

## DRAFT AGENDA

REGULAR COUNCIL MEETING  
TUESDAY  
SEPTEMBER 20, 2016

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 BAROTZ

COUNCILMEMBER BREWSTER

COUNCILMEMBER EVANS

COUNCILMEMBER ORAVITS

COUNCILMEMBER OVERTON

COUNCILMEMBER PUTZOVA

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

##### MISSION STATEMENT

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

#### 4. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

#### 5. PUBLIC PARTICIPATION

*Public Participation enables the public to address the Council about an item that is not on the agenda. 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:** Open Spaces Commission.

**RECOMMENDED ACTION:**

Make one appointment to a term expiring April 2017.

8. **LIQUOR LICENSE PUBLIC HEARINGS**

A. **Consideration and Action on Liquor License Application:** Lauren Merrett, "Texas Roadhouse", 2201 E. Route 66, Series 12 (restaurant), New License.

**RECOMMENDED ACTION:**

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

B. **Consideration and Action on Liquor License Application:** Tina Martinez, "Casa Duarte", 1000 N. Humphreys, Suite 243, Series 12 (restaurant), New License.

**RECOMMENDED ACTION:**

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

C. **Consideration and Action on Liquor License Application:** Danny Thomas, "Cork'N Bottle", 824 N. Beaver St., Series 09 (liquor store - all spirituous liquor), Person Transfer.

**RECOMMENDED ACTION:**

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

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 Approval of Contract:** Approve the construction contract with JC Cullen, Inc., DBA Niles Radio Communications in the amount of \$54,243.75 for the installation of a SCADA Network Tower for the Woody Mountain well field in Coconino National Forest.

**RECOMMENDED ACTION:**

- 1) Approve the construction with JC Cullen, Inc. DBA Niles Radio Communications in the amount of \$54,243.75.
- 2) Approve Change Order Authority to the City Manager in the amount of \$5,423.00 (10% of contract amount).
- 3) Authorize the City Manager to execute the necessary documents.

- B. **Consideration and Approval of Contract:** Increase SWCA, Inc. GIS Services contract 2016-25 in the amount of \$5,500.

**RECOMMENDED ACTION:**

- Approve the contract amendment for \$5,500.

10. **ROUTINE ITEMS**

- A. **Consideration and Adoption of Ordinance No. 2016-31:** An ordinance amending Flagstaff City Code Title 2, Boards and Commissions, Chapter 2-12, Transportation Commission, for the purpose of adding oversight provisions regarding the progress and expenditures of the City's Road Repair and Street Safety Tax Revenues approved by voters in the election of November 2014.

**RECOMMENDED ACTION:**

- 1) Read Ordinance No. 2016-31 by title only for the final time
- 2) City Clerk reads Ordinance No. 2016-31 by title only (if approved above)
- 3) Adopt Ordinance No. 2016-31

- B. Consideration and Adoption of Ordinance No. 2016-33:** An ordinance of the Mayor and Council of the City of Flagstaff, Coconino County, Arizona, amending qualifications for members who serve on the Heritage Preservation Commission, by amending Title II, Boards and Commissions, Chapter 2-19, Heritage Preservation Commission; providing for severability, repeal of conflicting ordinances, and establishing an effective date.

**RECOMMENDED ACTION:**

- 1) Read Ordinance No. 2016-33 by title only for the final time
- 2) City Clerk reads Ordinance No. 2016-33 by title only (if approved above)
- 3) Adopt Ordinance No. 2016-33

- C. Consideration and Adoption of Ordinance No. 2016-35:** An ordinance of the City Council of the City of Flagstaff, authorizing the City of Flagstaff to accept the deed of certain real property located at 2555 S. Beulah Boulevard, Flagstaff, Arizona to expand current City right-of-way and allow for construction of a public sidewalk along Beulah Boulevard.

**RECOMMENDED ACTION:**

- 1) Read Ordinance No. 2016-35 by title only for the final time
- 2) City Clerk reads Ordinance No. 2016-35 by title only for the final time (if approved above)
- 3) Adopt Ordinance No. 2016-35

- D. Consideration and Approval of Consultant Services Contract:** Beaver Street and Dale Avenue Bundle #2 Improvements (Road Repair and Street Safety Program) Project

**RECOMMENDED ACTION:**

- 1) Approve the Professional Services Contract to The WLB Group, Inc. of Flagstaff, Arizona on a time a materials basis in an amount not to exceed \$231,160.00, which includes a \$12,000.00 contingency. The contract period is 704 calendar days; and
- 2) Authorize Change Order Authority to the City Manager in the amount of \$22,000.00 (10% of contract amount excluding contingencies) for unanticipated or additional items of work; and
- 3) Authorize the City Manager to execute the necessary documents.

- E. Consideration and Approval of CMAR Design Phase Services Contract:** Beaver Street and Dale Avenue Bundle #2 Improvements (Road Repair and Street Safety Program) Project.

**RECOMMENDED ACTION:**

- 1) Approve the Construction Manager At Risk (CMAR) Design Phase Services Contract to Eagle Mountain Construction, Inc. of Flagstaff, Arizona on a time a materials basis in an amount not to exceed \$76,147.50, which includes a \$7,000.00 contingency. The contract period is 253 calendar days.
- 2) Authorize Change Order Authority to the City Manager in the amount of \$7,000.00 (10% of contract amount excluding contingencies) for unanticipated or additional items of work; and
- 3) Authorize the City Manager to execute the necessary documents.

**F. Consideration of Amendment to Lease Agreement: Cogdill Recreation Center Lease  
With Boys & Girls Club of Flagstaff**

**RECOMMENDED ACTION:**

- 1) Approve Amendment No. one to provide \$50,000 in continued funding to the Boys & Girls Club of Flagstaff for various recreational programs for under served youth within the Flagstaff community.
- 2) Authorize the City Manager to execute the 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 BAROTZ	COUNCILMEMBER ORAVITS
COUNCILMEMBER BREWSTER	COUNCILMEMBER OVERTON
COUNCILMEMBER EVANS	COUNCILMEMBER PUTZOVA

**12. PUBLIC PARTICIPATION**

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

**14. PUBLIC HEARING ITEMS**

**A. Public Hearing for Resolution No. 2016-31: A resolution of the Flagstaff City Council amending the Flagstaff Regional Plan 2030 by amending Chapter 3 to change the categories of Major Plan Amendments and establishing an effective date.**

**RECOMMENDED ACTION:**

- 1) Open Public Hearing
- 2) Continue Public Hearing to \_\_\_\_\_

15. **REGULAR AGENDA**

- A. **Consideration and Possible Adoption of Resolution No. 2016-20 and Ordinance No. 2016-25:** Declaring as a Public Record that certain document known as the International Fire Code, 2012 Edition, and amendments, additions and deletions thereto and the 2016 Amendments to the Flagstaff City Code, Title 5, Fire Code and adopting said public record by reference.

**RECOMMENDED ACTION:**

At the Council Meeting of September 20, 2016

- 1) Read Resolution No. 2016-20 by title only
- 2) City Clerk reads Resolution No. 2016-20 by title only (if approved above)
- 3) Read Ordinance No. 2016-25 by title only for the first time
- 4) City Clerk reads Ordinance No. 2016-25 by title only (if approved above)

At the Council Meeting of October 4, 2016

- 5) Adopt Resolution No. 2016-20
- 6) Read Ordinance No. 2016-25 by title only for the final time
- 7) City Clerk reads Ordinance No. 2016-25 by title only (if approved above)
- 8) Adopt Ordinance No. 2016-25

16. **DISCUSSION ITEMS**

17. **FUTURE AGENDA ITEM REQUESTS**

*After discussion and upon agreement by a majority of all members of the Council, an item will be moved to a regularly-scheduled Council meeting.*

- A. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Evans to place on a future agenda a discussion regarding a resolution re the Grand Canyon National Park Proposed Backcountry Management Plan.
- B. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Evans to place on a future agenda the Creation of a Commission on Women's Issues.
- C. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Evans to place on a future agenda the discussion of Transect Zones.

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

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 \_\_\_\_\_, 2016.

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

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Stacy Saltzburg, Deputy City Clerk  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration of Appointments:** Open Spaces Commission.

**RECOMMENDED ACTION:**

Make one appointment to a term expiring April 2017.

**Executive Summary:**

The Open Spaces Commission consists of seven (7) regular members all of whom shall be appointed by the City Council, except for designee from the Planning and Zoning Commission. The commission serves as an advisory body on the acquisition, management, use, restoration, enhancement, protection, and conservation of open space land.

There is currently one vacant seat available. It is important to fill vacancies on Boards and Commissions quickly so as to allow the Commission to continue meeting on a regular basis.

There are four applications on file for consideration by the Council, they are as follows:

Thomas DeSimone (new applicant)  
Jackie Holm (new applicant)  
Libby Kalinowski (new applicant)  
Emily Tomjack (new applicant)

In an effort to reduce exposure to personal information the commission roster, applicant roster and applications will be submitted to the City Council separately.

**COUNCIL APPOINTMENT ASSIGNMENT:** Councilmember Overton

**Financial Impact:**

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

**Connection to Council Goal and/or Regional Plan:**

There is no Council goal that specifically addresses appointments to Boards and Commissions; however, boards and commissions do provide input and recommendations based on City Council goals that may pertain to the board or commission work plan.

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

None

**Options and Alternatives:**

1) Appoint one Commissioner: By appointing a member at this time, the commission will be at full membership and able to continue to meet and provide recommendations to the City Council.

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

**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 openings by Board members and City staff has occurred, informing others of these vacancies through word of mouth.

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**Attachments:**     [Open Space Authority](#)

**CHAPTER 2-20  
OPEN SPACES COMMISSION**

**SECTIONS:**

- [2-20-001-0001](#) CREATION OF THE COMMISSION:
- [2-20-001-0002](#) TERMS OF OFFICE:
- [2-20-001-0003](#) DUTIES:
- [2-20-001-0004](#) OPEN SPACES LONG RANGE MANAGEMENT PLAN COMPONENTS:
- [2-20-001-0005](#) MEETINGS; ATTENDANCE:

**2-20-001-0001 CREATION OF THE COMMISSION:**

There is hereby created an advisory body to be called the "Open Spaces Commission" ("Commission") consisting of the following seven (7) regular members all of whom shall be appointed by the City Council, except for designee from the Planning and Zoning Commission: one (1) member from the Planning and Zoning Commission; and six (6) public at-large members. All Commission members shall be voting members. A Chairperson shall be selected by a majority vote of those members at a meeting called for that purpose. (Ord. No. 2007-08, Amended, 02/06/2007; Ord. 2014-28, Amended, 11/18/2014; Ord. 2015-22, Amended, 01/05/2016)

**2-20-001-0002 TERMS OF OFFICE:**

Appointments from the Planning and Zoning Commission and the Parks and Recreation Commission to the Open Spaces Commission shall be for no longer than the remaining term of the appointing Commission's designee. Terms of all other appointees shall be for three years except for the first appointments creating staggered terms as follows: The City Council shall appoint two members for three year (3) terms, two members for two (2) year terms, and two members for one (1) year terms. After the initial appointment all terms thereafter will be three (3) year terms.

**2-20-001-0003 DUTIES:**

- A. It shall be the Commission's duty to advise the City Council on acquisition, preservation, and alternatives for open space land management.
- B. The duties of the Commission shall also include, but not be limited to: Reviewing and advising the City Council on the development of an Open Spaces Long Range Management Plan and policies to provide broad, long-term direction for planning and decision making for the lands designated as Urban Open Space Management Area in the Urban Open Spaces Plan of the Flagstaff Area Regional Land Use and Transportation Plan.
- C. Advising and assisting the Mayor and City Council on ways to educate and involve the community on the value, protection, and stewardship of open space lands.
- D. Advising and assisting the Mayor and City Council on ways to work collaboratively with other governmental

entities, organizations, and departments to advance and ensure the implementation of the Open Spaces Long Range Management Plan and the Flagstaff Area Regional Land Use and Transportation Plan.

E. Advising and assisting the Mayor and City Council regarding regional open space issues as well as to any regional open spaces coalition that may be formed in the future relative to lands designated as open space in the Greater Flagstaff Area Open Spaces and Greenways Plan.

F. Obtaining public input and participation in various programs such as environmental education and interpretation on the use, operation, and management of open space and providing information concerning the goals, projects, and operations of the open space program.

**2-20-001-0004 OPEN SPACES LONG RANGE MANAGEMENT PLAN COMPONENTS:**

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- A. The components of the Open Spaces Long Range Management Plan shall include, but not be limited to:
1. Program goals, management decision-making processes, and implementation techniques for resource preservation.
  2. Policies to provide the framework for more issue- or site-specific planning and implementation.
  3. Criteria for the acquisition of lands that are consistent with open space goals and policies set forth in the Open Spaces Long Range Management Plan.
  4. Plans for the management of the open spaces to achieve the goals of the Open Spaces Long Range Management Plan using such studies and data as property inventories, the nature and significance of the natural and cultural resources, plant and animal species ecosystems, existing uses and conditions, and interactions and connections between natural areas and between developed and undeveloped areas.
  5. Developing, identifying, and recommending the use of various methods, such as intergovernmental agreements, rights-of-way for access, and grants, to assure protection of critical open space lands.
  6. Policies to monitor, maintain, enhance, and restore, where necessary, natural and cultural resources, uses, accesses, trails, and facilities.
  7. Public participation, education, and interpretive programs.

**2-20-001-0005 MEETINGS; ATTENDANCE:**

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The Commission shall meet on a quarterly basis, at a minimum, at such times, dates and locations as determined by the members, except that the chairperson may call a special meeting with not less than 24 hours notice. All other rules or procedures shall be established by the members so long as the rules are consistent with state law, including the Open Meetings Law, the City charter and this ordinance.

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

A regular Commission member who is absent for three consecutive regular meetings may be removed from the Commission by a vote of the City Council.

(Ord. 2003-03, Enacted, 02/04/03; Ord. No. 2007-08, Amended 02/06/2007)

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Stacy Saltzburg, Deputy City Clerk  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration and Action on Liquor License Application:** Lauren Merrett, "Texas Roadhouse", 2201 E. Route 66, Series 12 (restaurant), New License.

**RECOMMENDED ACTION:**

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

**Executive Summary:**

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. 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. This is a new restaurant in Flagstaff. The property has been posted as required, and the Police, Community Development and Sales Tax divisions have reviewed the application with no concerns noted.

**Financial Impact:**

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

**Connection to Council Goal and/or Regional Plan:**

Liquor licenses are a regulatory action and there is no Council goal that applies.

**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.

**Key Considerations:**



OFFICE OF THE CITY CLERK

September 7, 2016

Texas Roadhouse  
Attn: Lauren Merrett  
736 S. Longmore St.  
Chandler, AZ 85224

Dear Ms. Merrett:

Your application for a new Series 12 liquor license for Texas Roadhouse at 2201 E. Route #66 was posted on August 31, 2016. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, September 20, 2016 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 September 20, 2016 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](#).

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### 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.



# FLAGSTAFF POLICE DEPARTMENT

911 SAWMILL RD • FLAGSTAFF, ARIZONA 86001 • (928) 779-3646

ADMIN FAX (928)213-3372

TDD 1-800-842-4681



Chief of Police  
Kevin D. Treadway

## MEMORANDUM

16-092-01

**TO** Chief Kevin Treadway

**FROM** Sgt. Matt Wright

**DATE** August 30, 2016

**REF** LIQUOR LICENSE APPLICATION –SERIES 12- for “Texas Roadhouse”

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On August 30, 2016, I initiated an investigation into an application for a series 12 (restaurant) liquor license filed by Lauren Merrett (Agent) on behalf of the owners of Texas Roadhouse Holdings LLC for a future restaurant called Texas Roadhouse. The owners listed in the application for the Texas Roadhouse are Scott Colosi, Celia Catlett, and Wayne Taylor. This is an application for a new series 12 license #12033406. Texas Roadhouse is currently under construction at 2201 E. Route 66 in Flagstaff.

I conducted a query through local systems and public access on Scott Colosi, Celia Catlett, and Wayne Taylor and no derogatory records were found. Texas Roadhouse has several locations as listed in the application across Arizona and surrounding states. I could only find one previous liquor law violation at a Phoenix location in the last 10 years. The violation was for having in improper extension of premise. The fine was paid. I found several other licensed locations in Arizona but no other violations.

I sent an email to a representative listed on the application, and in response I found they plan to open the restaurant in mid-November. I also learned the manager has not been identified or hired yet. Lauren advised when they identify the manager/s they will submit that information to the liquor board as required.

As a result of this investigation, a recommendation to Council would be for approval.



## Planning and Development Services Memorandum

**September 2, 2016**

**TO:** Stacy Saltzburg, Deputy City Clerk

**THROUGH:** Dan Folke, Planning Director *D.F.*

**FROM:** Reggie Eccleston, Code Compliance Mgr. *RE*

**RE:** Application for Liquor License #12033406  
2201 E. Route 66, Flagstaff, Arizona 86004  
Assessor's Parcel Number 107-13-015  
Lauren Merrett on behalf of Texas Roadhouse

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This application is a request for a new, Series 12 Restaurant liquor license, by Lauren Merrett on behalf of Texas Roadhouse. This restaurant is located within the Highway Commercial district. This district does allow for this use.

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

This liquor license is recommended for approval.

# Liquor License Memo

To: Stacy Saltzberg, Deputy City Clerk

From: Sandy Corder, Interim Revenue Director

Date: September 8, 2016

Re: Series 12 Liquor License – Texas Roadhouse

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I have reviewed our records for Texas Roadhouse Holdsis, LLC, DBA Texas Roadhouse and I have no objection to approval of this liquor license.

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Stacy Saltzburg, Deputy City Clerk  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration and Action on Liquor License Application:** Tina Martinez, "Casa Duarte", 1000 N. Humphreys, Suite 243, Series 12 (restaurant), New License.

**RECOMMENDED ACTION:**

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

**Executive Summary:**

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. 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. This is a new restaurant in Flagstaff. The property has been posted as required, and the Police, Community Development, and Sales Tax divisions have reviewed the application with no concerns noted.

**Financial Impact:**

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

**Connection to Council Goal and/or Regional Plan:**

Liquor licenses are a regulatory action and there is no Council goal that applies.

**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.

**Key Considerations:**

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

The deadline for issuing a recommendation on this application is October 17, 2016.

**Community Benefits and Considerations:**

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

**Community Involvement:**

The application was properly posted on August 31, 2016. No written protests have been received to date.

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**Attachments:**    [Casa Duarte - Letter to Applicant](#)  
                          [Hearing Procedures](#)  
                          [Series 12 Description](#)  
                          [Casa Duarte - PD Memo](#)  
                          [Casa Duarte - Code Memo](#)  
                          [Casa Duarte - Tax Memo](#)

OFFICE OF THE CITY CLERK

September 7, 2016

Casa Duarte  
Attn: Tina Martinez  
1000 N. Humphreys, #243  
Flagstaff, AZ 86001

Dear Ms. Martinez:

Your application for a new Series 12 liquor license for Casa Duarte at 1000 N. Humphreys, Suite 243, was posted on August 31, 2016. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, September 20, 2016 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 September 20, 2016 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](#).

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### 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.

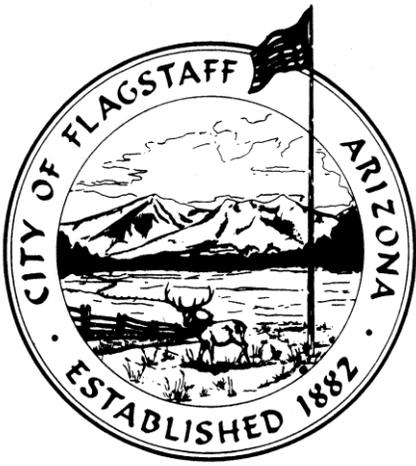
On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

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.



# FLAGSTAFF POLICE DEPARTMENT

911 SAWMILL RD • FLAGSTAFF, ARIZONA 86001 • (928) 779-3646

ADMIN FAX (928)213-3372

TDD 1-800-842-4681



Chief of Police  
Kevin D. Treadway

## MEMORANDUM

16-094-01

**TO** Chief Kevin Treadway

**FROM** Sgt. Matt Wright

**DATE** August 30, 2016

**REF** LIQUOR LICENSE APPLICATION – SERIES 12- for “Casa Duarte”

---

On August 30, 2016, I initiated an investigation into an application for a series 12 (restaurant) liquor license filed by Tina Martinez, the owner of a new restaurant called Casa Duarte. Tina Martinez is the only listed owner and will run the day to day operations. The restaurant will be located at 1000 N. Humphries suite 243 in Flagstaff. This application is for a series 12 license #12033407.

I conducted a query through local systems and public access on Tina Martinez. No derogatory records were found in the last five years. Tina has attended the mandatory liquor law training course and provided proof. I spoke with Tina who stated she had not been arrested in the last five years, and that this is her second liquor license as she currently owns and operates Martanne's. Tina stated she has never received any liquor law violations. Tina said the business will be a restaurant and have no plans to operate it as a bar or a club after hours. Tina said they plan to open for business in October of 2016.

As a result of this investigation the recommendation to Council is for approval of the series 12 license.



## Planning and Development Services Memorandum

**September 2, 2016**

**TO:** Stacy Saltzburg, Deputy City Clerk

**THROUGH:** Dan Folke, Planning Director *D.F.*

**FROM:** Reggie Eccleston, Code Compliance Mgr. *(RE)*

**RE:** Application for Liquor License #12033407  
1000 North Humphreys, Ste. #243. Flagstaff, Arizona 86004  
Assessor's Parcel Number 101-01-004F  
Tina Martinez on behalf of Casa Duarte

---

This application is a request for a new, Series 12 Restaurant liquor license, by Tina Martinez on behalf of Casa Duarte. This restaurant is located within the Community Commercial district. This district does allow for this use.

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

This liquor license is recommended for approval.

# Liquor License Memo

To: Stacy Saltzberg, Deputy City Clerk

From: Sandy Corder, Interim Revenue Director

Date: August 29, 2016

Re: Series 12 Liquor License – Casa Duarte

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I have reviewed our records for MartAnne's Breakfast Palace, LLC, DBA Casa Duarte and I have no objection to approval of this liquor license.

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Stacy Saltzburg, Deputy City Clerk  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration and Action on Liquor License Application:** Danny Thomas, "Cork'N Bottle", 824 N. Beaver St., Series 09 (liquor store - all spirituous liquor), Person Transfer.

**RECOMMENDED ACTION:**

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

**Executive Summary:**

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. Series 09 (Liquor Store - all spirituous liquor) licenses are obtained through the person transfer of an existing license from another person and allows a spirituous liquor store retailer to sell all spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

Cork'N Bottle is currently operating with a Series 9 liquor license; the person transfer is required because of new ownership. The property has been posted as required, and the Police, Community Development, and Sales Tax divisions have reviewed the application with no concerns noted.

**Financial Impact:**

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

**Connection to Council Goal and/or Regional Plan:**

Liquor licenses are a regulatory action and there is no Council goal that applies.

**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.



OFFICE OF THE CITY CLERK

September 7, 2016

Cork'N Bottle  
Attn: Danny Thomas  
824 N. Beaver St.  
Flagstaff, AZ 86001

Dear Mr. Thomas:

Your application for a person transfer Series 9 liquor license for Cork'N Bottle at 824 N. Beaver St. was posted on August 31, 2016. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, September 20, 2016 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 September 20, 2016 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 accept a motion to open the public hearing on the item.
2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.
3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.
4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.
5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.
6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
7. By motion, Council will then close the public hearing.
8. By motion, the Council will then vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

## License Types: Series 09 Liquor Store License (All spirituous liquors)

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

Off-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

---

### PURPOSE:

Allows a spirituous liquor store retailer to sell all spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

### ADDITIONAL RIGHTS AND RESPONSIBILITIES:

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

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

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

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



# FLAGSTAFF POLICE DEPARTMENT

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ADMIN FAX (928)213-3372

TDD 1-800-842-4681



Chief of Police  
Kevin D. Treadway

## MEMORANDUM

16-093-01

**TO** Chief Kevin Treadway

**FROM** Sgt. Matt Wright

**DATE** August 30, 2016

**REF** LIQUOR LICENSE Person to Person Transfer- Series 9- "Cork'n Bottle"

---

On August 30, 2016, I initiated an investigation into an application for a series 09 (liquor store) person to person transfer. The application was filed by Agent Danny Thomas on behalf of the new owners, Karan Patel, Kunal Patel, and Dharmesh Vora (Controlling Persons). The liquor store is located at 824 N. Beaver Flagstaff. This is an application to transfer the existing license 09030016 from the name of the previous owner (Doreen Evans) to the current business owner and license applicants Karan Patel, Kunal Patel and Dharmesh Vora.

A query through local systems and public access on Karan Patel, Kunal Patel, and Dharmesh Vora showed no derogatory records in the last five years. The business is located more than 300 feet from any church or school. Danny stated he is the listed agent for administrative purposes only. Danny confirmed Karan and Kunal Patel would be operating the day to day business. Karan and Kunal have no past liquor law violations. Danny also confirmed the Cork'n Bottle has been operating on an interim permit since August 12, 2016.

Karan Patel, and Kunal Patel, currently own liquor licenses as Ponderosa Bar and Horseman's Lodge. No fines or violations could be located on any of the liquor licenses.

As a result of this investigation, I can find no reason to oppose this series 09 liquor license person to person transfer. Recommendation to Council would be for approval.



