan and any applicable specific plans; and the proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City and will add to the public good as described in the General Plan; and the affected site is physically suitable in terms of design, location, shape, size, operating characteristics and the provision of public and emergency vehicle access, public services, and utilities to ensure that the requested zone designation and the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located. If the application is not consistent with the General Plan and any other applicable specific plan, the applicable plan must be amended in compliance with the procedures established in City Code Title 11, Chapter 11-10 (General Plans) prior to considering the proposed amendment.

STAFF REVIEW:

Introduction/Background

As indicated in the previous report, this Zoning Map amendment (rezoning) request is the second of two related items on the Commission's agenda; the first item is identified as a *Regional Plan* amendment request. The rezoning request is to amend 33.6 acres of property from Light Industrial (LI) and Light Industrial-Open (LI-O) to Highway Commercial zone in the vicinity of Route 66 and 4th Street.

The site is currently vacant, undeveloped and un-subdivided land. At the date of this report, the property is owned by the City of Flagstaff. The applicant, Evergreen Devco, Inc., intends to close escrow on the property by September 2014 and following site plan and engineering construction plan approvals, to provide the development with new public and private infrastructure that includes roadway work, FUTS trail construction, water, sewer, and storm water infrastructure. The Regional Plan amendment report includes an attachment, "General Plan Amendment Submittal Requirement" narrative by the applicant, which provides additional information on the reason for the request and anticipated community benefits.

Land uses north of the property, across Route 66, consist of commercial buildings with uses that include motels, restaurants, auto repair, retail, plant nursery and offices. New commercial construction on the north side of Route 66 includes the completed Walgreens at the northeast corner of Route 66 and 4th Street, a new bank east of the Walgreens (in construction), and a Tractor Supply Co. (in construction) at the northeast corner of Route 66 and Arrowhead Drive. The east property line is the narrow end of the eastern parcel, east of Postal Boulevard and is only about 40 feet wide. This area is adjacent to vacant city-owned land. The western parcel (Areas A and C) is bordered on the south by BNSF railway, industrial uses, and undeveloped land. Area D at 4th Street and Huntington is bordered on the south by Huntington Drive and then W.L. Gore & Associates (light industry). The eastern parcel (Area B) is bordered on the south by the BNSF railway, then the Aquaplex and Industrial Drive further east. The west property line is the narrow end of the western parcel (about 65 feet wide) west of Arrowhead Drive and is adjacent to vacant city-owned land. The terrain on the Areas A, B, and C of the subject site is generally flat at an elevation ranging between approximately 6,840 to 6,860 feet. Other than some planted trees along Route 66, this area is mostly devoid of vegetation. Area D is flattest at the corner of 4th Street and Huntington, and then slopes down towards the west; it is has a fairly even distribution of Ponderosa pine tree resources.

If the zoning map amendment request is approved, the next steps in the process will be applications for Site Plan, followed by civil engineering and building plan permits. The shopping center will need to be platted;

however, a first phase with limited buildings may proceed prior to platting. A resolution for the development agreement must be approved prior to the second reading of the zoning ordinance (see attached draft development agreement). The development agreement will address responsibilities for constructing a FUTS trail, providing outdoor public space, preserving the trestle bridge, ensuring that construction of public improvements coincide with the phased development of the project, and designing drive-through facilities to ensure the safe movement of pedestrians and vehicles. Additionally, the Developer will be required to contribute an agreed upon monetary sum into the City's escrow account towards future I-40 Bridge improvements and to cover a pedestrian crossing study and any recommended improvements to Route 66 related to the development of the property. The development agreement also covers Route 66 lighting (ADOT requirements) and dedication of public easements and rights-of-way. The applicant received Inter-Division Staff (IDS) approval for the Conceptual Site Plan on April 3, 2014. The conditions of IDS review were addressed when the applicant submitted a revised Conceptual Site Plan for the Planning & Zoning Commission (P&Z). The conditions of P&Z submittal were satisfied so that staff could schedule the public hearings. Those conditions relating to requirements for future Site Plan submittals were agreed by the Developer in the "response to conditions." Any outstanding, unresolved provisions addressed in the Conditions of Approval will be included in the development agreement.

Proposed Development Conceptual Site Plan

The applicant, Evergreen Devco, Inc., is requesting a zoning map amendment for a multi-phase commercial development named "The Trax." The 33.6-acre site is located at the intersection of Route 66 and Fourth Street, and is adjacent to approximately one mile of the Burlington Northern Santa Fe railway, as seen on the attached Conceptual Site Plan. In 2006, the railway was re-located to the south, enabling construction of the Fourth Street Overpass and creating additional developable land on both sides of the new Fourth Street bridge. Access to the development will be created along Route 66 at Arrowhead Drive, First Street, Second Street, Postal Boulevard and two additional minor driveways. Access will be created from Fourth Street to the east and west sides of the shopping center. For Area D, access will be created from Fourth Street and from Huntington Drive. A Flagstaff Urban Trail System trail will be constructed along the rear portion of the shopping center adjacent to the railway, compatible with the Flagstaff Urban Trail System plan. The proposed timing of development will be dictated by market demand; however, the developer anticipates having the first users break ground by 2015, with other to follow between 2015-2022. Areas A and B are expected to be developed first and Areas C and D are anticipated to be completed later.

The applicant had two Conceptual Site Plans prepared which are attached with this application:
1) architectural plan with building and parking data (prepared by Butler Design Group, Inc.); and
2) preliminary engineering plan (prepared by Shephard Wesnitzer).

The proposed project consists of 195,000 square feet (sq ft) of commercial buildings and 931 parking spaces in Areas A, B, and C north of the railway, and a 57,000 sq ft office building and 190 parking spaces in Area D south of the railway. The development includes a variety of building types which are best described within the conceptual phasing areas (A, B, C, and D) as shown on the Conceptual Site Plan prepared by Butler Design Group. Starting at the west end of the project, Area C (beginning at Arrowhead) includes two 4,000 sq ft office buildings, a 5,000 sq ft casual dining building, and a 45,000 sq ft 3-story hotel. Area A (beginning roughly at N. First St.) depicts a gas station/convenience store, an 8,000 sq ft restaurant, a 30,000 sq ft "Major," two drive-through restaurants, a 6,570 sq ft multi-tenant retail building, a 12,900 sq ft retail building at the corner of Route 66 and 4th Street, and a car wash. Area B (beginning on the east side of 4th Street) includes a 7,940 sq ft restaurant, a 30,000 sq ft "Major," two multi-tenant shops (8,200 and 8,400 sq

ft), a drive-through restaurant, and 5,000 sq ft retail shop located at Postal Blvd. Area D (northwest corner of 4th St. and Huntington Dr.) proposes a 57,000 sq ft office building with surface parking.

Pedestrian amenities will be included in the development and are identified generally in the Conceptual Site Plan. The design of these amenities will need to be identified specifically in the more detailed Site Plan application for each building, or group of buildings, following the zoning case. In general, pedestrian amenities are provided adjacent to buildings, in pedestrian path locations between buildings and parking lots, and in unique areas such as the trestle bridge location over Spruce Wash. They may include open and covered seating, small plazas, and landscaped pedestrian walkways around the site. Architectural design is discussed under Design Review.

The developer will be required to complete the pedestrian sidewalk system along Route 66, 4th Street (at new driveway locations) and Huntington Drive, provide on-site landscaping, street buffer landscaping, outdoor lighting, and a new high-speed FUTS trail along the rear of the project.

General Plan/*Regional Land Use and Transportation Plan*

The *Flagstaff Regional Land Use and Transportation Plan* identifies the subject property as in the Office/Business Park/Light Industrial and Light/Medium Industrial categories. All substantive Regional Plan issues were addressed in the previous Regional Land Use and Transportation Plan amendment report. The proposed minor Land Use Amendment would change the designation to Community/Regional Commercial; thus if the Regional Plan amendment is approved, the rezoning request would comply with the Regional Plan.

Zoning/*Flagstaff Zoning Code*

If the rezoning request is approved and the 33.6-acre site is rezoned to Highway Commercial (HC) Zone, the proposed commercial development will be considered a permitted use in the HC zone. Per the Flagstaff Zoning Code, Retail Trade, Drive-through Service, Restaurant, General Services, Office uses, Automobile Service Stations and Convenience Stores, Car Washes, Lodging (e.g., hotels, motels) are all classified as allowed uses in the HC zone (Section 10-40.30.040, p.40.30-15 through 40.30-18). Under the current LI and LI-O zoning, most of these uses (e.g., General Retail, Restaurants, Offices) would only be allowed with a Conditional Use Permit or not allowed at all (e.g., no lodging, or drive-through uses permitted in the LI zone) and auto service stations are not allowed in the LI or LI-O zones.

Table 1 compares development standards for existing LI and LI-O zones, compared to the proposed development with the requested HC zone. Resource protection only applies to Area D, 6.5 acres, at Huntington and 4th Street. The requested HC zone has a higher level of forest resource protection (30%) than the current light industrial zone requires (20%). Approximately 37% of the tree resources will be preserved. There is no difference in slope protection requirements between the existing and proposed zones.

There will be no change in the maximum permitted height with the request since 60 feet is the maximum height permitted in the LI, LI-O and HC zones. The maximum building height proposed for this project is a 3-story hotel. The specific heights are not proposed with the Conceptual Site Plan but will be reviewed for zoning code compliance with the more specific Site Plan submittals in the future. Most of the other buildings are proposed as single story. Civic or public space is required for all non-residential developments larger than 20,000 sq ft in gross floor area. As agreed upon in the development agreement, the new FUTS

trail area being constructed by the developer may be applied towards this requirement. The quantity of Civic/Public space will be reviewed for compliance with future Site Plan submittals.

Regarding intensity of development, the table below shows a proposed Floor Area Ratio (FAR) of only 0.14 to 0.21. This intensity is significantly less than either the existing zone would permit (1.5 FAR) or the proposed zone would permit (3.0 FAR).

TABLE 1

Subject Site	Existing Zones (LI & LI-O)	Proposed Zone (HC)
Acres (total project area)	33.6	33.6
Total Resource Protection Land (acres) ***Area "D" only***	6.5	6.5
Forest Resource Protection as % of Site Area	20%	30%
Slope Protection 0-16.99% 17-24.99% 25-34.99%	 No protection 60% of slope area No development allowed	 No protection 60% of slope area No development allowed
Maximum Height	60'	60'
Building Placement Requirements		
Setbacks : Front	25'	0*
Setbacks: Side	0	0*
Setbacks: Side Exterior	15'	10'
Setbacks: Rear	0	0*
Min. Public/Civic Space	*5% of site*	*5% of site*
Max. Floor Area Ratio	1.5	3.00
* Setbacks are based on buffer requirements.		

Parking

The Flagstaff Zoning Code (Table 10-50.80.040.A) addresses the minimum number of parking spaces for "Shopping Centers". The requirement for shopping centers with greater than or equal to 100,000 gross square feet (gsf) is: *One (1) space per 300 gsf for gsf over 100,000 gsf.* Restaurants will calculate parking separately as: *one (1) space per employee plus one (1) space per 100 gsf.* Once the shopping center development exceeds 100,000 gsf, it can use: *One (1) space per 325 gsf.*

The applicant provided parking calculations for the proposed development. This includes a requirement of a total of 1,106 parking spaces for Areas A, B, C and D, and a provided 1,121 parking spaces. Staff's review of the parking calculations found that the proposed plan is in general compliance for each area. A final parking analysis will be done with review of the more detailed Site Plan submittals and will ensure that general parking requirements and accessible parking space standards are met.

Design Review

Site Planning Design Standards (Section 10-30.60.030)
The applicant's engineer conducted a site analysis (see attachment) that considers topography, solar orientation, climate, views, built environment, and pedestrian/vehicular traffic and the findings were taken into account during project design development. Areas A, B, and C have views of Mount Elden and a portion of the San Francisco Peaks to the north (see photos in Site Analysis appendix). Design standards encourage orienting outdoor civic spaces to mountain views and/or views of pedestrian activity.

Circulation Systems (Auto, Pedestrian, Bicycle and Transit, Sec. 10-30.60.040)
The project design provides a diverse range of transportation choices for getting to and from the property. Bus transit is readily available along both Route 66 and 4th Street, bicyclers have access via the proposed high-speed FUTS, vehicles have easy access to and from all public streets, and pedestrians are served via public sidewalks with signalized cross walks at Arrowhead, 1st Street, 4th Street, Postal, and Huntington. Bicycle racks are required through the zoning code parking standards and will need to be shown on the Site Plan submittals.

The proposed project will maintain the existing sidewalk system along Route 66, while the rest will be modified to accommodate new access points. Additional sidewalks and paths will be included throughout Areas A, B, and C and will provide connectivity with public sidewalks along Route 66 and 4th Street. New sidewalks proposed within Area D will connect to sidewalks along 4th Street and Huntington Drive.

There are several existing transit stops for the Mountain Line bus system in the vicinity of the project. Bus stops are located at Arrowhead Avenue and Route 66, at the southeast corner of Route 66 and 4th Street, at Steve's Boulevard (just east of Postal Ave.) and on both side of 4th Street north of Huntington Drive. These stops provide immediate pedestrian access to the proposed development.

Parking Lots, Driveways and Service Areas (Section 10-30.60.050)
Site Planning Design Standards seek to reduce the visual impact of parking lots. A few of the requirements are listed below:

- To the maximum extent feasible, parking lots shall be completely or mostly located to the side or behind a building rather than in front;
- Parking areas must be screened from public view with low walls and/or evergreen hedges;
- Parking areas over one acre must be divided into smaller lots with planted buffers between them to minimize the perceived scale of the parking lot.

The proposed plan to a large extent complies with these standards; however, with future Site Plan submittals staff will be working with the applicant to achieve better compliance in Area B (parking in front of Major B), more effectively breaking up the larger parking lots, and modifying some of the drive-through facility designs to provide adequate screening and ensure pedestrian safety.

Design standards require new developments to minimize the number of curb cuts (and driveways) onto a public street. Six access points along Route 66 are proposed, with two of them requiring modification of existing traffic signals and one requiring a new traffic signal (First St.). Non-signaled driveways are spaced relatively far apart, considering the approximately one (1) mile of frontage along Route 66. There will be one driveway on each side of 4th Street providing access to the west and east sides of the shopping center, a driveway from 4th Street to access Area D, and a driveway from Huntington Dr. to access Area D.

During Site Plan review, staff will review to ensure that dumpsters and other services uses are effectively screened and meet Public Works standards for access.
"Scale" refers to proportions, overall height and width, the visual intensity of the development, and the building massing. The proposed new development, with predominantly one-story buildings and relatively low building coverage will be compatible in scale with the existing commercial uses along the north side of Route 66. The largest proposed buildings, Major A and Major B, both 30,000 sq ft are significantly smaller than the 51,000 sq ft Aquaplex recreation center located at 4th Street and Huntington Drive. The 2-story, 57,000-sq ft office building proposed in Area D is slightly larger than the Aquaplex.

Architectural Design Standards (Section 10-50.20.030)
As depicted in the attached 11x17" color elevations and described by the applicant, building designs have been created to maintain the natural setting by incorporating a range of styles that are well-suited for a mountain town and incorporate many of the raw materials that are representative of the surrounding area. These materials include founders finish and split face masonry (tan and red), board & batten, board formed concrete, timber supports, rusted and galvanized metal roofing/awnings and paint colors such as "Weathered Leather" and "Aged Eucalyptus."

Staff believes that the proposed building materials meet the intent of the zoning code. During Site Plan review staff will confirm that any secondary materials, such as stucco, make up less than 25 percent of the exterior walls of each elevation.

Landscaping

A preliminary landscape plan was submitted and reviewed with the concept plan in October 2013. The plan meets the general intent of landscaping requirements for parking lots, building foundations, street buffers and open space. A final landscape plan will be reviewed with the Site Plan submittal.

PUBLIC SYSTEMS IMPACT ANALYSIS:

Traffic and Access

The site (Areas A, B, and C) is bounded on the north by Route 66, on the south by BNSF railway, on the east and west by narrow undeveloped city property. Area D is bounded on the north by BNSF railway, on the south by Huntington Drive, on the east by 4th Street, and on the west by light industrial business.

The site is accessed locally via 4th Street, Route 66, and Huntington Drive. Regional access is expected to be provided by Route 66 and Interstate 40 and by other arterial streets in the vicinity such as 4th Street, Industrial Drive/Huntington Drive, Soliere Avenue, Sparrow Avenue and Butler Avenue.

Access points are discussed generally under Circulation Systems on page 6 of this planning report. The TIA provides detailed turning movements for each driveway associated with the proposed development.

A Traffic Impact Analysis (TIA) dated December 2013, was prepared for the applicant by Kimley-Horn and Associates, Inc. Principle findings and recommendations in the TIA include:

- Access drives to the site operate at acceptable levels of service for all scenarios.