## Planning and Development Services Memorandum

**September 2, 2016**

**TO:** Stacy Saltzburg, Deputy City Clerk

**THROUGH:** Dan Folke, Planning Director *DF*

**FROM:** Reggie Eccleston, Code Compliance Mgr. *RE*

**RE:** Application for Liquor License #09030016  
824 N. Beaver St. Flagstaff, Arizona 86001  
Assessor's Parcel Number 101-04-021A  
Danny Thomas on behalf of Cork'N Bottle

---

This application is a request for a transfer, Series 9 (Liquor Store) liquor license, by Danny Thomas on behalf of Cork'N Bottle. This liquor store is located within the Community Commercial district. This district does allow for this use.

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

This liquor license is recommended for approval.

# Memo

To: Stacy Saltzberg, Deputy City Clerk  
From: Sandy Corder, Interim Revenue Director  
Date: August 29, 2016  
Re: Series 09 Liquor License – Cork’N Bottle

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I have reviewed our records for Cork’N Bottle and have no objection to approval of this item.

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Thomas Bolyen, Water Production Manager  
**Co-Submitter:** Patrick Brown  
**Date:** 08/15/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration and Approval of Contract:** Approve the construction contract with JC Cullen, Inc., DBA Niles Radio Communications in the amount of \$54,243.75 for the installation of a SCADA Network Tower for the Woody Mountain well field in Coconino National Forest.

**RECOMMENDED ACTION:**

- 1) Approve the construction with JC Cullen, Inc. DBA Niles Radio Communications in the amount of \$54,243.75.
- 2) Approve Change Order Authority to the City Manager in the amount of \$5,423.00 (10% of contract amount).
- 3) Authorize the City Manager to execute the necessary documents.

**Executive Summary:**

City of Flagstaff Utilities is upgrading Supervisory Control and Data Acquisition (SCADA) communications of existing Utilities facilities. The SCADA system is critical to the operations and monitoring of water production facilities (i.e., water wells, treatment plant). The Woody Mountain well field has a maximum capacity of providing 5.24 MGD of potable water to the City of Flagstaff. The limited SCADA communications for these facilities is undersized with outdated communications technology and no longer meets the needs of the Utilities Division. Utilities has been working with the IT Division to ensure our SCADA network infrastructure compliments the City's business network. This tower will allow for future growth and technology upgrades as recommended in the Utilities SCADA Master Plan. This project is located on City owned land. Utilities consulted with and obtained all of the necessary approvals from Coconino County, U.S. Fish and Wildlife, and Arizona Game and Fish. The proposed tower installation will allow the integration of our SCADA communications for these potable water wells into the overall Utilities SCADA network. This competitively bid project will expand internal network communications and reduce failure costs of outdated communications equipment, enhancing reliability and dependability of well field monitoring to protect public health.

**Financial Impact:**

This project has been funded through the Utilities Fund's Operations and Maintenance Budget. Funds are budgeted as a onetime carryover in account 202-08-301-1010-0-4435.

**Connection to Council Goal and/or Regional Plan:**

**COUNCIL GOALS:**

2) Ensure Flagstaff has a long-term water supply for current and future needs; 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

**REGIONAL PLAN:**

Additionally meet the following regional plan goals: Chapter VI, WR.2.1, Develop and adopt an integrated water master plan that addresses water resources, water production and its distribution, wastewater collection and its treatment, and reclaimed water treatment and its distribution. Chapter VI, Policy WR.2.2, maintain and develop facilities to provide reliable, safe, and cost-effective water, wastewater and reclaimed water services.

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

Council has approved other network infrastructure towers for the City of Flagstaff's internal business computer network communications. This project will provide unified and complementary communications with that existing program.

**Options and Alternatives:**

1. Approve the contract award as recommended to enhance network operability and reduce repair costs and avoid downtime and/or increased labor costs for well monitoring and control.
2. Reject approval of the award with a recommendation to find alternate solutions.

**Background/History:**

Utilities Division seeks to expand reliability and serviceability of all Water and Water Reclamation Facilities by developing a comprehensive SCADA network backbone. Utilities has worked with our IT Division to ensure any elevated structures and existing network towers have been utilized where available. The Woody Mountain has critical infrastructure essential to the delivery of potable water to the community. This project will add these facilities to the established SCADA network backbone by constructing an additional point of elevation in the Woody Mountain area.

The Woody Mountain Well field has been developed over the last 60 years in the Coconino National Forest with the first well being drilled in 1954. During this initial period, starting and stopping a well to meet the needs of the community required staff to travel to the Woody Mountain and make physical contact with each individual well. The condition and status of that well would have been assumed, but in reality unknown after staff departed. As the city grew, telemetry communications was established to monitor and control these wells reducing manpower required to perform the same functions. This improvement enabled remote viewing of well on/off status, well flow, and disinfection level monitoring. The proposed tower will make advanced communications possible to upgrade this control technology, in simple terms from analog to digital. In the future enhanced monitoring information will be available allowing for decisions to increase performance of the system. The proposed SCADA network infrastructure tower is the first step in making that enhanced communications possible for Woody Mountain well field. It is an essential element of the City of Flagstaff's SCADA network backbone.

Purchasing staff posted a solicitation for construction bids on the City website on July 13, 2016, and advertised in the AZ Daily Sun on July 16 and July 23, 2016. Bids were due on July 28, 2016, only one bid was received. JC Cullen, Inc., DBA Niles Radio Communications was the only bidder, and was determined to be responsive and responsible.

**Key Considerations:**

Enhancing the SCADA communications capacity of the Woody Mountain well field, will allow for future equipment upgrades to continuously monitor motor electrical use, underground water levels, total production flow, and increased disinfection control. Each of these are significant advances in support of the Utilities Operations. The installation of this SCADA network tower will also further our capability to invest in the well site security elements of tamper identification, intrusion alarms, and video capture. Identified critical components of a soundly managed utility.

**Expanded Financial Considerations:**

The Woody Mountain Wells are a large capital investment for the City of Flagstaff. Improving the communications with these facilities will enable required control improvements affording proper management of this critical water resource.

**Community Benefits and Considerations:**

Maintain a high level of service.

**Community Involvement:**

Consult: The Water Commission supports and reviews the Utilities Department operations of the water and water reclamation sections. Community comment was sought during public meeting held last November. United States Fish and Wildlife Services was consulted and delivered a decision that this project should pose no effect to listed species, specifically the Mexican spotted owl. Arizona Game and Fish Department consultation was sought and their comments were incorporated into the project design allowing County agreement with the project.

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**Attachments:**     [Construction Contract](#)

# CONSTRUCTION CONTRACT

**City of Flagstaff, Arizona  
and  
JC Cullen, Inc. DBA Niles Radio Communications**

This Construction Contract (“Contract”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2016, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona (“Owner”) and JC Cullen, Inc., DBA Niles Radio Communication (“Contractor”) with offices at 1602 N. East Street, Flagstaff, Arizona. Contractor and the Owner may be referred to each individually as a “Party” and collectively as the “Parties.”

## RECITALS

- A. Owner desires to obtain construction services; and
- B. Contractor has available and offers to provide personnel and materials necessary to accomplish the work and complete the Project as described in the Scope of Work within the required time in accordance with the calendar days included in this Contract.

NOW, THEREFORE, the Owner and Contractor agree as follows:

**1. Scope of Work.** The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all work for the construction of **Woody Mountain Road Radio Tower Project** (the “Project”). Contractor shall construct the Project for the Owner in a good, workmanlike and substantial manner and to the satisfaction of the Owner through its engineers and under the direction and supervision of the City Engineer, or his properly authorized agents including but not limited to project managers and project engineers. Contractor’s work shall be strictly pursuant to and in conformity with the Contract.

1.1 A Pre-Construction Conference will be held with the successful Contractor after the Notice of Award is issued. The date and time of the Conference will be agreed upon between the Contractor and the Engineer. The meeting will be held at City Hall, 211 West Aspen Avenue, Flagstaff, AZ 86001. The purpose of the meeting is to outline specific construction items and procedures that the City of Flagstaff (the “Owner”) feels require special attention on the part of the Contractor. The Contractor may also present any variations in procedures to improve the workability of the Project, reduce the cost, or reduce inconvenience to the public. The Contractor shall submit a written proposal at this conference outlining intended plans for pavement replacement, maintaining continuous access to residences and businesses along the construction site, and traffic control.

**2. Contract; Ownership of Work.** Contractor shall furnish and deliver all of the materials and perform all of the work in accordance with this Contract; Construction Plans; Special Provisions; the City of Flagstaff Engineering Design and Construction Standards and Specifications; the latest version of the Maricopa Association of Governments (“MAG”)

Specifications for Public Works Construction and City revisions to the MAG Specifications for Public Works Construction (“Exhibit A”); and any Arizona Department of Transportation (A.D.O.T.) Standards that may be referenced on the Plans or in the specifications, incorporated in this Contract by reference, plans and associated documents. All provisions of the Invitation for Construction Bids, Performance Bond, Payment Bond, Certificates of Insurance, Addenda, Change Orders and Field Orders, if any, are hereby incorporated into this Contract. All materials, work, specifications and plans shall be the property of the Owner.

The following exhibits are incorporated by reference and are expressly made a part of this Contract:

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

2.1.2 Special Provisions Exhibit B

**3. Payments.** In consideration of the faithful performance of the work described in this Contract, the Owner shall pay an amount not to exceed **\$54,243.75** to the Contractor for work and materials provided in accordance with the bid schedule, which amount includes all federal, state, and local taxes, as applicable. This amount shall be payable through monthly progress payments, subject to the following conditions:

- 3.1 Contractor shall promptly submit to the Owner all proper invoices necessary for the determination of the prices of labor and materials;
- 3.2 Progress payments shall be made in the amount of ninety percent (90%) of the value of labor and materials incorporated in the work, based on the sum of the Contract prices of labor and material, and of materials stored at the worksite, on the basis of substantiating paid invoices, as estimated by the Owner, less the aggregate of all previous payments, until the work performed under this Contract is fifty percent (50%) complete. When and after such work is fifty (50%) complete, the ten percent (10%) of value previously retained may be reduced to five percent (5%) of value completed if Contractor is making satisfactory progress as determined by the Owner, and providing that there is no specific cause or claim requiring a greater amount to be retained. If at any time the Owner determines that satisfactory progress is not being made, the ten percent (10%) retention shall be reinstated for all subsequent progress payments made under this Contract;
- 3.3 The City Engineer shall have the right to finally determine the amount due to Contractor;
- 3.4 Monthly progress payments shall be made by the Owner, on or before fourteen (14) calendar days after the receipt by the Owner of an approved estimate of the work completed;
- 3.5 Contractor agrees that title to materials incorporated in the work, and stored at the site, shall vest with the Owner upon receipt of the corresponding progress payment;

3.6 The remainder of the Contract price, after deducting all such monthly payments and any retention, shall be paid within sixty (60) days after final acceptance of completed work by the Owner. The release of retention or alternate surety shall be made following the Owner's receipt and acceptance of: Contractor's Affidavit Regarding Settlement of Claims, Affidavit of Payment, Consent of Surety for Final Payment, and Unconditional Full and Final lien waivers from all subcontractors and suppliers who have filed an Arizona Preliminary 20 Day Lien Notice in accordance with A.R.S. §§ 33-992.01 and 33-992.02.

**4. Time of Completion.** Contractor agrees to complete all work as described in this Contract within **ninety (90) calendar days** from the date of the Owner's Notice to Proceed free of all liens, claims and demands of any kind for materials, equipment, supplies, services, labor, taxes and damages to property or persons, in the manner and under the conditions specified within the time or times specified in this Contract.

**5. Performance of Work.** All work covered by this Contract shall be done in accordance with the latest and best accepted practices of the trades involved. The Contractor shall use only skilled craftsmen experienced in their respective trades to prepare the materials and to perform the work.

**6. Acceptance of Work; Non Waiver.** No failure of the Owner during the progress of the work to discover or reject materials or work not in accordance with this Contract shall be deemed an acceptance of, or a waiver of, defects in work or materials. No payment shall be construed to be an acceptance of work or materials which are not strictly in accordance with the Contract.

**7. Delay of Work.** Any delay in the performance of this Contract due to strikes, lockouts, fires, or other unavoidable casualties beyond the control of the Contractor and not caused by any wrongful act or negligence of the Contractor shall entitle the Contractor to an extension of time equal to the delay so caused. The Contractor shall notify the Owner in writing specifying such cause within twenty-four (24) hours after its occurrence. In the event such delay is caused by strikes, lockouts, or inability to obtain workmen for any other cause, the Owner shall have the right but shall not be obligated to complete the work on the same basis as is provided for in Section 13 below (Contract Violations).

**8. Failure to Complete Project in Timely Manner.** If Contractor fails or refuses to execute this Contract within the time specified in Section 4 above, or such additional time as may be allowed, the proceeds of Contractor's performance guaranty shall become subject to deposit into the Treasury of the municipality as monies available to compensate the Owner for damages as provided by A.R.S. § 34-201 for the delay in the performance of work under this Contract, and the necessity of accepting a higher or less desirable bid from such failure or refusal to perform this Contract as required. If Contractor has submitted a certified check or cashier's check as a performance guaranty, the check shall be returned after the completion of this Contract.

**9. Labor Demonstration.** It is understood that the work covered by this Contract is for the Owner's business purposes and that any unfavorable publicity or demonstrations in connection with the work will have a negative effect upon the Owner. If Contractor's actions in performance of the

Contract result in any public demonstration on behalf of the laborers or organized labor in the vicinity of the Owner's premises, whether such demonstration is in the form of picketing, posting of placards or signs, violence, threats of violence or in any other form, which in the Owner's judgment, might convey to the public the impression that the Owner or the Contractor or any subcontractor is unfair to laborers or to organized labor, the Owner shall have the right to terminate this Contract immediately, unless the Contractor shall have caused such demonstration to be discontinued within two (2) days after request of the Owner to do so. In the event any such demonstration is attended by violence, the Owner may fix lesser time within which a discontinuance shall be accomplished. In the event of Contract termination, the Contractor agrees to remove from the Premises within twenty-four (24) hours of termination, all machinery, tools, and equipment belonging to it or to its subcontractors. All obligations or liabilities of the Owner to the Contractor shall be discharged by such termination, except the obligation to pay to the Contractor a portion of the Contract price representing the value based upon the Contract prices of labor and materials incorporated in the work as established by the Owner, less the aggregate of all previous payments, but subject to all of the conditions pertaining to payments generally.

**10. Material Storage.** During the progress of the work, the Contractor shall arrange for office facilities and for the orderly storage of materials and equipment. Contractor shall erect any temporary structures required for the work at his or her own expense. The Contractor shall at all times keep the premises reasonably free from debris and in a condition which will not increase fire hazards. Upon completion of the work, the Contractor shall remove all temporary buildings and facilities and all equipment, surplus materials and supplies belonging to the Contractor. Contractor shall leave the Premises in good order, clean, and ready to use by the Owner. The establishment of any temporary construction yard, material storage area or staging area to be located within City of Flagstaff limits and outside the public right-of-way or Project limits generally requires a Temporary Use Permit. (See Exhibit A, Section 107.2.1.)

**11. Maintenance During Winter Suspension of Work.** A "Winter Shutdown" is the period of time typically including December through March during which no Work will be performed by any person or entity (including but not limited to the Contractor) on the Project and Contractor shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the City reserves the right to initiate and terminate a Winter Shutdown at the City's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the City despite delays, *for any reason*, on the Project. City retains the right to declare a Winter Shutdown. If work has been suspended due to winter weather, the Contractor shall be responsible for maintenance and protection of the improvements and of partially completed portions of the work until final acceptance of the project. Winter Shutdown shall be by field order, change order or original contract. If repairs and/or maintenance are needed during the Winter Shutdown, the Contractor is required to perform the repairs and/or maintenance within twenty-four (24) hours of notification from the City. If the needed repairs and/or maintenance are not addressed within the timeframe, the City will accomplish the work and deduct the cost from monies due or become due to the Contractor.

The City shall provide snow removal operations on active traffic lanes only during the Winter Shutdown. All other snow removal and maintenance operations shall be the responsibility of the Contractor during the Winter Shutdown. All cost associated with snow removal and proper disposal shall be considered incidental to the work including repair of temporary surface improvements due to normal wear and snow removal operations during the Winter Shutdown.

**12. Assignment.** Contractor shall not assign this Contract, in whole or in part, without the prior written consent of the Owner. No right or interest in this Agreement shall be assigned, in whole or in part, by Contractor without prior written permission of the City and no delegation of any duty of Contractor shall be made without prior written permission of the City. The City shall not unreasonably withhold consent to such assignment. Contractor agrees that any assignment agreement between Contractor and the Assignee shall include and subject to the assignee to all obligations, terms and conditions of this Agreement and that Contractor shall also remain liable under all obligations, terms and conditions of this Agreement.

**13. Notices.** Many notices or demands required to be given, pursuant to the terms of this Contract, may be given to the other Party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested at the address set forth below *and* to legal counsel for the party to whom the notice is being given.

**If to Owner:**

Patrick Brown, C.P.M.  
Senior Procurement Specialist  
211 West Aspen Avenue  
Flagstaff, AZ 86001

**If to Contractor:**

John Lindsey  
Network Engineer  
1602 N. East Street  
Flagstaff, AZ 86004

**14. Contract Violations.** In the event of any of the provisions of this Contract are violated by the Contractor or by any of Contractor's subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate such Contract (the "Notice to Terminate"). The Contract shall terminate within five (5) days of the date Contractor receives the Notice to Terminate, unless the violation ceases and Contractor makes arrangements for correction satisfactory to the Owner. In the event of any such termination, the Owner shall immediately serve notice of the termination upon the Surety by registered mail, return receipt requested. The Surety shall have the right to take over and perform the Contract. If the Surety does not commence performance within ten (10) days from the date of receipt of the Owner's notice of termination, the Owner may complete the work at the expense of the Contractor, and the Contractor and his or her Surety shall be liable to the Owner for any excess cost incurred by the Owner to complete the work.

If the Owner completes the work, the Owner may take possession of and utilize such materials, appliances and plants as may be on the worksite site and necessary for completion of the work.

**15. Termination for Convenience.** The Owner may terminate this contract at any time for any reason by giving at least **thirty (30) days** written notice to the Contractor. If termination occurs under this Section 15, the Contractor shall be paid fair market value for work completed by Contractor as of the date of termination. The parties agree that fair market value shall be determined based on the Contractor's original bid price, less any work not yet completed by the Contractor as of the date the written notice of termination is given to the Contractor.

**16. Contractor's Liability and Indemnification.** To the fullest extent permitted by law, Contractor shall indemnify, save and hold harmless the City and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against liabilities, damages, losses and costs, including reasonable attorney fees, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of the contractor, subcontractor or design professional or other persons employed or used by the contractor, subcontractor or design professional in the performance of the contract. The amount and type of insurance coverage requirements set forth in the Contract (Section 103.6 of Exhibit A) will in no way be construed as limiting the scope of the indemnity in this paragraph.

**17. Non Appropriation.** In the event that no funds or insufficient funds are appropriated and budgeted in any fiscal period of the Owner to meet the Owner's obligations under this Contract, the Owner will notify Contractor in writing of such occurrence, and this Contract will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Contract are exhausted. No payments shall be made or due to the other party under this Contract beyond these amounts appropriated and budgeted by the Owner to fund the Owner's obligations under this Contract.

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

**19. Subcontracts.** Contractor shall not enter into any subcontract, or issue any purchase order for the completed work, or any substantial part of the work, unless in each instance, prior written approval shall have been given by the Owner. Contractor shall be fully responsible to the Owner for acts and omissions of Contractor's subcontractors and all persons either directly or indirectly employed by them.

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

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

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

**23. Compliance with Federal Immigration Laws and Regulations.** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. 23-214.A. Contractor acknowledges that pursuant to A.R.S. 41-4401 a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

**24. Contractor's Warranty.** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214.A, Verification of Employment Eligibility. Contractor shall not employ aliens in accordance with A.R.S. § 34-301, Employment of Aliens on Public Works Prohibited. Contractor acknowledges that pursuant to A.R.S. § 41-4401, Government Procurement; E-Verify Requirement; Definitions, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this Contract, and that the Owner retains the legal right to inspect the papers of any employee who works on the Contract to ensure compliance with this warranty.

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

**26. Attorney's Fees.** If suit or action is initiated in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees, or in event of appeal as allowed by the appellate court.

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

**28. No Third Party Beneficiaries.** The parties acknowledge and agree that the terms, provisions, conditions, and obligations of this Contract are for the sole benefit of, and may be enforceable solely by, the Parties to this Contract, and none of the terms, provisions, conditions, and obligations of this Contract are for the benefit of, or may be enforced by, any person or entity not a party to this Contract.

**29. Headings.** The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Contract.

**30. Severability.** If any part of this Contract is determined by a court to be in conflict with any statute or constitution or to be unlawful for any reason, the parties intend that the remaining provisions of this Contract shall remain in full force and effect unless the stricken provision leaves the remaining Contract unenforceable.

**IN WITNESS WHEREOF**, the Owner and Contractor, by their duly authorized representatives, have executed this Contract as of the date written above.

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

**Owner, City of Flagstaff**

**JC Cullen, Inc., DBA Niles Radio Communications**

\_\_\_\_\_  
Josh Copley, City Manager

\_\_\_\_\_  
Signature

Attest:

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

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

\_\_\_\_\_  
Title

Approved as to form:

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

**CITY OF FLAGSTAFF, ARIZONA  
PAYMENT BOND**

**PROJECT NAME:** Woody Mountain Road Radio Tower Project

**PROJECT NUMBER:** WA3181

**BID NUMBER:** 2017-03

STATUTORY PAYMENT BOND PURSUANT TO TITLE 34  
CHAPTER 2, ARTICLE 2, OF THE ARIZONA REVISED STATUTES  
(Penalty of this Bond must be 100% of the Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, \_\_\_\_\_  
(Hereinafter called the Principal), as Principal, and, \_\_\_\_\_  
\_\_\_\_\_, a corporation  
organized and existing under the laws of the State of \_\_\_\_\_, with its  
principal office in the City of \_\_\_\_\_ (“Surety”), as Surety, are held and  
firmly bound unto the City of Flagstaff, Arizona (“Obligee”), in the amount of \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment  
whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors,  
successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee,  
dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to the City of Flagstaff which  
Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at  
length herein.

Now, therefore, the condition of this obligation is such, that if the principal promptly pays  
all monies due to all persons supplying labor or materials to the principal or the principal's  
subcontractors in the prosecution of the work provided for in the contract, this obligation is void.  
Otherwise it remains in full force and effect.

Provided, however, that this bond is executed pursuant to the provisions of Title 34,  
Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in  
accordance with the provisions, conditions and limitations of said Title and Chapter, to the same  
extent as if it were copied at length in this Contract.

The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be fixed by a judge of the court.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Surety (Seal)

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Agency of Record

\_\_\_\_\_  
Agency Address

**CITY OF FLAGSTAFF, ARIZONA  
PERFORMANCE BOND**

**PROJECT NAME:** Woody Mountain Road Radio Tower Project

**PROJECT NUMBER:** WA3181

**BID NUMBER:** 2017-03

STATUTORY PERFORMANCE BOND PURSUANT TO TITLE 34  
CHAPTER 2, ARTICLE 2, OF THE ARIZONA REVISED STATUTES  
(Penalty of this Bond must be 100% of the Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, \_\_\_\_\_  
(hereinafter called the Principal), as Principal, and, \_\_\_\_\_  
\_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_  
\_\_\_\_\_, with its principal office in the City of \_\_\_\_\_  
("Surety"), as Surety, are held and firmly bound unto the City of Flagstaff, Arizona ("Obligee"), in  
the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_  
\_\_\_\_\_) for the payment whereof, the said Principal and Surety bind themselves, and their heirs,  
administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee,  
dated this \_\_\_ day of \_\_\_\_\_ 20\_\_ in the City of Flagstaff which  
Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at  
length herein.

Now, therefore, the condition of this obligation is such, that if the principal faithfully  
performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of  
contract during the original term of the contract and any extension of the contract, with or without  
notice to the surety, and during the life of any guaranty required under the contract, and also  
performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of all  
duly authorized modifications of the contract that may hereafter be made, notice of which  
modifications to the surety being hereby waived, the above obligation is void. Otherwise it remains  
in full force and effect.

Provided, however, that this bond is executed pursuant to the provisions of Title 34,  
Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in

accordance with the provisions of said Title and Chapter, to the extent as if it were copied at length in this Contract.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by a judge of the court.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Surety (Seal)

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Agency of Record

\_\_\_\_\_  
Agency Address

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** David Wessel, Metro Planning Org Manager  
**Co-Submitter:** Stacey Brechler-Knaggs  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration and Approval of Contract:** Increase SWCA, Inc. GIS Services contract 2016-25 in the amount of \$5,500.

**RECOMMENDED ACTION:**

Approve the contract amendment for \$5,500.

**Executive Summary:**

Approval of the contract increase will permit final analysis and map production for the FMPO regional transportation plan.

Original scope of work was more complex than originally anticipated.

**Financial Impact:**

The original contract is in the amount of \$49,500. The additional funding of \$5,500 will use local cash funds. These are offset by the federal fund savings in the same amount in the regional transportation plan outreach contract for which final invoicing has been received.

**Connection to Council Goal and/or Regional Plan:**

***COUNCIL GOALS:***

3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics

6) Provide a well-managed transportation system

***REGIONAL PLAN:***

T.1. Improve mobility and access through out the region.

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

No. The original contract amount fell below the \$50,000 threshold.

**Options and Alternatives:**

The Council may elect to reject this request, in which case, due to the lack of staffing the project will take longer to complete in-house, the quality of the maps and communication of information to the public via those maps may not be as detailed.

**Background/History:**

The FMPO regional transportation plan is a federally mandated product. SWCA, Inc has been under contract since February. They have done creative work. The remaining scope items are mapping of the various analytical products for use in the plan document.

**Expanded Financial Considerations:**

The FMPO is a grant funded organization. It also receives local cash for use as match. The SWCA contract is paid for with local funds. The initial contract is awarded for \$49,500 through a Request for Qualifications (RFB 2016-25) process.

**Community Benefits and Considerations:**

Professional maps will make the regional transportation plan easier to read by the public and decision-makers.

**Community Involvement:**

Inform

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**Attachments:**     [SWCA GIS Contract](#)

**City of Flagstaff**  
**REQUEST FOR QUOTES**

**SOLICITATION FOR:** FMPO GIS SERVICES

**SOLICITATION NO.:** 2016-25

**CLOSING DATE AND TIME:** October 23, 2015 3:00 pm

**WHERE TO SUBMIT QUOTES (“OFFERS”):** Offers shall be submitted prior to the Closing Date and Time in a sealed envelope as addressed below:

Attention Buyer: Di Ann Butkay  
SEALED OFFER: Solicitation No. **2016-25** for **FMPO GIS Services**  
Closing Date and Time: **October 23, 2015 3:00 pm**  
City of Flagstaff, Management Services-Purchasing Division  
211 West Aspen Avenue  
Flagstaff, AZ 86001

Alternatively the offer may be submitted via **e-mail** to the Buyer at **dbutkay@flagstaffaz.gov** or fax at the (928) 213-2209.

**CITY NEEDS:** The FMPO is seeking to hire a GIS Consultant – either an individual or firm to assist with production of the Regional Transportation Plan (RTP). The consultant will manage the analysis that evaluates transportation projects against several criteria using existing data sets, improving existing data sets, and developing methods for that analysis.

**INFORMATION:** The Solicitation and all related materials and any addenda may be obtained by contacting the Buyer.

**BUYER: Di Ann Butkay**, Telephone No.: **928-213-2276**, Facsimile No.: (928) 213-2209, Email Address: dbutkay@flagstaffaz.gov. If the Buyer cannot be immediately reached, you may contact the receptionist for the City Management Services Purchasing Division at (928) 213-2206.

**QUESTIONS:** Any questions must be received by the Buyer via email prior to the Closing Date and Time.

**Purpose and Need**

- **Decision-making:** The FMPO Executive Board, City Council and Board of Supervisors are faced with increasingly difficult choices related to land use and transportation and need – and often request – more robust information to inform those decisions. The level of benefits to the economy, the traveling public and the broader community are frequently balanced against the impacts on the environment, neighborhoods and individual property owners and businesses. Decision-makers want information related to all of those things and want to know that the public has been informed, too, when weighing the public input they receive.
- **Urgency:**
  - **Transportation Tax Sunset in 2020** – It is typical that taxes such as these are presented for a renewal vote before they expire. In this case, a renewal vote will potentially take place in

the Fall of 2018. An 18-month lead time for preparation means that by Spring 2017, we would like to have all information in place and strong consensus growing.

- Regional Transportation Plan Mandate – The RTP is to be updated every five years. The last plan was adopted Fall 2009.
- Mandates for Performance Based Planning & Programming: In addition to the planning cycle, the federal government under MAP-21 expects regional plans and the programs derived from them to be performance based. The measures developed by the Staff with support from the Technical Advisory Committee meet and exceed these expectations. Where they exceed these expectations has been in response to policy-makers or public request for information on benefits and impacts.
- Actionable Intelligence: The ability to gather and analyze data in a timely manner can lead to quick decisions that have immediate, measurable benefit.
- RTP project scoring will require multiple GIS model runs using multiple criteria data sets. (See full list at the end of the document.) Public input is expected to change criteria weighting which may require frequent GIS model runs.
- RTP outreach and final report documents will benefit from quality maps and other GIS related graphics.
- Value added: A GIS Consultant might add ancillary benefits in creating manageable and sustainable data sets for frequent use such as land use, population, and employment. This is not reliably available now. This level of analysis may be more extensive than what is required for the RTP, but will serve in the development of several transportation master plans required to implement *Flagstaff Regional Plan 2030*. Also, having the position in-house only for one-year will help institutionalize the processes and data.

#### **GIS Analyses and Map Production required**

The following analyses will need to be performed on approximately 50 highway projects and their respective phases. Many of them will need to be performed against various levels of transit, pedestrian and bicycle investments and different combinations of all modes. Public outreach and final plans will be greatly enhanced by professionally produced maps, tables and charts depicting projects and their relationship to these criteria.

#### **Safety**

- Compilation of five years of crash records into “hot spots” for automobile, bicycle and pedestrian crashes for total crashes, injury crashes and fatal crashes
- Proximity analysis to road projects and traffic analysis zones
- Additional analysis beneficial to project selection would include disaggregation to accident type (i.e., angle, side swipe)

#### **Environment**

- Acres of environmentally sensitive lands by roadway project
- Additional analysis that may be beneficial to project selection or prioritization
  - Acres impacted by trail projects
  - Water courses impacted by projects
  - Direct association of environmental impacts to Cost Model environment contingency setting

#### **Cultural and Historical**

- Proximity analysis of roadway and trail projects to cultural and historical resources

#### **Cost Model**

- Update to property costs
  - Analysis of parcels impacted by roadway and trail projects and related assessors valuation data
- Update to enhancement costs associated with land use

- Relationship of roadway projects to commercial areas and activity centers based on *Future Growth Illustration preferred scenario*
- Potential adjustments to slope factor length if alignments are adjusted
- Title VI Communities – race, elderly, disabled, single female head of household, low income
- Proximity and impact of projects to Title VI communities
  - Could include VMT by TAZ per capita for Title VI and non-Title VI communities
  - Could include traffic volume increases in all neighborhoods resulting from transportation projects
- Balance of project investment across Title VI and non-Title VI communities
- Additional analysis may include automobile, transit, bicycle and pedestrian level of service by title VI communities

#### Network Gap Analysis

- All modes including freight

#### Access

- Population in proximity to transit, bicycle and pedestrian facilities

#### Economic Impact

- Projects serving known economic development priorities

#### Related data development

- Population by TAZ or smaller geographic unit if available
- Employment by TAZ or smaller geographic unit if available
- Title VI communities by TAZ – may include automobile availability
- Land Use by TAZ – includes institutionalization of converting assessor data for more timely update of the regional transportation model.

#### Additional support analysis

- Staff is working with Kimley Horn and HDR to develop land use and level of service tools. These may need adjustment during the RTP development phase to improve accuracy or reflect input from the public involvement process
  - Analyses include:
    - Miles of existing and planned streets, bike lanes, trails and sidewalks per TAZ
    - Number existing and planned pedestrian/bicycle crossings per TAZ
    - Number of existing and planned bus stops by frequency per TAZ
    - Percent of facilities within each Bicycle Comfort Index category

#### Preparation of Presentation-Quality Maps

- Cartographic elements and Template development for Regional Transportation Plan
  - Public events
  - Document support

#### Additional services time permitting

- Data warehouse development
- Metadata documentation
- GIS models documentation

#### Evaluation/Qualifications

- |  |           |
|--|-----------|
| Years of Experience in GIS Analysis  | 10 points |
| Years of Direct Experience with ESRI ArcGIS 10.x   | 10 points |
| Immediate Availability and Work Load   | 15 points |
| Expertise – and available software licenses - in the following GIS applications  | 45 points |
| ■ Circle the level at which you rate your proficiency or that of a respective team member with “1” being no experience and “5” being high proficiency. |           |
| ■ Geodatabase creation and management  |           |

- |  |   |   |   |   |   |
|--|---|---|---|---|---|
|  | 1 | 2 | 3 | 4 | 5 |
| ▪ Network analyst                          |   |   |   |   |   |
|  | 1 | 2 | 3 | 4 | 5 |
| ▪ Advance feature editing                  |   |   |   |   |   |
|  | 1 | 2 | 3 | 4 | 5 |
| ▪ Spatial/3D analyst                       |   |   |   |   |   |
|  | 1 | 2 | 3 | 4 | 5 |
| ▪ Python scripting                         |   |   |   |   |   |
|  | 1 | 2 | 3 | 4 | 5 |
| ▪ Relational tools, including spatial join |   |   |   |   |   |
|  | 1 | 2 | 3 | 4 | 5 |
| ▪ Raster creation and management           |   |   |   |   |   |
|  | 1 | 2 | 3 | 4 | 5 |

Cartographic (as opposed to analytic) Skills

20 points

**Hourly Price per Skilled Position**

Senior GIS Analyst

\$ \_\_\_\_\_

GIS Specialist

\$ \_\_\_\_\_

GIS Technician/Intern

\$ \_\_\_\_\_

**Explanation of Evaluation/Qualifications**

Years of Experience in GIS Analysis and Cartography – The successful individual or firm will relate their years and level of expertise they have achieved and provide two to three illustrative examples of their work.

Years of Direct Experience with ESRI ArcGIS 10.x – The successful individual or firm will relate their direct experience with ESRI ArcGIS 10.x

Immediate Availability – The successful individual or firm will be available starting in the month of October and will have 25-30 hours per week available for the duration of the project. The candidate will submit a work load schedule for the respective time period.

Expertise and available software licenses in the following GIS applications – The successful individual or firm will be able to demonstrate proficiency in the following GIS-related skill sets. A self-rating will be accepted at this time and candidates may be asked to defend their rating during an interview.

- Geodatabase creation and management
- Network analyst
- Advance feature editing
- Spatial/3D analyst
- Python scripting
- Relational tools, including spatial join
- Raster creation and management

Cartographic (as opposed to analytic) Skills – The successful candidate will demonstrate their ability to produce maps and supporting data analysis such as tables, charts and graphs that successfully convey

### HOURLY RATE PER SKILLED POSITION

Senior GIS Analyst: \$89.25

GIS Specialist: \$60.35

GIS Technician/Intern: \$51.85

important ideas for the general public and decision-makers. The statement of qualifications should include at least three and no more than five examples.

### **INSTRUCTIONS IN GENERAL**

**DUE DILIGENCE:** It is your responsibility to examine the entire Solicitation prior to completing your offer, including City of Flagstaff Standard Terms and Conditions, and Insurance.

**LATE OFFERS:** Late offers shall not be accepted. The City will return any late offers.

**WITHDRAWAL OF OFFERS:** You may withdraw an offer before the Closing Date and Time. A withdrawal must be signed by the vendor's authorized representative and submitted to the Buyer by hand delivery or mail.

**OFFER ACCEPTANCE PERIOD:** An offer made in response to this Solicitation shall be valid and irrevocable for ninety (90) days after the Closing Date and Time.

**QUESTIONS:** If you have any questions about this Solicitation, contact the Buyer. **The City will only respond to questions before the Closing Date and Time**. Questions should be submitted in writing. The Buyer may require you to submit any question in writing. Any question shall refer to the Solicitation number, page and paragraph number in question. The City **will not** be responsible if you adjust your offer based on any verbal statements made by employees or officers of the City, particularly if such statements conflict with the Solicitation. You may request the Buyer to issue an addendum to the Solicitation.

**ADDENDA:** The City will issue any interpretation or correction of the Solicitation only by written addendum and a copy of each addendum will be emailed to you.

**RETURN OF SIGNED ADDENDA:** You are required to sign and return each Addendum along with your offer. Failure to return a signed copy of each Addendum shall result in rejection of the offer.

**IMPROPER CONTACT WITH CITY EMPLOYEES:** All vendors submitting an offer (including the firm's employees, representatives, agents, lobbyists, attorneys, and subcontractors) will refrain from direct or indirect contact for the purpose of influencing or creating bias in the evaluation/selection process with any person who may play a part in the evaluation/selection process. This includes but is not limited to the evaluation committee, City Council Members, City Manager, Assistant City Manager(s), Deputy City Manager(s), Department Directors or other staff ("City Staff"). This policy is intended to create a level playing field for all potential firms, assure that contract decisions are made in public, and to protect the integrity of the selection process. Vendor is responsible for bringing all questions and concerns to the Buyer identified on Page One of this document. If the Buyer is unresponsive, the vendor may contact the City Manager. A vendor may be disqualified if the vendor: (a) contacts a quorum of the Council or contributes to an open meeting law violation; (b) offers political support or gratuities in exchange for approval or support of vendor's offer; (c) obtains information from City Staff not available to other vendors which may result in an unfair advantage in the competitive procurement process and fails to notify Buyer of this fact within 48 hours thereafter; or (d) engages in any other egregious conduct.

**PROCUREMENT PROCESS:** The City's procurement process is described in the Procurement Code Manual, which can be accessed at <http://www.flagstaff.az.gov/DocumentCenter/Home/View/44624>.

You are not required, but may review this Manual. The Solicitation is intended to provide all relevant information related to the procurement so that you may submit an offer. In the event of any conflict, the procedure outlined in this Solicitation will be followed or the conflict will be resolved by an Addendum.

### **CONTRACT WITH CITY**

**FORM OF CONTRACT:** The City's proposed form of contract can be accessed at [www.flagstaffaz.gov](http://www.flagstaffaz.gov). The final form of contract will be conformed to match this Solicitation prior to contract award. In the alternative the City at its sole option may issue a Purchase Order and your commencement of performance shall constitute acceptance of all terms and conditions of this Solicitation and result in a binding contract. The Solicitation number shall be referenced in the Purchase Order.

**INSURANCE:** The City's insurance requirements are available at <http://www.flagstaff.az.gov/index.aspx?NID=3052>. The insurance requirements are an explicit part of the Solicitation and any resulting contract with the City.

**STANDARD TERMS AND CONDITIONS:** The City of Flagstaff Standard Terms and Conditions are obtainable at <http://www.flagstaff.az.gov/index.aspx?NID=3052> and are an explicit part of the Solicitation and any resulting contract with the City, unless otherwise specified in the Solicitation.

**SPECIAL TERMS AND CONDITIONS:** The City of Flagstaff Special Terms and Conditions (in Scope of Work) are an explicit part of the Solicitation and any resulting contract with the City.

**EXCEPTIONS:** You may request changes to the form of contract, insurance or any terms and conditions as part of your offer.

**CHANGES TO CONTRACT AFTER CONTRACT AWARD:** Requests to change the contract after contract award, including but not limited to changes to insurance may be rejected by the City. The contract shall not be modified within the first year after contract award where: (a) an amendment may result in a competitive advantage that was not made available to other vendors; (b) requests for changes may delay commencement of performance.

### **EVALUATION OF OFFER AND CONTRACT AWARD**

**QUOTE MOST ADVANTAGEOUS TO THE CITY:** The City will award a contract or issue a purchase order to a responsible and responsive vendor whose offer is the most satisfactory and advantageous to the City based on the Evaluation Criteria:

**RESPONSIBILITY:** In evaluating responsibility, the City may consider all matters related to the vendor's ability to perform the contract satisfactorily as further described in Flagstaff City Code, Title 1, Chapter 1-20.

**REQUESTS FOR ADDITIONAL INFORMATION:** After the Closing Date and Time, the City may request you to provide additional information related to your offer. Failure to provide this information within five (5) business days after communication of the request by the City will be grounds for the City to reject an offer, and/or to declare the offer as non-responsive or non-responsible.

**RESERVATION OF RIGHTS:** The City reserves the right to reject any and all offers, or any part thereof. The City reserves the right to accept any offer in whole or in part, or any line item, and to

CITY OF FLAGSTAFF PURCHASING DIVISION  
211 WEST ASPEN AVE.  
FLAGSTAFF, ARIZONA 86001

Solicitation No. 2016-25  
BUYER: Di Ann Butkay  
PH: (928) 213-2276 FX: (928) 213-2209

award a contract for purchase of the same. The City reserves the right to waive any clerical error or nonmaterial defect in the offer when it is deemed to be in the City's best interest. The City reserves the right to cancel or reissue a Solicitation.

**NOTICE OF PROPOSED CONTRACT AWARD OR RECOMMENDATION:** All vendors will receive an email notifying them of the City's proposed contract award or recommendation to reject all offers. This notice will be sent before the City executes the contract/purchase order.

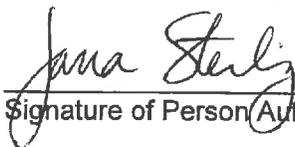
**PUBLIC RECORDS:** Offers received by the City are available for public inspection after a contract has been awarded, subject to any confidentiality restrictions.

**MATERIALS USED FOR OFFER:** The offer must be submitted either electronically or in packaging/packing materials that meet at least one of, and preferable all of the following criteria: (a) Made from 100% post-consumer recycled materials; (b) Non-toxic; (c) Bio-degradable; (d) Reusable; (e) Recyclable. The offer should be printed on recycled paper (minimum 50% post-consumer waste) and printed double-sided not to exceed twenty (20) pages plus the solicitation documents.

A primary qualification for the successful candidate is immediate availability and significant workload capacity from October 2015 through July 2016 with an approximate budget of \$49,500.00

**OFFER-TOTHE CITY OF FLAGSTAFF:**

The undersigned Vendor hereby offers and agrees to furnish materials and/or services in compliance with all terms, conditions, specifications, and amendments set forth in the Solicitation, including the Addenda, and as described in this offer made to the City. (the "Contract Documents") The undersigned Vendor also certifies by signing and submitting this offer that Vendor has the legal authority to enter into a contract with the City.



Signature of Person Authorized to Sign Offer

Jana Sterling  
Printed Name

Office Director

Title

10/23/15

Date

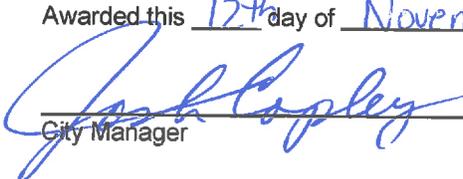
**ACCEPTANCE OF OFFER AND CONTRACT AWARD (For City of Flagstaff Use Only)**

Your offer is hereby accepted.

The Vendor is now bound to sell the materials, services or construction listed by the attached award notice based upon the solicitation, including all Contract Documents, which are incorporated herein by reference.

This contract shall henceforth be referred to as Contract No. 2016-25. The Vendor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until Vendor receives an executed purchase order.

Awarded this 12<sup>th</sup> day of November 2015.

  
City Manager

FMPO GIS Services  
SWCA Environmental Consultants

ATTEST:

Stacy Saltberg for  
CITY CLERK

APPROVED AS TO FORM:

for David Ambrose  
CITY ATTORNEY

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Eli Reisner, Project Manager - ER  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration and Adoption of Ordinance No. 2016-31:** An ordinance amending Flagstaff City Code Title 2, Boards and Commissions, Chapter 2-12, Transportation Commission, for the purpose of adding oversight provisions regarding the progress and expenditures of the City's Road Repair and Street Safety Tax Revenues approved by voters in the election of November 2014.

**RECOMMENDED ACTION:**

- 1) Read Ordinance No. 2016-31 by title only for the final time
- 2) City Clerk reads Ordinance No. 2016-31 by title only (if approved above)
- 3) Adopt Ordinance No. 2016-31

**Executive Summary:**

Adoption of Ordinance 2016-31 would add to the functions of the Transportation Commission. The proposed added duties are oversight of progress and expenditures for the City's Road Repair and Street Safety Tax Revenues (RR&SS) as authorized by Proposition 406 and approved by voters in the November 2014 election.

**Financial Impact:**

Assignment of the duties for the oversight of the RR&SS to the Transportation Commission will ensure the tax based funds will be expended in a manner consistent with community expectations, the direction from City Council and the City's adopted Capital Improvements Program.

## **Connection to Council Goal and/or Regional Plan:**

### **COUNCIL GOALS:**

- Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics
- Develop and implement guiding principles that address public safety service levels through appropriate staff levels
- Provide a well-managed transportation system
- Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments

### **REGIONAL PLAN:**

The RR&SS supports the City's Regional Plan Transportation goals to improve infrastructure and ensure safety.

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

Yes, on November 18, 2014, Council adopted the results of the General Election held on November 4, 2014. In the General Election voters approved a dedicated sales tax increase, Proposition 406, which included funding for road repairs and street safety improvements throughout the City of Flagstaff. First reading of the ordinance was held on September 6, 2016.

### **Options and Alternatives:**

1. Adopt the Ordinance as presented.
2. Provide direction for revisions to the Ordinance and further Council consideration.
3. Take no action and effectively continue the current duties of the Transportation Commission as currently defined by code.

### **Background/History:**

On June 1, 2010, City Council adopted Ordinance 2010-14. This ordinance repealed Resolution No. 2001-76, establishing a Citizens Transportation Advisory Committee, and Ordinance No. 2007-17, changing the membership of the Citizens Transportation Advisory Committee.

Ordinance 2010-14 amended Flagstaff City Code, Title 2 Boards and Commissions, Chapter 2-12, "Flagstaff Traffic Commission" by eliminating the Citizen Transportation Advisory Committee and by adding oversight duties to the Traffic Commission regarding the expenditures of the City's Streets/Transportation Capital Improvements Program as related to the Election of May 2000.

In November 2014, the Citizens of the City of Flagstaff approved ballot Proposition 406. Proposition 406 increased sales tax by 1/3 cent to fund the RR&SS to repair existing City streets. Upon the approval of Proposition 406, the City of Flagstaff's Capital Improvements and Public Works staff began work on the delivery of the RR&SS improvements.

### **Key Considerations:**

Functions of the Transportation Commission include ensuring that the transportation tax revenues are managed and administered in a manner consistent with the requirements of the sales tax authorization, providing a forum for public comment and input, and annually advising the City Council of the progress and expenditures of the transportation tax revenues.

When Proposition 406 was passed by the voters in November of 2014, the City committed to having a citizen commission ensure that the special sales tax revenues collected are applied to the purposes set

forth in the ballot question. This Ordinance will allow the Transportation Commission to provide this oversight.

At the April 16, 2016 Transportation Commission meeting, City staff discussed the opportunity of the Commission becoming the spending oversight body for the RR&SS. Staff continued discussions at the August 3, 2016 Commission meeting regarding the proposed ordinance, the Commission's role, and the logistics of the oversight. The Commission is very supportive of taking on this role.

**Expanded Financial Considerations:**

Assignment of the duties for the oversight of the RR&SS to the Transportation Commission will ensure the tax based funds will be expended in a manner consistent with community expectations, the direction from City Council and the City's adopted Capital Improvements Program.

**Community Benefits and Considerations:**

The Transportation Commission is able to meet on a regular basis, provides an appropriate public forum and has a similar advisory role to Council regarding traffic and transportation related issues. Staff recommends that the Transportation Commission could successfully add the responsibilities for citizen oversight of the RR&SS without adversely affecting their routine business, while providing more frequent opportunities for public input and RR&SS oversight.

**Community Involvement:**

Inform and Involve: Transportation Commission meetings are posted and noticed as public meetings and each agenda provides an opportunity for public participation. The status and disposition of all Council appointed Boards, Commissions and Committees, as well as specific discussions regarding the potential assignment of Transportation Commission responsibilities have been discussed by Council at their public work session meetings.

**Expanded Options and Alternatives:**

1. Adopt the Ordinance as presented.
2. Provide direction for revisions to the Ordinance and further Council consideration.
3. Take no action and effectively continue the current duties of the Transportation Commission as currently defined by code.

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**Attachments:**     [Ord. 2016-31](#)  
                          [Ordinance 2010-14 Amending Resolution 2001-76](#)

**ORDINANCE NO. 2016-31**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING FLAGSTAFF CITY CODE TITLE 2, *BOARDS AND COMMISSIONS*, CHAPTER 2-12, *TRANSPORTATION COMMISSION*, FOR THE PURPOSE OF ADDING OVERSIGHT PROVISIONS REGARDING THE PROGRESS AND EXPENDITURES OF THE CITY'S ROAD REPAIR AND STREET SAFETY TAX REVENUES APPROVED BY VOTERS IN THE ELECTION OF NOVEMBER 2014, AND ESTABLISHING AN EFFECTIVE DATE**

**RECITALS:**

WHEREAS, the Road Repair and Street Safety Initiative was passed by the voters in November, 2014, at which time the City committed to establish a citizen commission to ensure that the special sales tax revenues collected are applied to the purposes set forth in the ballot question; and

WHEREAS, the City Council has determined that it would be beneficial to assign the duties and responsibilities of the citizen commission to the Transportation Commission.

**ENACTMENTS:**

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

SECTION 1. In General.

That Chapter 2-12, Transportation Commission, is hereby amended as follows:

**CHAPTER 2-12  
TRANSPORTATION COMMISSION**

**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 **STREETS/Transportation Capital Improvements Program, as related to FUNDED BY THE TRANSPORTATION TAX REVENUES APPROVED BY VOTERS IN** the Election of May 2000 **AND THE CITY'S ROAD REPAIR AND STREET SAFETY TAX REVENUES APPROVED BY VOTERS IN THE ELECTION OF NOVEMBER 2014.** 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 **STREETS/**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 **AND ROAD REPAIR AND STREET SAFETY SALES TAX REVENUES**;
3. Provide input on the **STREETS/**Transportation CIP’s prioritization scoring criteria;
4. Provide a forum for public comment and input regarding the **STREETS/**Transportation CIP;
5. Publish an annual **STREETS/**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.