- Some intersections in the immediate vicinity of the project, such as 4th Street and Route 66 as well as Route 66 will operate below desirable levels of service due to background volumes.
- Turn (deceleration) lanes are recommended at access points along Route 66, 4th Street and Huntington Drive, and are incorporated into the Conceptual Site Plan.
- Recommended mitigation strategies are provided for 4th Street and Soliere Avenue, and 4th Street and Sparrow Avenue.
- Potential demand for pedestrian crossing of Route 66 was considered. Currently there are three locations where pedestrians can utilize signalized intersections to cross from the north side of Route 66 to the south; at Arrowhead Ave., 4th Street, and Postal Blvd. ….the addition of new traffic signal at the intersection of 1st Street and Route 66 will reduce the distance between signalized intersections west of 4th Street to approximately 1,200 feet….with the addition of the signalized crossing at 1st Street the maximum distance a pedestrian could possibly travel before reaching a signalized crossing would be approximately 600'. [Note: the development agreement includes provisions for a pedestrian study and mitigation strategies]
- Due to the increase in activity along the Route 66 frontage of the project and the addition of new access point, lighting levels should be reviewed along Route 66 to ensure adequate visibility for motorist and pedestrians. [Note: a lighting analysis by the applicant is in process and will be discussed with ADOT]

The City of Flagstaff traffic engineer accepted the TIA with conditions which are outlined in the attached memo and included in the development agreement between the City and Evergreen Devco. ADOT has not yet responded to Evergreen's most recent TIA submittal.

Water and Wastewater

A public water and sewer impact analysis was prepared by the City for the proposed development as part of a rezoning application in August 2008. After reviewing the current TRAX Concept Plans dated July 27, 2011, the City of Flagstaff Utilities Department concluded that the proposed site plans reveal no significant water and sewer changes. As long as water and sewer demands do not increase from the original analysis, no additional analysis work will be required. However, the city will require that the onsite water and sewer system be addressed in the Engineer's Design Report. According to the water and sewer impact analysis, the existing off-site and proposed on-site sewer and water system infrastructure were deemed adequate to accommodate the development, and no off-site improvements were required.

Each parcel has an 8-inch PVC water main stubbed out for development of this land. Within the Route 66 right-of-way and Huntington Drive are 18-inch and 16-inch diameter ductile iron transmission lines. All new on-site infrastructure will have to be designed and built to connect to the public water system and will be required to provide a looped water system.

The nearest sewer main that allows for gravity flow from this site is located within Parcel A. This existing 14-inch trunk line turns into a 21-inch diameter PVC line that follows the alignment of Spruce Avenue Wash. This 21-inch interceptor line has sufficient capacity to convey all anticipated sewage flows generated by this development.

Stormwater

The Stormwater Manager reviewed and accepted the Drainage Impact Analysis that was provided with the Conceptual Site Plan for the proposed rezoning. The report demonstrated that there are no concerns of downstream flooding impacts to property and no rise in 'Lake Continental.'

According to the Site Analysis report, Areas A, B, and C will be graded to drain towards the south, where a series of inlets will collect and divert runoff to various detention basins and LID features located throughout the site. Area D will be graded to drain to the west and northwest, where grate inlets will collect and divert runoff to a proposed extended detention basin on the northwest corner of the site.

OTHER REQUIREMENTS:

Resources

As previously mentioned, Areas A, B, and C are relatively flat and do not contain any slope, floodplain, or tree resources. Table 1 and page 4 of this report discuss resource preservation requirements for Area D.

Citizen Participation

Public hearings before the Planning and Zoning Commission and City Council are conducted in conjunction with any request for zoning map amendment. This application for a "new commercial development that exceeds 20 acres or 100,000 square feet of gross floor area" meets the requirements for Additional Requirements for Citizen Outreach (Section 10-20.30.070, p. 20.30-8). In accordance with state statute and the "Additional Requirements" in the zoning code, notice of the public hearing was provided by placing an ad in the Daily Sun, posting notices on the property, and mailing a notice to all property owners within 600 feet of the subject property. Step Two of the additional requirements includes the scheduling of no less than two public hearings with the Planning Commission to provide additional opportunities for interested members of the public to be informed of and provide comments on the new development proposals. As of this writing, Planning staff has received one e-mail dated 4/29/14 from a Flagstaff resident (see attached email). The e-mail expresses several concerns including: the effect (commercial competition) the zoning amendment might have on the 4th Street corridor north of Route 66; increased traffic flow and pedestrian safety; and reducing the amount of light industrial land in areas that have easy access to housing. Two business owners within the notification area stopped by the Community Development counter (4/28/14 and 5/6/14) with a few general questions about the proposal, including timing.

Section 10-20.30.060 of the Flagstaff Zoning Code requires the applicant for a Zoning Map or General Plan amendment to conduct a neighborhood meeting prior to the Planning Commission public hearing. A Record of Proceedings is included with this application for Zoning Map amendment (see attachment). The applicant held a neighborhood meeting on February 20, 2014, at the Aquaplex located at the northeast corner of 4th Street and Huntington Drive. According to the report, 37 people signed in for the meeting. Evergreen Devco representatives answered a variety of questions as recorded in the record of proceedings. The neighborhood meeting notification, meeting, and record of proceedings were conducted in compliance with the zoning code requirements.

RECOMMENDATION:

Staff believes that the Zoning Map Amendment request has been justified in light of being consistent with objectives and policies of the Regional Land Use Plan and would recommend in favor of amending the zoning designation on 33.6 acres of property from Light Industrial (LI) and Light Industrial-Open (LI-O) to Highway Commercial (HC).

Because this zoning application requires two Planning & Zoning Commission meetings, on May 14, 2014, staff recommends that the Commission open the Public Hearing, receive input and close the Public Hearing. On May 28, 2014, staff recommends approval of PREZ 2014-0002 with the conditions as noted below.

Staff would recommend that such amendment be subject to the following conditions:

1. That the subject property is developed in substantial accordance to the entire conceptual plans approved by the Inter-Division Staff (IDS) on April 3, 2014, with the zoning map amendment request.
2. That all terms, conditions and restrictions detailed within "Development Agreement and Waiver between City of Flagstaff and Evergreen-TRAX, L.L.C." are fully satisfied.

ATTACHMENTS:

- Zoning Map Amendment Application
- Vicinity Map for Zoning Map Amendment (with existing zoning, 8.5x11")
- Applicant's response to city staff comments, dated March 27,2014
- Record of Proceedings for Neighborhood Meeting
- Citizen Email, dated April 29, 2014
- IDS Conditions of Approval, dated April 3, 2014
- TIA acceptance w/conditions memo, Jeff Bauman, dated Feb. 20, 2014
- WSIA compliance memo, Ryan Roberts, dated July 15, 2013
- Draft Development Agreement, dated May 2014
- Color Elevations (11" x 17"), proposed conceptual
- Site Analysis
- Existing Zoning Exhibit
- Conceptual Site Plan, dated 4/9/2014 (architectural, 24" x 36", 5 sheets, Butler Design Group)
- Conceptual Site Plan, dated March 2014 (engineering, 24" x 36", 6 sheets, SWI)

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Barbara Goodrich, Management Services Director
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration and Approval of Second Amendment of Purchase and Sale Agreement: Between the City of Flagstaff and Evergreen - TRAX, LLC ("Evergreen"), for the sale of approximately 33.6 acres of property consisting of three parcels located at the southeast and southwest corners of the intersection of Fourth Street and Route 66, and the northwest corner of Fourth Street and Huntington drive adjacent to the Fourth Street Overpass (the "Property").

RECOMMENDED ACTION:

Approve the Second Amendment to the Purchase and Sale Agreement between the City of Flagstaff and Evergreen for the development of the Property, and authorize the Mayor to sign the agreement.

Policy Decision or Reason for Action:

The City of Flagstaff Charter requires the City Council to review and approve agreements that "provide for acquisition, sale or exchange of public real property."

The Second Amendment to the Purchase and Sale Agreement amends the Purchase Price as follows:

1. Amended purchase price (Section 2.1) - Buyer agrees to purchase the Property for Three Million Forty One Thousand Dollars ($3,041,000.00).

Financial Impact:

Evergreen has agreed to the amended purchase price of Three Million Forty One Thousand Dollars ($3,041,000).

Connection to Council Goal(s) and/or Regional Pla:

1. Retain, expand, and diversify economic base
2. Effective governance.

Has There Been Previous Council Decision on This:

- June 5, 2012, the City Council approved Ordinance No. 2012-10, authorizing the transfer of title to Evergreen Devco, Inc.
- June 12, 2013, the City of Flagstaff and Evergreen Devco, Inc. entered into a Real Estate Purchase and Sale Agreement
- May 20, 2014, the City of Flagstaff and Evergreen Devco, Inc. entered into the First Amendment of the Purchase and Sale Agreement

Options and Alternatives:

1. Approve the Agreement as amended and recommended by City Staff which will allow the City to finalize the Purchase and Sale Agreement with Evergreen Devco, Inc. and close escrow on this property.
2. Modify the conditions and/or include additional conditions.
3. Deny the Amended Agreement which will not allow for the redevelopment of the property at Fourth Street and Route 66.

Background/History:

In approximately 2007, the City awarded the Property for development. However, due to economic conditions the developer was not able to meet its obligations and returned the property to the City. In October 2010, staff solicited Requests for Proposals (RFP) for the purchase and development of the Property. Revenue generated from this sale was to assist with the repayment of debt incurred by the City in the construction of the Fourth Street Overpass. Only one proposal was received for only two of the three parcels. In addition, the proposal was significantly below the minimum price requested and the development plan did not meet the expectations that were set forth in the RFP. The Council rejected this proposal as it was determined to not be in the best interest of the City. Council directed staff to reissue the RFP. A new RFP was issued that no longer had a minimum price requirement and provided for a greater emphasis on the type and timing of development that would occur. The RFP closed on August 3, 2011. One response was received with an initial offer from Evergreen Devco, Inc. for all three parcels.

This amendment will result from the City's decision to fund the Fourth Street Bridge widening. An amendment document will be provided at the meeting.

Key Considerations:

The City desires to promote economic development in a number of modalities. Approving the Second Amendment to the Purchase and Sale Agreement for the Property will encourage retail development along the Fourth Street Corridor in a more structured manner.

Expanded Financial Considerations:

Evergreen has agreed to the amended purchase price of $3,041,000. Previously, Evergreen deposited with the City $212,899.50 as Earnest Money. Of that, $50,000 was transferred to the Seller at the conclusion of the initial Due Diligence Period and a second $50,000 transferred to the City at the conclusion of the Review Period.

Community Benefits and Considerations:

Community benefits include providing greater commercial and retail opportunities, providing for a larger retail tax base, and providing new job opportunities, particularly along the Fourth Street Corridor. Due to the economic downturn, in addition to the delay in the development of the property, City staff projected that the Fourth Street portion of the transportation tax would not adequately meet the need to fund the Fourth Street Overpass debt service by the time this tax expires in 2020. Staff employed a two prong strategy to mitigate that risk. First, staff reissued the debt realizing an approximate $1.4 million dollar savings in interest expense. Second, the staff continue to work toward the timely sale and development of the property so that the financial obligation will be met. The City will realize a greater and more certain

benefit by receiving incremental growth in both sales and property tax revenues.

Community Involvement:

Collaborate - Evergreen previously held a forum in February for public participation, and other public hearings and various Council actions have already occurred, as will others in the near future based on the above mentioned three actions following approval of this First Amendment.

Expanded Options and Alternatives:

1. Approve the Second Amendment to the Purchase and Sale Agreement.
2. Modify the conditions and/or include additional conditions.
3. Deny the Second Amendment.

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Elizabeth A. Burke, City Clerk
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration and Approval of Intergovernmental Agreement: Election Services for the August 26, 2014, Primary Election

RECOMMENDED ACTION:

Approve the Intergovernmental Agreement with Coconino County Elections at a cost of $2.00 per registered voter.

Policy Decision or Reason for Action:

ARS §16-172A requires that an IGA with the County for election services be entered into prior to the election.

Financial Impact:

The IGA outlines a cost of $2.00 per registered voter for elections consolidated with State or Federal elections. Funds have been budgeted in the FY2015 budget.

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

No, although discussions have taken place with the County to incorporate additional language to address concerns in the past.

Options and Alternatives

1) Approve the IGA
2) Propose alternate language; however, with this being a statewide election that may not be accepted

Background/History:

With this being a statewide election the County forwarded to us the standard IGA used with all municipalities/districts. We returned some recommended changes to incorporate the new wording previously included in our recent Regional Plan election contract that addressed past concerns, but the County has chosen to maintain the standard language in the IGA since it is being used with other municipalities/districts as well.

Key Considerations:

Historically, the City contracts with the Coconino County Elections Office to conduct its elections. The City and County routinely enter into election agreements identifying the responsibilities of the parties, the services that will be provided, and payment provisions. As indicated, the costs associated with this agreement amount to $2.00 per registered voter. With an estimated 28,000 registered voters in the City of Flagstaff, this cost would be approximately $56,000 for these services.

Expanded Financial Considerations:

The intergovernmental agreement formalizes the City's and County's various responsibilities and allows the August 26, 2014, primary election to move forward.

Community Involvement:

EMPOWER - The election process empowers voters to exercise their voice in the local government process.

Attachments: IGA

Intergovernmental Agreement
FOR PROVISION OF SERVICES BY THE
COCONINO COUNTY ELECTIONS DEPARTMENT

This Contract for Services is entered into this_____day of_____, 2014 pursuant to A.R.S. 11-951 *et seq* between **COCONINO COUNTY**, for and on behalf of **COCONINO COUNTY ELECTIONS DEPARTMENT (CCED)**, a political subdivision of the State of Arizona, hereinafter referred to as **COUNTY**, and **City of Flagstaff**, hereinafter referred to as **JURISDICTION,** also a political subdivision of the State of Arizona.

WHEREAS, the COUNTY has authority under A.R.S. Title 16 and 19 to conduct elections and responsibility for establishing and staffing polling places, preparing and counting ballots, and providing voting equipment;

WHEREAS, the COUNTY RECORDER has the authority to maintain voter registration rolls and to conduct early balloting under A.R.S. 16-162 and A.R.S. Title 17, Ch. 4, Art. 8;

WHEREAS the JURISDICTION has the responsibility for conducting its own elections under A.R.S. Title 16;

WHEREAS, the JURISDICTION is authorized to contract with the board of supervisors and county recorder for election services under A.R.S. 16-408 and desires to use the election services of COUNTY to conduct its election as set forth below;

NOW THEREFORE, in consideration of the mutual agreements described herein, the parties agree as follows:

SECTION 1. Type of Election and Important Dates

COUNTY agrees to provide election services for the following elections:

PRIMARY ELECTION

Date of Primary Election: …… <08/26/2014>

Early Voting Begins:…….. <07/31/2014>

Last Day to Register to Vote :…… < 07/28/2014>

Last Day to Request Early Ballot by Mail :…….. < 08/15/2014>

Last Day to Vote Early :……. < 08/21/2014>

GENERAL ELECTION

Date of General Election: …… <11/04/2014>

Early Voting Begins:…….. <10/09/2014>

Last Day to Register to Vote :…… < 10/06/2014>

Last Day to Request Early Ballot by Mail :…….. < 10/24/2014>

Last Day to Vote Early :……. < 11/31/2014>

SECTION 2. CONTACT PERSONS FOR JURISDICTION

Contact Name: Elizabeth A. Burke

Address: 211 West Aspen

Telephone: 928.213.2076

Fax:

E-mail : eburke@flagstaffaz.gov

Cell Phone: 928.308.2901

Legal Counsel: Michelle D'Andrea

Address: 211 West Aspen

Telephone: 928.213.2042

Fax:

E-mail:mdandrea@flagstaffaz.gov

SECTION 3: PURPOSE

The purpose of this contract is to secure the services of COUNTY, as enumerated in Section 4, for the preparation and conduct of the election described above.

SECTION 4: SERVICES TO BE PERFORMED BY COUNTY

The Coconino County Elections Department (CCED), or its designated agent, agrees to:

1. PRINTING

The statutory required amount of ballots will be designed, ordered and printed through CCED, so that the election can use the Diebold AccuVote Optical Scan Voting System.

2. TRANSLATION

SPANISH: Translation of ballot text shall be provided by CCED. The jurisdiction is responsible for ensuring the CCED Spanish translation of the ballot text also appears in the Information Report, Publicity Report and Sample Ballot.

NATIVE AMERICAN: If a portion of the jurisdiction is located on an Indian Reservation, all election related materials must be translated into the Native American language. CCED will provide Navajo language translation for the ballot.

3. BALLOTS

A. CCED will have Official Ballots printed and distributed to the early voting sites and the polling places:

B. JURISDITION will provide CCED with final ballot language at least 90 days prior to election day.

C. After 90 days prior to election day, JURISDITION will pay $100 per change to CCED for any changes or alterations to final ballot language.

D. CCED shall provide the JURISDICTION a ballot proof. The JURISDICTION shall have three days to notify CCED of any corrections to the ballot because of errors or omissions.

4. POLL WORKERS

CCED will recruit, train, provide and pay Election Board Workers to conduct the polls on Election Day.

5. POLLING PLACES

CCED will designate and arrange for the polling places. (This includes reserving each site and mailing an agreement to each polling location.)

6. REGISTERS AND ROSTERS

A. CCED will provide precinct registers and signature rosters.

B. CCED voter lists, registers and files contain restricted Data – release or distribution of all or any portion of such information is restricted and in some cases prohibited by law, subject to criminal prosecution.

7. ELECTION DAY SUPPLIES

CCED shall deliver and pick up polling place supplies.

8. LOGIC AND ACCURACY TEST

A. CCED will conduct the Logic and Accuracy Test of vote tabulating equipment.

B. CCED will publish notice of the Logic and Accuracy Tests.

9. EARLY VOTING

CCED will conduct early voting by mail and in person at locations designated by CCED.

SECTION 5: OBLIGATIONS OF JURISDICTION

JURISDICTION, or its designated agent, agrees to:

1. Pay the following costs to CCED:

   $2.00 per registered voter, except as provided below, plus:
   * Actual cost of Native American Outreach
   * Postage **ADVANCED** by entity to Vendor of CCED's choice if needed for mailing the information pamphlet

   Or

   $50 Administrative Fee if the election is cancelled in accordance with A.R.S. 16-410.