SECTION 2. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20<sup>th</sup> day of September, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

# **CITY OF FLAGSTAFF STAFF SUMMARY REPORT**



**To:** The Honorable Mayor and Council

**From:** Stu Seubert, Capital Improvements, 226-4845  
Community Development Division

**Date:** April 25, 2010

**Meeting Date:** June 1, 2010

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**TITLE:** Consideration of Ordinance 2010-14: An Ordinance Repealing Resolution No. 2001-76, Establishing a Citizens Advisory Committee, and Ordinance No. 2007-17, Changing the Membership of the Citizens Advisory Committee; and Amending Flagstaff City Code, Title 2, Boards and Commissions, Chapter 2-12, "Flagstaff Traffic Commission" and Adding Oversight Provisions Regarding the Progress and Expenditures of the City's Transportation Capital Improvement Program as Related to the Election of May 2000..

**RECOMMENDED ACTION:** Read Ordinance 2010-14 for the first time by title only  
Read Ordinance 2010-14 for the final time by title only  
Adopt Ordinance 2010-14

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## **ACTION SUMMARY:**

Adoption of Ordinance 2010-14 would repeal Resolution No. 2001-76 and Ordinance No. 2007-17, which established the Citizens Transportation Advisory Committee and amended it by changing its membership. Ordinance No. 2010-14 would also amend Title 2, Boards and Commissions, by assigning the oversight responsibilities of the Citizens Transportation Advisory Committee to the Traffic Commission and would re-name the commission as the Transportation Commission.

## **DISCUSSION:**

### **Background/History:**

Following the approval of the local sales tax designated for a variety of transportation system improvements, the Citizen's Transportation Advisory Committee was established to provide oversight and a public forum for the administration of the Transportation Program. Resolution 2001-76 established the Committee and provides for its continuation until the year following the final expenditures of the taxes approved in May 2000. The transportation

sales tax was originally approved for a period of twenty years and will expire in 2020 unless re-authorized by the electorate.

The City Council has more recently reviewed the status and purpose of all Council appointed Boards, Commissions and Committees to determine whether any efficiencies could be realized by identifying any redundant functions and/or opportunities to assign similar or related functions currently provided by multiple appointed groups to a single Board, Commission or Committee.

**Key Considerations:**

The function of the Citizens Transportation Advisory Committee is to ensure that the Transportation Program is managed and administered in a manner consistent with the requirements of the sales tax authorization, to provide a forum for public comment and input and to annually advise the City Council of the progress and expenditures of the City's Transportation Program. The Committee typically meets only two or three times each year but has on occasion been unable to meet because of a lack of applicants for vacant positions on the Committee.

**Community Benefits and Considerations:**

The Traffic Commission is able to meet on a regular basis, provides an appropriate public forum and has a similar advisory role to Council regarding traffic and transportation related issues. Staff recommends that the Traffic Commission could successfully assume the responsibilities of the Citizens Transportation Advisory Committee without adversely affecting the routine business of the Commission while providing more frequent opportunities for public input and Transportation Program oversight.

**Community Involvement:**

Citizens Transportation Advisory Committee meetings and Traffic Commission meetings are posted and noticed as public meetings and each agenda provides an opportunity for public participation. The status and disposition of all Council appointed Boards, Commissions and Committees, as well as specific discussions regarding the potential assignment of Citizens Transportation Advisory Committee responsibilities to the Traffic Commission have been discussed by Council at their public Work Session meetings.

**Financial Implications:**

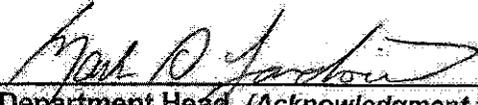
Assignment of the Committee's responsibilities to the Traffic Commission would allow the discontinuation of the Citizens Transportation Advisory Committee, reduce the number of Council appointments and would represent a savings in staff resource required for the support and maintenance of the Committee and its membership.

**Options and Alternatives:**

1. Adopt the Ordinance as presented.
2. Provide direction for revisions to the Ordinance and further Council consideration.
3. Take no action and effectively continue the Citizens Transportation Advisory Committee as originally authorized.

**Attachments/Exhibits:**

1. Ordinance 2010-14
2. Ordinance 2007-17 Amending Resolution 2001-76
3. Resolution 2001-76

  
 Department Head (Acknowledgment that all reviews have been completed and required approvals initialed below.)

INITIALS	RESPONSIBILITY	DATE	INITIALS	RESPONSIBILITY	DATE
	BIDS/PURCHASES			FINANCE/BUDGET	
	GRANTS			CONTRACTS	
DW	LEGAL	5/17/10	RAB	IGAS	
				City Engineer	5/18/10

DATE OF COUNCIL APPROVAL: \_\_\_\_\_

**ORDINANCE NO. 2010-14**

**AN ORDINANCE REPEALING RESOLUTION NO. 2001-76, ESTABLISHING A CITIZENS TRANSPORTATION ADVISORY COMMITTEE, AND ORDINANCE NO. 2007-17, CHANGING THE MEMBERSHIP OF THE CITIZENS TRANSPORTATION ADVISORY COMMITTEE; AND AMENDING FLAGSTAFF CITY CODE, TITLE 2, BOARDS AND COMMISSIONS, CHAPTER 2-12, "FLAGSTAFF TRAFFIC COMMISSION" BY AMENDING ITS NAME TO "TRANSPORTATION COMMISSION" AND ADDING OVERSIGHT PROVISIONS REGARDING THE PROGRESS AND EXPENDITURES OF THE CITY'S TRANSPORTATION CAPITAL IMPROVEMENTS PROGRAM AS RELATED TO THE ELECTION OF MAY 2000.**

WHEREAS, Resolution No. 2001-76 established the Citizens Transportation Advisory Committee, which provides oversight and annually advises the City Council concerning the progress and expenditures of the City's Transportation Capital Improvements Program as related to the Election of May, 2000; and

WHEREAS, Ordinance No. 2007-17 amended Resolution No. 2001-76 for the purpose of changing the membership of the Citizens Transportation Advisory Committee; and

WHEREAS, the City Council has reviewed the status and purpose of all Council appointed boards, commissions and committees to determine whether any efficiencies could be realized by identifying redundant functions and/or opportunities to assign similar or related functions currently provided by multiple appointed groups to a single board, commission or committee; and

WHEREAS, the City Council has determined that it would be beneficial to decommission the Citizens Transportation Advisory Committee and transfer its duties and responsibilities to the Traffic Commission (hereinbelow renamed to "Transportation Commissions");

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

SECTION 1: That Resolution No. 2001-76 establishing the Citizens Transportation Advisory Committee, and Ordinance No. 2007-17 amending Resolution No. 2001-76 are hereby repealed.

SECTION 2: That Title 2, Flagstaff City Code, Chapter 2-12, "Flagstaff Traffic Commission" is hereby amended as follows:

CHAPTER 2-12  
TRANSPORTATION COMMISSION

SECTIONS:

<u>2-12-001-0001</u>	CITY POLICY:
<u>2-12-001-0002</u>	CREATION OF THE FLAGSTAFF TRAFFIC COMMISSION:
<u>2-12-001-0003</u>	TERMS OF OFFICE:
<u>2-12-001-0004</u>	MEETINGS:
<u>2-12-001-0005</u>	FUNCTIONS OF THE COMMISSION:
<u>2-12-001-0006</u>	OTHER POWERS:
<u>2-12-001-0007</u>	APPEAL PROCEDURE:

**SECTION 2-12-001-0002. CREATION OF THE TRANSPORTATION COMMISSION**

A. There is hereby created a commission to be known as the Transportation Commission. The Commission shall consist of seven (7) voting members and three (3) non-voting members.

1. Voting members:

- a. The Superintendent of the Flagstaff Unified School District or his/her designated representative.
- b. Six (6) citizen members appointed by the City Council.

2. Ex-officio, non-voting members:

- a. One City of Flagstaff police officer appointed by the Chief of Police.
- b. The Traffic Engineer.

In addition, the City Council may designate a Councilmember representative as a non-voting, ex-officio member of the Commission.

B. Officers of the Commission shall be elected by the voting members of the Commission from the citizen membership.

(Ord. No. 2007-21, Amended 02/06/2007; Ord. 2010-14, Amended \_\_\_\_\_)

**SECTION 2-12-001-0003. TERMS OF OFFICE:**

Citizen members of the Commission shall serve staggered 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. No. 1942, Amended, 05/06/97); Ord. 2010-14, Amended \_\_\_\_\_)

**SECTION 2-12-001-0004 MEETINGS**

The Commission shall meet at least once each month at a regularly scheduled time and place to be designated by the Commission, and shall hold such special meetings as the membership shall decide and at such times and places as the Commission shall specify.

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. 2010-14, Amended \_\_\_\_\_)

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

The functions of the Commission shall be:

- A. To adopt traffic regulations or deny requests for changes in traffic regulations as follows:
  - 1. To investigate and make determinations on traffic regulation items forwarded to it by the Transportation Engineering Program.
  - 2. To hear the appeals of traffic regulation decisions of the Transportation Engineering Program as set forth in 9-01-001-0007 C. of the City Code
  - 3. To forward to the City Council those traffic regulation items which it deems to be of sufficient interest to the general public as to require decision by the Council.
- B. To formulate and recommend policies and ordinances to the City Council governing the general operations of the City streets, alleys, sidewalks and bikeways.
- C. To review periodically traffic regulation actions of the Transportation Engineering Program.
- D. 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.
- E. 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:

6

1. Meet biannually 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.

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

(Ord. No. 2007-21, Amended 02/06/2007; Ord. No. 2010-14, Amended \_\_\_\_\_)

SECTION 2-12-001-0006 OTHER POWERS:

- A. The Commission shall have the power to appoint subcommittees for the purpose of defining problems 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-year term. No member may serve more than two three-year terms.
  2. Pedestrian Advisory Committee: Seven (7) citizen members appointed for a three-year term. No member may serve more than two three-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. No. 2007-21, Amended 03/06/2007); (Ord. No. 2007-21, Amended 02/06/2007);  
 (Ordinance No. 2010-14, ( \_\_\_\_\_ ))

SECTION 2-12-001-0007 APPEAL PROCEDURE:

Traffic regulation decisions of the Transportation Commission, as set forth in Section 2-12-001-0006 A, may be appealed by any aggrieved party to the City Council by presentation of a request for such an appeal in writing to the Traffic Engineering Section within ten (10) working days of the date of the Commission's action. The appeal shall be placed on the currently open agenda for the next regularly scheduled Council Meeting. The Council may hear arguments and shall make the final decision on the matter. (Ord. 1349, 2-19-85); (Ord. No. 2007-21, Amended 02/06/2007); Ordinance No. 2010-14, Amended, ( \_\_\_\_\_ ))

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
 MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

**RESOLUTION NO. 2001-76**

**A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL ESTABLISHING  
A CITIZENS TRANSPORTATION ADVISORY COMMITTEE.**

WHEREAS, the citizens of the City of Flagstaff, in May 2000, voted to approve a 20-year taxing and bonding authority for transportation system improvements; and

WHEREAS, the Citizens and City Council desire accountability ensuring the approved transportation system funding is used to construct and purchase transportation system improvements as pledged throughout the election process; and

WHEREAS, an independent Citizen advisory role will ensure that expenditure of these funds is keeping within the requirements and spirit of the transportation system election;

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

**SECTION 1. ESTABLISHMENT OF COMMITTEE.** There is hereby established a Citizen Transportation Advisory Committee to consist of seven members, as follows:

- One Council Member
- One Planning and Zoning Commissioner
- One Traffic Commissioner
- One Audit Committee Member
- Three Citizens-at-Large

**SECTION 2. COMMITTEE PURPOSE.** The purpose of the Committee is to annually advise the City Council of the progress and expenditures of the City's Transportation Capital Improvement Program as related to the Election of May 2000.

**SECTION 3. COMMITTEE FUNCTIONS.** The Committee shall:

1. Meet biannually with the City's Capital Improvements and Financial Services Staff to review the progress of the Transportation Capital Improvement Program's 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 prioritization scoring criteria;
4. Provide a forum for public comment and input regarding the Transportation Capital Improvement Program;
5. Publish an annual Transportation Capital Improvement Program 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.

#### SECTION 4: TERM OF OFFICE.

1. The Member-at-large terms shall not exceed a period of three years. Terms will be staggered to ensure the Committee has experienced members. To start the staggering, the Members-at-large shall be appointed by the City Council to one, two and three year terms, respectively. Each Member-at-large may serve a maximum of two full terms.
2. The City Council member, the Planning Commissioner, the Traffic Commissioner and the Audit Committee member shall each serve 1-year terms and shall be appointed by the members of their respective bodies.
3. Term appointments shall always begin in January of the calendar year. The committee shall, by majority vote, elect a Chair and Vice-Chair. The term of the Chair shall be one-year with eligibility for re-election for one-year.

#### SECTION 5. MEETINGS AND COMPENSATION.

The Committee shall follow the provisions of the Arizona Open Meeting Act, including provisions for public notice and allowing the agendas, minutes, and meetings to be open to the public.

1. The Committee shall hold at least one meeting every six months.
2. A quorum consisting of at least four (4) members shall be required to conduct business.
3. Members of the CTAC shall serve without compensation.

SECTION 6. SUNSET. The Committee shall cease to exist upon presentation of its annual report to the City Council in the year following the final expenditures of the taxes approved in the May 2000 election.

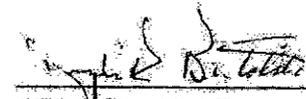
PASSED AND ADOPTED by the Council and approved by the Mayor of the City of Flagstaff this 16th day of October, 2001.

  
MAYOR

ATTEST:

  
CITY CLERK

APPROVED AS TO FORM:

  
CITY ATTORNEY

**ORDINANCE NO. 2007-17**

**AN ORDINANCE AMENDING RESOLUTION NO. 2001-76 OF THE CITY OF FLAGSTAFF FOR THE PURPOSE OF CHANGING THE MEMBERSHIP OF THE CITIZENS TRANSPORTATION ADVISORY COMMITTEE.**

WHEREAS, the City Council of the City of Flagstaff recognizes the significant and important role citizens play in advising the City Council on policy issues through the City's Boards and Commissions; and

WHEREAS, the City Council desires to clarify and standardize the role of City Councilmembers on City Boards and Commissions; and

WHEREAS, the City Council has determined that the appropriate role of City Councilmembers is to act as a liaison and resource for the citizen members of the City's Boards and Commissions;

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

SECTION 1. That Resolution No. 2001-76, Section 1, Establishment of Committee, and Section 5, Meetings and Compensation, are amended as follows:

**SECTION 1. ESTABLISHMENT OF COMMITTEE.**

There is hereby established a Citizen Transportation Advisory Committee to consist of seven members, as follows:

- One non-voting, ex-officio Council Member
- One Planning and Zoning Commissioner
- One Traffic Commissioner
- One Audit Committee Member
- Four Three Citizens-at-Large

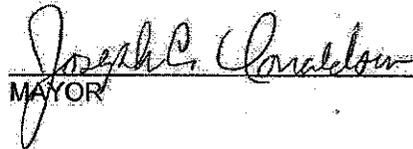
**SECTION 5. MEETINGS AND COMPENSATION.**

The Committee shall follow the provisions of the Arizona Open Meeting Act, including provisions for public notice and allowing the agendas, minutes, and meetings to be open to the public.

1. The Committee shall hold at least one meeting every six months.
2. A quorum consisting of at least four (4) voting members shall be required to conduct business.

3. Members of the Citizens Transportation Advisory Committee without compensation.

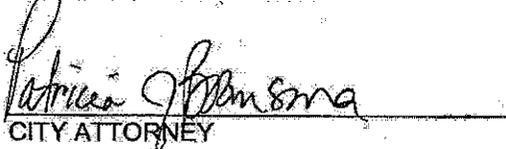
PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 6<sup>th</sup> day of February, 2007.

  
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:** 09/07/2016  
**Meeting Date:** 09/20/2016



**TITLE:**

**Consideration and Adoption of Ordinance No. 2016-33:** An ordinance of the Mayor and Council of the City of Flagstaff, Coconino County, Arizona, amending qualifications for members who serve on the Heritage Preservation Commission, by amending Title II, Boards and Commissions, Chapter 2-19, Heritage Preservation Commission; providing for severability, repeal of conflicting ordinances, and establishing an effective date.

**RECOMMENDED ACTION:**

- 1) Read Ordinance No. 2016-33 by title only for the final time
- 2) City Clerk reads Ordinance No. 2016-33 by title only (if approved above)
- 3) Adopt Ordinance No. 2016-33

**Executive Summary:**

In January 2016, the City Council adopted Ordinance 2015-22 that eliminated the specialty appointments of the Heritage Preservation Commission. Since that time, staff has discovered that by eliminating these specialty designations it puts the City's status as a Certified Local Government with the State Historic Preservation Office at risk. The City of Flagstaff currently has an agreement with the State Historic Preservation Office that designates Flagstaff as a Certified Local Government. Per that agreement, the composition of the Heritage Preservation Commission and the qualifications of the members must be specified by ordinance.

The agreement reads, "The Commission must...be composed of at least five members, all of whom have a demonstrated interest, experience, or knowledge in at least one of the following: history, architectural history, architecture, historic interiors, historic architecture, planning, archeology, historic archeology, real estate, historic preservation law or other historic preservation related field. To the extent available in the community, at least two professionals from the disciplines of architecture, history, architectural history, planning, archeology, or related historic preservation disciplines such as cultural geography or cultural anthropology must be members of the Commission...."

In an effort to maintain the City's designation as a Certified Local Government, staff is requesting that the Heritage Preservation Commission ordinance be returned to its original form, specifying certain requirements for the makeup of the members.

The current make-up of the commission is in compliance with the agreement. There are currently three At-Large members, two Historic Property Owners, and two Professional members, both in archeology. A table of the current commission is included below.

Name	Specialty Designation
------	-----------------------

Kurt Brydenthal	At-Large
Lynne Corbin	Historic Property Owner
Jonathan Day	Historic Property Owner
Josh Edwards	Archeology Professional
Jerry McLaughlin	At-Large / Historic Property Owner
Philip Scandura	At-Large
Charlie Webber	Archeology Professional

Being a Certified Local Government entitles the City of Flagstaff to access to certain funding mechanisms reserved for Certified Local Governments; provides that the City of Flagstaff is a participant in Federal and State preservation activities, specifically including National Register of Historic Places processes; and allows the City of Flagstaff to access the technical assistance and training from the State Historic Preservation Office.

Historic Preservation Fund Grants provide for preservation activities such as surveys, inventories, stabilization, documentation, National Register nominations, rehabilitation, and planning. Participation in Federal and State preservation activities includes formal recognition of local preservation expertise and review of federal and state actions that may affect historic and archeological properties. In addition to technical assistance and training from the State Historic Preservation Office, Certified Local Governments provide federal and state entities with local perspectives, including through participation in statewide planning for preservation and development.

The City of Flagstaff has used the Heritage Funds for a number of projects including trail work, parks projects, heritage preservation activities, and to host the State Heritage Preservation Conference. Being recognized as having credible expertise in heritage preservation, the City of Flagstaff has been allowed to proceed with various federally funded Housing Program projects being reviewed by our Historic Preservation Officer instead of the State Historic Preservation Officer. The City has produced, in house, Section 106 documentation for various City projects, some of which include Housing Program projects that cannot be locally reviewed, the Train Station, the US Forest Service Permit for the Inner Basin Water System, and several projects at the USGS Campus.

The City of Flagstaff has been consulted on National Register of Historic Places determinations by the State Historic Preservation Office. This has included assisting citizens in getting properties nominated, keeping properties on the register, and getting the property tax credit. Having access to the technical advice of the State Historic Preservation Office has been a day-to-day tool used in the development of the Zoning Code, determinations associated with Cultural Resource Studies, context studies, and for specific projects such as maintaining Two Spot (the Train) and preserving the Train Station.

**Financial Impact:**

None.

**Connection to Council Goal and/or Regional Plan:**

None.

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

On January 5, 2016 the City Council adopted Ordinance 2015-22 that eliminated the specialty appointments associated with the Heritage Preservation Commission. First reading of this ordinance was held on September 6, 2016; the ordinance has been updated with the changes requested by Council.

**Options and Alternatives:**

- 1) Adopt ordinance, as written, reinstating the specialty appointments associated with the Heritage Preservation Commission.
- 2) Amend ordinance to make changes.
- 3) Not adopt ordinance, maintaining current process and potentially losing the Certified Local Government designation from the State Historic Preservation Office.

**Community Involvement:**

Inform

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**Attachments:**     Ord. 2016-33  
                              SHPO Agreement

**ORDINANCE NO. 2016-33**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, AMENDING QUALIFICATIONS FOR MEMBERS WHO SERVE ON THE HERITAGE PRESERVATION COMMISSION, BY AMENDING TITLE II, *BOARDS AND COMMISSIONS*, CHAPTER 2-19, *HERITAGE PRESERVATION COMMISSION*; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, AND ESTABLISHING AN EFFECTIVE DATE**

**RECITALS:**

WHEREAS, the Flagstaff City Council desires to align the membership of the Heritage Preservation Commission in compliance with the agreement with the State Historic Preservation Office that designates Flagstaff as a Certified Local Government; and

WHEREAS, Title II, *Boards and Commissions*, of the Flagstaff City Code contains requirements for the various boards and commissions of the City.

**ENACTMENTS:**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA that the Flagstaff City Code is hereby amended as follows:

**SECTION 1.** In General.

Title II, Boards and Commissions, Chapter 2-19, ***Heritage Preservation Commission***, is amended by amending Section 2-19-001-0002 to read as follows (additions are shown as capitalized text, and deletions are shown as stricken):

**2-19-001-0002            MEMBERSHIP**

- A.     The membership of the commission shall consist of seven (7) voting members. 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.
1.     AT LEAST TWO (2) MEMBERS MUST BE PROFESSIONALS IN THE AREAS OF ARCHITECTURE, HISTORY, ARCHITECTURAL HISTORY, PLANNING, OR ARCHAEOLOGY.
  2.     AT LEAST TWO (2) MEMBERS SHALL BE OWNERS OF LOCALLY DESIGNATED HISTORIC PROPERTIES OR PROPERTIES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.
  3.     AT LEAST THREE (3) MEMBERS SHALL BE FROM THE GENERAL COMMUNITY.

- 4. ANY MEMBER MAY SATISFY MORE THAN ONE (1) OF THE ABOVE QUALIFICATIONS AND ANY "PROFESSIONAL" CATEGORY MAY BE FILLED BY A PERSON WHO IS RETIRED FROM THAT PROFESSION.
  
- B. APPOINTED MEMBERS SHALL HAVE AN INTEREST IN THE HISTORY OF THE COMMUNITY AND HERITAGE PRESERVATION AND BE COMMITTED TO REPRESENT NOT ONLY THEIR SPECIFIC AREAS OF EXPERTISE, BUT ALSO THE COMMUNITY AT LARGE.

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. Effective Dates.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20<sup>th</sup> day of September, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

6-11-96

A  
1509

**ARIZONA STATE PARKS BOARD**  
**CERTIFIED LOCAL GOVERNMENT PARTICIPANT AGREEMENT**

This agreement is made and entered into by and between the ARIZONA STATE PARKS BOARD through its STATE HISTORIC PRESERVATION OFFICER (OFFICER) and the CITY OF FLAGSTAFF, the CERTIFIED LOCAL GOVERNMENT (CLG), whose address is 211 West Aspen Avenue, Flagstaff, Arizona 86001.

The OFFICER has authority to enter into this Agreement pursuant to P.L. 98-146 as amended; A.R.S. SS 41-511.04 and 41-511.05; the CLG has authority to enter into this Agreement pursuant to Article one, Section three of the City Charter

**PART I. CONTRACT TERM**

This agreement will begin on the date it is signed by the OFFICER, and shall remain in effect until the CLG requests decertification as a CLG or is decertified by the OFFICER pursuant to the provisions of Section V, "Certified Local Government Historic Preservation Program in Arizona," a copy of which is attached hereto as Exhibit A and is incorporated by reference as a part of this Agreement.

**PART II. CONSIDERATION**

The consideration for this Agreement is the mutual promises of the parties contained herein.

**PART III. COMPLIANCE**

The parties shall comply with all applicable laws, rules and regulations pertaining to the execution and administration of the terms contained in Exhibit A to this Agreement.

The CLG and its agents shall be specifically subject to all applicable provisions of the National Register Program Guidelines, NPS-49, dated 1 October 1984, as presently in effect or as may be promulgated during the period of this Agreement. A copy of the National Register Certified Local Government Participant Agreement  
Page Two of Three

Program Guidelines, NPS-49, is available for inspection at the Arizona State Parks Board Office, 1300 W. Washington, Phoenix, Arizona 85007. The OFFICER will provide guidance on the provisions of the National Register Program Guidelines, NPS-49.

#### **PART IV. ENFORCEMENT OF LOCAL ORDINANCE**

The CLG agrees to enforce its Historic Preservation Ordinance, a copy of which is attached as Exhibit B and incorporated by reference as a part of this Agreement.

#### **PART V. NONDISCRIMINATION**

During the term of this Agreement, the parties agree to comply with the provisions of Executive Order 75-5, issued by the Governor of the State of Arizona relating to nondiscrimination in employment, a copy of which is attached hereto as Exhibit C and incorporated by reference as a part of this Agreement.

#### **PART VI. AGREEMENT FOR ARBITRATION**

If required pursuant to A.R.S. S12-1518 and any successor statute, the parties agree to use arbitration, after exhausting all applicable administrative remedies, to resolve all disputes arising out of this Agreement.

#### **PART VII. CANCELLATION OF STATE CONTRACTS**

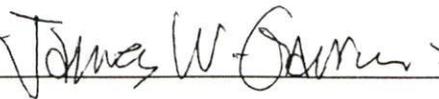
Pursuant to A.R.S. S38-511, and any successor statute, the State may cancel this contract, without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the State or any of its departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. Such cancellation shall become effective upon written notification from the Governor of the State of Arizona.

The parties have executed this Agreement as of the dates entered below.

**CITY OF FLAGSTAFF  
CERTIFIED LOCAL GOVERNMENT**

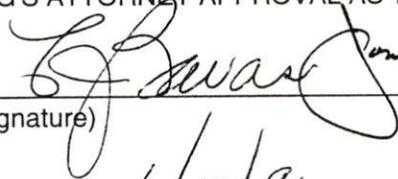
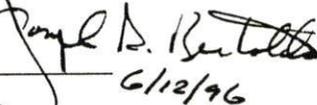
**THE STATE OF ARIZONA  
ARIZONA STATE PARKS BOARD**

By   
Christopher J. Bavasi  
Mayor  
6/11/96  
(Date)

By   
James W. Garrison  
State Historic  
Preservation Officer  
3 MAY 1996  
(Date)

By   
Kenneth E. Travous  
Executive Director  
Arizona State Parks Board  
5/6/96  
(Date)

**CLG'S ATTORNEY APPROVAL AS TO FORM**

   
(Signature) 6/12/96  
6/5/96  
(Date)

**Attachments to This Agreement**

- Exhibit A - Certified Local Government Historic Preservation Program in Arizona
- Exhibit B - Local Historic Preservation Ordinance

Exhibit C - Executive Order 75-5, Nondiscrimination in Employment

## EXHIBIT A

### CERTIFIED LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAM IN ARIZONA

#### Section I. Introduction

- A. The national historic preservation program has operated as a decentralized partnership between the Federal government and the state of Arizona since its establishment, in 1970. The Federal government established a program of identification, evaluation and protection of historic properties which the states, primarily, carry out. The success of that working relationship prompted Congress, in 1980, to expand the partnership to provide for participation by local governments (counties and incorporated cities and towns).
- B. The role of the "Certified Local Government" in the partnership involves, at a minimum, (1) eligibility to apply to the State Historic Preservation Officer for matching funds earmarked for "certified local governments," and (2) responsibility for review and approval of nominations of properties to the National Register of Historic Places.
- C. The Federal law directs the State Historic Preservation Officer and the Secretary of the Interior to certify local governments to participate in this partnership and specifies several requirements that the local government must meet.
- D. The following sections describe how the Federal-State-Local partnership works in Arizona.

#### Section II. Definitions

- A. "CLG" means a certified local government.
- B. "Commission" means a historic preservation board, council or similar collegial body that is established by local legislation, composed of professionals and persons, appointed as specified in the legislation, with a demonstrated interest, experience or knowledge in disciplines such as history, planning, archaeology, architecture, architectural history, historic archaeology or other fields related to historic preservation, that must perform the duties and responsibilities specified in the legislation.

- C. "HPF" means Historic Preservation Fund.
- D. "Local government" means any incorporated city, town, or county.
- E. "National Register" means the National Register of Historic Places.
- F. "SHPO" means the State Historic Preservation Officer.
- G. "Secretary" means the Secretary of the U.S. Department of the Interior.
- H. "Subgrantee" means the legal receiver of HPF funds through the SHPO.

**Section III. Eligibility of a Local Government for Certification**

- A. A local government that meets the criteria established in subsection B through F of this section may apply for certification under Section IV.
- B. A local government must enact and enforce an ordinance for the designation and protection of historic properties. The ordinance must, at a minimum, include the following provisions:
  - 1. Statement of purpose.
  - 2. Definitions.
  - 3. Establishment of a commission with specific membership and duties.
  - 4. Historic designation procedures for local resources and/or districts.
  - 5. Criteria for historic designation of local resources and/or districts.
  - 6. Provisions for public hearing on historic designation with public notification.

7. Mandatory review of alterations to, relocations or demolition of historic resources individually or within historic district boundaries and mandatory review of new construction within the boundaries of historic districts.
8. Specific guidelines to be used by the Commission, such as (or based on) the Secretary of the Interior's Standards for Rehabilitation.
9. Specific time frames and procedures for reviews and for consideration of appeals.
10. Provisions for decision making, enforcing decisions, and a right of appeal.

C. A local government must establish the Commission required by the ordinance provided under subsection B. The Commission must:

1. Be composed of at least five members, all of whom have a demonstrated interest, experience or knowledge in at least one of the following; history, architectural history, architecture, historic interiors, historic architecture, planning archaeology, historic archaeology, real estate, historic preservation law or other historic preservation related field. To the extent available in the community, at least two professionals from the disciplines of architecture, history, architectural history, planning, archaeology, or related historic preservation disciplines such as cultural geography or cultural anthropology must be members of the Commission. If a field is not represented by a Commission member, the Commission must obtain expertise in the field when considering National Register nominations and other actions that will impact properties that are normally evaluated by a professional in that field (e.g., archaeological sites should be evaluated by a professional archaeologist). Such expertise may be obtained through universities, private preservation groups or consultants, or other means approved by the SHPO. If a local government is to be certified without the minimum number of types of disciplines the local government must provide the SHPO with information, in writing, that it has made a reasonable effort to fill those positions.
2. Be composed of members who are appointed to serve staggered terms of office as specified by the ordinance.

3. Meet at least four times each year and follow the provisions of the Arizona Open Meetings Act, including providing for public notice and allowing the agenda, minutes, and meetings be open to the public.
  4. Provide for rules of procedure that are made known to the public.
  5. Make its decisions in an open forum and advise all interested persons of decisions.
  6. Prepare a written annual report of commission activities that is submitted to the SHPO and is available to the public. The report must contain, at a minimum, minutes of meetings, decisions made, special projects and activities, the number and types of cases reviewed, revised resumes of Commission members, and member attendance records.
  7. Ensure that vacancies on the Commission are filled within 60 days, unless extenuating circumstances require a longer period. An extension may be granted by the SHPO upon petition, in writing, of the chief official of the local government.
  8. Encourage all members to attend any training sessions and review any orientation materials provided by the SHPO. The SHPO will make available such training and orientation materials to provide working knowledge of the roles and operations of the federal, state, and local preservation programs.
  9. Carry out its responsibilities in coordination with SHPO responsibilities as outlined in 36 CRF 61.4(b) and ensure that its responsibilities are complementary to the SHPO's.
- D. A local government must maintain a system for the survey and inventory of historic properties.
1. A CLG must begin or continue a process for identifying historic properties within its jurisdiction that is approved by the SHPO.

2. A CLG must maintain a detailed inventory, under the jurisdiction of the Commission, of the designated historic districts, sites, buildings, structures or objects.
  3. All survey and inventory efforts and materials must be coordinated and compatible with the State's survey and inventory program (including the standards, guidelines and forms) of the SHPO. This will ensure that the information is in a format suitable for integration into the state historic preservation planning process. The SHPO will make available all appropriate materials and information to the CLG.
  4. All inventory materials must be accessible to the public, updated periodically and available, through duplicates, to the SHPO.
- E. A local government must provide for adequate public participation in the local historic preservation programs, including the process of recommending properties for nomination to the National Register.
1. All meetings of the Commission must be open meetings as required by the Open Meetings Act (A.R.S. Section 38-431, et seq.). The Commission should encourage public comment on agenda items.
  2. All reports submitted to the SHPO must detail how public comment was solicited and received.
- F. A local government must satisfactorily perform the responsibilities specified in subsections B through E above and any other responsibilities specifically delegated to it. The SHPO may, by written agreement with a CLG, delegate additional responsibilities such as environmental review projects if the CLG has adequate, qualified staff.

#### **Section IV. Process for Certification of Local Governments in Arizona**

- A. The chief elected official of the local government must request certification from the SHPO. The request for certification must include:

1. A written assurance by the chief elected official that the local government fulfills and will continue to fulfill all the standards for certification outlined in Section III.
  2. A copy of the local historic preservation ordinance.
  3. A list and accompanying maps of the areas designated at that time as historic districts or individual historic resources.
  4. Resumes for each of the members of the Commission including, where appropriate, credentials of member expertise in fields related to historic preservation.
- B. The request for certification will be reviewed by the SHPO for accuracy, completeness, and compliance with the provisions of this document.
- C. The SHPO will respond to the chief elected official within 60 days of the receipt of an adequately documented written request for certification.
- D. If a certification request is approved, the SHPO will prepare a written certification agreement that lists the responsibilities of the CLG. The list of responsibilities will include those listed in Section III, any additional responsibilities delegated to all CLGs in the State and any other delegated responsibilities. Such a certification agreement, once approved, may be amended with approval of the National Park Service, Western Regional Office.
- E. The SHPO certification of a local government to participate in the national historic preservation program constitutes certification by the Secretary, provided the Secretary has approved the State process and does not take exception to the request for certification and the certification agreement within 15 working days after receiving a complete CLG application and certification agreement from the SHPO.
- F. Once a local government is certified, it remains certified without further action unless, after substantive review, the SHPO recommends and proceeds with decertification or the CLG requests that it no longer be certified.

- G. A local government may appeal to the Secretary any SHPO decisions to deny certification or to decertify.

Section V. Process for Monitoring and Decertification of a CLG

- A. The SHPO will conduct a periodic review at least annually and monitor each CLG to assure that each government is fulfilling its responsibilities, as set forth in this document and the written certification agreement in a manner that is consistent and coordinated with the identification, evaluation and preservation priorities of the comprehensive state historic preservation planning process.
- B. The SHPO will, in his/her review:
1. Study the annual reports submitted by the CLG, records of the administration of HPF funds allocated to the CLG, and other pertinent documents of the CLG requested by the SHPO.
  2. Evaluate the CLG's performance of the responsibilities specified in this document and the written certification agreement and other responsibilities delegated to it.
  3. Recommend to the CLG specific steps to bring its performance up to an acceptable level, if necessary.
- C. The standards for evaluating the CLG's performance will include adequate preparation of all required reports, including the annual report, proper expenditure of HPF funds as adequately documented in required reports, and documented compliance with all requirements of this program and the written certification agreement.
- D. A CLG may take up to 180 days from the date the SHPO notifies the CLG, in writing, of the recommended steps, to implement the specific steps recommended.
- E. If the SHPO determines that sufficient improvement has not occurred after the 180 day period, the SHPO will recommend decertification of the CLG to the Secretary, citing specific reasons for the recommendation.

- F. A CLG may, voluntarily and without penalty, request decertification in writing addressed to the SHPO.
- G. If a CLG is decertified, the SHPO will terminate any financial assistance received by the CLG from the HPF allocation and will conduct a closeout review of the CLG funds received from the SHPO in accordance with the procedures set forth in the National Register Programs Manual.

**Section VI. Transfer of HPF Monies to CLGs**

- A. In order to be eligible to receive a portion of the local share of the State HPF allocation, a CLG must:
  - 1. Have adequate financial management systems that meet Federal standards of the Office of Management and Budget Circular A-102 and Attachment G "Standards for Grantee Financial Management Systems", are auditable in accordance with the General Accounting Office Standards for Audit of Governmental Organization Programs, Activities, and Functions, and are evaluated annually by the SHPO or designee.
  - 2. Adhere to all requirements of the National Register Programs Manual or successor manual. These requirements include the following:
    - a. Indirect costs may be charged as part of the CLG grant only if the CLG meets the requirements of the Manual,
    - b. Unless the CLG has a Federally approved, current indirect cost rate only direct cost may be charged.
  - 3. Adhere to any requirements and special conditions mandated by Congress pertaining to the HPF.
- B. At least 10% of the State's HPF allocation will be made available, on a competitive basis, to CLGs, on a 50-50 matching basis, for historic preservation activities and projects eligible for HPF assistance as follows:

1. Operations

- a. CLGs receiving HPF funds from the CLG share shall be considered subgrantees of the State.
- b. Transferred monies shall not be applied as matching share for any other Federal grant, except as permitted under the National Register Programs Manual.
- c. CLG requirements shall be included in the State's written grant agreement with the local government.
- d. Any State directed specific uses of HPF funds are to be for activities that are eligible for HPF assistance.
- e. Any State directed specific uses of HPF funds are to be consistent with the State comprehensive historic preservation planning process.
- f. The State will be responsible, through financial audit, for the proper accounting of HPF CLG share monies in accordance with the Office of Management and Budget Circular A-102, Attachment P, "Audit Requirement".

2. Notification

- a. Within 30 days after notification by the Department of the Interior of the State's projected annual allocation, the SHPO will notify CLGs, in writing, of the amount of funds available for transfer and solicit applications for that funding.
- b. Within 60 days after the date of the written notice required by subdivision a, the SHPO must receive the funding applications from the CLGs.

- c. Within 30 days after the SHPO receives the formal obligation of funds from the Department of the Interior, the SHPO will notify the CLGs of any grant awards.

### 3. Funding Priorities

The SHPO will award funds competitively to CLGs based on the following, and after consideration of the proposal and the status of the CLG's historic preservation program:

- a. Administration of a local preservation program with emphasis on survey.
- b. Administration of a local preservation program with emphasis on nomination.
- c. Administration of a local preservation program with emphasis on protection activities.
- d. Administration of a local preservation program with emphasis on integrating historic preservation goals with the community's planning process.
- e. Administration of a local preservation program with emphasis on increasing the effectiveness of the local government in addressing historic preservation issues and needs.
- f. Administration of a local preservation program with emphasis on increasing the community's awareness and understanding of historic preservation values.

### 4. Eligibility

Every CLG is eligible to receive funding, but no CLG will automatically receive funding.

5. Criteria for Selection

The SHPO and State Parks Board will evaluate and select projects based on the following criteria:

- a. An application must clearly state a specific goal or goals that are measurable and attainable within the funding period.
- b. A CLG must demonstrate an understanding of State and local preservation priorities.
- c. A CLG must assure an acceptable 50% matching share.
- d. The funds awarded to an applicant will be sufficient to generate effects directly as a result of the funds transfer. Furthermore, the requirements for tangible results may not be waived even if there are many otherwise eligible applicants for the CLG share.
- e. Reasonable efforts will be made to distribute funds among the maximum number of eligible CLGs and between urban and rural areas of the State. If there are multiple eligible CLGs, no CLG will receive a disproportionate share of the HPF allocation.
- f. The SHPO will make available, upon request, the rationale for the applicants selected and the amounts awarded.

6. Procedure

The chief elected official of a CLG shall submit to the SHPO an annual application, developed by the SHPO for CLG Share Funds, which outlines the proposed activity and the budget, including the source of match. Application materials will also include a copy of the jurisdiction's last audit which discusses, in part, adequacy of financing. The SHPO will develop the application forms.

Section VII. CLG Participation in the  
National Register Nomination Process

A. CLGs must participate in the National Register Nomination process, as follows:

1. The SHPO will forward a copy of completed National Register nominations within the CLG's jurisdiction with a summary sheet to the CLG's chief elected official, the property owner and the Chair of the Commission, within 30 days after receipt of the nomination. It will be the responsibility of the Commission Chair to disseminate this information to the Commission members.

The Commission shall provide for a reasonable opportunity for public comment prior to preparing a report. After receipt of such report and recommendation, or if no such report and recommendation are received within 60 days, the SHPO may make the nomination pursuant to Section 101(a) of the National Historic Preservation Act of 1966, as amended. The SHPO may expedite such process with the concurrence of the CLG.

2. Within 60 days of receipt of the nomination and summary sheet, the CLG's chief elected official shall transmit the Commission's report and the official's recommendation to the SHPO, regarding the eligibility of the property. If the Commission and the chief elected official do not agree, both opinions will be forwarded to the SHPO and property owner(s). The reports may indicate that no opinion is given.
3. If both the Commission and the chief local elected official recommend that a property not be nominated to the National Register, the SHPO shall take no further action, unless within 30 days of the receipt of such recommendation by the SHPO an appeal is filed with the State. If such an appeal is filed, the SHPO will follow the established procedures set forth in the National Historic Preservation Act of 1966, as amended (Section 101(a)). Any report and recommendations made under this subsection shall be included with any nomination submitted by the State to the Secretary.

B. Upon written agreement between the CLG and the SHPO, the CLG may elect to assume responsibility for notification of property owners and the public throughout the nomination process. In this case, the CLG must meet the public notice requirements specified by the National Register nomination procedures of the Department of the Interior. If a CLG assumes the notification responsibilities, the SHPO will provide guidelines regarding persons to be contacted and the content and timing of the notification letters.

December, 1990  
Arizona State Historic Preservation Office

EXECUTIVE ORDER

No. 75-5

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS -  
NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT  
CONTRACTORS AND SUBCONTRACTORS

I, Raul H. Castro, under and by virtue of the authority vested in me as Governor of the State of Arizona by the Constitution and Statutes of the State of Arizona do order and direct:

PART I - Non-discrimination in employment by government contractors and subcontractors.

All government contracting agencies shall include in every government contract hereinafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

A. The contractor will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex or national origin. The contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, age, color, religion, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

B. The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor state that all qualified applicants will receive consideration for employment without regard to race, age, color, religion, sex or national origin.

C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this Executive Order and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The contractor will furnish all information and reports required by the contracting agency and will permit access to his books, records and accounts by the contracting agency and the Civil Rights Division for purposes of investigation to ascertain compliance with such rules, regulations and orders.

E. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders of the Arizona Civil Rights Division said noncompliance will be considered a material breach of the contract and this contract may be cancelled, terminated or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts until said contractor has been found to be in compliance with the provisions of this order and the rules and regulations of the Arizona Civil Rights Division, and such sanctions may be imposed and remedies invoked as provided in Part II of this order, and the rules and regulations of the Arizona Civil Rights Division.

F. The contractor will include the provisions of paragraphs A through E in every subcontractor purchase order so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect in the subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Arizona to enter into such litigation to protect the interests of the State of Arizona.

G. Each contractor having a contract containing the provisions prescribed in this section shall file and shall cause each of his subcontractors to file compliance reports with the contracting agency or the Civil Rights Division, as may be directed. Compliance reports shall be filed within such times and shall contain such information as the practices, policies, programs and employment policies, programs and employment statistics of the contractor and each subcontractor and shall be in such form as the Arizona Civil Rights Division may prescribe.

H. Bidders or prospective contractors or subcontractors shall be required to state whether they have participated in any previous contract subject to the provisions of this order or any preceding similar Executive Order and in that event to submit on behalf of themselves and the proposed subcontractors compliance reports prior to, or as an initial part of negotiation of a contract.

I. Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the compliance report shall include such information from such labor unions or agency practices and policies affecting compliance as the contracting agency or Civil Rights Division may prescribe; provided that, to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify the contracting agency as part of its compliance report and shall set forth what efforts he has made to obtain such information.

J. The contracting agency or the Civil Rights Division shall require that the bidder or prospective contractor or subcontractor shall submit as part of his compliance report a statement in writing signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training with which the bidder or prospective contractor deals with supporting information to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment employment and the terms and conditions of employment under the proposed contract shall be in accordance with the purpose and provisions of this order. In the event that the union or the agency shall refuse to execute such a statement, the compliance shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Civil Rights Division may require.

#### PART II - Enforcement

A. Each contracting agency shall be primarily responsible for obtaining compliance with this Executive Order with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Civil Rights Division in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this order and the rules and regulations and orders of the Civil Rights Division issued pursuant to this order. They are directed to cooperate with the Civil Rights Division and to furnish the Division such information and assistance as it may require in the performance of the Division's functions under this order. They are further directed to appoint or designate from among the agency personnel compliance officers. It shall be the duty of such officers to first seek compliance with the objective of this order by conference, conciliation, mediation or persuasion.

B. The Civil Rights Division may investigate the employment practices of any government contractor or subcontractor or initiate such investigation by the appropriate contracting agency or determine whether or not the contractual provisions specified in this order have been violated. Such investigations shall be conducted in accordance with the procedures established by the Civil Rights Division and the investigating agencies shall report to the Civil Rights Division any action taken or recommended. The Civil Rights Division may receive and investigate or cause to be investigated complaints by employees or prospective employees of a government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Part I of this order. If the investigation is conducted for the Civil Rights Division by a contracting agency, that agency shall report to the Civil Rights Division what action has been taken or is recommended with regard to such complaint.

C. The Civil Rights Division shall use its best efforts directly and through contracting agencies, other interested state and local agencies, contractors and all other available instrumentalities to cause any labor union engaged in work under government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this order.

D. The Civil Rights Division or any agency, officer or employee in the executive branch of the government designated by rule, regulation or order of the Civil Rights Division may hold such hearings, public or private as the Division may deem advisable for compliance, enforcement or educational purposes. The Civil Rights Division may hold or cause to be held hearings in accordance with rules and regulations issued by the Civil Rights Division prior to imposing, ordering or recommending the imposition of penalties and sanctions under this order.

E. No order for debarment of any contractor from further government contracts under this order shall be made without affording the contractor an opportunity for a hearing.

F. Sanctions and Penalties. In accordance with such rules, regulations or orders as the Civil Rights Division may issue or adopt, the Civil Rights Division or the appropriate contracting agency may publish or cause to be published the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this order and with the rules, regulations and orders of the Civil Rights Division.

1. Contracts may be cancelled in whole or in part, terminated, or suspended absolutely, or continuation of contracts may be conditioned upon a program for future compliance approved by the contracting agency or the Civil Rights Division; provided that any contracting agency shall refrain from entering into further contracts, extensions or other modifications of existing contracts with any noncomplying contractor until such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this order.

2. Under rules and regulations prescribed by the Civil Rights Division, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this order by methods of conference, conciliation, mediation and persuasion before proceedings shall be instituted under this order or before a contract shall be cancelled or terminated in whole or in part under this order for failure of a contractor or subcontractor to comply with the contract provisions of this order.

G. This Executive Order shall become effective within sixty (60) days of its issuance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

DONE at the Capitol in Phoenix this twenty-eighth day of April in the year of Our Lord, One Thousand Nine Hundred and Seventy-five, and of the Independence of the United States the One Hundred and Ninety-ninth.

  
GOVERNOR

ATTEST:

  
Secretary of State

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Kevin Fincel, Deputy City Attorney  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration and Adoption of Ordinance No. 2016-35:** An ordinance of the City Council of the City of Flagstaff, authorizing the City of Flagstaff to accept the deed of certain real property located at 2555 S. Beulah Boulevard, Flagstaff, Arizona to expand current City right-of-way and allow for construction of a public sidewalk along Beulah Boulevard.

**RECOMMENDED ACTION:**

- 1) Read Ordinance No. 2016-35 by title only for the final time
- 2) City Clerk reads Ordinance No. 2016-35 by title only for the final time (if approved above)
- 3) Adopt Ordinance No. 2016-35

**Executive Summary:**

Capstone Collegiate Communities, LLC (“Capstone”) is the owner of certain real property located at 555 W. Forest Meadows Street in the City of Flagstaff, Arizona, which Capstone is developing as a mixed-use student housing apartment project (the “Project”). In conjunction with the Project, Capstone obtained a conditional use permit for rooming and boarding that requires Capstone to complete public sidewalk improvements along the west side of a segment of Beulah Boulevard between McConnell Drive and NAIPTA Bus Stop #8 (the “Beulah Sidewalk Improvements”). The Beulah Sidewalk Improvements were also a condition of approval of the Traffic Impact Analysis that was completed for the Project.

Capstone is in the process of purchasing the property needed to construct the Beulah Sidewalk Improvements from Woodlands Village Shopping Center, LLC (“Seller”) and desires that Seller convey the subject property directly to the City of Flagstaff. Pursuant to Article VII, Section 5 of the Flagstaff City Charter, the City shall acquire real property by ordinance.

**Financial Impact:**

None. Capstone is purchasing the property, which will then be conveyed to the City at no cost to the City. Capstone is also responsible for the Beulah Sidewalk Improvements.

**Connection to Council Goal and/or Regional Plan:**

**COUNCIL GOALS:**

- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics
- 6) Provide a well-managed transportation system

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

First reading of the ordinance was held on September 6, 2016.

**Options and Alternatives:**

Approval of the ordinance will allow for the construction of a public sidewalk that will connect McConnell Drive and NAIPTA Bus Stop #8.

Rejection of the ordinance will prevent the City from accepting the land for the sidewalk.

**Expanded Financial Considerations:**

None.

**Community Benefits and Considerations:**

Allows for the construction of a public sidewalk that will connect McConnell Drive and NAIPTA Bus Stop #8.