2. Publish and/or post all legal notices required by statute.

3. Prepare, print and mail any required informational pamphlet.

4. If a change in taxing district boundaries occurs, notify the Department of Revenue by November 1 pursuant to ARS §42-17257

SECTION 6: MANNER OF FINANCING AND BUDGETING

Each party represents that it has sufficient funds available in this current fiscal year budget to discharge the funding obligation imposed by this Contract.

SECTION 7: TERMINATION

This Contract shall terminate upon resolution of all matters connected with the elections, legal challenges excepted, or upon written notice by either party to the other within thirty (30) days prior to the election date(s). Should the election herein be challenged or questioned for any reason whatsoever, then, subject to the Jurisdiction's right of indemnification under Section 8 of this Contract, the Jurisdiction shall be solely responsible for the defense of said election, provided that the County shall cooperate in the defense of such challenge and shall provide its officers and employees as necessary to testify in any proceedings arising from the challenge.

SECTION 8: INDEMNIFICATION OF COUNTY AND DISTRICT

To the extent permitted by law, each party agrees to hold the other party harmless and to indemnify the other for any loss, liability or damage arising from any action, omission or negligence of each party's employees, officers or agents, regarding the performance of this Contract.

SECTION 9: EFFECTIVE DATE AND TERM OF AGREEMENT

This Contract shall become effective from and after the date of its execution and shall terminate as provided in Section 7.

SECTION 10: CANCELLATION

This agreement is subject to cancellation pursuant to the provisions of A.R.S. §38-511.

SECTION 11: SEVERABILITY

If any provision of this Contract or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Contract.

IN WITNESS WHEREOF, the governing bodies of each of the parties hereto have approved this agreement by resolution adopted on the dated given below.

JURISDICTION:

Date of adoption:_____

_____
(Signature of Authorized Agent)

_____
(Title of Authorized Agent)

COCONINO COUNTY:

Date of adoption:_____

_____
Coconino County Recorder

_____
Matt Ryan, Chairman
Board of Supervisors

ATTEST:

_____
Clerk of the Board

Reviewed and approved by legal counsel and found to be within the authority of the governing body to adopt:

_____
Attorney for Jurisdiction

_____
Deputy County Attorney

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Walt Miller, Deputy Chief
Co-Submitter:	Michelle D'Andrea, City Attorney
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE:

Consideration and Adoption of Ordinance No. 2014-20: An Ordinance prohibiting the use of wireless communication devices while operating a motor vehicle or bicycle.

RECOMMENDED ACTION:

1) Read Ordinance No. 2014-20 by title only for the final time
2) City Clerk reads Ordinance No. 2014-20 by title only (if approved above)
3) Adopt Ordinance No. 2014-20

Policy Decision or Reason for Action:

The Flagstaff Police Department, in collaboration with the Flagstaff City Attorney's Office, is requesting the approval of Ordinance 2014-20, which would prohibit the use of wireless communication devices while operating a motor vehicle or bicycle.

Coconino County adopted a distracted-driving ordinance that is applicable within incorporated areas of the County. On May 20, 2014, a resolution of the Council of the City of Flagstaff, Arizona, declared the use of portable communication devices in the City of Flagstaff to be a matter of local concern and such matter will be governed by a City Ordinance.

Financial Impact:

There is no financial impact to the City of Flagstaff by adopting this ordinance.

Connection to Council Goal:

Effective governance

Has There Been Previous Council Decision on This:

Council adopted a resolution enabling the City to opt out of the County's distracted driving ordinance on May 20, 2014. (See Page 2 under Community Involvement for further information). After the option was selected at the July 1, 2014, meeting first read of the Ordinance occurred.

Options and Alternatives:

• Adopt Ordinance 2014-20 prohibiting the use of wireless communication devices while operating a motor vehicle or bicycle.
• Amend Ordinance 2014-20
• Do not adopt Ordinance 2014-20

Background/History:

On April 22, 2014, the Coconino County Board of Supervisors unanimously approved County Ordinance 2014-03 which states that; A person shall not drive a motor vehicle while using a portable communications device to engage in a call unless that device is specifically designed and configured to allow hands-free listening and talking, and is used exclusively in that manner while driving. Texting and typing are banned while operating a motor vehicle.

This Ordinance is effective 30 days after adoption by the Coconino County Board of Supervisors. However, for the purpose of informing and educating persons who operate motor vehicles and motor driven cycles any law enforcement office may only issue verbal warnings to persons who would be violating this Coconino County Ordinance for a six (6) month period after the Ordinance is adopted. Enforcement and penalties under this ordinance are as follows; a law enforcement officer may stop a motor vehicle or motor driven cycle if the officer has reasonable cause to believe a violation of this Ordinance is occurring (primary offense).

A violation of this article is a civil traffic violation and a person found to be in violation of this Ordinance and not involved in a motor vehicle collision is subject to a civil penalty of $100 dollars. A person found to be in violation of this Ordinance and involved in a motor vehicle collision is subject to a civil penalty of $250 dollars.

Key Considerations:

Adopting Ordinance 2014-20 may deter individuals from using wireless communication devices while operating a motor vehicle or bicycle. It is believed that an ordinance prohibiting the use of a wireless communication device will enhance all motorist safety and change driving behavior. The use of a wireless communication device is considered to be a distraction. Distractions endanger the driver, passenger, and bystanders. The U.S. Department of Transportation defines three main types of distraction, visual, manual and cognitive. Text messaging, and other similar uses of wireless electronic devices, require visual, manual and cognitive attention from the driver and, are considered to be the worst common distraction to drivers.

The draft ordinance that Council considered had two options. The first option was to ban only texting and similar communication while driving. It would allow those activities while stopped, such as at a railroad crossing. It would also allow dialing a phone number, checking a calendar, hitting a key on a phone to play music, and activities involving wireless devices other than written communication. The second option is more similar to the County's ordinance with an exception for amateur radio operators.

At the July 1, 2014, the Council chose to move forward with Option 1 and held first read of the Ordinance. The ordinance attached is the final document.

Community Benefits and Considerations:

The Flagstaff Police Department believes that increased education is the key element of this ordinance. It will deter individuals from using wireless communication devices while operating a motor vehicle or bicycle.

Community Involvement:

There has been prior discussion of a proposed ordinance. During the Council work session on April 29, 2014, the Mayor and Council were presented with a PowerPoint presentation, discussing the County ordinance that had been passed by the Board of Supervisors on April 22, 2014. Much of the discussion was about whether the City should decide to opt in or opt out of the County Ordinance. At the conclusion of the presentation there was a consensus to have the City Attorney provide legal information about the options and the Council would make an opt in or opt out decision at the next Council meeting.

On May 13, 2014, during the Council work session, a PowerPoint presentation was presented and further discussion occurred with respect to opting in or opting out of the County Ordinance. At the conclusion of the presentation, staff was directed by Council to move forward with drafting an ordinance and a resolution declaring the use of portable communication devices in the City of Flagstaff to be a matter of local concern and such matter will be governed by a City ordinance. The resolution was adopted May 20, 2014.

The proposed ordinance and staff summary will be posted in accordance with law, and interested persons are invited to comment at the City Council meetings at which the ordinance will be under consideration.

Expanded Options and Alternatives:

Do not adopt Ordinance No. 2014-20
Amend Ordinance No. 2014-20

Attachments: Ord. 2014-20

ORDINANCE NO. 2014-20

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AMENDING TITLE 9, *TRAFFIC*, CHAPTER 9-01, *TRAFFIC CODE*, BY ADDING A NEW SECTION 9-01-001-0013, *USE OF WIRELESS COMMUNICATION DEVICES WHILE DRIVING PROHIBITED*; EXCEPTIONS; AND PROVIDING FOR PENALTIES

RECITALS:

WHEREAS, while there is ample research regarding the dangers of distracted driving generally, there is an increasing amount of evidence showing that text messaging is the most dangerous driver distraction of all; and

WHEREAS, this Council finds that prohibiting text messaging and similar behaviors while driving is necessary for the health and safety of Flagstaff citizens;

ENACTMENTS:

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

SECTION 1. General.

Title 9, Traffic, Chapter 9-01, Traffic Code, is amended by adding the following section:

9-01-001-0013. USE OF WIRELESS COMMUNICATION DEVICES WHILE VEHICLE OR BICYCLE IS IN MOTION PROHIBITED; EXCEPTIONS.

A. A person shall not operate a motor vehicle or a bicycle on a street, sidewalk or trail while using a handheld wireless communications device to compose manually, send or read a written message for the purpose of non-voice interpersonal communication, including but not limited to texting, emailing and instant messaging, while the motor vehicle or bicycle is in motion.

B. This section does not apply to any of the following persons if the use of the handheld wireless communications device is made as part of their official duties:

1. Law enforcement and public safety personnel.

2. Drivers of authorized emergency vehicles.

C. Enforcement and Penalties.

1. Any peace officer may stop a motor vehicle or bicycle if the officer has reasonable cause to believe a violation of this Ordinance is occurring.

2. A violation of this article is a civil traffic violation.

3. A person found to be in violation of this Ordinance and not involved in a motor vehicle or bicycle crash is subject to a civil penalty of $100 dollars plus any other penalty assessment authorized by law.

4. A person found to be in violation of this Ordinance and involved in a motor vehicle or bicycle crash is subject to a civil penalty of $250 dollars plus any other penalty assessments authorized by law.

5. Violations of this Ordinance shall be administered pursuant to the procedures for civil traffic violations as set out in A.R.S. 28-1591 through 28-1601.

SECTION 2. Warning Period

For the purpose of informing and educating persons who operate motor vehicles and motor driven cycles and bicyclists, any law enforcement office may only issue verbal warnings to persons who would be violating this ordinance for a six month period after the ordinance is in effect.

SECTION 3. Severability

Should any sentence, paragraph, section, subsection, division, subdivision, clause or phrase of this ordinance by adjudged to be unconstitutional, illegal or invalid, the same shall not affect the validity of the document as a whole, or any part or provision thereof other than that part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of this ordinance, or the Flagstaff City Code, as amended, as a whole.

SECTION 4. Clerical Corrections

That the City Clerk is authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary; and that the City Clerk is authorized to make formatting changes needed for purposes of clarity and form, if required, to be consistent with Flagstaff City Code.

SECTION 5. This Ordinance is effective 30 days after adoption by the Flagstaff City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 15th day of July, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: David McIntire, Asst. to City Manager - Real Estate

Co-Submitter: Amy Hagin, Senior Procurement Specialist

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration of bid and Approval of the Lease Agreement: City-Owned Property: Located at 6628 S. Piper Lane ***(Lease of property located near the Airport - formerly the FAA facility)***

RECOMMENDED ACTION:

Accept the bid and approve the Lease Agreement with Northern Arizona Healthcare dba Guardian Air for lease payments of $833.50 per month ($10,002 annually). The facility will receive intended improvements by lessee at an estimated value of $200,000. Authorize the City Manager or his designees to execute all necessary documents.

Policy Decision or Reason for Action:

Acceptance of the bid and approval of the Lease Agreement will re-purpose a vacant City-owned facility in need of significant repairs and currently a liability to the City. The Lessee will make the necessary repairs and additional tenant improvements along with paying an initial rent of $833.50 per month for a term of ten (10) years. Subsidiary Decisions Points: None

Financial Impact:

The structure is currently a liability and generating zero income for the City. With this Lease Agreement the facility will be turned into an asset. Once the capital improvements are complete, the facility's value will have significantly appreciated. The Lessee will have a reduced lease payment to partially offset the cost of the required tenant improvements. The lease payments will generate $100,020 over the 10 year period to assist in funding the airport.

Connection to Council Goal:

1. Repair Replace maintain infrastructure 11. Effective governance

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1) Accept bid and approve the Lease Agreement as presented. 2) Reject bid and provide staff guidance regarding desired terms and conditions for the Lease Agreement. 3) Reject bid and lease Agreement which will leave the facility in its current condition.

Background/History:

The facility was previously leased by the Federal Aviation Administration (FAA). The FAA relocated to a nearby location that met their needs, in part, due to the needed repairs to the facility. A facilities report identified a number of issues that would need to be addressed prior to leasing the building to a new party. The current Airport budget was not able fund the repair costs so staff structured an Invitation for Bid (IFB). The IFB terms and conditions included the lease of the facility but also allowed for tenant improvement costs in exchange for lease consideration. The proximity to the Airport Runway and Public Facilities zoning of this facility limits the number of potential uses/users.

Key Considerations:

The building is currently vacant and an unfunded liability. The IFB had one (1) bidder with the proposed lease being the highest responsible and responsive bid. The proposer will provide $200,000 in capital improvements which will address the identified issues and add value to the building. Initial rent will be $833.50. The Airport is an enterprise fund. The use is compatible with zoning and runway proximity.

Community Involvement:

Inform

Expanded Options and Alternatives:

1) Approve the Lease Agreement as presented 2) Not approve the Lease Agreement as presented and provide staff guidance regarding desired terms and conditions 3) Not approve the Lease Agreement and leave the facility in its current condition.

Attachments: IFB Bid Tabulation
Lease Agreement

CITY OF FLAGSTAFF BID TABULATION

DATE: 17-Jun-14

BID/PROJECT#: 2014-52

CONDUCTED BY: Amy Hagin

BID/PROJECTNAME: FAA Lease IFB

WITNESS: Di Ann Butkay

ANTICIPATED COUNCIL AWARD DATE: Aug-14

ENGINEERS ESTIMATE: $

VENDOR	BOND	ADDENDUM 1	2	3	Lease Price	Tenant Improv	Lease Term	4	5	6	DEL
Guardian Medical		✓			833.50	200,000.00	10 yr				

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made and entered into by and between the CITY OF FLAGSTAFF, Arizona, an Arizona municipal corporation (the "Lessor"), and NORTHERN ARIZONA HEALTHCARE, dba GUARDIAN AIR, an Arizona corporation (the "Lessee"), this 15th day of July, 2014.

R E C I T A L S

A. Lessor owns that parcel of real property consisting of approximately .15 acres of land area, together with existing building improvements located thereon (the "Building Improvements"), more particularly described in ***Exhibit "A"*** attached hereto and incorporated herein by this reference (the "Premises").

B. Lessor issued an Invitation for Bids dated June 1, 2014 (the "IFB") with respect to its desire to lease the Premises and allow for the improvement of the Premises. Lessee submitted a response to the IFB and Lessee was selected by Lessor as the successful respondent. In connection therewith, Lessor and Lessee are entering into this Lease for the purpose of effecting a lease of the Premises by Lessor to Lessee and otherwise setting forth the rights, duties and obligations of the parties with respect to the Premises, including those rights and obligations concerning the rehabilitation and renovation of the Building Improvements as described in ***Exhibit "B"*** which is required to be performed by Lessee as and when set forth herein.

NOW THEREFORE, in consideration of the foregoing and of the rents, covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee, for themselves, and their respective successors and assigns, do hereby covenant and agree as follows:

A G R E E M E N T

1. **EXHIBITS**. Attached to and forming a part of this Lease are the following Exhibits, which, for the purpose of identification, have been initialed by the parties to this Lease:

EXHIBIT "A"	Legal description of the Premises subject to this Lease
EXHIBIT "B"	Rehabilitation and Renovation Plan for existing Building Improvements to be performed by Lessee

2. **DEFINED TERMS**. As used in this Lease the following terms have the following meanings:

"Building Improvements" means the existing building improvements located on the Premises, together with all renovations, improvements and betterments made thereto by Lessee from time to time.

"Environmental Laws, Rules, and Regulations" means and includes those federal, state, county, or local requirements pertaining to protection of human health and the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §9601, *et seq.*; the Resource Conservation and Recovery Act, as amended ("RCRA"), including Subtitle I thereof, 42 U.S.C. §6901, *et seq.*; and A.R.S. Title 49, including the Water Quality Assurance Revolving Fund ("WQARF") provisions thereof, A.R.S. §49-281, *et seq.*

"Hazardous Materials" means and includes those substances regulated pursuant to Environmental Laws, Rules and Regulations, including, but not limited to, "hazardous substances" as defined under Section 101 of CERCLA, 42 U.S.C. §9601(14); "hazardous waste" and "solid waste" as defined under Section 1004 of RCRA, 42 U.S.C. §9603; and petroleum and its constituents.

"Improvements" means all improvements existing and constructed by Lessee from time to time on the Premises.

"Laws" means all applicable present and future federal, state, municipal, governmental agency or quasi-governmental agency statutes, charters, laws, codes, rules, rulings, ordinances, orders, programs, guidelines and/or regulations.

"Lease" means this Lease Agreement, as the same may be modified or amended from time to time.

"Lessee" means Lessee described in the introductory paragraph of this Lease, or any assignee of Lessee's rights and interests under this Lease which is approved by Lessor pursuant to ***Section 6*** below.

"Lessor" means the City of Flagstaff, Arizona, and its successors and assigns.

"Premises" means and refers to that approximate .10-acre parcel of real property , together with all existing improvements thereon, as more fully set forth in the legal description attached to this Lease.

3. **GENERAL TERMS OF LEASE OF PREMISES**.

3.1. **Lease of Premises; Condition of Premises**. Subject to the terms and conditions set forth in this Lease, including, without limitation, Lessee's payment of Rental as provided herein and the performance by Lessee of all of its other duties and obligations to be performed by Lessee hereunder, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises described herein. Lessee's rights under this Lease are subject to and restricted by the provisions of any covenants, conditions, restrictions and easements, and all other matters of record which affect the Premises. Lessee acknowledges that it has examined the Premises, is familiar with the physical condition, expenses, zoning, status of title and uses that may be made of the Premises, and is leasing the same in its "as is," "where is" condition existing on the date of this Lease. Lessee expressly acknowledges that the existing Building Improvements are currently in a state of disrepair and are unusable in their present condition. Lessor has not made and does not make any representation or warranty whatsoever with respect to the Premises or otherwise with respect to this Lease, except to the extent otherwise expressly set forth in this Lease. Except as otherwise provided herein, Lessee assumes all risks resulting from any defects (patent or latent) in the Premises or from any failure of the same to comply with any applicable laws, rules, regulations or requirements.

3.2. **Term; Option to Extend Term; Holding Over**. Unless previously terminated pursuant to any applicable provision of this Lease, the term of this Lease (the "Term") shall be ten (10) year(s), commencing upon the date that sole and exclusive possession of the Premises is delivered by Lessor to Lessee (the "Commencement Date"). Each twelve (12) month period occurring during the Term of this Lease, beginning with the first such 12 month period commencing upon the Commencement Date, is hereinafter defined as a "Lease Year." So long as Lessee is not then in default under this Lease, Lessee shall have the right to elect to extend the Term of this Lease for up to five (5) consecutive one (1) year extension terms (each, an "Extension Term"), by providing written notice to Lessor that Lessee desires to extend the Term of this Lease, which notice shall be provided by that date that is the later of: (a) one hundred eighty (180) days prior to the expiration of the then-current Term or Extension Term, as applicable, or (b) sixty (60) days after receipt of written notice from Lessor that the Term or Extension Term, as applicable, has expired or is about to expire. All terms and conditions of this Lease shall remain in full force and effect and shall define the legal relationship between Lessor and Lessee during each Extension Term, including, without limitation, with respect to the payment of Rental.

If Lessee or any Sublessee (as hereinafter described) remains on the Premises after the expiration of the initial Term of this Lease, or any Extension Term, as applicable, then Lessee shall become, at Lessor's election, a lessee on a month-to-month basis at a Rental (calculated on a monthly rather than annual basis) equal to two hundred percent (200%) of the Rental applicable to the last month of the most recently expired Term or Extension Term, as applicable. Such Rental shall be payable by Lessee in advance on the first day of such holdover period and on the first day of each month thereafter until Lessee or Sublessee, as applicable, vacates the Premises. Any such holdover tenancy shall be subject to all of the provisions of this Lease.

3.3. **Certain Representations of Lessor**. Lessor represents and covenants that:

3.3.1. Lessor has full municipal power and authority to enter into this Lease, and the execution, delivery, and consummation of this Lease by Lessor have been duly authorized by all necessary municipal action;

3.3.2. Lessor has received no notice as of the date of this Lease asserting any noncompliance in any material respect by Lessor with applicable statutes, rules and regulations of the United States of America, the State of Arizona, Lessor, or of any other state or municipality or agency having jurisdiction over and with respect to the transactions contemplated in and by this Lease, and Lessor is not in default with respect to any judgment, order, injunction, or decree of any court, administrative agency, or other governmental authority which is in any respect material to the transactions contemplated in and by this Lease; and

3.3.3. To the best of Lessor’s knowledge, the development, construction, use and operation of the Premises in accordance with this Lease complies with all applicable laws, rules or regulations applicable to the Premises.

3.4. **Certain Representations of Lessee**. Lessee represents and covenants that:

3.4.1. Lessee is a corporation duly organized, validly existing, and registered to transact business in the State of Arizona and in good standing under the laws of the State of Arizona, and has full power and authority to enter into this Lease, and the execution,

delivery, and consummation of this Lease by Lessee have been duly authorized by all necessary company action;

3.4.2. The execution, delivery and consummation of this Lease by Lessee is not prohibited by and does not conflict with any other agreements or instruments to which Lessee is a party or is otherwise subject;

3.4.3. Lessee has received no notice as of the date of this Lease asserting any noncompliance in any material respect by Lessee with applicable statutes, rules and regulations of the United States of America, the State of Arizona, Lessor or of any other state or municipality or agency having jurisdiction over and with respect to the transactions contemplated in and by this Lease, and Lessee is not in default with respect to any judgment, order, injunction, or decree of any court, administrative agency, or other governmental authority which is in any respect material to the transactions contemplated in and by this Lease;

3.4.4. There are no attachments, levies, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or pursuant to any other debtor relief laws contemplated by Lessee or filed by Lessee or, to the best of Lessee's actual knowledge, pending in any current judicial or administrative proceeding against Lessee;

3.4.5. Except as otherwise set forth in this Lease, Lessee acknowledges that any information of any type which Lessee has received or may receive from Lessor or any agent of Lessor is furnished on the express condition that Lessee shall make an independent verification of the accurateness of such information, and that all such information is being furnished without any representation or warranty whatsoever. Lessee agrees that it will not attempt to assert any liability against the Lessor for furnishing such information, except to the extent caused by the Lessor's willful or intentional misconduct.

3.5. **Possession of the Premises**. Upon the execution of this Lease, Lessor has delivered to Lessee possession of the Premises, and Lessee has taken possession thereof.

3.6. **No Merger**. The parties recognize and agree that there shall be no merger of the leasehold estate created by this Lease with the fee interest in the Premises by reason of the fact that one person or party may at the same time hold such leasehold estate created by this Lease and such fee interest.

3.7. **Rental**.

3.7.1. **Rental**. Lessee shall pay to Lessor annual rent ("Rental") for each Lease Year during the Term of this Lease, as may be extended, in the applicable amounts as herein set forth. The annual rent amount is $10,002.00 ($833.50 per month).

3.7.2. **Payment of Rental**. Rental for each Lease Year during the Term of this Lease shall be paid monthly in advance on or before the first day of each month during such Lease Year at the following address:

City of Flagstaff
Attention: Finance Director
211 West Aspen Avenue
Flagstaff, Arizona 86001

3.7.3. **No Set-Off**. Except to the extent otherwise expressly set forth in this Lease, Lessee shall pay the Rental and other charges payable to Lessor hereunder without set-off, prior notice or demand or abatement whatsoever.

3.8. **Payment of Public Charges**. Lessee shall pay or cause to be paid, before any fine, penalty, interest or cost may be added thereto, or become due or be imposed by operation of law for the nonpayment thereof, all real and personal property, public assessments (including, without limitation, assessments, franchises, excises, licenses, and permit fees) and other public charges (all such taxes, public assessments and other public charges being hereinafter referred to as "Public Charges") levied, assessed or imposed by any public authority against the Improvements.

3.9. **Title Insurance Premium**. Lessee shall pay the premium for any leasehold title insurance policy acquired by Lessee.

4. REHABILITATION AND RENOVATION OF BUILDING IMPROVEMENTS

4.1. **Renovation of Building Improvements**. Subject to the terms and conditions of this ***Section 4***, Lessee shall commence to complete the rehabilitation and renovation of the existing Building Improvements on the Premises in accordance with the conceptual plans therefor as set forth in ***Exhibit "B"*** attached hereto; provided, however, that specific plans and specifications for such rehabilitation and renovation must first be approved by Lessor.

4.2. **Completion of Renovation**. Lessee shall complete the Renovation only in accordance with the Plans approved by Lessor pursuant to ***Section 4.1*** above, and any modifications or alterations thereto shall require Lessor's further review and approval in accordance with ***Section 4.1*** above. Lessee shall obtain such insurance as may be reasonably required by Lessor prior to commencement of construction, including, without limitation, property (course of construction), workmen's compensation, builder's risk and liability insurance. Such construction shall be at Lessee's sole expense, and shall be performed in a first-class, workmanlike manner, free and clear of any liens or encumbrances (except as may be approved by Lessor). Lessee shall pay for the cost of all utilities furnished to the Premises with respect to Lessee's construction. Lessee shall, at its expense, promptly remove from the Premises all trash and debris which may accumulate in connection with Lessee's work on the Premises.

4.3. **Disclaimer**. All plans, specifications, drawings and renderings approved by Lessor relating to improvements, fixtures and equipment to be constructed or installed by Lessee on the Premises are not approved for engineering, design or architectural competence. Through Lessor's approval of any such plans, specifications, drawings or renderings, Lessor does not assume any liability or responsibility therefor or for any defect in any improvements constructed from such plans, specifications, drawings or renderings. Lessor shall not be liable to Lessee or any other person or entity for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any such plans, specifications, drawings or renderings, whether or not defective, or (b) the construction or performance of any work, whether or not pursuant to such approved plans, specifications, drawings or renderings.

4.4. **Title to Improvements**. Except as may otherwise be provided herein, all of the Improvements constructed on the Premises shall be subject to this Lease and, upon the expiration or sooner termination of this Lease, all of the Improvements constructed by Lessee on the Premises shall become the property of Lessor without any compensation therefor required to be paid by Lessor and without the requirement of any further conveyance or transfer documentation; provided, however, that Lessee shall, if requested by Lessor, execute any instruments or documents reasonably required by Lessor to evidence the vesting of title to such Improvements in Lessor.

4.5. **Alterations**.

4.5.1. **Lessor's Approval**. After completion of construction of the Renovation pursuant to the final Plans therefor as approved by Lessor, Lessee shall not make any alteration, addition or improvement to the Improvements and/or the Premises, including, without limitation, to the entrances and exits to the Improvements, or to any fixture, wiring, plumbing, heating and air-conditioning or other equipment therein without Lessor's prior written consent, including obtaining any required building permits from the Lessor which shall be obtained through Lessor's normal review processes for such permits. If such consent is granted, Lessee must acquire, prior to the commencement of construction, all necessary building permits and must provide Lessor with certificates of property (course of construction), workmen's compensation and liability insurance in form and amounts satisfactory to Lessor. Any alteration, addition or improvement to which Lessor consents shall be completed in the exercise of due diligence in a good and workmanlike manner, in accordance with plans, specifications and drawings approved in writing by Lessor, and in compliance with this Lease and all applicable laws, regulations and codes and all requirements of any insurer providing coverage for the Premises. Lessee shall pay in a timely manner all costs and fees incurred in connection therewith.

4.5.2. **Alterations Become Part of Improvements**. All alterations, additions or improvements to the Improvements and/or the Premises by Lessee (except movable furniture, equipment and trade fixtures) shall become part of the Improvements and Lessor's property immediately upon expiration or termination of this Lease.

4.6. **Maintenance, Repair, and Restoration**; Entry and Inspection of Premises. If all or any portion of the Improvements are damaged or destroyed during the Term of this Lease by any casualty which is required to be covered by a policy of insurance to be maintained pursuant to this Lease, Lessee shall repair and/or rebuild the same so that the repaired or rebuilt Improvements shall have at least the same values as such Improvements immediately prior to such damage or destruction, such construction to be undertaken and completed in accordance with the requirements of this Lease. In no event whatsoever shall Lessor be required to repair, replace, or restore any Improvement as a result of any such damage or destruction. No damage to or destruction of Improvements shall effect an abatement or reduction of Rental, and Lessee waives any provisions of the law that may be to the contrary.

4.6.1 Lessee shall be responsible for any and all repairs and maintenance of alterations, additions, or improvements constructed by Lessee.

4.6.2 Lessee shall, at its sole cost and expense, maintain the Premises and all of its improvements, additions, or alterations in good working order and in such condition that shall be based on a standard of care reflecting prudent property management, reasonable wear and tear excepted. Lessee shall further maintain the Premises in a neat, clean, and orderly condition, free from all litter and debris.

4.6.3 The City shall be responsible for only for repairs and maintenance of the structural elements of the Premises which already existed prior to this Agreement, as well as the plumbing, heating, cooling, and electrical systems which already existed prior to the commencement of this Agreement.

4.6.4 The City and its authorized officers, employees, agents, contractors, subcontractors, or other representatives shall have the right to enter upon the premises without notice during reasonable business hours to determine whether Lessee has complied and is complying with the terms and conditions of this Lease.

5. **LAND USE AND OPERATING COVENANTS**.

5.1 **Use**. After completion of the Renovation, Lessee shall use the Premises for the operation of a medical transportion and for no other purpose.

5.2 **Lessee's Management and Operating Covenant**. Subject to the provisions of ***Section 4.6*** regarding damage to or destruction of the Improvements, and ***Section 4.5*** respecting alterations and renovations to the Improvements, following the date on which the Renovation is completed and continuing during the remainder of the Term, Lessee shall prudently manage and operate (or cause the prudent management and operation of) the Premises and, in connection therewith, Lessee shall, at Lessee's sole cost and expense, keep, maintain and repair the Premises and the interior and exterior of all Improvements on the Premises in a good, safe and sanitary order, condition and repair, including, without limitation, the maintenance and repair of all structural portions of the Building Improvements, the foundations, walls, roofs, glass, doors, window casements, glazing, plumbing, pipes, electrical wiring and conduits, and the heating and air conditioning systems. Lessee shall be responsible for all maintenance and repairs regardless of the reason or need therefor.

5.3 **Utilities**. Lessee shall be responsible for the payment, as and when they become due and payable, of all charges for water, gas, light, heat, telephone, electricity, or other utility and communication services rendered or used on or about the Premises and the Improvements at all times during the Term of this Lease. Unless Lessor, in its capacity as the applicable municipal authority, is the provider of such services, Lessor shall have no responsibility, obligation or liability under this Lease whatsoever with respect to any utilities, including water, gas, light, heat, telephone, electricity or communication services, or for the disruption in the supply of any such services or utilities to the Premises.

5.4 **Taxes**. Lessee shall pay all real property taxes and assessments imposed or levied upon all Improvements constructed by Lessee on the Premises and, if for any reason, the Premises become subject to any obligation for the payment of *ad valorem* real property taxes or assessments, Lessee shall pay all such real property taxes and assessments levied upon the Premises during the Term of this Lease. In addition, Lessee shall pay to Lessor, together with the Rental payable hereunder, a sum equal to the aggregate of any municipal, city, county, state or federal excise, sales, use or

transaction privilege taxes levied or imposed against or on account of the amounts payable hereunder or the receipt thereof by Lessor (except state, federal or any other income taxes imposed or levied against Lessor). Lessee shall also pay, prior to delinquency all taxes assessed against or levied upon fixtures, leasehold improvements and all personal property located in or upon the Premises.

5.5 **Compliance with Laws**. Lessee, at its expense, shall comply with all applicable rules, regulations, ordinances, orders, codes, laws and requirements of all municipal, county, state, federal and other applicable governmental authorities, the Board of Fire Underwriters, and other organizations that establish insurance rates pertaining to the Premises, including, without limitation, the installation of fire extinguishers, alarm systems, sprinkler systems or automatic dry chemical extinguishing systems. The judgment of any court of competent jurisdiction, or the admission of Lessee in any action or proceeding against Lessee, whether or not Lessor is a party thereto, that Lessee has violated any such rule, regulation, ordinance, order, code, law or requirement, shall be conclusive of that fact as between Lessor and Lessee. Lessee warrants that it has investigated and is satisfied that the use of the Premises as permitted by this Lease and Lessee's proposed manner of operation will comply with all applicable laws, statutes, ordinances, codes, rules and regulations of governmental and/or private entities having jurisdiction over the Premises, including, without limitation, all zoning laws regulating the use and enjoyment of the Premises. Lessee hereby waives any defense of its obligations hereunder based upon the legal doctrines of frustration of purpose or impossibility or other defenses based upon Lessee's inability to use the Premises for the purposes for which the Premises were leased.

6. **RESTRICTION ON TRANSFERS OF LESSEE'S RIGHTS AND INTERESTS**. Lessee shall not, without the Lessor's prior written consent, except as hereinafter provided in ***Section 7***, effect any Transfer. If Lessee desires Lessor's consent to a Transfer, Lessee shall submit to Lessor:

(a) The proposed assignment or other transfer agreement (executed by Lessee and the Transferee), which shall not commence or take effect prior to thirty (30) days after receipt by Lessor of Lessee's submission of all information required to be submitted by Lessee to Lessor hereunder;

(b) The proposed use of the Premises by such Transferee, if such use would be different than the use permitted pursuant to ***Section 5.1*** of this Lease; and

(c) Any other information or item Lessor may reasonably request, including, without limitation, sufficient information to enable Lessor to determine the acceptability of the financial responsibility (as measured by such factors as audit and net worth and credit rating), development experience, character and business reputation of the proposed Transferee.

Lessor, within thirty (30) days after receipt of all such information, by written notice to Lessee, shall either approve or deny the Transfer as Lessor deems advisable. Lessor and Lessee hereby acknowledge and agree that, prior to the date that the Renovation has have been completed and Lessee has received a certificate of occupancy for the Renovation, Lessor may withhold its approval of any requested Transfer in Lessor's sole and absolute discretion. After such time as Lessee has completed the Renovation and received a certificate of occupancy for the Renovation, Lessor's approval shall not be unreasonably withheld. In the event that Lessor approves the Transfer, Lessee shall effect such Transfer in writing and include specific language indicating that both Transferee and

Transferor shall be obligated under all terms and conditions of this Lease Agreement and that all rights and obligations under this Lease Agreement shall survive the Transfer.