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**Attachments:**     Ord. 2016-35  
                             Exhibit A

**ORDINANCE NO. 2016-35**

**AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL, AUTHORIZING THE CITY OF FLAGSTAFF TO ACCEPT THE DEED OF CERTAIN REAL PROPERTY LOCATED AT 2555 S. BEULAH BOULEVARD, FLAGSTAFF, ARIZONA TO EXPAND CURRENT CITY RIGHT-OF-WAY AND ALLOW FOR CONSTRUCTION OF A PUBLIC SIDEWALK ALONG BEULAH BOULEVARD; PROVIDING FOR SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE**

**RECITALS:**

WHEREAS, Capstone Collegiate Communities, LLC (“Capstone”) is the owner of certain real property located at 555 W. Forest Meadows Street in the City of Flagstaff, Arizona, which Capstone is developing as a mixed-use student housing apartment project (the “Project”); and

WHEREAS, Capstone obtained a conditional use permit for rooming and boarding in conjunction with a mixed-use project that requires Capstone to complete public sidewalk improvements along the west side of a segment of Beulah Boulevard between McConnell Drive and NAIPTA Bus Stop #8 (the “Beulah Sidewalk Improvements”); and

WHEREAS, the Beulah Sidewalk Improvements were also a condition of approval of the Traffic Impact Analysis that was completed for the Project; and

WHEREAS, Capstone is in the process of purchasing the property needed to construct the Beulah Sidewalk Improvements from Woodlands Village Shopping Center, LLC (“Seller”) and desires that Seller convey the subject property, which is more particularly described and depicted in Exhibit A, directly to the City of Flagstaff; and

WHEREAS, pursuant to Article VII, Section 5 of the Flagstaff City Charter, the City shall acquire real property by ordinance.

**ENACTMENTS:**

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

SECTION 1: That the acceptance of the real property as more particularly described and depicted in Exhibit A, attached to this ordinance, is hereby authorized and ratified.

SECTION 2: That the City Manager, the City Attorney, the City Clerk, the Finance Director, the Real Estate Manager, or their delegees or agents, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this ordinance.

SECTION 3. 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 of the City of Flagstaff this 20th day of September, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

|

LEGAL DESCRIPTION

APN: 112-29-009

EXHIBIT 'A'

RefNo. #15208

2/18/2016

A portion of Lot 37, Woodlands Village Unit Three according to Case 4, Map 131, Official Records of Coconino County, said Lot 37 also being described as 'Parcel No. 1' per Instrument No. 3648879 and as shown on Instrument No. 3652188, Official Records of Coconino County (herein referred to as R1), lying within the northwest quarter of Section 28, Township 21 North, Range 7 East, of the Gila and Salt River Meridian, Coconino County, Arizona, described as follows:

Commencing at the northwest corner of said Parcel No. 1, said point being in common with the south Right-of-Way line of W. McConnell Drive, from which a point on the west line of said Parcel No. 1 bears South 0°09'55" West, 248.09 feet (Basis of Bearing), (South 0°10'42" West R1);

Thence along said south Right-of-Way line, North 88°28'51" East, 39.45 feet to the beginning of a tangent curve concave to the southwest, and having a radius of 25.00 feet;

Thence continuing along said Right-of-Way line and southeasterly along said curve, 39.27 feet through a central angle of 90°00'00" to a point on the west Right-of-Way line of S. Beulah Blvd. and the **TRUE POINT OF BEGINNING**;

Thence along said Right-of-Way line, South 01°31'09" East, 67.30 feet to the beginning of a tangent curve concave to the west, and having a radius of 1487.89 feet;

Thence continuing along said Right-of-Way line and southerly along said curve, 528.54 feet through a central angle of 20°21'11";

Thence continuing along said Right-of-Way line, South 28°07'13" West, 48.41 feet;

Thence leaving said Right-of-Way line, North 61°52'47" West, 5.00 feet;

Thence North 28°07'13" East, 48.00 feet to the beginning of a non-tangent curve concave to the west, from which the radius point bears North 71°10'54" West, 1482.89 feet;

Thence northerly along said curve, 526.36 feet through a central angle of 20°20'15";

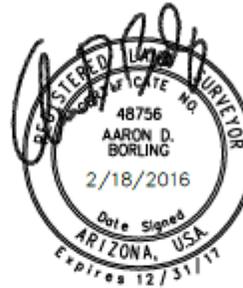
Thence North 01°31'09" West, 67.30 feet;

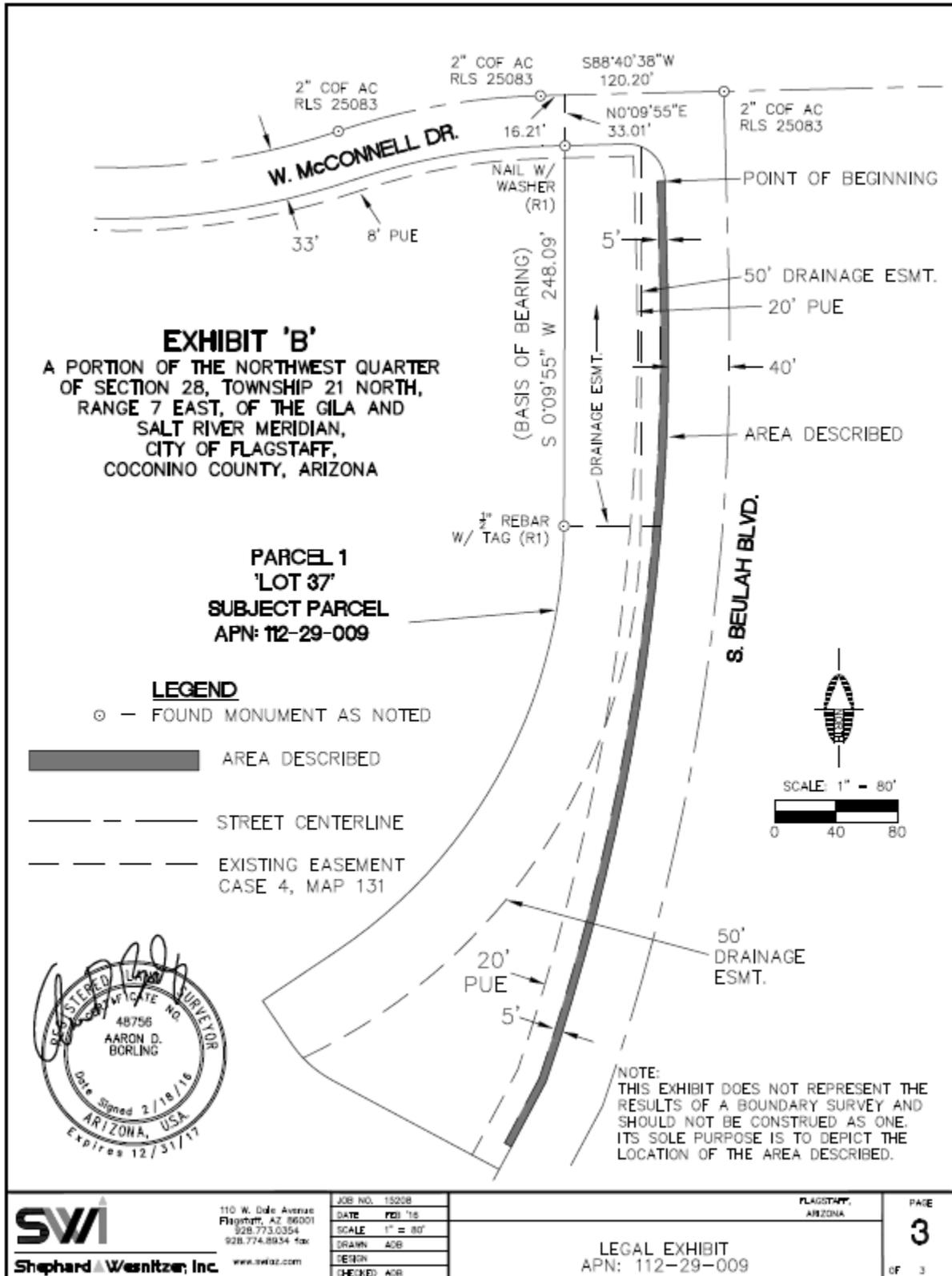
Thence North 88°28'51" East, 5.00 feet to the **TRUE POINT OF BEGINNING**;

Containing 0.074 Acres, more or less.

See Exhibit 'B' attached hereto and made a part hereof.

This legal description was prepared by Aaron D. Borling, RLS 48756,  
on behalf of and at the request of Shephard-Wesnitzer, Inc., Flagstaff, AZ.





**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Eli Reisner, Project Manager - ER  
**Date:** 08/08/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration and Approval of Consultant Services Contract:** Beaver Street and Dale Avenue Bundle #2 Improvements (Road Repair and Street Safety Program) Project

**RECOMMENDED ACTION:**

- 1) Approve the Professional Services Contract to The WLB Group, Inc. of Flagstaff, Arizona on a time a materials basis in an amount not to exceed \$231,160.00, which includes a \$12,000.00 contingency. The contract period is 704 calendar days; and
- 2) Authorize Change Order Authority to the City Manager in the amount of \$22,000.00 (10% of contract amount excluding contingencies) for unanticipated or additional items of work; and
- 3) Authorize the City Manager to execute the necessary documents.

**Executive Summary:**

TITLE: Professional Services Contract for the Beaver Street and Dale Avenue Bundle #2 Improvements - Road Repair and Street Safety Program (RR&SS) Project

- The WLB Group, Inc. was selected through the Qualifications Based selection process.
- The WLB Group, Inc. will perform services in coordination with the selected Construction Manager at Risk (CMAR) Contractor to deliver the Plans, Specifications & Estimate, and Construction Documents for the project.
- Plans, Specifications & Estimate, and Construction Documents will be complete by May 2017.
- CMAR Contractor's Guaranteed Maximum Price is anticipated to be presented to Council by June 2017.
- Construction of the project expected to be completed by August 2018.

**Financial Impact:**

Professional Services Contract will be funded by the Road Repair and Street Safety – Utility Replacements and Overlays FY 2017 budget totaling \$4,062,309 for the RR&SS Bundle #2 (Beaver/Dale) Project Account (046-05-116-3345-6-4421).

**Connection to Council Goal and/or Regional Plan:**

**COUNCIL GOALS:**

- Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.
- Provide a well-managed transportation system.
- Continue to implement the Flagstaff Regional Plan and focus efforts on specific plans.

## **REGIONAL PLAN:**

- The RR&SS supports the Transportation goals (section T.8.6) of the City's Regional Plan to maintain the City's street infrastructure in a cost effective manner to ensure the safety and convenience of all users.

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

Yes, on November 18, 2014, Council adopted the results of the General Election held on November 4, 2014. In the General Election voters approved a dedicated sales tax increase, Proposition 406, which included funding for road repairs and street safety improvements throughout the City of Flagstaff. Also, Council approved and adopted the Road Repair and Street Safety - Utility Replacements and Overlays FY 2017 budget.

## **Options and Alternatives:**

- Approve the award as recommended.
- Reject approval of the award and direct staff to continue project scoping and or negotiation with the consultant. This option may delay the start of construction work until the 2018 construction season.

## **Background/History:**

On May 1st and May 8th, 2016, Purchasing solicited a Request for Statement of Qualifications (RSOQ) for an Engineering Design Professional. The RSOQ was published in the Arizona Daily Sun, and was posted to the City of Flagstaff's Bid website on April 28th, 2016. On May 25, 2016, Purchasing received five Statements of Qualifications (SOQs) from engineering consultant firms. Purchasing facilitated a six-member selection committee, consisting of five City staff and one outside Contractor, to review and evaluate the statements. Based on the evaluation scoring results of the SOQs, the selection committee recommended to award the contract to The WLB Group, Inc. The WLB Group's Statement of Qualifications demonstrated a clear recognition of the knowledge and experience to design a complex sequence of improvements within the Downtown area, as well as understanding the schedule of completing the work.

## **Key Considerations:**

The Project area is located within the Downtown Flagstaff neighborhood, on N. Beaver St. from W. Columbus Ave. to W. Cherry Ave., including underground conduit lines continuing down to W. Birch Ave., and on Dale Ave. from N. Humphreys St. to N. Agassiz St. Proposed improvements include:

- Water main extensions in Dale Ave. (Humphreys to Beaver, Beaver to Leroux, and San Francisco to Agassiz)
- Water service line replacements and fire hydrant replacements in N. Beaver St. (Columbus to Cherry) and in Dale Ave. (Humphreys to Agassiz)
- Sewer main replacement in N. Beaver St. (Elm to Dale) and in Dale Ave. (Beaver to Leroux)
- Sewer service line replacements in N. Beaver St. (Columbus to Cherry) and in Dale Ave. (Humphreys to Agassiz)
- Full width pavement replacement on N. Beaver St. (Columbus to Cherry)
- Edge mill and overlay on Dale Ave. (Humphreys to Agassiz)
- Replacement of select sections of sidewalk, handicap ramps, curb and gutter and driveway approaches on N. Beaver St. (Columbus to Cherry) and on Dale Ave. (Humphreys to Agassiz)
- New and relocated streetlights on N. Beaver St. (Columbus to Cherry)
- New Conduit lines on N. Beaver St. (Columbus to Birch) for future traffic signal connections between the traffic signals at W. Columbus Ave. and W. Birch Ave.
- Streetscape enhancements are not included in this Road Repair and Street Safety Initiative funded project.

Construction will be through a Construction Manager At Risk (CMAR) agreement, with the associated

consideration of award of CMAR Design Phase Services Contract presented to Council concurrently with this contract. The CMAR method of procurement will be used to expedite the design and construction schedule and to accommodate complex sequencing of construction activities of this project. The 704 calendar day duration of the Consultant Services Contract will coincide with the proposed construction phase to allow for construction phase services by the WLB Group. Construction is expected to be completed in August of 2018.

### **Expanded Financial Considerations:**

The Beaver Street and Dale Avenue Bundle #2 Improvements (RR&SS) Project is funded by the Road Repair and Street Safety – Utility Replacements and Overlays FY 2017 budget of \$4,062,309 (046-05-116-3345-6) and \$3,300,000 for FY 2018.

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

The community benefits of this project include:

- Replacement and upgrading of aged water and sewer infrastructure to meet current standards.
  - Existing 8" PVC water main stub out, built between 1993 and 1995, will be extended on Dale Ave. (Humphreys to Beaver, Beaver to Leroux, and San Francisco to Agassiz) to accommodate current standards.
  - Water service line replacements and fire hydrant replacements in N. Beaver St. (Columbus to Cherry) and in Dale Ave. (Humphreys to Agassiz).
  - Existing 8" vitrified clay sewer pipe, built in 1919, will be upgraded to the current standards in N. Beaver St. (Elm to Dale) and in Dale Ave. (Beaver to Leroux).
  - Sewer service line replacements in N. Beaver St. (Columbus to Cherry) and in Dale Ave. (Humphreys to Agassiz)
- Replacement of deteriorated street infrastructure to improve the streets ride quality.
- Sidewalk improvements and ADA compliant ramps will provide a safe place for pedestrian travel.
- Analysis of surface drainage issues and solutions will be considered to provide the street infrastructure with an extended life.
- Construction coordination with two City projects to minimize inconveniences to the downtown area and the public.

### **Community Involvement:**

Inform, Involve, and Empower:

In November 2014, voters approved a dedicated sales tax increase to fund road repairs and street safety improvements throughout the City of Flagstaff. The City of Flagstaff notified the public of the upcoming project in the May 2016 Cityscape. The project is also posted on the list of proposed projects in the interactive map located under the Road Repair and Street Safety Updates on the City of Flagstaff's Website. There will be at least one Project Kickoff Meeting with at least, but not limited to, the following project stakeholders: City of Flagstaff stakeholders, ADOT, FUSD, NAIPTA, Downtown Business Alliance, Flagstaff Medical Center, and all First Responders. There will also be two Public Outreach Meetings, one during the initial design phases and the other prior to construction of the project. The WLB Group, City staff, and the selected CMAR Contractor will all be in attendance at all meetings. The CMAR Contractor for the project will periodically update the property owners and residents along the project as construction progresses.

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

1. Approve the award as recommended.
  2. Reject approval of the award and provide additional direction to staff. This option could delay the construction start until the 2018 construction season.
-

**Attachments:** [Professional Services Contract](#)  
[Exhibit A - Scope & Fee](#)  
[RR&SS Bundle #2 Vicinity Map](#)

**CONTRACT FOR PROFESSIONAL ARCHITECT/ENGINEERING SERVICES**  
**Contract No.: 2016-53**

**Beaver St. & Dale Ave Bundle Improvements Project**

This Contract is entered into by and between the City of Flagstaff, a political subdivision of the state of Arizona ("City") and The WLB Group, Inc., an Arizona corporation ("Contractor"), this \_\_\_\_\_, day of \_\_\_\_\_, 2016.

WHEREAS, the City of Flagstaff desires to receive and Contractor is able to provide professional architect/engineering services for a public works project;

NOW, THEREFORE, in consideration for the mutual promises contained herein the City and Contractor ("the parties") agree as follows:

**SERVICES**

1. **Scope of Work:** Contractor shall provide professional services generally described as:

**Beaver Street and Dale Avenue bundled improvements design services.**

as more specifically described in the Request for Statement of Qualifications ("RSOQ") and proposal attached hereto as Exhibit A.

2. **Schedule of Services:** Contractor shall perform all work per the schedule set forth in Exhibit A.
3. **Standard Terms and Conditions (T34):** The City's Standard Terms and Conditions for A/E Services - Public Works Projects (T34), attached hereto as Exhibit B are incorporated by reference and apply to performance of this Contract, except to the extent modified by Exhibit A.
4. **Key Personnel/Subcontractors:** Contractor's Key Personnel, Subcontractors (if any), and contact information are designated in Exhibit A. Key Personnel are those whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative for this contract has the right to approve any proposed substitution of Key Personnel or Subcontractors. All subcontracts shall be required to state that subcontractor's performance shall be consistent with requirements of this Contract.

**CITY RESPONSIBILITIES**

5. **City Representative:** The City Representative is Patrick Brown, C.P.M., Senior Procurement Specialist or his/her designee. All communications to the City shall be through the City Representative. City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the City Buyer.
6. **City Cooperation:** City will cooperate with Contractor by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Contractor's performance of this Contract.

**CONTRACT TERM**

7. **Contract Term:** The Contract shall be effective as of the date signed by both parties. Performance shall commence within ten (10) days from the City's issuance of the Notice to

Proceed. Project duration shall be for 704 calendar days, and shall be completed on or before \_\_\_\_\_, 20\_\_\_\_ consistent with the Schedule of Services.

8. Termination: This Contract may be terminated pursuant to the Standard Terms and Conditions (T34) attached hereto.

#### PAYMENT

9. Compensation: Contractor shall be paid for satisfactory performance of the work, in accordance with the compensation schedule attached hereto as part of Exhibit A. The Contract amount shall not exceed \$231,160.00, unless approved by written change order.

#### INSURANCE

10. Insurance: Contractor shall meet insurance requirements of City, set forth in Exhibit C.

#### NOTICE

11. Notice. Any notice concerning this Agreement shall be in writing and sent by certified or registered mail as follows:

To the City's Authorized Representative

Patrick Brown, C.P.M.  
Senior Procurement Specialist  
Contract No. 2016-53  
Beaver St. & Dale Improvements Design  
City of Flagstaff  
211 W. Aspen  
Flagstaff, Arizona 86001

To Contractor:

Dan Burke, P.E.  
Director of Operations  
The WLB Group, Inc.  
500 N. Beaver Street  
Flagstaff, Arizona 86001

#### MISCELLANEOUS:

12. Cooperative Use: This Contract resulting from the RSOQ 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 Agreement 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 Contract who wish to cooperatively use the contract are subject to the approval of Contractor.

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. These cooperatives are achieved through Intergovernmental Agreements (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 contractors at the prices, terms and conditions contained in contracts originated between any and all of these agencies and the contract, as awarded.

13. Successors and Assigns. No right or interest in the Agreement shall be assigned by Contractor without prior written permission of the City, and no delegation of any duty of Contractor shall be made without prior written permission of the City.

14. Authority. Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

THE WLB GROUP, INC.

\_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

CITY OF FLAGSTAFF

\_\_\_\_\_  
Josh Copley, City Manager

Attest:

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

Approved as to form:

\_\_\_\_\_  
City Attorney's Office

Notice to Proceed issued: \_\_\_\_\_, 20\_\_\_\_

Attachments:

Exhibit A: Scope of Work, RSOQ, Pricing, Schedule, Key Personnel, Subcontractors

Exhibit B: Standard Terms and Conditions

Exhibit C: Insurance for A/E Professional Services requirements

**EXHIBIT A**  
**SCOPE OF WORK, PRICING, SCHEDULE**

**SEE ATTACHMENT:** *Exhibit A – Scope & Fee*

**EXHIBIT B  
STANDARD TERMS AND CONDITIONS (T34)**

**CITY OF FLAGSTAFF  
STANDARD TERMS AND CONDITIONS  
FOR A/E SERVICES PROJECTS**

**IN GENERAL**

1. **NOTICE TO PROCEED:** Contractor shall not commence performance until after City has issued a Notice to Proceed.
2. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract, and provide copies to City upon request.
3. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of this Contract.
4. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, this Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

**PAYMENT**

5. **INVOICES:** Invoices shall include the Contract and/or Purchase Order number and dates when work was performed. Invoices shall be sent within 30 days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.
6. **OFAC:** No City payments may be made to any person in violation of Office of Foreign Assets Control regulations, 31 C.F.R. Part 501.

**CONTRACTOR RESPONSIBLE FOR CONTROL OF WORK**

7. **INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.
8. **CONTROL:** Contractor shall be responsible for the control of the work. Contractor shall furnish qualified personnel, materials, equipment and other items necessary to carry out the terms of the Contract.
9. **WORK SITE:** Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.

**QUALITY OF WORK**

10. **QUALITY:** All work shall be of good quality and free of defects, performed in a diligent and professional manner.

11. **COMPLETENESS AND ACCURACY:** Contractor shall be responsible for the completeness and accuracy of its work, plans, supporting data, and special provisions prepared for or compiled under its obligation for the Contract, and shall correct, at its own expense, all errors or omissions therein.
12. **PROFESSIONAL SEAL:** All documents prepared by a design professional shall bear the stamp or seal of the design professional.
13. **STANDARD OF CARE:** All preparation of technical and related documents shall be completed in accordance with applicable law and performed in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
14. **CORRECTION OF ERRORS OR OMISSIONS, COSTS:** Contractor at its own expense shall correct errors or omissions in the documents created pursuant this Contract which are discovered, disclosed and determined by City to exist either during or following completion of the documents, including but not limited to errors or omissions discovered during construction. The costs incurred and necessary to correct errors or omissions attributable to Contractor and any expense incurred by City as a result of additional construction costs caused by such errors shall be chargeable to Contractor.
15. **CONSTRUCTION INSPECTIONS:** If Contractor is performing construction inspection of a City project, Contractor shall be responsible for Contractor errors and omissions which are discovered, disclosed and determined by City to exist during and subsequent to construction of the project. Contractor's duty in the construction in section phase is to assure City that the project is constructed in conformity with detailed plans and specifications and the cost of design necessary to correct errors and omissions in inspection attributable to Contractor and any expense incurred by City as a result of additional construction costs caused by such errors shall be chargeable to Contractor. City acceptance or approval of Contractor's work shall not relieve Contractor of inspection responsibilities or professional liability.
16. **ACCEPTANCE:** The fact that City has accepted or approved Contractor's work shall not relieve Contractor of its responsibilities or professional liability. If work is rejected by the City due to noncompliance with the Contract, the City, after notifying Contractor in writing, may require Contractor to correct the deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.
17. **WARRANTY:** Contractor warrants that the design will accomplish any performance standards or results required in the scope of work. City's review, acceptance, receipt or inspection of the materials or services specified shall not alter or affect Contractor's obligations to meet Contract specifications or this warranty.
18. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

## **REPORTS AND DATA**

19. **CITY OWNERSHIP OF DOCUMENTS AND DATA:** Any original documents prepared or collected by Contractor in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computer program elements, computations and other data shall be the property of City ("City's work product"), unless otherwise agreed by the parties in writing. Contractor agrees that all materials prepared under this Contract are "works for hire" within the meaning of copyright laws of the United States and hereby assigns to City all rights and interests Contractor may have in the materials it prepares under this Contract, including any derivative use of the material.

20. **RE-USE:** City may use City's work product without further compensation to Contractor; provided, however, City's reuse without written verification or adoption by Contractor for purposes other than contemplated herein is at City's sole risk and without liability to Contractor. Contractor shall not engage in any conflict of interest nor appropriate any portion of City's work product for the benefit of Contractor or any third parties without City's prior written consent.
21. **DELIVERY OF DOCUMENTS AND DATA:** Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Contractor shall immediately deliver to City copies of all of City's work product and any other documents and data accumulated by Contractor in performance of this Contract, whether complete or in progress.

### **INSPECTION, RECORDS**

22. **RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five (5) years after completion of the Contract.
23. **RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.
24. **PUBLIC RECORDS:** This Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law, A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.

### **INDEMNIFICATION, INSURANCE**

25. **INDEMNIFICATION:** To the fullest extent permitted by law. Contractor shall indemnify, save and hold harmless the City of Flagstaff and its officers, officials, agents, and employees (herein after Indemnatee") from and against all liabilities, damages, losses and court costs, including reasonable attorney fees, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of the Contractor, subcontractor, design professional or other persons employed or used by contractor, subcontractor or design professional in the performance of the Contract. The amount and type of insurance coverage required under the Contract shall in no way be construed as limiting the scope of this indemnification provision. This indemnification provision shall survive termination or expiration of the Contract.
26. **INSURANCE:** Contractor shall maintain all insurance coverage required by the City, including professional liability, public liability and worker's compensation.