7. **SUBLEASES**. Notwithstanding anything contained in this Lease to the contrary, including, without limitation, the provisions of ***Section 6*** above, Lessee shall have the right to sublease all or any portion of the Premises (herein, a "Sublease") to any sublessee (herein, a "Sublessee") whose use of such subleased portion of the Premises is consistent with the uses described in ***Section 5.1*** of this Lease or another use approved by Lessor in writing. Notwithstanding any approval of a sublease by Lessor, the Lessee shall remain obligated under all terms and conditions of this Lease Agreement and all rights and obligations under this Lease Agreement shall survive any such sublease. Lessee shall be entitled to retain all consideration paid by any Sublessee under any such Sublease, so long as Lessee is not in default under the terms of this Lease. In the event that Lessee defaults under this Lease and, as a result thereof, Lessor elects to terminate this Lease, such termination shall not serve to cancel the Sublease, but shall operate as an assignment to Lessor of any and all such Subleases, including, without limitation, the right to receive all rents and other consideration payable by the Sublessees under such Subleases. So long as any Sublessee under a Sublease is not in default under the terms, covenants or conditions of its Sublease beyond any applicable notice and cure period, and attorns to and accepts Lessor as the successor sublessor, Lessor shall honor such Sublease and shall not disturb the use of such Sublessee, except in accordance with the applicable provisions of such Sublease. Notwithstanding anything contained in the foregoing to the contrary, however, Lessor shall not be:

(a) Liable for any act or omission of (i) any prior sublessor (including Lessee) under the Sublease, or (ii) Sublessee (or its successors or permitted assigns) under the Sublease; or

(b) Subject to any offsets or defenses which Sublessee may have against any prior sublessor (including Lessee) under the Sublease; or

(c) Bound by any payment which Sublessee might have paid for more than one (1) month in advance to any prior sublessor (including Lessee); or

(d) Bound by any provision set forth in the Sublease requiring Lessee to indemnify or hold Sublessee harmless; or

(e) Liable for any security deposit unless actually delivered to Lessor; or

(f) Responsible for representations, warranties, covenants and indemnities of Lessee except to the extent that such representations, warranties, covenants and indemnities apply to the Premises and relate to the operation of the Premises prior to assignment of the Sublease to Lessor; or

(g) Liable for any of Lessee's obligations for alterations, demolition or other improvements or work upon the Premises or the portion of the Premises subject to the Sublease.

8. **DEFAULTS AND REMEDIES**.

8.1 **Events of Lessee's Default**. Each of the following events is hereby defined as an "Event of Lessee's Default":

8.1.1 Failure of Lessee to pay any Rental or any other payments of money as herein provided or required within seven (7) days after the same shall become due and

payable and the continuance of such failure for a period of seven (7) days after notice thereof in writing from Lessor to Lessee; or

8.1.2 Failure of Lessee to perform any of the other covenants, conditions and agreements of this Lease which are to be performed by Lessee, and the continuance of such failure for a period of sixty (60) days after notice thereof in writing from Lessor to Lessee (which notice shall specify the respects in which Lessor contends that Lessee has failed to perform any such covenants, conditions and agreements), unless such default cannot be cured within sixty (60) days with reasonable diligence, and Lessee within said sixty (60) day period shall have commenced and thereafter shall have continued diligently to prosecute all actions necessary to cure such default.

8.1.3 The abandonment by Lessee of its conduct of business on the Premises. Lessee shall be deemed to have abandoned the Premises if the Rental is due and payable beyond the time provided for in this Lease.

In the event that any installment of Rental is not paid to Lessor within seven (7) days following the date the same becomes due and payable, Lessee covenants and agrees to pay to Lessor: (a) a late fee in an amount equal to five percent (5%) of the amount of the installment of Rental not paid, **plus** (b) interest on the amount thereof at the Default Rate from the date such installment became due and payable to the date of payment thereof.

8.2 **Lessor's Remedies**. In the event of the occurrence of an Event of Lessee's Default, Lessor shall have the right to exercise any one or more of the following rights and remedies:

8.2.1 To terminate this Lease effective immediately upon delivery of notice to Lessee and Lessee shall immediately surrender possession of the Premises upon receipt of such notice. Notwithstanding such termination, Lessee shall remain liable for damages in an amount equal to all rent and other sums that would have become payable by Lessee under this Lease during the balance of the Term if this Lease had not been terminated, less the net proceeds, if any, of any reletting of the Premises subsequent to such termination, after deducting all of Lessor's expenses incurred in connection with such reletting. Lessor shall have the right to receive such damages from Lessee on the dates that such rent and other sums would have become payable under the Lease had the Lease not been terminated. Alternatively, Lessor shall have the right to recover from Lessee (i) the worth at the time of award (defined below) of the unpaid rent which accrued at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rent loss that Lessee proves could reasonably have been avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the Term, had the Lease not been terminated, after the time of award exceeds the amount of such rent loss that Lessee proves could reasonably be avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result from such failure. The "worth at the time of award" of the amounts referred to in ***Subsections (i) and (ii)*** shall be computed by accruing Default Interest on the unpaid amounts and with respect to ***Subsection (iii)*** shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award;

8.2.2 To immediately reenter and remove all persons and property from the Premises, without liability for damages sustained by reason of such reentry and removal. Such property may be stored in a public warehouse or elsewhere at Lessee's expense. If Lessor elects to reenter or take possession pursuant to legal proceedings or any notice provided by law, Lessor shall have the right to terminate this Lease, or without terminating this Lease, to relet the Premises or any part thereof for such term (which may be for a term in excess of the applicable Term) and upon such conditions as Lessor, in its sole discretion, may deem advisable (which may include concessions of free rent, alterations or repairs). If Lessor elects to relet the Premises, the rents received thereafter shall be applied first to the payment of any indebtedness other than rent due hereunder from Lessee to Lessor; second, to the payment of any costs of such reletting, including, without limitation, all repossession costs, brokerage commissions, legal expenses, employees expenses, alteration, remodeling and repair costs and expenses of preparing for such reletting; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Lessor and applied to payment of future rent as the same becomes due. If the rent to be received from such reletting will be less than the total of all rental and other payments that Lessee would have been obligated to make during the balance of the Term, Lessee shall immediately pay any such deficiency in full to Lessor. No such reentry or taking possession of the Premises and/or Improvements by Lessor shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Lessee or unless termination is decreed by a court. Notwithstanding any such reletting without termination, Lessor may, at any time thereafter, elect to terminate this Lease for such previous breach, upon delivery of notice to Lessee.

Lessor's rights and remedies pursuant to this Section shall be in addition to any other remedies it may have at law or in equity (including, but not limited to, specific performance and consequential damages), or elsewhere in this Lease.

8.3 **Event of Lessor's Default**. The failure of Lessor to perform any of the covenants, conditions and agreements of this Lease which are to be performed by Lessor and the continuance of such failure for a period of sixty (60) days after notice thereof in writing from Lessee to Lessor (which notice shall specify the respects in which Lessee contends that Lessor has failed to perform any of such covenants, conditions and agreements), shall constitute an "Event of Lessor's Default" unless such default cannot be cured within sixty (60) days and Lessor within such sixty (60)-day period shall have commenced and thereafter shall continue diligently to prosecute all actions necessary to cure such default.

8.4 **Lessee's Remedies**. If an Event of Lessor's Default shall occur, Lessee, to the fullest extent permitted by law, shall have, in addition to any other remedies it may have in law or in equity (including, but not limited to, specific performance) or elsewhere in this Lease, the right to terminate this Lease and all of its obligations hereunder by giving notice of such election to Lessor, whereupon this Lease shall terminate as of the date of such notice and Lessee shall quit and surrender the Premises to Lessor. No officer, official, employee, agent or representative of Lessor, including, without limitation, any City Council member, shall be liable to the Lessee or any Sublessee or successor-in-interest in the event of a default or breach by Lessor under this Lease.

8.5 **Obligations, Rights and Remedies Cumulative**. The rights and remedies of Lessor and Lessee, whether provided by law or by this Lease, shall be cumulative, and the exercise by either Lessor or Lessee of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach, or of any of its remedies for any other default or breach by any party to this Lease.

8.6 **Self-help**. If an Event of Lessee's Default or an Event of Lessor's Default shall occur and be continuing then, in addition to any other remedies at law or in equity or as otherwise provided in this Lease, the non-defaulting party may cure or prosecute the curing of such default and all reasonable expense incurred in connection therewith shall promptly be paid by the defaulting party to the party effecting such cure. Except to the extent such amounts may be reduced to judgment, nothing herein shall be construed as creating a debt of Lessor and any amounts due and payable by Lessor pursuant to this Section shall be an obligation only to the extent they are payable out of the budget for the then-current fiscal year. The term "Default Rate" means a rate of interest equal to eighteen percent (18%) per annum.

9. PROTECTION AGAINST MECHANICS' LIENS AND OTHER CLAIMS.

9.1 Discharge of Mechanic's, Laborer's or Materialman's Liens.

9.1.1 If, in connection with any work done or claimed to have been done by or on behalf of Lessee or any Sublessee, or in connection with any materials supplied to Lessee or any Sublessee, any mechanic's, laborer's or materialman's lien shall be filed against the Premises or any part thereof, Lessee shall promptly (and in any event within thirty (30) days following notice from the other party demanding such discharge) cause the same to be discharged of record, by payment, deposit, bond, order of a court of competent jurisdiction or otherwise, or insured over to the satisfaction of Lessor. If Lessee shall fail to cause such lien to be discharged within such thirty (30) day notice period, then, in addition to any other right or remedy, Lessor may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or bonding. Any amount so paid by Lessor, with all costs and expenses (including, but not limited to, attorneys' fees) incurred by Lessor in connection therewith, together with interest thereon at the Default Rate from the date of Lessor making such payment, shall be paid by Lessee to Lessor on demand.

9.1.2 Lessor shall not be liable for any work performed respecting Renovation or any subsequent Alterations, related facilities or any portion thereof by or for Lessee or any Sublessee or for any materials furnished at the Premises, related facilities or any portion thereof to or for Lessee or any Sublessee.

Lessee agrees to hold Lessor free and harmless, and to indemnify Lessor against all claims, liabilities, costs and expenses, for labor and materials in connection with all construction, repairs or alterations made by or through Lessee or its Sublessees, and the cost of defending against such claims, including reasonable attorneys' fees.The foregoing provisions of this Section shall be applicable to construction, repairs or alterations to the Building Improvements at all times during the Term, as may be extended. During periods of construction, Lessor shall have the right to post and maintain on the Premises any notices of non-responsibility provided for under applicable law.

9.1.3 Lessee shall make, or cause to be made, prompt payment of all money due and legally owing to all persons doing any work or contractors or subcontractors and suppliers in connection with the development, construction, equipment, repair or reconstruction of any of the Building Improvements required by this Lease to be constructed by Lessee. Nothing in this ***Section 9.1.3*** shall limit the right of Lessee to contest, in good faith, by legal proceedings or otherwise, whether any amount claimed or alleged to be due and owing to any such person is legally due and owing and to withhold payment of such amounts pending resolution of such dispute.

10. **WAIVER, INDEMNITY AND INSURANCE**.

10.1 **Assumption and Waiver**. Lessee assumes all risk of, and waives all claims against Lessor arising from damage, loss or theft of property or injury to persons in, upon or about the Premises from any cause, except for loss or damage caused by the gross negligence or intentional acts of Lessor or its agents or employees. The foregoing waiver includes, without limitation, the following risks against which Lessee should maintain adequate insurance to protect Lessee's equipment and other personal property: (a) all-risk casualty loss insurance with respect to all Improvements constructed by Lessee on the Premises, (b) any defect in or failure of plumbing, heating or air-conditioning equipment, electric wiring, water pipes, stairs, railings or walks; (c) the disrepair of any equipment; (d) the bursting, leaking or running of any tank, washstand, water closet, drain or any pipe or tank in, upon or about the Premises; (e) the backup of any sewer pipe or down spout; (f) the escape of steam or hot water; (g) water, snow or ice; (h) the falling of any fixture, plaster or stucco; (i) broken glass; and (j) any unauthorized or criminal entry of third parties within the Premises.

10.2 **Indemnification**. Lessee agrees to indemnify, defend, save and hold harmless Lessor, and its officers, officials, council members, citizens, agents, employees and volunteers (hereinafter referred to as "Indemnitee") for, from and against any and all claims, demands, actions, liabilities, damages, losses, or expenses (including court costs, reasonable attorney's fees, and costs of claim processing, investigation and litigation) (hereinafter collectively referred to as "Claims") for personal injury (including death) or property damage caused, in whole or in part, by the negligent, reckless, or intentional acts, errors, omissions, or mistakes of Lessee or any of Lessee's directors, officers, agents, employees, volunteers or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Lessee to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Lessee for, from and against any and all Claims. It is agreed that Lessee will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. The foregoing indemnity by Lessee shall extend, but not be limited, to:

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

(b) Any use, nonuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises and Improvements, 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 Premises or any street, alley, parking area or facility, sidewalk, curb, vault, passageway, gutter, tunnel, bridge 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 Premises, areas adjacent thereto or improvements thereon or any part thereof or in, on or about any street, alley, parking area or facility, sidewalk, curb, vault, passageway, gutter, tunnel, bridge or space comprising a part thereof;

(d) Any lien or claim which may be alleged to have arisen against or on the Premises 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 of Lessee or any Sublessee or any of its or their respective agents, contractors, servants, employees, licensees or invitees;

(f) Any failure on the part of Lessee to pay rental or to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease on its part to be performed or complied with and the exercise by Lessor of any remedy provided in this Lease with respect thereto;

(g) Any failure on the part of Lessee to keep, observe, comply with and perform any of the terms, covenants, agreements, provisions, conditions or limitations contained in the subleases or other contracts and agreements affecting the Improvements or any part thereof, on Lessee's part to be kept, observed or performed;

(h) 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 Lease.

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

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

The obligations of Lessee under this ***Section 10.2*** shall not in any way be affected by the absence in any case 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 the Premises.

If any claim, action or proceeding is made or brought against Lessor by reason of any event, specified or unspecified, which is the subject of Lessee's foregoing indemnity, then, upon demand by Lessor, Lessee, at its sole cost and expense, shall resist or defend such claim, action or proceeding 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.

10.3 **Environmental Indemnification of Lessor by Lessee**. Lessee shall defend, indemnify, and hold harmless Lessor for, from and against any and all future claims, demands, complaints and/or actions made or brought against Lessor pertaining to the Premises beginning with the building phase, and arising under any Environmental Law, Rule, Regulation or otherwise based upon any Hazardous Materials condition. This defense and indemnity includes, without limitation, any claims, demands, complaints, and/or action, asserted under CERCLA, WQARF, RCRA, and federal and state common law pertaining to Hazardous Materials, including any such claim based upon Lessor's alleged liability as an owner or operator of the Premises under CERCLA or WQARF.

10.4 **Insurance**. Lessee shall procure and maintain for the duration of the Lease insurance against claims for injury to persons or damage to property, which may arise from or in connection with this Lease by Lessee, Lessee's agents, representatives, employees or contractors and commercial property insurance. The insurance requirements herein are minimum requirements for this Lease and in no way limit the indemnity covenants contained herein. Lessor does not represent or warrant that the minimum limits set forth herein are sufficient to protect Lessee from liabilities that might arise out of this Lease, and Lessee is free to purchase such additional insurance as Lessee may determine is necessary.

10.4.1 **Minimum Scope and Limits of Insurance**. Lessee shall provide coverage at least as broad and with limits not less than those stated below.

(a) **Commercial General Liability - Occurrence Form**

(Form CG 0001, ed. 10/93 or any replacement thereof)
General Aggregate -- $2,000,000
Personal and Advertising Injury -- $1,000,000
Each Occurrence -- $1,000,000
Fire Damage (any one fire) -- $50,000
Medical Expense (any one person) -- Optional

(b) **Automobile Liability**

Any Automobile or Owned, Hired and Nonowned Vehicles *(Form CA 0001, ed. 12/93 or any replacement thereof)*

Combined Single Limit Per Accident for Bodily Injury and ***Property*** Damage -- $1,000,000

(c) **Workers' Compensation and Employer's Liability**

Workers' Compensation -- Statutory
Employer's Liability: Each Accident -- $500,000
Disease - Each Employee -- $500,000
Disease - Policy Limit -- $500,000

(d) **Commercial Property Insurance**

Building -- Replacement Cost
Loss of Rents -- Per Lease
(Broad Form, 90% coinsurance -- to be placed in force upon completion of building prior to occupancy)

10.4.2 **Self-Insured Retention/Deductibles**. Any self-insured retentions and deductibles must be declared to and approved by Lessor.

10.4.3 **Other Insurance Requirements**. The policies shall contain, or be endorsed to contain, the following provisions:

(a) Commercial General Liability and Automobile Liability Coverages.

(i) Lessor, 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 Premises subject to this Lease 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) Lessee's insurance shall contain broad form contractual liability coverage.

(iii) Lessor, 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 Lease.

(iv) 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 to the coverage of Lessee's insurance and shall not contribute to it.

(v) 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.

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

(vii) The policies shall contain a waiver of subrogation against Lessor, its officers, officials, agents, employees and volunteers for losses arising from Lessee's operations, occupancy and use of the Premises subject to this Lease.

(b) Workers' Compensation and Employee's Liability Coverage. The insurer agrees to waive all rights of subrogation against Lessor, its officials, officers, agents, employees and volunteers for losses arising from Lessee's operations, occupancy and use of the Premises subject to this Lease.

10.4.4 **Notice of Cancellation**. Each insurance policy required by the insurance provisions of this Lease 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 Lessor's Manager as provided in ***Section 15.1*** herein.

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

10.4.6 **Verification of Coverage**. Lessee shall furnish Lessor with certificates of insurance *(ACORD form)* as required by this Lease. 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.

10.5 **Policy Review and Adjustment**. Such policies of insurance shall be subject to review and adjustment on the fifth (5th) anniversary of the effective date of this Lease and on each subsequent fifth (5th) anniversary during the term hereof in order to determine the adequacy of the insurance amounts in light of the then existing circumstances.

10.6 **Failure to Maintain Insurance**. If Lessee fails or refuses to provide copies of the renewal insurance policies, together with evidence of payment of premiums therefor, or otherwise fails or refuses to procure or maintain insurance as required by this Lease, Lessor shall have the right, at Lessor's election, and upon five (5) days' notice to Lessee, to procure and maintain such insurance. Any premiums paid by Lessor hereunder shall be due and payable by Lessee to Lessor on the first day of the month following the date on which the premiums were paid. Lessor shall give prompt notice of the payment of such premiums, stating the amounts paid and the name(s) of the insured(s).

11. DISPUTE RESOLUTION.

11.1 **Litigation and Attorneys' Fees**. Except as otherwise agreed by the parties, any litigation brought by either party against the other to enforce the provisions of this Lease must be filed in the Coconino County Superior Court. In the event any action at law or in equity is instituted between the parties in connection with this Lease, the prevailing party in the action will be entitled to its costs including reasonable attorneys' fees and court costs from the nonprevailing party.

12. NOTICES.

12.1 **Notice Addresses**. Except as otherwise specifically provided herein, every notice, demand, consent, approval or other communication which any party is required or desires to give or make or communicate upon or to any other party shall be in writing and shall be sent by mailing the same by registered mail or certified mail, postage prepaid, return receipt requested, as follows:

If to Lessor: City of Flagstaff
City Manager
211 West Aspen Avenue
Flagstaff, Arizona 86001

or to such other address or addresses as Lessor shall from time to time and at any time designate by notice to Lessee.

If to Lessee: Northern Arizona Healthcare dba Guardian Air

Vice President
1200 N. Beaver Street
Flagstaff, Arizona 86001

12.2. **Mailing**. Every notice, demand, request, or other communication sent in the manner aforesaid shall be deemed to have been given, made or communicated, as the case may be, on the third business day after the same has been deposited, registered or certified, properly addressed as aforesaid, postage prepaid, in the United States mail, except that any notice, demand, request, or other communication to Lessor or Lessee may be personally delivered, and in such event shall be deemed to have been given on the date the same shall have been personally delivered to the party to whom such notice, demand, request or other communication is addressed, or to an officer of such party, if such party is a corporation, and with a copy to Lessor's Office of Lessor Attorney (in the case of any notice, demand, request or other communication to Lessor).

12.3 **Copies**. Any party may require, at any time, that up to three (3) additional copies of any notice be sent to such person(s) as shall be designated from time to time in any notice from such party.

13. GENERAL PROVISIONS.

13.1 **Amendment**. This Lease may be amended at any time by written amendment executed by both parties, which written amendment shall be recorded in the official records of Coconino County, Arizona, within ten (10) days following any such amendment.

13.2 **Authorization**. The parties to this Lease represent and warrant that the persons executing this Lease on their behalves have full authority to bind the respective parties.

13.3 **Captions**. The captions used herein are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions hereof.

13.4 **City Manager's Power to Consent**. Lessor hereby authorizes and empowers the City Manager to consent to any and all requests of Lessee requiring consent of Lessor hereunder without further action of the City Council of the City of Flagstaff except for any actions requiring the approval of the City Council of the City of Flagstaff as a matter of law.

13.5 **Conflicts of Interest**. Each member, official, representative, or employee of Lessor shall at all times be bound by all applicable laws respecting conflicts of interest, and, to the extent prohibited by such applicable laws, none of the same shall have any personal interest, direct or indirect, in this Lease, nor, to the extent prohibited by such applicable laws, shall any such member, official, representative or employee participate in any decision relating to this Lease which affects his personal interests or the interests of any corporation, partnership or association in which he is, directly or indirectly, interested. No member, official, representative or employee of Lessor shall be personally liable to Lessee or any successor in interest in the event of any default or breach by Lessor for any amount which may become due to Lessee or its successor, or on any obligations under the terms of this Lease.

A.R.S. §38-511 provides political subdivisions a right to cancel contracts under certain circumstances. Lessor and Lessee acknowledge that the provisions of A.R.S. § 38-511, which are incorporated herein by reference, may create a situation where Lessor may have a right to cancel this Lease pursuant to the rights given Lessor under A.R.S. §38-511. Lessee agrees not to knowingly take any action which would create any right of cancellation pursuant to the

provisions of A.R.S. §38-511, to the extent they may be applicable to this Lease or any amendment to this Lease.

13.6 **Construction of Lease**. This Lease has been arrived at by negotiation between Lessor and Lessee and has been reviewed by their respective counsel. As such, any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease. Further, the language in all parts of this Lease shall in all cases be construed as a whole and in accordance with its fair meaning.

13.7 **Counterparts**. This Lease may be executed in multiple counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all parties may be physically attached to a single document.

13.8 **Effective Date of Lease**. This Lease shall be effective upon the execution of the parties hereto, and upon expiration of thirty (30) days following approval hereof by the City Council of the City of Flagstaff; provided, however, that in the event this Lease is delayed in its effect by judicial challenge, or by referendum or injunction, the effective date of this Lease shall be delayed until resolution or termination of such judicial challenge, referendum or injunction. In the event of judicial challenge, referendum or injunction resulting in delay in the effect of the Lease which extends for a period of more than one hundred eighty (180) days following its approval by the City Council of the City of Flagstaff, then this Lease shall be terminable by Lessee upon written notice to Lessor in accordance with this Lease at any time within an additional one hundred eighty (180) days. Upon termination, this Lease shall be of no further force or effect, and neither party shall have any further obligation hereunder. Any delay relative to the effective date of this Lease by judicial challenge, referendum or injunction filed by parties acting independently of and not under the control of Lessor shall not be deemed a default hereunder by Lessor.

13.9 **Entire Agreement**. This Lease, and all the Exhibits attached hereto, and together with such other agreements and instruments pertaining to the Premises as are referenced herein, contains the entire agreement of the parties with respect to the matters addressed herein, and no representations or agreements, oral or otherwise, between the parties not embodied herein, attached hereto or hereinabove referenced shall be of any force and effect. Any additions or amendments to this Lease subsequent hereto shall be of no force and effect unless in writing and signed by the parties hereto.

13.10 **Estoppel Certificates**. Lessor and Lessee shall at any time and from time to time, within thirty (30) days after written request by the other, execute, acknowledge and deliver to the party which has requested the same a certificate stating:

(a) That this Lease is in full force and effect and has not been modified, supplemented or amended in any way, or, if there have been modifications, this Lease is in full force and effect as modified, identifying such modification agreement, and if this Lease is not in force and effect, the certificate shall so state;

(b) That this Lease as modified represents the entire agreement between the parties as to this leasing, or, if it does not, the certificate shall so state;

(c) The dates on which the term of this Lease commenced and will terminate;

(d) That all conditions under this Lease to be performed by Lessor or Lessee, as the case may be, have been satisfied and, as of the date of such certificate, there are no existing defenses or offsets, which Lessor or Lessee, as the case may be, has against the enforcement of this Lease by the other party, or, if such conditions have not been satisfied or if there are any defenses or offsets, the certificate shall so state; and

(e) That the Rental due and payable for the year in which such certificate is delivered has been paid in full, or, if it has not been paid, the certificate shall so state.

The party to whom any such certificate shall be issued may rely on the matters therein set forth and thereafter the party issuing the same shall be estopped from denying the veracity or accuracy of the same.

13.11 **Exhibits**. All exhibits attached hereto are incorporated herein by reference as though fully set forth herein.

13.12 **Expense of Obligations**. Where this Lease imposes obligations or responsibilities upon any party hereto, such obligations and responsibilities shall be performed at the expense of such party responsible therefor and without cost to or assessment against the property of any other party, except where otherwise specifically provided.

13.13 **Further Acts**. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Lease. Without limiting the generality of the foregoing, Lessor shall cooperate in good faith and process promptly any request and applications for permit approvals or other necessary approvals relating to the development of the Premises by Lessee and its successors.

13.14 **Gender and Number**. In this Lease (unless the context requires otherwise), the masculine, feminine and neuter genders and the singular and the plural include one another.

13.15 **Governing Law**. This Lease shall be governed by and construed under the laws of the State of Arizona. This Lease shall be deemed made and entered into in Coconino County.

13.16 **Modification**. No modification of this Lease shall be deemed effective unless in writing and signed by the parties hereto, and any waiver granted shall not be deemed effective except for the instance and in the circumstances particularly specified therein and unless in writing, executed by the party against whom enforcement of the waiver is sought.

13.17 **Negation of Partnership**. The parties specifically acknowledge that the Premises will be developed as private property, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Lease. None of the terms or provisions of this Lease shall be deemed to create a partnership between or among the parties nor shall it cause them to be considered joint venturers or members of any joint enterprise.

13.18 **No Obligation to Develop Premises**. Nothing contained herein shall be deemed to obligate Lessor to complete any part or all of the development of the Premises.

13.19 **No Third-Party Beneficiaries**. Lessor and Lessee acknowledge and agree that the terms, provisions and conditions hereof are for the sole benefit of, and may be enforceable solely by,

Lessor and Lessee, and none of such terms, provisions, conditions, and obligations are for the benefit of or may be enforced by any third party.

13.20 **Quiet Possession**. Lessor agrees that Lessee, upon observing and keeping the covenants, agreements and conditions of this Lease on its part to be kept and performed, shall lawfully and quietly hold, occupy and enjoy the Premises during the term in accordance with and subject to the terms of this Lease.

13.21 **Real Estate Commissions**. Each of the parties represents and warrants unto the other that there are no commissions, charges or other compensation due any broker, agent or finder with respect to this Lease or the negotiations thereof, and each of the parties covenants and agrees with the other that if any party hereto utilizes an agent, broker, or finder, the party so using an agent, broker or finder or incurring such commissions, charges, fees or similar expenses will pay, hold harmless and indemnify the other from and against all claims, costs, expenses or liability (including, without limitation, the cost of reasonable counsel fees in connection therewith) for any such compensation, commissions, charges, or other compensation claimed by any such broker, agent or finder.

13.22 **Recitals**. The Recitals set forth at the beginning of this Lease are acknowledged by the parties to be true and correct and incorporated herein by this reference.

13.23 **Rights Cumulative**. All rights, powers and privileges conferred herein upon the parties shall be cumulative but not restrictive of those given by law.

13.24 **Severability**. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Lease shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Lease shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

13.25 **Successors and Assigns**. Subject to the limitations on Lessee's rights to Transfer its interests under this Lease, all of the covenants and conditions set forth herein shall inure to the benefit of and shall be binding upon the successors in interest of each of the parties hereto. Upon any Transfer of Lessor's interest in this Lease, and the assumption by the Transferee of Lessor's obligations under this Lease, Lessor shall be entirely relieved of all liability for Lessor's obligations under this Lease accruing thereafter, and the Transferee shall be deemed without any further agreement between the parties or their successors-in-interest to have assumed all of Lessor's obligations accruing after such conveyance.

13.26 **Time of the Essence**. For purposes of enforcing the provisions of this Lease, time is of the essence.

13.27 **Unavoidable Delay**. Each party hereto shall be excused from performing any of its obligations or undertakings provided in this Lease (except any of its obligations to pay any sums of money under the applicable provisions hereof) for so long as the performance of such obligation is prevented or delayed by any cause which is beyond the control of such party, including, but not limited to, such of the following as may be beyond the control of such party: Act of God; fire; earthquake; flood; explosion; action of the elements; war; invasion; insurrection; riot; mob violence; sabotage; malicious mischief; inability to procure because of general shortage or rationing or regulation of labor, equipment, facilities, sources of energy (including, without limitation, electricity, gas, gasoline or steam), materials or supplies in the open market; failure of transportation; strikes; lockouts; action of labor

unions; condemnation; requisition; order of government or civil or military or naval authorities; bankruptcy proceedings; litigation involving a party or others relating to zoning, subdivisions, or other governmental action or inaction pertaining to the Premises or Building Improvements or any portion thereof; inability to obtain government permits or approvals; or any other cause, whether similar or dissimilar to the foregoing, not within the control of such party; provided, however, that no party shall be entitled to relief under this ***Section 13.27*** by reason of any event unless such party shall have given the other party notice of such event and the nature of such event within a reasonable time and in any event no later than thirty (30) days following such party's knowledge of the occurrence of such event. Any delay or cause excusing performance pursuant to the terms of this ***Section 13.27*** is referred to herein as an "Unavoidable Delay."

13.28 **Waiver**. No waiver by either party of a breach of any of the terms, covenants or conditions of this Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. One or more waivers of any covenant, term or condition of this Lease by any party shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by any party to or of any act by any other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

13.29 **Net Lease**. It is the intention of the parties hereto that, except as otherwise provided in this Lease, this Lease shall be a net lease, and that Lessor shall receive the rents herein reserved and all sums which shall or may become payable hereunder by Lessee free from all taxes, charges and expenses of every kind or sort whatsoever, and that Lessee shall and will and hereby expressly agrees to pay all such sums which, except for the execution and delivery of this Lease, would have been chargeable against the Premises and payable by Lessor.

14. **SALE OF PREMISES**. Lessor hereby agrees that, in the event that Lessor intends to offer the Premises for sale, Lessor shall provide written notice to Lessee at least sixty (60) days prior to Lessor publicly advertising the Premises for sale.

SIGNATURE PAGES FOLLOW

IN WITNESS WHEREOF, Lessor has caused this Lease to be duly executed in its name and on its behalf by its Mayor and its seal to be hereunder duly affixed and attested by its City Clerk, and Lessee has signed the same as of the date first set forth above.

"LESSOR"

CITY OF FLAGSTAFF, an Arizona municipal corporation

By_____
Name_____
Title_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

On this _____ day of _____, 2014, before me, the undersigned officer, personally appeared _____, who acknowledged her/himself to be _____ of the CITY OF FLAGSTAFF, an Arizona municipal corporation:

_____ whom I know personally;
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
_____ whose identity I verified on the basis of his/her _____,

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

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

NOTARY SEAL: _____
Notary Public

"LESSEE"

_____, an Arizona corporation

By_____
Name_____
Title_____

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

On this _____ day of _____, 2014, before me, the undersigned officer, personally appeared _____, who acknowledged her/himself to be _____ of _____, an Arizona corporation:

_____ whom I know personally;
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
_____ whose identity I verified on the basis of his/her _____,

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

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

NOTARY SEAL: _____
Notary Public

EXHIBIT A

CITY OF FLAGSTAFF PURCHASING DIVISION
211 WEST ASPEN AVENUE
FLAGSTAFF, ARIZONA 86001

INTRODUCTION

The City of Flagstaff, Arizona intends to enter into a lease agreement with a qualified Bidder for the lease of the building owned by the City of Flagstaff, addressed at 6628 S. Piper Lane, Flagstaff, Arizona.

Community:

Flagstaff is a mountain city located at 7,000 feet in elevation in the highlands of north central Arizona. It is surrounded on all sides by the Coconino National Forest, which contains the largest contiguous stand of Ponderosa Pines in the world. Flagstaff occupies 65 square miles on a volcanic plateau at the base of Arizona's highest point, the San Francisco Peaks, standing at 12,633 feet. Flagstaff is considered a metropolitan city because of its population of 68,000; however, its identity is still rooted in its small-town mountain heritage. Hunting, fishing, skiing, mountain biking and rock climbing are just a few of the outdoor activities that attract people to Flagstaff.

Flagstaff has long been a transportation hub. Located along an old wagon road to California, Flagstaff's development began after the railroad arrived in 1881. Today, Flagstaff is the economic hub of Northern Arizona, ideally situated at the juncture of Interstates 40 and 17. The Phoenix metropolitan area is 140 miles to the south and Grand Canyon National Park is approximately 80 miles to the north. Flagstaff is a governmental, educational, transportation, cultural and commercial center, with tourism and government as major sources of employment. The city is home to a number of scientific and high tech research and development industries. Also, approximately 15,000 students attend Northern Arizona University (NAU), which includes a graduate college and nine undergraduate colleges. The newly expanded Coconino Community College is also adjacent to the NAU campus. The community also has two museums, numerous art galleries, a symphony orchestra, three recreation centers, an ice skating rink and a major ski resort. Flagstaff has 10 public elementary schools, two middle schools, three high schools and many private and charter schools. Flagstaff has extensive medical facilities and resources, including a state-of-the-art trauma center at the Flagstaff Medical Center.

Flagstaff's incorporated population is approximately 68,000, an additional 20,000 live in nearby unincorporated communities, and more than 200,000 live in the trade area. Flagstaff has experienced a moderate annual growth rate of 3.1% over the past 25 years. The age distribution of the population within the Flagstaff urban area provides for a large labor pool due to the fact that 72% of the population falls within the 18 to 64 age group.

Proposed Use:

The zoning classification is Public Facility. If the successful Bidder desires to use the building for a use not currently permitted under zoning restrictions, it is the responsibility of the lessee to acquire a conditional use permit for that use. The proposal submitted must include specific detail regarding the type of use, number of occupants, times of operation and a general overview of the prospective lessee's operation and purpose.

Property Ownership:

The City holds title to the property and will lease the property to a prospective Bidder with a written lease agreement.