### **CONTRACT CHANGES**

27. **CHANGE ORDERS:** The City reserves the right at any time to make changes in the scope of work in writing. Whenever the scope of work will be materially increasing or decreasing the cost of performance, a contract change order shall be approved and executed by the parties prior to the change. Contractor shall not do any work or furnish any materials which are not covered by the written Contract or approved change orders. If Contractor disregards this provision, Contractor does so at its own risk, cost and expense.
28. **COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the parties.
29. **AMENDMENTS:** This Contract may be amended by written agreement of the parties.

30. **SEVERABILITY:** If any term or provision of this Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted, and the remainder of this Contract shall remain in full force and effect.
31. **NO WAIVER:** Each party has the right insist upon strict performance of the Contract, and the prior failure of a party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.
32. **ASSIGNMENT:** This Contract may be assigned by Contractor with prior written consent of the City, which will not be unreasonably withheld. Any assignment without such consent shall be null and void. Unless expressly provided for in a separately executed Consent to Assignment, no assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to City. The Purchasing Director shall have authority to consent to an assignment on behalf of City.
33. **BINDING EFFECT:** This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

#### **EMPLOYEES AND SUBCONTRACTORS**

34. **SUBCONTRACTING:** Contractor may subcontract work in whole or in part with the City's advance written consent. City reserves the right to withhold consent if subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.
35. **NONDISCRIMINATION:** Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition any Contractor located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02 Civil Rights which also prohibits discrimination based on sexual orientation, gender identity or expression.
36. **DRUG FREE WORKPLACE:** The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor personnel shall abstain from use or possession of illegal drugs while engaged in performance of this Contract.
37. **IMMIGRATION LAWS:** Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all State and Federal Immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty"). A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City. The City retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on this Contract to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections. The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed. Neither Contractor nor any subcontractor shall be deemed to have materially breached the

Contractor Immigration Warranty if Contractor or subcontractor if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

## **DEFAULT AND TERMINATION**

- 38. TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, this Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If this Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by City before the effective date of termination.
- 39. TERMINATION FOR DEFAULT:** Prior to terminating this Contract for a material breach, the non-defaulting party shall give the defaulting party written notice and reasonable opportunity to cure the default, not to exceed ten (10) days unless a longer period of time is granted by the non-defaulting party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the parties may execute all remedies available at law in addition Contract remedies provided for herein.
- 40. EVENTS OF CONTRACTOR DEFAULT DEFINED:** Contractor defaults include the following:
- a. Any material misrepresentation made by Contractor to the City;
  - b. Failure to commence work at the time(s) specified due to a reason or circumstance within Contractor's reasonable control;
  - c. Failure to perform the work with sufficient personnel and equipment or with sufficient equipment to ensure completion of the work within the specified time due to a reason or circumstance within Contractor's reasonable control;
  - d. Failure to perform the work in a manner reasonably satisfactory to the City;
  - e. Failure to promptly correct or re-perform within a reasonable time work that was rejected by the City as unsatisfactory or erroneous;
  - f. Discontinuance of the work for reasons not beyond Contractor's reasonable control;
  - g. Unsatisfactory performance as judged by the Contract Administrator;
  - h. Failure to provide the City, upon request, with adequate assurance of future performance;
  - i. Failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance; and
  - j. Any other material breach.
- 41. CITY REMEDIES:** Upon the occurrence of any Event of Contractor Default, the City may declare Contractor in default under this Agreement. The City shall provide written notification of the Event of Default. If such Event of Default is not cured within ten (10) days of receipt of the notification, the City may invoke any or all of the following remedies:
- a. The right to terminate/cancel this Contract as to any or all of the services yet to be performed;
  - b. The right of specific performance, an injunction or any other appropriate equitable remedy;
  - c. The right to monetary damages;
  - d. The right to withhold all or any part of Contractor's compensation under this Contract;
  - e. The right to deem Contractor non-responsive in future contracts to be awarded by the City;
  - f. The right to seek recoupment of public funds spent for impermissible purposes.

- g. The City may elect not to declare an Event of Contractor Default or default. The parties acknowledge that this provision is solely for the benefit of the City, and that if the City allows Contractor to continue to provide the Services despite the occurrence of one or more Events of Default, Contractor shall in no way be relieved of any of its responsibilities or obligations under this Contract, nor shall the City be deemed to waive or relinquish any of its rights under this Contract.
- h. City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service.
- i. City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.

- 42. CONTRACTOR REMEDIES:** In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.
- 43. SPECIAL DAMAGES:** In the event of default, neither party shall be liable for incidental, special, or consequential damages.
- 44. TERMINATION DUE TO INSOLVENCY:** If Contractor becomes a debtor in a bankruptcy proceeding or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate this Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding; makes an assignment for a creditor; or there is any similar action that affects Contractor's ability to perform under the Contract.
- 45. PAYMENT UPON TERMINATION:** Upon termination of this Contract, City will pay Contractor for satisfactory performance up until the effective date of termination. City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.
- 46. CANCELLATION FOR GRATUITIES:** The City may cancel this Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant ("Gratuities") in connection with award or performance of the Contract.
- 47. CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511):** The City may cancel this Contract within three (3) years after its execution, without penalty or further liability to Contractor.

## **DELAYS**

- 48. FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is unforeseeable and beyond the control of the party affected, which occurs without its fault or negligence, and which it is unable to prevent by exercising reasonable diligence.

## **MISCELLANEOUS**

49. **ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.
50. **NOTICES:** All notices given pursuant to this Contract shall be delivered at the addresses as specified in the Contract, or updated by Notice to the other party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four (4) days after being sent; (c) or sent by overnight courier, with receipt deemed effective two (2) days after being sent. Notice may be sent by email as a secondary form of notice.
51. **THIRD PARTY BENEFICIARIES:** This Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.
52. **GOVERNING LAW:** This Contract shall be construed in accordance with the laws of Arizona.
53. **FORUM:** In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.
54. **ATTORNEYS FEES:** If any action at law or in equity is necessary to enforce the terms of this Contract, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs, professional fees and expenses.

**EXHIBIT C**  
**INSURANCE FOR A/E PROFESSIONAL SERVICES**

1. In General. Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with this Contract by the Contractor, its agents, representatives, employees or contractors.
2. Requirement to Procure and Maintain. Each insurance policy required by this Contract shall be in effect at, or before, commencement of work under this Contract and shall remain in effect until all Contractor's obligations under this Contract have been met, including any warranty periods. The Contractor's failure to maintain the insurance policies as required by this Contract or to provide timely evidence of renewal will be considered a material breach of this Contract.
3. Minimum Scope and Limits of Insurance. The following insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City does not represent or warrant that the minimum limits set forth in this Contract are sufficient to protect the Contractor from liabilities that might arise out of this Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form

General Aggregate	\$2,000,000
Products/Completed Operations	\$1,000,000
Each Occurrence	\$1,000,000

b. Umbrella Coverage \$2,000,000

c. Automobile Liability –  
Any Automobile or Owned, Hired  
and Non-owned Vehicles  
Combined Single Limit Per Accident  
for Bodily Injury & Property Damage \$1,000,000

d. 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

e. Professional Liability \$2,000,000

4. Self-Insured Retention. Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and volunteers. Contractor shall be solely responsible for any self-insured retention amounts. City at its option may require Contractor to secure payment of such self insured retention by a surety bond or irrevocable and unconditional letter of credit.

5. Other Insurance Requirements. The policies shall contain, or be endorsed to contain, the following provisions:
- a. Additional Insured. In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents and employees shall be named and endorsed as additional insureds with respect to liability arising out of this Contract and activities performed by or on behalf of the Contractor, including products and completed operations of the Contractor, and automobiles owned, leased, hired or borrowed by the Contractor.
  - b. Broad Form. The Contractor's insurance shall contain broad form contractual liability coverage.
  - c. Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents and employees, shall be in excess of the coverage of the Contractor's insurance and shall not contribute to it.
  - d. Each Insured. The Contractor'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.
  - e. Not Limited. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
  - f. Waiver of Subrogation. The policies shall contain a waiver of subrogation against the City, its officers, officials, agents and employees for losses arising from work performed by Contractor for the City.
6. Notice of Cancellation. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, cancelled, reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Buyer listed in the original Solicitation and shall reference the Contract Number:
- Attention: Patrick Brown, C.P.M.  
Contract No. 2016-53  
Beaver St. and Dale Ave. Bundle #2 Improvements  
Purchasing Department  
City of Flagstaff,  
211 W. Aspen Avenue  
Flagstaff, Arizona 86001.
7. Acceptability of Insurers. Contractor 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. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
8. Certificates of Insurance. The Contractor shall furnish the City with certificates of insurance (ACORD form) as required by this Contract. 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. The City project/contract number and project description shall be noted on the certificates of insurance. The City must receive and approve all certificates of insurance and endorsements before the Contractor commences work.

**All certificates of insurance shall be sent directly to the Buyer in the same manner as notice of cancellations (see above). The City project/contract number and project description shall be noted on the certificates of insurance.**

9. Policies. The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by this Contract at any time. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under this Contract.
10. Modifications. Any modification or variation from the insurance requirements in this Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.
11. Subcontractors. Contractor's certificate(s) shall include all subcontractors as additional insureds under its policies, or Contractor shall furnish to the City Separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

**EXHIBIT A – SCOPE OF PLANNED CONSULTING SERVICES AND COMPENSATION**

**RR&SS Bundle #2 (Beaver/Dale)**

**WLB Project No. 316011A001**  
**COF Capital Improvements No. 03-16009**  
**City of Flagstaff Project No.: ST3345**  
**Prepared August 5, 2016**  
**Revised August 15, 2016**  
**Revised August 23, 2016**  
**Final August 24, 2016**

**Project Understanding:**

The Road Repairs and Street Safety Program (RR&SS) Bundle #2 (Beaver/Dale) project is located in the Downtown Neighborhood within west Flagstaff. The project limits for N Beaver Street begin at the south side of W Columbus Avenue and continue south to the south side of W Cherry Avenue, with the exception of the underground conduit lines continuing south to the traffic signal at W. Birch Avenue. Dale Avenue project limits begin at the east side of N Humphreys Street and extend to the pavement change within the N Agassiz Street Intersection. Project design and construction will incorporate numerous stakeholders, residents, and businesses.

Project Goal:

The goal of the RR&SS Bundle #2 (Beaver/Dale) project is to effectively utilize funds allocated from the City of Flagstaff Road Repair and Street Safety Program to maintain existing improvements within the project area.

In general, these improvements consist of:

- Full depth pavement reconstruction on N Beaver Street
  - Pavement reconstruction provides the opportunity to restripe N Beaver Street to accommodate on-street parking and safe multi-modal transportation.
  - Design will recommend centerline profile elevations and typical cross-slope to match edge conditions, improve drainage, and maintain minimum cover over existing utilities.
- Mill and overlay on Dale Avenue
  - Design should address the adverse cross slope on the south side of Dale Avenue at the N Beaver Street and Leroux Street intersections.
- Replacement of select curb, gutter sidewalk, sidewalk ramps, and driveways
- Water main replacements and extensions
- Water service and hydrant replacements
- Sanitary sewer main replacements
- Sanitary sewer service and manhole replacements
- Stormwater drainage issue resolution.

Scope of Services – RR&SS Bundle #2 (Beaver/Dale)

Page 1 of 16

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Effective coordination with stakeholders, residents, and businesses to incorporate information gathered from these entities so that the improvements may be implemented with minimal impact to the public and private property. This coordination, along with improving existing conditions within the project area on time and under budget, will define project success.

The goal for the schedule is:

- Have the design of improvements approved and ready for construction by May 3, 2017.
- Start construction in June 2017
- Have construction completed by August 2018.

**N Beaver Street:**

Project limits extend from the south side of W Columbus Avenue, south to the south side of W Cherry Avenue with the exception of 2 – 3” conduit lines extending from W Columbus Avenue, south to W Birch Avenue.

Roadway Scope:

- Full depth pavement reconstruction from the south side of W Columbus Avenue to the south side of W Cherry Avenue.
  - A typical cross slope will be determined during the design phase.
  - Full depth reconstruction will require lowering of centerline profile, while maintaining minimum coverage over utilities, and rebuilding small sections of adjacent streets to transition in/out of N Beaver Street intersections.
  - Adjacent streets to transition to Beaver Street’s new structural section.
  - All pavement to have a 20 year life expectancy.
  - Traffic data will be provided by the City of Flagstaff.
- Install 2 – 3” conduit lines with pull cords from W Columbus Avenue to W Birch Avenue for future connections for the traffic signals at W Columbus Avenue and W Birch Avenue.
- New trench patch from W Cherry Avenue to W Birch Avenue for 2 – 3” conduit line installation.
- Replace all existing roll curb with new vertical curb and gutter.
- Replace select existing vertical curb and gutter with new vertical curb and gutter.
- Replace select driveways and alley approaches as identified by the COF. Driveways will be designed to match the existing driveways.
- Replace select existing sidewalk as identified by the COF.
- Replace select existing sidewalk ramps as identified by the COF.
- Replace existing valley gutters at the intersection of N Beaver Street and W Cherry Avenue.
- New valley gutters at the intersection of E Elm Avenue and N Beaver Street. Additional intersections of W Sullivan Avenue, E Hunt Avenue, and E Fine Avenue to be evaluated during design.

- New valley gutter at the intersection of N Beaver Street and Dale Avenue to be included on the Dale Project.
- Remove and reinstall existing street signs as needed for construction.
  - Per the City of Flagstaff, all signage is or will be updated to meet new City of Flagstaff Standards by another project.
- Remove, re-establish, and document (including recordation) all affected survey monuments and handholes.
- The existing striping plan will be assessed for possible improvements during the design phase.
  - 11' wide travel lanes, remove west side on street parking, new continuous bike lane on west side of road, keep on street parking on east side of road.
- Contractor to protect existing landscape improvements. Contractor will remove and replace in kind any landscape improvements needed for construction of improvements.
- Evaluate the right-of-way for the ability to relocate the existing APS utility pole to the back of sidewalk. The utility pole is located on the east side of N Beaver Street in the alley between Fine Avenue and Elm Avenue.
- Evaluate the available right-of-way and/or the right-of-way required in order to relocate the existing light poles out of the sidewalk.
- Existing light poles will be replaced with new light poles and luminaries to meet City of Flagstaff Standards.
  - WLB does not need to track design time for the light poles separately.
  - Luminary standard to be provided by the City of Flagstaff Traffic Department.
  - New underground power will be provided to the new light poles.
- Coordinate the design with Miramonte for the 320/322 N Beaver Street Development. WLB will provide the design of the north and west edge improvements.
  - The design provided by WLB will include sidewalk, parkway, and transitions on the northeast and southwest sides of the site, driveway, and sidewalk ramp.
  - Design of 6' sidewalk and 5' parkway with transitions at the property limits, to TND Standard.
  - All coordination with the Miramonte site will be through the City Project Manager.
  - Miramonte to provide current site plan.
- No improvements will be made to the existing NAIPTA bus stop located on the northwest corner of the intersection of N Beaver Street and W Hunt Avenue other than those related to the proposed sidewalk and curb and gutter improvements already included with this project.

Utility Scope:

- Replace all existing water service saddles, service lines, and meter box assemblies from main to meter.
  - Water meter locations will be provided by the City of Flagstaff.
  - Water meters elevation to be adjusted to meet COF standards as needed.
- Replace all water valve boxes.

- Replace all existing fire hydrant assemblies.
  - City to discuss internally new standard for fire hydrant locations and red curb striping.
- Replace approximately 302' of existing 8" VC sewer main, built in 1919, from Manhole 2-138 to Manhole 2-139 (W Elm Avenue to W Dale Avenue).
  - Discuss with CMAR and City Staff on method to construct.
- Replace all existing sewer services.
  - Sewer video logs will be provided by the City of Flagstaff.
- Adjust existing water valves and sewer manholes as required for pavement reconstruction per City of Flagstaff Standards.
- Adjust existing water valve box assemblies and sewer manholes, affected by construction, to finished grade.
- All existing utility collars shall be removed and replaced to City of Flagstaff Standards.
- Asbestos abatement for ACP waterlines (if warranted).

Franchise Utility Scope:

- Evaluate existing franchise utilities locations and elevations. Coordinate relocations/realignments with the franchise utilities as needed (APS, Unisource, Suddenlink, Centurylink, AT&T, etc.)

Stormwater Scope:

- Determine during the design phase if valley gutters are needed to convey drainage through all intersections.
- Remove small inlet and outlets at the north corners of N Beaver Street and W Elm Avenue.
- All catch basins to be replaced with combination curb inlet/grate catch basins.
  - Determine if catch basin locations need to be adjusted during design.
- Trench drains are to be installed in lieu of scuppers at locations designated by the City of Flagstaff.
  - Trench drains are scuppers with an ADA compliant grate instead of a steel plate.
- Drainage Memo/Report
- LID Improvements
  - Location 1: 604 N Beaver Street
    - Design a small depression/rain garden. Possibly add a few plants and/or trees.
    - LID is located within the City right-of-way.
  - Location 2: 818 N Beaver Street
    - Ensure water from parking lot reaches the street and is not trapped behind the sidewalk. Possibly add a scupper south of driveway.

**Dale Avenue**

Project limits extend from the east side of N Humphreys Street to the pavement change in the N Agassiz Street intersection.

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Roadway Scope:

- Edge mill and overlay surface treatment from N Humphreys Street to N Agassiz Street.
  - Determine whether full width mill and overlay is recommended during design based on the geotechnical analysis.
- Work with City Staff and the CMAR to determine options to mitigate the extreme cross slope on Dale Avenue at the N Beaver Street and Leroux Street intersections.
- Trench patch following water and sewer work.
- Pavement patch following curb and gutter work.
- Replace all roll curb with new vertical curb and gutter with the exception of driveway entrances.
- Replace select existing vertical curb and gutter with new vertical curb and gutter.
- Replace select existing driveways and alley approaches as identified by the COF. Driveways will be designed to match the existing driveways.
  - Replace roll curb and gutter at driveway entrances.
- Replace select existing curb and gutter as identified by the COF.
- Replace select existing sidewalk as identified by the COF.
- Replace select existing sidewalk ramps as identified by the COF.
  - Raise the elevation of the south sidewalk ramps at the intersection of Dale Avenue and N Beaver Street and N Leroux Street to reduce the extreme cross slope of Dale Avenue.
- New valley gutters at the intersections of: 1) Dale Avenue and Beaver Street and 2) Dale Avenue and N Leroux Street.
- Remove and reinstall existing street signs as needed for construction.
  - Per the City of Flagstaff, all signage is or will be updated to meet new City of Flagstaff Standards by another project.
- Remove, re-establish, and document (including recordation) all affected survey monuments and handholes.
- Remove existing large Ponderosa Pine tree (DBH 34") causing damage to the sidewalk, curb gutter, roadway, and possible stormwater structures.
- Contractor to protect existing landscape improvements. Contractor will remove and replace in kind any landscape improvements needed for construction of improvements.

Utility Scope:

- Extend the existing Dale Avenue 8" PVC water main stub out, built in 1993, approximately 267' from just east of N Humphreys Street to the Beaver Street 8" Cast Iron water main, built in 1976.
- Extend the existing Dale Avenue 8" PVC water main stub out, built in 1995, approximately 310' from just east of N San Francisco to the Agassiz Street 8" Cast Iron water main, built in 1977.
- Extend new 8" water main installed on Dale Avenue with the Leroux project from 10 W Dale Avenue, west to the Beaver Street water main.

- Abandon in place approximately 118' of 2" galvanized pipe, built in 1960, located on the north side of Dale Avenue from 150 W Dale Avenue to 110 W Dale Avenue.
- Abandon in place approximately 219' of 2" galvanized pipe, built in 1939, located on the north side of Dale Avenue from 402 N San Francisco to 403 N Agassiz Street.
- Replace all existing water service saddles, service lines, and meter box assemblies from main to meter.
  - Water meter locations will be provided by the City of Flagstaff.
  - Water meters elevation to be adjusted to meet COF standards as needed.
- Replace all existing fire hydrant assemblies with the exception of fire hydrant 181826, located on the southeast corner of the intersection of Dale Avenue and N Humphreys Street, which will only require the removal and replacement of the fire hydrant.
  - City to discuss internally new standard for fire hydrant locations and red curb striping.
- Replace all existing water valve box assemblies.
- Replace approximately 212' of existing 8" VC sewer main, assumed to be built in 1919, from manhole 2-968 to Manhole 2-138 (N Beaver Street to 10 W Dale Avenue).
  - Discuss with the City and CMAR on method to construct.
- Replace all existing sewer services.
  - Sewer video logs will be provided by the City of Flagstaff.
- Rebuild sewer Manhole 2-968.
  - Coordinate with the City Utilities Department to determine the type of manhole to replace Manhole 2-968.
- Lower existing water valves and sewer manholes as required for pavement milling per City of Flagstaff Standards.
- Adjust existing water valve box assemblies and sewer manholes, affected by construction, to finished grade.
- All existing utility collars shall be removed and replaced to City of Flagstaff Standards.
- Asbestos abatement (if warranted).

Franchise Utility Scope:

- Evaluate existing franchise utilities locations and elevations. Coordinate relocations/realignments with the franchise utilities as needed (APS, Unisource, Suddenlink, Centurylink, AT&T, etc.)

Stormwater Scope:

- Determine the design of the catch basin located on the northwest corner of the Dale and Agassiz intersection with regard to adjustments, replacement, or rebuilding.
- Drainage Memo/Report

**Scope of Services:**

**BASIC SERVICES**

**Task 1 – Project Administration, Meetings and Public Outreach:**

This task is for project administration, major meetings and public outreach for the project. The items included in this task are:

1. Project Kickoff and field review meeting with the City and CMAR: WLB will prepare an agenda for the meeting and prepare meeting notes for the items discussed. The purpose of the meeting will be to review the City scoping documents in the field with everyone. During the field walk we will mark the limits of removals for the surveyors to locate in the field during the topographic mapping.
2. Meeting with internal and external stakeholders: The WLB team will attend a meeting with stakeholders that will be impacted by the construction of the project improvements. The City will facilitate the meeting
3. 60% Public Meeting/Open House: WLB will prepare an exhibit for the public meeting, attend the meeting, and compile comments from the public meeting to be held following completion of the 60% plans. The City will prepare the overview presentation and make the presentation during the meeting. The format for the meeting will be a brief overview presentation followed by an open house format meeting where the public can look at plans and ask questions. WLB will prepare a comment card that attendees can fill out and return following the meeting. WLB will compile a list of the comments received to review with the City.
4. Coordination with the City regarding the Miramonte Development: Miramonte is proposing a new development project located on the southeast corner of Beaver and Dale. The edge improvements required for the project will be part of the improvements to be built with the Beaver / Dale project. WLB will coordinate the location and grading for the improvements with the developer through the City's project manager. We anticipate one or two meetings and to exchange information to provide the information the developers' engineer will need to complete design of the onsite improvements.
5. General Project Administration and Billings: WLB will be overseeing the project schedule and billings during the project.
6. During the preparation of the plans WLB will be coordinating utility information and data for potholes with the CMAR and their subcontractor that is providing subsurface utility engineering (SUE) for the project. Coordination may include the following:
  - a. Sharing of AutoCAD Civil 3D 2016 files between WLB and the SUE subcontractor for survey data and utility locations determined during the preparation of the 30% plans. Utility locations from the SUE subcontractor will be incorporated into the project basemap. WLB will provide the SUE subcontractor with information received from the utility companies during the preparation of the topographic survey.

- b. Coordination with the CMAR and the SUE subcontractor during 60% plans to identify pothole locations. With the CMAR and the City the pothole locations can be prioritized to reduce the number of potholes if needed.
  - c. The final sealed SUE plans will be included in the final construction plans to document existing utility locations and pothole locations.
7. Geotechnical Analysis: WLB will coordinate with Speedie and Associates to prepare a geotechnical analysis for the project. See attached proposal from Speedie.
  8. Street Light Design: WLB will coordinate with APS, the CMAR, and the COF for the new lights and poles along Beaver with new wiring.

*Deliverables to the City of Flagstaff:* Deliverables under this task are:

1. Project kickoff, field walk and meeting notes
2. Attendance at stakeholders meeting with City and CMAR
3. Preparation, attendance, and compiling comments for the 60% Public meeting and open house
4. Coordination with City regarding the Miramonte development
5. General Project administration
6. Coordination with SUE subcontractor of utility locations and potholes to include:
  - a. Utility company contact list and research information received from the research prepared by WLB
  - b. Test hole exhibit for SUE subcontractor identifying utility to be located and the location
  - c. AutoCAD file of the topographic survey with existing utilities shown on them
7. Subconsultant coordination for the geotechnical analysis
8. Coordination with APS for the electrical street light design

**Task 2 – Surveying and Mapping:**

This task is provided by Pre-Engineering Services per Exhibit 1.

**Task 3 – Concept 30% Plans:** WLB will prepare 30% plans for the improvements based on the scoping exhibits that had been prepared by the City of Flagstaff. The information shown on the City's scoping exhibits will be transferred to the AutoCAD files and overlaid on the project basemap to start the design of the 30% plans. The 30% plans will contain the following sheets:

1. Cover/Notes/Detail Sheets (6 Sheets)
2. Control Sheet (1 Sheet) – the control sheet will show the existing control points and right-of-way monumentation and property corners that were located during the survey.
3. Water Service Index Sheet (1 Sheet) – Using the information from the city and field review WLB will prepare a sheet showing the existing water meters within the project limits and prepare a table to show location, size, physical address, APN, Keynote and sheet.
4. Sewer Service Index Sheet (1 Sheet) – Using the information from the city and field review WLB will prepare a sheet showing the existing sewer services within the project limits and prepare a table to show location, size, physical address, APN, and sheet.