Lease Term of 6628 S. Piper Lane:

The minimum lease term will be not less than one year. The lessee is responsible for all utilities, taxes, fees, tenant improvements, and maintenance. There will be necessary improvements to the building that will be the responsibility of the successful respondent. The proposed improvements will be a part of the consideration of value. The City will conduct annual inspections to verify compliance with the maintenance requirements outlined in the lease agreement. The Lessee shall comply with all terms and conditions of the Lease Agreement **(Attachment A).**

Building Location and Description:

Location: 6628 S. Piper Lane, Flagstaff, Arizona (See Exhibit A, page 11)
Approximate Square footage: 2,000 SF – 1,200 SF Interior + 800 SF Garage
Free standing structure
40 X 50 dimensions which include a garage area
Metal building
Paved parking area
Building has maintenance issues that are unfunded and will need to be addressed by tenant prior to occupancy

Please see attached photos.

Property Visit/Showing:
Property visit and showing will be allowed between the hours of **10:00 AM and 12:00 PM on Tuesday, June 10th, 2014**. To RSVP and schedule a time, please contact Amy Hagin at (928) 213-2276 or ahagin@flagstaffaz.gov

Where to Obtain:

Bid documents can be obtained from the Purchasing Office by one of the following methods:

1. Via email (Adobe Acrobat format) by emailing Amy Hagin ahagin@flagstaffaz.gov
2. Via internet by accessing the City of Flagstaff website at www.flagstaffaz.gov/bids.asp
3. In person by coming to the Purchasing Office located at City Hall, 211 West Aspen Avenue, Flagstaff, Arizona.
4. By telephone, and requesting a bid packet be mailed to you.

Where to Submit:

Bids shall be submitted in a sealed envelope to:

Attn: Amy Hagin, Sr. Procurement Specialist
City of Flagstaff—Purchasing Division
211 West Aspen Avenue
Flagstaff, Arizona 86001

RE: **LEASE OF CITY OWNED AIRPORT STRUCTURE 6628 S. PIPER LANE**

BID NUMBER 2014-52

Evaluation Criteria:

The City's evaluation of the bids shall be based on the following criteria:

- Overall value to the City including monthly lease price and proposed tenant improvements. Lease agreement shall be awarded to the highest responsible Bidder whose bid is responsive to this Invitation for Bids and will be the most advantageous to the City. Proposed Capital Improvements will be considered alongside monthly lease price as potential value to the City.

Selection Process:

After reviewing all bids submitted, the City's evaluation committee will evaluate and rank them in order of highest responsible Bidder, whose bid is responsive to this Invitation for Bids, to the lowest responsible Bidder whose bid is responsive to this Invitation for Bids. The City's Purchasing Division will then forward a recommendation to the City Council for approval of the selected Bidder.

Disclosure of Data:

Information submitted in response to this Invitation for Bids is considered public record and may be disclosed pursuant to Arizona Revised Statutes, Title 41, Chapter 23, Article 3, Section 41-2533, letter (D).

Obligations:

This Invitation for Bids does not obligate the City of Flagstaff to pay any costs incurred in the preparation and submission of bids, nor to enter into any contract with any of the prospective Bidders. The City may reject any and all bids for any and all reasons.

EXHIBIT B

CITY OF FLAGSTAFF PURCHASING DIVISION
211 WEST ASPEN AVENUE
FLAGSTAFF, ARIZONA 86001

INVITATION FOR BIDS No. 2014-52
BUYER: Amy Hagin
PH: (928) 213-2276 FX: (928) 213-2209

BID FORM

Monthly Lease Rate:

Eight hundred thirty-three dollars and fifty cents

(Written in words)

$ 833.50

(Written as a dollar amount)

Proposed Improvements:

R&R or replace HVAC system, remove garage doors and frame in for office space, add a handicap accessible rest room, replace damage ceiling tile, add drop ceiling in garage area, add storage and two offices in garage area, complete gut of interior if necessary, remove and replace walls to accommodate a reception area and five offices, add a counter/sink in front meeting room, new carpet throughout, rodent abatement, structural roof assessment and repair as necessary, add electrical as needed, paint interior, chip seal parking area, repair/remove chain link fencing.

Estimated Value of Proposed Improvements

$ 200,000

Lease Term:

Ten(10) years

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: McKenzie Jones, Sustainability Specialist

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration and Adoption of Resolution No. 2014-29: A resolution of the City Council of the City of Flagstaff naming two of the trails in Picture Canyon Natural and Cultural Preserve the "Tom Moody Trail" and the "Don Weaver Trail". ***(Approve two Picture Canyon trail dedications).***

RECOMMENDED ACTION:

1) Read Resolution No. 2014-29 by title only
2) City Clerk reads Resolution No. 2014-29 by title only (if approved above)
3) Adopt Resolution No. 2014-29

Policy Decision or Reason for Action:

Subsidiary Decisions Points: Resolution No. 2001-73, amended by Resolution 2010-72, states that the criteria for naming a City facility (including trails) may be accomplished through a petition process with the appropriate commission. If the proposed name is that of an individual, the person must have been deceased for two years, unless it is an individual who has contributed outstanding civic service to the City and who has been deceased for a period of at least one year. Facility names may be changed under extraordinary circumstances and approved by the City Council. Donald Weaver, Jr. passed away on May 26, 2014 after over thirty years of work to preserve Picture Canyon and its cultural resources. Thomas Moody died in 2009 after several years of work to restore and protect Picture Canyon and its natural resources. As efforts are underway to construct trails and install trail signage at Picture Canyon Natural and Cultural Preserve, City staff and the community would like to commemorate the efforts of these men by dedicating the trails in their honor.

Financial Impact:

This decision has no financial impact on the City. The Flagstaff Sustainability Program has existing budgeted funds for trail signage at Picture Canyon.

Connection to Council Goal:

Fund existing and consider expanded recreational services

Has There Been Previous Council Decision on This:

No

Options and Alternatives:

1) Approve the proposal allowing for the trails in Picture Canyon Natural and Cultural Preserve to be dedicated to Tom Moody and Don Weaver.
2) Approve of the proposal to dedicate the Recreational Loop Trail to Tom Moody and wait until the one year anniversary of Don Weaver's passing to approve the dedication of the Educational Loop Trail to Don Weaver.
3) Not approve the request.

Background/History:

From 2002 until his death in 2009, Thomas Moody was a tireless advocate for the restoration and preservation of Picture Canyon. A native Arizonan, Moody spent 20 years as a commercial guide in the Grand Canyon and around the world running rivers. He was in on the ground floor of environmental studies in the Grand Canyon in the early 1980s and was instrumental in the conception and passage of the Grand Canyon Protection Act. Drawing on his degree in civil engineering at NAU, Moody became an associate professor at NAU teaching stream restoration and conducting research on southwestern streams. In 1999, Moody and his wife, Stephanie Yard, formed Natural Channel Design, Inc., an engineering consulting firm devoted to stream restoration and natural resource planning. Moody was an active member of the City of Flagstaff's Stream Team and one of the first members of the Friends of the Rio de Flag. His great passion and technical skills helped lead the arduous Picture Canyon preservation planning efforts through never ending roadblocks. His ability to work with a diverse group of individuals, organizations, and agencies helped to successfully navigate the grant applications, design, permitting, and countless authorizations that ultimately led to the restoration of the Rio de Flag and preservation of Picture Canyon. In memory of his efforts towards restoring and preserving the ecological resources of Picture Canyon, this resolution proposes that the Outer Recreation Loop Trail be named the Tom Moody Trail.

Beginning in the 1970s, Donald Weaver Jr. began efforts to document and preserve Picture Canyon's unique cultural resources. He received his BS in Aeronautical Engineering from Tri State University and his PhD in Anthropology from Arizona State University. Weaver directed the Museum of Northern Arizona's archaeological program, served as Curator of Anthropology, and then founded Plateau Mountain Desert Research, an archaeological consulting firm. A recognized authority on Southwestern prehistoric rock art, Weaver authored numerous books and articles. He served as president of the American Rock Art Research Association and visited and partially documented more than 600 rock art sites in Arizona. Weaver served as professional advisor and coordinator of the Arizona Archaeological Society Rock Art Recording Field School and was awarded ARARA's Frank and AJ Bock Lifetime Achievement Award in 2009. An active participant of the Picture Canyon Working Group, Weaver assisted with efforts to record rock art, place the site on the National Register of Historic Places, and acquire Picture Canyon as a natural and cultural preserve. He was exceedingly generous in sharing his time and talents to achieve a permanent record of fragile rock art resources through documentation. In memory of his efforts to restore and preserve the cultural resources of Picture Canyon, this resolution proposes the Educational Loop Trail be named the Don Weaver Trail.

Key Considerations:

Section 3 of Resolution No. 2001-73, as amended by Resolution No. 2010-72, lists four acceptable criteria for selecting names for City facilities. The fourth criterion, which is relevant in this case, reads as follows:

> The proposed name acknowledges significant non-monetary support received from either an individual or an organization that contributed in a definitive way to the betterment of the Flagstaff community and its citizens. The individual or organization must be accepted by the general public and/or the related professional field as a local, state, or national hero/contributor, or has had some historical significance. If the proposed name is that of an individual, the person must have been deceased for two years, unless it is an individual who has contributed outstanding civic service to

the City and who has been deceased for a period of at least one year.

Mr. Moody and Dr. Weaver were both experts in their respective fields and widely viewed as integral contributors to the successful preservation of Picture Canyon Natural and Cultural Preserve. With Council approval, we ask that the one year requirement for the trail dedication be waived in the case of Dr. Weaver due to the extraordinary circumstances of his contributions to Picture Canyon Natural and Cultural Preserve.

Expanded Financial Considerations:

This decision has no financial impact on the City. The Flagstaff Sustainability Program has existing budgeted funds for trail signage at Picture Canyon.

Community Benefits and Considerations:

Members of the community continue to express admiration for Mr. Moody and Dr. Weaver's contributions to Picture Canyon Natural and Cultural Preserve. This proposal allows public recognition and a constant reminder of their dedication to the restoration and protection of Picture Canyon.

Community Involvement:

Consult

The proposed trail dedications were developed in consultation with the Picture Canyon Working Group and the Friends of the Rio de Flag, two groups that were central to the restoration and protection of Picture Canyon Natural and Cultural Preserve. On June 18, 2014, the City of Flagstaff Parks and Recreation Commission received a presentation on the trail dedications and had no questions. On June 26, 2014, the City of Flagstaff Open Spaces Commission unanimously voted in support of the trail dedications, as required by Resolution 2001-73.

Expanded Options and Alternatives:

1. Approve the proposal allowing for the trails in Picture Canyon Natural and Cultural Preserve to be dedicated to Tom Moody and Don Weaver.
2. Approve of the proposal to dedicate the Outer Recreation Loop to Tom Moody and wait until the one year anniversary of Don Weaver's passing to approve the dedication of the Educational Loop to Don Weaver.
3. Not approve the request.

Attachments: Res. 2014-29
Map
Letters of Support

RESOLUTION NO. 2014-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA NAMING TWO OF THE TRAILS IN THE PICTURE CANYON NATURAL AND CULTURAL PRESERVE THE "TOM MOODY TRAIL" AND THE "DON WEAVER TRAIL"

RECITALS:

WHEREAS, the Flagstaff City Council established a policy for the naming of City facilities in Resolution No. 2001-73, which provides that an individual for whom a City facility is named must have been deceased for at least two years prior to the naming of the facility; and

WHEREAS, in 2010, the Council passed Resolution No. 2010-72 which amended Resolution No. 2001-73 to provide that a City facility may be named after an individual who has been deceased for a period of at least one year, if the individual has contributed outstanding civic service to the City as determined by the City Council; and

WHEREAS, the community wishes to honor the memory of Thomas Moody; and

WHEREAS, the community wishes to honor the memory of Donald Weaver, although he has been deceased for less than one year; and

WHEREAS, it would be significantly more cost effective to order signs for the two trails in the Picture Canyon Natural and Cultural Preserve at the same time.

ENACTMENTS:

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

Section 1. That the Recreational Loop Trail in Picture Canyon Natural and Cultural Preserve be named the "Tom Moody Trail" in honor of Mr. Moody's contributions to the restoration and preservation of the natural resources of Picture Canyon.

Section 2. That the Educational Loop Trail in Picture Canyon Natural and Cultural Preserve be named the "Don Weaver Trail" in honor of Dr. Weaver's efforts to document and protect the cultural resources of Picture Canyon.

Section 3. That Thomas Moody and Donald Weaver contributed outstanding civic service to the City of Flagstaff.

Section 4. That the Flagstaff City Council hereby waives the requirement set forth in Resolution No. 2010-72 that an individual for whom a City facility is named must be deceased for a period of at least one year, and approves the naming of the "Don Weaver Trail."

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 15th day of July, 2014.

_____
MAYOR

ATTEST:

_____
CITY CLERK

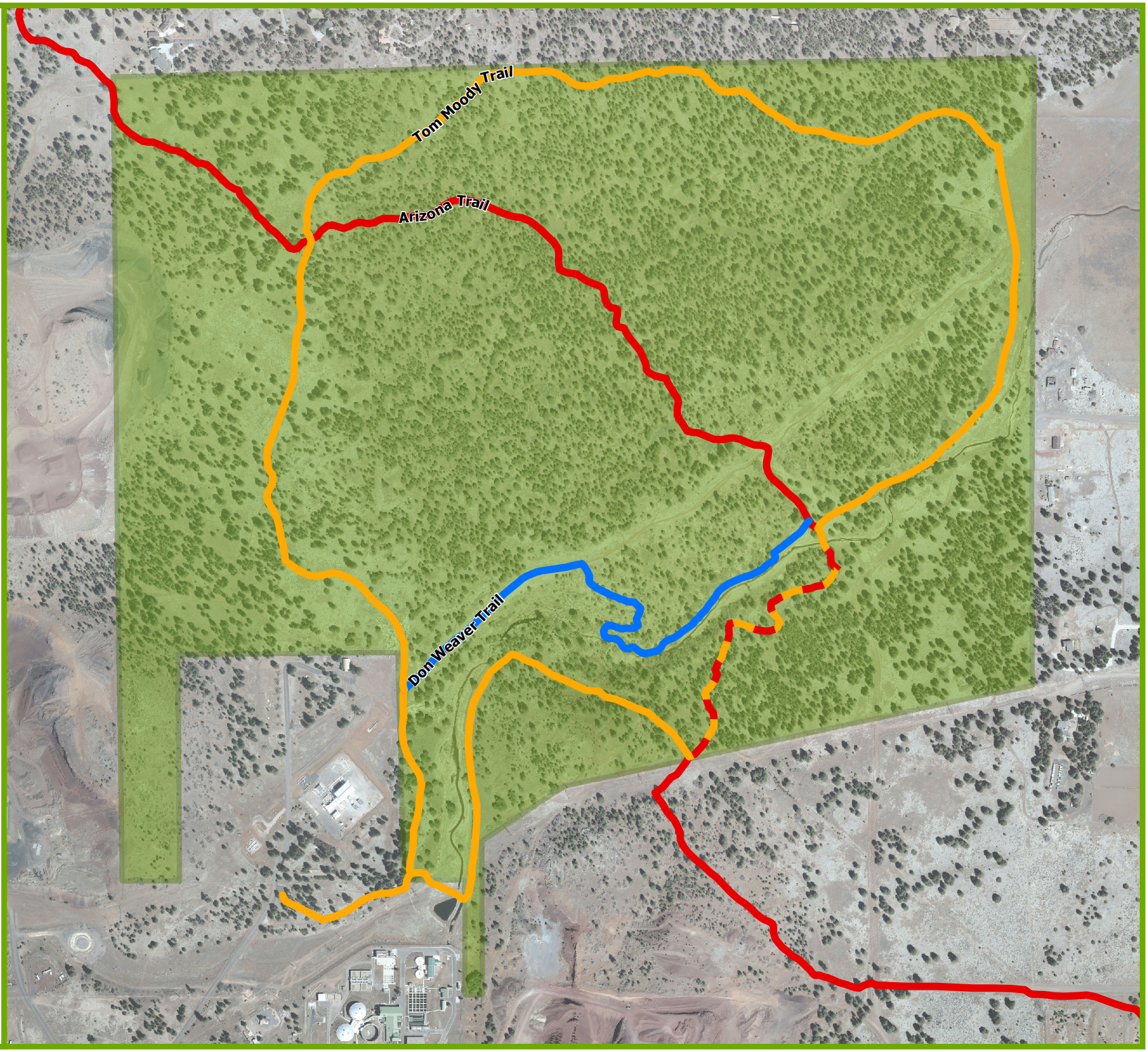
APPROVED AS TO FORM:

_____
CITY ATTORNEY

Picture Canyon

Natural and Cultural Preserve

Proposed Trail Names



Arizona Trail

Don Weaver Trail

Tom Moody Trail

Preserve Boundary

N

1,000

Feet

CITY OF FLAGSTAFF ARIZONA ESTABLISHED 1882

7 July 2014

Natural Channel Design, Inc.

206 S. Elden St.
Flagstaff, AZ 86001
928-774-2336

July 9, 2014

Mayor and Council
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001

Dear Honorable Mayor and Council,

I am writing on behalf of Natural Channel Design, Inc. regarding resolution 2014-29, which recommends that two trails in Picture Canyon Natural and Cultural Preserve be dedicated to the memory of Tom Moody and Don Weaver. Natural Channel Design fully supports the proposed trail dedication as these two outstanding individuals contributed tireless efforts towards the protection, preservation, and restoration of Picture Canyon.

Tom Moody was a leader in southwestern river policy and environmental advocacy since the 1970's and actively fought to restore and protect the rare riparian ecosystems of desert southwest. Tom formed Natural Channel Design, Inc with a mission to provide high quality technical services that protect, enhance, and restore riparian and other natural areas for the wildlife and human communities that depend on them. Tom clearly envisioned Picture Canyon's potential as a valuable community resource and combined his passion and knowledge to promote and restore a healthy riparian ecosystem within. His ability to work with a diverse group of individuals, organizations, and agencies helped to successfully navigate grant applications, design, permitting, and countless authorizations towards the Picture Canyon restoration efforts.

Don Weaver was extremely involved in protecting and preserving the cultural and environmental resources in Picture Canyon. He actively participated in any and all Picture Canyon activities including: recording, restoring, and protecting petroglyph panels and other archeological resources; participating in the nomination of Picture Canyon to the National Register of Historic Places; leading educational walks and cultural resource presentations; and volunteered for numerous cleanup and weed-pulling days, and countless outreach projects.

Rarely do people make such a direct impact on the earth and have concrete evidence to show they made the world just a little bit better, but Tom and Don did that with ease. Both Tom and Don were passionate individuals especially when it came to preserving, protecting, and restoring special places like Picture Canyon.

Sincerely,

Stephanie N. Yard

Stephanie Yard, PE
President, Natural Channel Design Inc. and Tom Moody's Wife

COCONINO
COUNTY ARIZONA
BOARD OF SUPERVISORS

July 9, 2014

Mayor and Council
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001

Dear Honorable Mayor and Council,

I am writing on behalf of the Picture Canyon Working Group regarding resolution 2014-29, which recommends that two trails in Picture Canyon Natural and Cultural Preserve be dedicated to the memory of Don Weaver and Tom Moody. The mission of Picture Canyon Working Group is to actively provide stewardship and technical assistance in support of the long-term management of the Picture Canyon Natural and Cultural Preserve. As a result, the Picture Canyon Working Group enthusiastically supports the proposed trail dedications in memory of Don and Tom.

Don's first visit to Picture Canyon in the late 1970s fueled his efforts to clean up Picture Canyon, restore its fragile resources, and teach anyone interested about the unique rock art throughout the Canyon. As an integral member of the Picture Canyon Working Group, Don assisted with efforts to record rock art, lead educational walks, place the site on the National Register of Historic Places, and preserve Picture Canyon in perpetuity. He was exceedingly generous in sharing his time and talents to achieve a permanent record of the fragile rock art resources that define Picture Canyon.

As an active member of the City's Stream Team and co-founder of Natural Channel Design, Tom Moody provided continuous leadership and involvement in the community efforts to restore the historic meander of the Rio de Flag through Picture Canyon. Tom's energy and experience helped lead the challenging Picture Canyon preservation efforts through the successful navigation of grant applications as well as the design, permitting, and countless authorizations that ultimately led to the restoration of the Rio de Flag through Picture Canyon.

Due to Don and Tom's lasting contributions to Picture Canyon and the greater Flagstaff community, the Picture Canyon Working Group asks that the Flagstaff City Council support these trail dedications.

Sincerely,

Mandy Metzger
Chair, Picture Canyon Working Group

219 East Cherry Avenue, Flagstaff, AZ 86001-4695 | Phone: 928.679.7144 | 800.790.1990 | Fax 928.679.7171 | coconino.az.gov

July 8, 2015

Mayor and Council
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001

Dear Honorable Mayor and Council,

We are writing on behalf of Friends of the Rio de Flag (FoRio) regarding resolution 2014-29, which recommends that two trails in Picture Canyon Natural and Cultural Preserve be dedicated to the memories of Tom Moody and Don Weaver. FoRio's goal is to protect, restore, clean up and improve the Rio de Flag and its tributaries to maximize their aesthetic, educational, recreational, and natural resource values, including the riparian habitats they provide. Within that context, Friends of the Rio de Flag wholeheartedly supports the proposed trail dedications.

As an early FoRio member, Tom Moody actively sought to enhance and protect a rare riparian ecosystem through his leadership in community efforts to restore the Rio de Flag's meander through Picture Canyon. As co-founder of Natural Channel Design, Tom combined his passion and knowledge to successfully carry out that restoration. Tom's work in stream rehabilitation, stream channel restoration, and community planning inspired FoRio to establish the Tom Moody Award to honor community members working in, volunteering for, and directing efforts in the fields Tom chose for his life's work.

From his first visit to Picture Canyon in the late 1970s, Don Weaver dedicated himself to recording, restoring, and protecting the unique archaeological resources that defined the area and provided its name. As an active member of the Picture Canyon Working Group, Don led educational walks, taught rock art recording workshops, and showed up for every Picture Canyon work day whether the purpose was restoring damaged petroglyphs or removing invasive weeds.

Both of these men strongly embodied FoRio's core values. Due to Tom and Don's shared efforts on behalf of the natural and cultural values of Picture Canyon, Friends of the Rio de Flag requests that City Council support these dedications.

Sincerely,

Deb Noel

Tom Bean

Deb Noel, Vice President
Tom Bean, Treasurer
Friends of the Rio de Flag
PO Box 151
Flagstaff, AZ 86002

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Patrick Bourque, Public Works Section Head

Co-Submitter: Rick Compau, Purchasing Director

Date: 07/08/2014

Meeting Date: 07/15/2014

TITLE:

Consideration of Proposals: Purchase of Property for the Core Services Maintenance Facility
(Consider proposals submitted in response to RFP 2013-44).

RECOMMENDED ACTION:

Reject all proposals as submitted for Request for Proposal (RFP) 2013-44 for the purchase of property for the Core Services Maintenance Facility and approve the McAllister Ranch property for construction of the Facility.

Policy Decision or Reason for Action:

There were a total of nine (9) proposals submitted for the RFP and Baylu Group, LLC (proposed property at the far north end of Cortland Blvd, near County Club and I-40 interchange) rose to the top as the highest scoring proposer. City staff, in conjunction with a local professional design firm, conducted extensive on-site/off-site infrastructure, design, review and construction cost analysis for both Baylu Group, LLC's Cortland Blvd. property and the McAllister Ranch property. Given the results of the cost of future building, Baylu Group, LLC's Cortland Blvd. property would be significantly more expensive to construct the Core Services Maintenance Facility than the McAllister Ranch property. Staff did not find any of the remaining proposals to be superior to McAllister Ranch

Financial Impact:

We will be committing the $14,000,000 bond money approved by the voters, as well as requesting the reinstatement of the $2.50 per ton surcharge at the landfill to pay for the Solid Waste portion of the new Facility. The reinstatement would produce revenue we could borrow against and that, coupled with what we currently have in our legal reserve fund for this project, would give us $5,500,000 for the Facility.

Connection to Council Goal and/or Regional Plan:

Address Core Services Maintenance Facility

Previous Council Decision on This:

In 2012/2013, Council rejected the F.W. Thompson (Wayne Thompson) proposed property because an acceptable agreement could not be reached and directed City staff to go back out and advertise through a new RFP.

Options and Alternatives:

1. Reject all proposals and approve McAllister Ranch for the site for the Facility.
2. Approve the Baylu Property for the Facility site.
3. Discontinue negotiations with the Baylu Group and enter into negotiations with the next highest ranking eligible proposer.
4. Go back out for RFP to see if there are any additional sites to consider to construct the Facility.

Background/History:

In the spring of 2012, a bond question was approved to be placed on the November 2012 ballot for voters to approve $14,000,000 for a new Core Services Maintenance Facility. The voters approved this bond initiative and the City's Purchasing Section advertised an RFP for the purchase of property for the new Core Services Maintenance Facility. The City received one (1) proposal response from Wayne Thompson and negotiations began. Negotiations with Wayne Thompson continued into early 2013. With the parties unable to reach an acceptable agreement, negotiations were formally terminated and the proposal was rejected by the Council with discretion for staff to go back out with an RFP.

The City's Purchasing Section advertised a 2nd formal competitive RFP for the purchase of approximately 20 contiguous acres of developable land for a new Core Services Maintenance Facility for the Public Works Division. The RFP was structured to allow for the purchase only or purchase property and exchange City owned-property (specifically the current Mogollon property and the McAllister Ranch property) to assist in offsetting the purchase of any other proposed property. The RFP document also referenced the McAllister Ranch as a competing piece of property along with all other proposed property sites. The RFP was advertised on July 22, 2013, with proposals due on or before September 24, 2013. This time frame for advertising the RFP allowed for approximately nine (9) weeks for prospective proposers to be made aware of the RFP and submit a proposal response. The Purchasing Section held two (2) Pre-proposal Conferences to go over the project description/scope of work and evaluation criteria, as well as answer any questions from prospective proposers. The City received a total of nine (9) proposals involving eight (8) separate properties. One (1) of the proposals submitted involved two (2) different offers for the same proposed property. The RFP outlined four (4) evaluation criteria as follows:

- Location (30%)
- Offer Price (25%)
- Quality of On-site and Off-site Infrastructure (25%)
- Functional Existing facilities that would support the Core Services Functions (20%)

The evaluation committee was comprised of a total of nine (9) evaluators, with representation from the following areas:

- Public Works -- (2) evaluators
- Utilities -- (1) evaluator
- Managemnt Services/Finance -- (1) evaluator
- Economic Vitality -- (1) evaluator
- Community Development/Planning --(1) evaluator
- City Manager's Office -- (1) evaluator
- Flagstaff Chamber of Commerce -- (1) evaluator
- APS -- (1) evaluator

After a complete evaluation and scoring of proposal responses, Baylu Group, LLC's Cortland Blvd. property rose to the top as the highest scoring proposer.

Key Considerations:

City staff has spent extensive time and money on comparing Baylu Group LLC's Cortland Blvd. property and the McAllister Ranch property to determine the best choice for the City. Site plans were developed for both properties to determine if and how the facilities would fit on each site and costs associated with those facilities.

Both properties are capable of housing all Public Works' existing facilities. Both are capable of future expansion. However, the City would have to encumber approximately seven (7) acres of park land adjacent to the Baylu Group, LLC's Cortland Blvd. property for future expansion. City staff has taken into consideration not only location but also compared on-site and off-site infrastructure costs for each location as well as estimating the annual operational and maintenance costs associated with each site. In addition, since the Baylu property is at the end of a dead end street passing through a multi-family residential area, staff also investigated the possibility of an alternate route that could be used as a primary access to the property. A route was designed that would exit the east end of the property, travel through the floodplain in the proposed park and exit onto Country Club. The estimated cost of the road is $4,100,000 and would require the acquisition of two (2) pieces of privately owned property.

Appraisals were performed on the City's McAllister Ranch and Mogollon properties for purposes of calculating the resources available to the City to purchase land and build the Facility. An appraisal was also performed on the Baylu Group, LLC's Cortland Blvd. property to compare it to their asking price. Staff also communicated with the Baylu Group, LLC representative during the due diligence process as to our progress and timeline and shared with them the results.

Expanded Financial Considerations:

The money resources for the Facility are $14,000,000 bonding authority, landfill fees, both debt and one time money, totaling $5,500,000 and the appraised values for McAllister Ranch at $2,178,000 and the Mogollon property at $2,256,000. It should be noted that the appraisal for the Baylu Group, LLC's Cortland Blvd. property is $5,200,000. Total resources: $23,934,000 available for the Facility.

The best and final offer from the Baylu Group, LLC is $5,200,000 and they will take in trade both City properties at their respective appraised values. This figure is compared to the McAllister property which is already owned by the City.

A local professional design firm, Shephard Wesnitzer, Inc., performed on-site and off-site comparison of costs associated with each property as well as building and construction costs. These costs are $22,553,679 for the Baylu Group, LLC's Cortland Blvd. property and $21,431,955 for McAllister Ranch.

Given the cost of the Baylu Group, LLC's Cortland Blvd. property at $5,200,000, the design, review and construction costs of $22,553,679 and the estimated $4,100,000 cost to build the primary access road, the total move-on cost for the Baylu Group, LLC's Cortland Blvd. property is $31,853,679.

$22,553,679	Design, Review & Construction (DCR) Costs
5,200,000	Property Purchase
4,100,000	Primary Access Road construction
$31,853,679	BAYLU TOTAL COSTS
- $23,034,000	TOTAL RESOURCES
$ 7,919,679	(Shortfall)

For the McAllister Ranch property, the property is owned by the City.

$21,431,955	Design, Review & Construction (DCR) Costs
0	Property Currently Owned
$21,431,955	McCALLISTER TOTAL COSTS
- 21,756,000	TOTAL RESOURCES
$ 324,045	Surplus

Community Benefits and Considerations:

The community around the current site on Mogollon will benefit because we will be moving our operations out of the residential area.

Community Involvement:

Inform

Expanded Options and Alternatives:

1. Reject all proposals and approve McAllister Ranch for the site for the Facility.
2. Approve the Baylu Group, LLC's Cortland Blvd. property for the Facility site.
3. Discontinue negotiations with the Baylu Group, LLC and enter into negotiations with the next highest ranking eligible proposer.
4. Go back out for an RFP to see if there are any additional sites to consider to construct the Facility.

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Kevin Burke, City Manager
Date:	07/08/2014
Meeting Date:	07/15/2014

TITLE

Discussion of City Participation in Community Conversation on Student Housing

RECOMMENDED ACTION:

Discussion Only

INFORMATION

At the last Joint City-County Work Session, Supervisor Liz Archuleta noted she would facilitate a community conversation regarding NAU student housing in Flagstaff. Supervisor Archuleta has since laid the groundwork for this conversation and has asked for the City's participation in that conversation. Further Supervisor Archuleta met with President Haeger and he indicated that NAU is interested in participating in the conversation. The goals of the conversation at this point appear to be education, reconciliation, and idea generation. Discussion continues regarding format, timing, and logistics; however, the Supervisor has reached out to the Mayor to be a participant.

Important aspects of this discussion should include:

1. How the City participates;
2. Who from the City participates;
3. How this discussion duplicates or enhances related agenda items Council has requested; and,
4. Expectation Management.

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Kevin Burke, City Manager
Date:	07/10/2014
Meeting Date:	07/15/2014

TITLE

Consideration of Possible Future Agenda Item: Citizen Petition for Council Consideration of 2011 La Plaza Vieja Neighborhood Plan

RECOMMENDED ACTION:

Consideration of Future Agenda Item

INFORMATION

On July 10th, Laura Bustamante-Myers, with La Plaza Vieja Neighborhood Association, delivered a petition to the City Manager. The petition requests that the City Council and Mayor consider the 2011 La Plaza Vieja Neighborhood Plan final draft. The petition and accompanying letter is attached to this staff summary.

Attachments: Petition_La Plaza Vieja

La Plaza Vieja
Neighborhood

397 South Malpais Lane, Suite 2
Flagstaff, AZ 86001
928-773-4757

RECEIVED
JUL 10 2014

July 10, 2014

Kevin Burke, City Manager
City of Flagstaff
211 West Aspen
Flagstaff, AZ 86004

Subject: Citizen Petition for Council Consideration of 2011 La Plaza Vieja Neighborhood Plan

Dear Mr. Burke:

Now that the 2030 Regional Plan has been approved by City of Flagstaff voters, the La Plaza Vieja Neighborhood Association is requesting Council's consideration of our 2011 Neighborhood Plan Final Draft. As you may know, adoption of the Neighborhood Plan was delayed to accommodate consideration of the Regional Plan.

Per the City Charter (referenced below), the La Plaza Vieja Neighborhood Association presents to you a citizen petition for consideration by the City Council and Mayor:

Article II Section 17 CONSIDERATION OF PETITIONS
"Any citizen of the City may present a written petition to the City Manager, who shall present it to the Council at its next regular meeting; such petition shall be acted upon by the Council, in the regular course of business, within thirty-one (31) days after such presentation."

It is our understanding that the City Charter requires you to present this petition to the Council and Mayor at its next regular meeting. We further understand the Council and Mayor are required to act upon the petition within thirty-one days after your presentation.

Thank you for your prompt response. If you have any question or need for further information, my contact information is listed below.

Sincerely,

Laura Bustamante-Myers

Laura Bustamante-Myers
Outreach Director
La Plaza Vieja Neighborhood Association
397 South Malpais Lane, Suite 2
Flagstaff, AZ 86001
flagplazavieja@aol.com
Cell # (928) 607-4898

Cc: Jesse Dominguez, President, La Plaza Vieja Neighborhood Association

RECEIVED
JUL 10 2014

PETITION FOR CITY COUNCIL AND MAYOR CONSIDERATION

Under the City of Flagstaff City Charter, Article II The Council and the Mayor, subsection 17 Consideration of Petitions, we, the undersigned, request that the City Council and the Mayor consider the 2011 La Plaza Vieja Neighborhood Plan Final Draft. Per the Charter subsection, we understand that this petition will be acted upon by the Council, in the regular course of business, within thirty-one (31) days after such presentation.

DATE	PRINTED NAME	SIGNATURE	ADDRESS	CITY, STATE, ZIP
7-9-14	Concha G. Buslamante	Concha G. Buslamante	418 W. Tucson Ave.	Flagstaff, Az 86001
7-9-2014	Jose J. Dominguez	[illegible]	510 W. Tombstone Ave	Flagstaff, Az 86001
7-9-2014	Irene Dominguez	Irene Dominguez	510 W Tombstone Ave.	FLAGSTAFF ARIZ 86001
7-9-2014	GLORIA E Valencia	[illegible]	705 W. Tombstone	Flagstaff Az 86001
7-9-2014	DOLORES BARELA	Dolores R Barela	919 W Clay	Flagstaff Az 86001
7-9. 2014	JAMES GALLARDO	[illegible]	514 W. Tucson	Flagstaff Az 86001
7-9-2014	Laura B. Myers	Laura B. Myers	10200 N. Aurora Drive	Flagstaff AZ 86004