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5. Street Removals/Grading/Drainage Plan and Profiles (10 Sheets) – WLB will prepare plan and profile sheets for the removal and design of new street improvements. At the 30% level only existing profiles will be shown. The design profiles will be added to the future plan submittals.
6. Utility Sheets (8 Sheets) – These sheets will show all the water, sewer, and water and sewer service replacements. Profile will only be added to the sheets that have waterline and sewer line replacements. The other sheets will have 2 plan views per sheet.
7. Striping Plan (2 Sheets) – These sheets will show the new striping for the corridor and traffic signs that will be impacted by the construction that will need to be reinstalled.
8. Electrical Plans for Street Lights will be provided by APS, and may be included depending on APS' design process and schedule.

The plans will be at 20 scale to accurately show AC, curb, sidewalk replacements. The waterline and sewer line profiles will not be prepared with the 30% Plans.

During the design WLB will facilitate (2) bi-weekly design meetings, as needed, with the City and CMAR to discuss project design and receive input on items that will help with construction to reduce shutdowns of utilities and minimize impacts to the residents and businesses located along the project limits. WLB will be responsible for preparing agendas and meeting notes for design meetings.

*Deliverables to the City of Flagstaff:* The following will be submitted:

1. Design Meeting agendas and meeting notes
2. (3) Complete sets and PDF's of the Concept 30% plans for review by the City and CMAR.

**Task 4 – Concept 60% Plans:** WLB will prepare the 60% plans based on comments received from the 30% plan submittal. Prior to proceeding with the 60% plan preparation WLB will meet with the City and the CMAR to discuss the plan review comments, CMAR Estimate, and potential VE options that should be analyzed during the 60% plan preparation.

The format of the plans sheets for the 60% plans will be the same as the 30% plans with the addition of the SWPPP Plan sheets (2 Sheets). For the 60% plan submittal the design profiles for roads, waterlines and sewer lines will be added.

The preliminary drainage memo will be prepared with the 60% plan submittal. The memo will present calculations for the new catch basins along Beaver Street and the catch basin on the northwest corner of Dale and Agassiz. There is also 1 location that will be looked at, per the request of COF Stormwater, related to a potential location for an LID basin. A second location, at the request of COF Stormwater, will be looked at for potential improvements to convey stormwater from an existing parking lot to Beaver Street. The format for the drainage memo will be:

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1. Introduction
2. Location
3. Description of Project Site
  - a. Existing
  - b. Proposed
4. Objectives and Procedures
5. Hydrology
  - a. Analysis Overview
  - b. Existing Conditions
    - i. 2, 10, and 100 year design storms
  - c. Proposed Conditions
    - i. 2, 10, and 100 year design storms
6. Hydraulics
  - a. Overview
  - b. Existing Conditions
  - c. Proposed Conditions
7. Summary and Conclusions

During the design WLB will facilitate (1) bi-weekly design meeting, as needed, with the City and CMAR to discuss project design and receive input on items that will help with construction to reduce shutdowns of utilities and minimize impacts to the residents and businesses located along the project limits. WLB will be responsible for preparing agendas and meeting notes for design meetings.

This submittal will be unsealed and will be submitted to the City's PM for distribution to the City departments for a 15 day courtesy review.

*Deliverables to the City of Flagstaff:* The following will be submitted:

1. (7) Complete sets of the 60% plans (Hard Copy and PDF).
2. (2) Hard copies and a PDF of the Preliminary Drainage Memo
3. Comment Response Form for 30% plan comments

**Task 5 – 90 % Plans:** WLB will prepare the 90% plans based on comments received from the 60% plan submittal. Prior to proceeding with the 90% plan preparation WLB will meet with the City and the CMAR to discuss the plan review comments, CMAR Estimate, and potential VE options that should be analyzed during the 90% plan preparation.

The format of the plans sheets for the 90% plans will be the same as the 60% plans.

WLB will revise the Preliminary Drainage Memo per comments received from the 60% review to prepare the Final Drainage Memo to be included with the 90% plan submittal supporting the drainage design shown on the 90% plans.

The 90% Plans will be used to make the first submittal to ADEQ for Approval to Construct the new waterlines and sewer lines. There will be 2 independent submittals to ADEQ, one for the Scope of Services – RR&SS Bundle #2 (Beaver/Dale)

waterline and one for the sewer lines. WLB will prepare an Engineer's Design Report (EDR) for each of the submittals and the corresponding ADEQ applications for Approval to Construct (water) and Notice of Intent to Discharge (sewer). Also included will be the Operation and Maintenance (O&M) manual as required by ADEQ for the sewer system submittal. ADEQ comments from this submittal will be addressed with the 100% plans, if required. Checks will be provided by the City for each of the ADEQ application fees.

Draft special provisions will be prepared with the 90% submittal.

The 90% Plans will be submitted by WLB to the utility companies (APS, Unisource, Century Link, AT&T and Suddenlink) for utility acknowledgement per the City requirements.

During the design WLB will facilitate (2) bi-weekly design meetings, as needed, with the City and CMAR to discuss project design and receive input on items that will help with construction to reduce shutdowns of utilities and minimize impacts to the residents and businesses located along the project limits. WLB will be responsible for preparing agendas and meeting notes for design meetings.

*Deliverables to the City of Flagstaff:* The following will be submitted:

1. (8) Complete sets of the 90% plans will be submitted to the City's project manager for review and distribution to City departments.
2. (2) Hard copies and PDF of the draft special provisions.
3. (2) Hard copies and a PDF of the Final Drainage Memo
4. (5) Sets of the 90% plans only will be submitted to the franchise utilities by WLB.
5. Comment Response Form the 60% plan comments.

*Deliverables to ADEQ:* The following will be submitted:

6. Application for Approval to Construct, per ADEQ Form 222: (2) hard copies of the plans, (2) hard copies Water Engineer's Design Report, (2) hard copies of the construction specifications, and Application for Approval to Construct Drinking Water Facilities for the ADEQ Submittal for the new waterlines.
7. Application for Notice of Intent to Discharge, per ADEQ Form 222: (2) hard copies of the plans, (2) hard copies of the Sewer Engineer's Design Report, (2) hard copies of the construction specifications, (1) hard copy of the Operations & Maintenance Plan, and Application for Notice of Intent to Discharge to Construct sewer collection systems for the ADEQ Submittal for the new sewer lines.

**Task 6 – 100% Plans:** WLB will prepare the 100% plans based on comments received from the 90% plan submittal. Prior to proceeding with the 100% plan preparation WLB will meet with the City and the CMAR to discuss the plan review comments, CMAR Estimate, and potential VE options. Once we have final approval by the City and ADEQ we will submit a mylar cover sheet and paper plan set for City Signatures.

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Prior to City final approval, WLB will revise the plans, engineer's design reports, and/or the application per ADEQ comments and resubmit for approval to construct and notice of intent to discharge if required.

*Deliverables to the City of Flagstaff:* The following will be submitted:

1. (7) Complete sets of the 100% plans will be submitted to the City's project manager for review and distribution to City departments.
2. (1) Complete plan set with a mylar cover for signatures will be submitted for signatures.
3. (1) Hard copy and PDF of the project special provisions.
4. Comment Response Form the 90% plan comments.
5. (1) Hard copy and PDF of each of the Franchise Utility Acknowledgements.

*Deliverables to ADEQ:* The following will be submitted if needed:

6. (2) Hard and/or electronic copies of revised plans, reports, and/or application as request by ADEQ to address ADEQ comments for the Approval to Construct Drinking Water Facilities. Hard and/or electronic copies of a comment response form addressing ADEQ comments.
7. (4) Hard and/or electronic copies of revised plans, reports, and/or application as request by ADEQ to address ADEQ comments for the Notice of Intent to Discharge to construct sewer collection systems. Hard and/or electronic copies of a comment response form addressing ADEQ comments.

## **END BASIC SERVICES**

## **CONSTRUCTION ADMINISTRATION**

**Task 7 – Post-Design Services:** Following approval of the plans WLB will provide post-design services to support the City and CMAR to successfully complete the construction of the improvements that includes the following items:

1. Coordination with the City and CMAR during the preparation of the GMP to answer pre-construction RFI and review GMP submittals
2. Attend pre-construction open house facilitated by the CMAR
3. Pre-Construction meeting with the City and CMAR
4. Attend weekly onsite construction meetings with the City and the CMAR (56 meetings, July 2017 to August 2018)
5. Additional site visits and field observation report for unforeseen conditions (6 visits)
6. Response to RFI during construction (15)

*Deliverables:* As needed support during GMP development and construction.

## **END CONSTRUCTION ADMINISTRATION**

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**Project Assumptions:**

1. Legal descriptions for additional right-of-way and easements are not included in basic services.
2. Sufficient monumentation exists in the immediate vicinity of the Site (within one adjacent Right of Way intersection) to facilitate the relation of the topography survey to the Right of Way/property boundaries.
3. Resolving boundary issues between record information and measured data is not included. If there are any issues we will notify the City to determine the best approach and strategy to resolve.
4. New monuments to replace the ones that are disturbed during construction will be the responsibility of the CMAR. WLB can provide surveying to replace monuments if requested as an additional service.
5. Horizontal and vertical datum will be based on the City of Flagstaff control network. If a different datum is requested, the client will provide the necessary control information.
6. No boundary survey will be conducted or implied. The horizontal control portion of the services does not include setting monuments at property corners or Right of Way centerline.
7. A title report is not needed for determining record right-of-way locations. If one is needed we will notify the City for approval.
8. No sealed Topography Survey plat will be prepared.
9. Providing or modifying the City of Flagstaff water model for the water line replacement is not included.
10. Potholing to locate existing utilities will be coordinated with the CMAR and the CMAR's SUE subconsultant during the preparation of the 60% Plans.
11. WLB prepares the design and construction drawings with AutoCAD Civil 3D 2016. It is assumed that any other entity utilizing WLB design files for the purpose of coordination with this project has the capabilities of using and/or views the files in WLB's original format. Work on WLB's part to re-format or reconstruct files for another entity's use will be considered additional services.
12. ADEQ Submittal fees will be paid by the City of Flagstaff. We will coordinate with the City to obtain a check for the submittal.
13. Setting the post construction centerline monument replacements and preparing the corresponding Record of Survey will be by others.
14. Record Drawings/As-built preparation and/or review is not included and will be the responsibility of the CMAR during construction.
15. Preparation and/or review of the ADEQ Approval of Construction, Discharge Authorization, and Engineer's Certificate of Completion (ECC) documents is not included.
16. Additional services if required and approved by the client will be billed in accordance with the standard hourly rates for The WLB Group, Inc.

The City of Flagstaff will provide or be responsible for the following information:

1. Water meter sizes and addresses for the services being replaced with this project.

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2. Locations for sewer services and TV logs for the sewer lines being replaced.
3. Information for additional right-of-way that has been dedicated to the City for corner cut-offs or as part of the development.
4. Providing as-built water and sewer line plans for the existing lines in Beaver and Dale.
5. Provide the design and specification requirements for the traffic signal conduits.
6. Setting up the stakeholder meeting.
7. Setting up the venue and time for the public outreach meetings.
8. Prepare the overview presentation and make the overview presentation for the 60% public meeting/open house.
9. Pay ADEQ review and submittal fees.
10. Acquiring temporary construction easements or PUE's for the construction if needed and all coordination with the impacted party.
11. The City will complete the Engineer's Certificate of Completion (ECC) for water, including all sealed test results for the disinfection, and for the leak testing performed by the City Inspectors. The City of Flagstaff will provide the record drawings/asbuilts for the water system, fill out the ADEQ application for Approval of Construction, and make the entire submittal to ADEQ for the Approval of Construction.
12. The City will complete the Request for Discharge Authorization for sewer and make the submittal to ADEQ for Discharge Authorization. This includes the application for Discharge Authorization, preparation of the Engineer's Certificate of Completion (ECC) including the sealed test results observed by the City Inspectors, and the record drawings/asbuilts for the sewer system.

**End of Exhibit A – Scope of Services**

**Compensation:**

Our Time and Materials (T&M) Not to Exceed (NTE) budget for the RR&SS Bundle #2 (Beaver/Dale) Project is \$219,160 including sub-consultant fees and reimbursable expenses with a \$12,000 Owner's Contingency, for a Total Contract Amount of \$231,160. The budget is summarized in the table below:

<b>Tasks (Design - T&amp;M NTE)</b>	<b>Budget</b>
Task 1 - Project administration, Meetings and Public Outreach	\$17,190
Task 2 - Topographic/ROW Survey via Exhibit 1 Pre-Engineering Services	\$0
Task 3 - Concept 30% Plans	\$39,185
Task 4 - Concept 60% Plans	\$50,245
Task 5 - 90% Plans	\$56,035
Task 6 - 100% Plans	\$24,880
<b>Subtotal (Design - T&amp;M NTE)</b>	<b>\$187,535</b>
<b>Tasks (Construction Administration - T&amp;M NTE)</b>	<b>Budget</b>
Task 7 - Post-Design Services	\$20,150
<b>Subtotal (Construction Administration - T&amp;M NTE Budget)</b>	<b>\$20,150</b>
Speedie and Associates w/Markup (Geotechnical Analysis)	\$8,525
Reimbursable Expenses	\$2,950
<b>Totals</b>	<b>\$219,160</b>
OWNER'S CONTINGENCY	\$12,000
<b>TOTAL CONTRACT AMOUNT</b>	<b>\$231,160</b>

End of Compensation

**EXHIBIT B – HOURLY RATE SCHEDULE**

**FLAGSTAFF  
FEE SCHEDULE FOR PROFESSIONAL SERVICES**

**TYPICAL HOURLY RATES**

<b>Personnel</b>	<b>Hourly Rate</b>
Principal .....	\$145.00
Public Presentation or Expert Testimony .....	\$200.00
Senior Project Manager .....	\$125.00
Project Manager PE/RLA/RLS .....	\$115.00
Senior Project: Engineer/Landscape Arch/Planner /Inspector /Surveyor/Designer .....	\$100.00
Project: Engineer/Landscape Arch/Planner /Inspector /Surveyor/Designer .....	\$95.00
Staff: Design Engineer/Landscape Arch/Planner /Inspector /Surveyor/Designer .....	\$85.00
Sr. Cadd Operator .....	\$80.00
Senior Technician .....	\$75.00
Design Technician .....	\$70.00
Technician/Cadd Operator .....	\$65.00
Draftsperson/Assistant Technician .....	\$60.00
Clerical .....	\$50.00
Three Man Survey Crew .....	\$160.00
Two Man Survey Crew .....	\$145.00
One Man Survey Crew .....	\$120.00

End of Exhibit B – Hourly Rate Schedule

July 27, 2016

Alexis Griffiths  
The WLB Group  
500 N. Beaver Street  
Flagstaff, AZ 86001

**RE: Proposal for Geotechnical Investigation  
N. Beaver St and Dale Ave Improvements  
Beaver Street and Dale Avenue  
Flagstaff, AZ  
Proposal No. 58095 SF**

Dear Ms. Griffiths:

We are pleased to provide our cost estimate to conduct a soil investigation at the above referenced site that will satisfy site development and pavement design requirements. All work on this project will be carried out under the overall supervision of a registered Professional Engineer in the state of Arizona.

We understand that construction will consist of full pavement reconstruction along N. Beaver Street from Columbus Avenue to Cherry Avenue. Mill and overlay, with some areas of full depth reconstruction, is planned for Dale Avenue from Humphreys Street to Agassiz Street. Sewer and waterline replacements are planned for portions of Beaver Street and Dale Avenue.

We will drill and sample sufficient test borings to adequately determine subsoil conditions and provide samples for laboratory testing. Sufficient laboratory tests will be conducted to properly classify the soils encountered and provide data for engineering design. We presently anticipate drilling 4 borings to depths of 10 feet below existing ground surface, or refusal, whichever comes first in areas with planned utility upgrades. We presently anticipate drilling 6 pavement borings to depths of 5 feet below existing ground surface, or refusal, whichever comes first in areas with planned full depth pavement reconstruction. We also plan to core the asphalt at 6 locations, both center and edge of pavement, along Dale Avenue to determine pavement condition, thickness and suitability for mill and overlay. Borings will alternate lanes over the extents of the project. Access to the site by conventional truck-mounted drilling equipment is assumed to be free and unencumbered. Any necessary permits will be obtained and proper traffic control will be provided.

We will analyze the data obtained from field and laboratory testing and prepare a report presenting all data obtained, together with our conclusions and recommendations regarding:

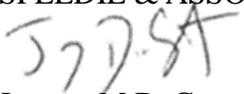
1. Groundwater conditions, if any, to the depths which will influence design and/or construction of the proposed development.
2. Pavement design to provide economy and adequate service.

3. Suitability of site soils for use as compacted fill and preferred earthwork methods, including clearing, stripping, excavation and construction of engineered fill.
4. Local excavation and trenching conditions and stability considerations.
5. Potential corrosiveness of subsoil materials and procedures to minimize the effects thereof.
6. Discussions of any unusual design or construction consideration which may be indicated by site conditions encountered.

Charges for our services have been determined on the basis of our standard Fee and Rate Schedule, a copy of which is attached and made a part hereof. We propose to provide the services set forth herein for a lump sum amount of \$7,750.00, which includes all testing, engineering and reimbursable expenses and 2 copies of the report. Should we be informed that additional copies of the report are needed after it has been finalized, there will be an additional charge of \$15.00 per report. Time from authorization to proceed to final report submittal at this time is on the order of 4 to 6 weeks following our receipt of this signed proposal (authorization to proceed). This time frame does not include delays due to inclement weather or delays in the field not caused by Speedie & Associates and subcontractors.

We appreciate the opportunity to submit this proposal for your consideration. If the terms set forth are satisfactory, please sign the attached copy, and return it for our records.

Respectfully submitted,  
SPEEDIE & ASSOCIATES

  
Jeremy M DeGeyter, E.I.T.

APPROVED AND ACCEPTED  
For: The WLB Group

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

**ENGINEERING SERVICES**  
**2016 Fee and Rate Schedule**

*Fees for services will be based upon the time worked on the project at the following rates:*

Title	Rate Per Hour
Principal	\$ 130.00
Project Manager	100.00
Sr. Geologist/Engineer	100.00
Project Engineer/Geologist	90.00
Environmental Specialist	85.00
Special Inspector (Architectural)	85.00
Special Inspector (Structural/Geotechnical)	75.00
Staff Engineer/Geologist	75.00
Sr. Engineering Technician	65.00
Draftsman	60.00
Materials Testing Technician	50.00
Clerical/Administrative	45.00

**REIMBURSABLE EXPENSES**

Light Truck Mileage Rate: \$0.50 per mile

The following items are reimbursable to the extent of actual expenses plus 25%:

1. Transportation, lodging and subsistence for out of town travel
2. Special mailings and shipping charges
3. Special materials and equipment unique to the project
4. Duplication or reprinting/copying reports

**TEST BORINGS AND FIELD INVESTIGATIONS**

On projects requiring test borings, test pits, or other explorations, the services of reputable contractors to perform such work shall be obtained.

**SUBCONTRACTORS/SUBCONSULTANTS CHARGES**

Any charges for subcontractors/subconsultants are subject to a 25% handling fee if invoiced by Speedie & Associates or such charges can be directly paid by the CLIENT.

**SPECIAL RATES**

The following rates may be subject to a 35% increase:

- Overtime – time over 8 hours per weekday and on Saturday
- Sunday and Holidays
- Rush orders

**EXPERT WITNESS**

Deposition and testimony; 4-hour minimum, \$250.00 per hour.

***The following Terms and Conditions are included and hereto made a part of this agreement.***

## TERMS AND CONDITIONS

### 1. STANDARD OF CARE

In performing our professional engineering services, Speedie & Associates, Inc. (S&A) will use the degree of care and skill ordinarily exercised by members of our profession currently practicing in the same locality under similar conditions. No warranty, expressed or implied, is made or intended by our proposal for consulting services, our contract, oral or written reports, or services.

### 2. SCOPE OF SERVICES

#### 2.1 "ON-CALL" SERVICES

Unless otherwise agreed by both parties in writing, all construction materials testing will be performed on an "on-call" basis. Both parties agree that test results for "on-call" testing, where the CLIENT does not request S&A's continuous construction and field observation, will be based only on the representative sample or limited location tested.

#### 2.2 CONSTRUCTION/FIELD OBSERVATION OR REMEDIATION OBSERVATION

If the CLIENT desires more extensive or full-time project observation to help reduce the risk of problems arising during construction, the CLIENT shall request such services as "Additional Services" in accordance with the terms of this agreement. Should the CLIENT for any reason choose not to have S&A provide construction or field observation during the implementation of S&A's specifications or recommendations, or should the CLIENT unduly restrict S&A's assignment of observation personnel, CLIENT shall, to the fullest extent permitted by law, waive any claim against S&A, and indemnify, defend, and hold S&A harmless from any claim or liability for injury or loss arising from field problems allegedly caused by findings, conclusions, recommendations, plans or specifications developed by S&A. CLIENT also shall compensate S&A for any time spent or expenses incurred by S&A in defense of any such claim. Such compensation shall be based upon S&A's prevailing fee and rate schedule.

### 3. OWNERSHIP OF DOCUMENTS

All reports, plans, specifications, field data, notes and other documents prepared by S&A shall remain the property of S&A. Any reuse of such documents for other purposes must be with the written consent of S&A.

### 4. SAFETY

While on a CLIENT'S jobsite, S&A's personnel have no authority to exercise any control over any construction contractor, any other entity, or their employees in connection with their work, health or safety precautions. The CLIENT agrees that the General Contractor is solely responsible for jobsite safety and warrants that this intent shall be made evident in the CLIENT'S agreement with the General Contractor. The CLIENT may be charged for additional work for interruption, downtime required, or safety measures required by hazardous job conditions.

### 5. INSURANCE

Upon request, S&A will furnish certificates of insurance for Workers Compensation, General and Auto insurance, and Professional Errors or Omissions insurance. S&A is not responsible for damage of any cause beyond the coverage of its insurance.

### 6. INDEMNIFICATION

#### 6.1 ENVIRONMENTAL SERVICES

It is understood and agreed that should the CLIENT hire S&A in matters involving the actual or potential presence of hazardous substances, the CLIENT will indemnify S&A, and its employees and representatives, from and against claims that are the result of negligent acts or omissions on the part of the CLIENT, its employees or representatives. S&A will indemnify the CLIENT from and against claims that are solely the result of negligent acts or omissions on the part of S&A, its employees or representatives.

**6.2 NON-ENVIRONMENTAL SERVICES**

Both parties agree that S&A's scope of services will not include asbestos, hazardous or toxic materials. Should it become known in any way that such materials may be present at the jobsite or adjacent area that may affect the performance of S&A's services, S&A may suspend its services without any liability until the CLIENT retains appropriate consultation to identify, abate, and/or remove the asbestos, hazardous or toxic materials and warrants that the jobsite is in compliance with applicable laws and regulations. The CLIENT will indemnify S&A and his employees and representatives from and against claims that are the result of negligent acts or omissions on the part of the CLIENT, his employees and representatives. S&A shall indemnify the CLIENT from and against claims, which are solely the result of negligent acts or omissions on the part of S&A, its employees and representatives.

**7. LIMITS OF LIABILITY**

The CLIENT agrees that S&A shall not be liable for losses caused by or arising from any acts of the CLIENT, his employees or subcontractors. Should any of S&A's employees be found to have been negligent in the performance of professional services rendered, the CLIENT agrees that the maximum aggregate amount of S&A's liability shall be limited to \$50,000.00 or the amount of the fee paid to S&A for professional services, whichever amount is greater.

**8. WAIVER OF LIMITATION OF PROFESSIONAL LIABILITY**

In the event the CLIENT is unwilling or unable to limit liability in accordance with the paragraph above, then CLIENT shall agree to pay S&A a sum equivalent to an additional 20% of the total fee to be charged for the professional services. Said sum is to be called "Waiver of Limitation of Liability Charge." This charge will in no way be construed as being a charge for insurance of any type, but will be increased consideration for the greater risk involved in performing the work up to the limit of proceeds available from S&A's professional insurance coverage.

**9. SAMPLE DISPOSAL**

**9.1 NON-HAZARDOUS SAMPLES**

Test samples are substantially altered during testing and are disposed of immediately upon completion of tests. Drilling samples are disposed of thirty (30) days after submission of our report. If requested in writing, samples can be held after thirty (30) days for an additional storage fee, or returned to the CLIENT.

**9.2 HAZARDOUS SAMPLES**

If toxic or hazardous substances are involved, S&A will return such samples to the CLIENT. Or using a manifest signed by the CLIENT, S&A will have such samples transported to a location selected by the CLIENT for final disposal. The CLIENT agrees to pay all costs for storage, transport and disposal of samples. The CLIENT recognizes and agrees that S&A is acting as a bailee and at no time assumes title to samples involving hazardous or toxic materials.

**10. PAYMENT**

Progress invoices will be submitted to the CLIENT monthly with a final billing at completion of services. Invoices are due and payable upon receipt. The CLIENT agrees to pay a finance charge of 1.5 % per month on all past due accounts over thirty (30) days. The CLIENT'S obligation to pay for all work contracted is in no way dependent upon the CLIENT'S ability to obtain financing, zoning approval, or the CLIENT'S successful completion of the project. S&A reserves the right to suspend work under its agreement if the CLIENT fails to pay invoices as due. The CLIENT agrees to pay all costs for collection of payment, including attorney's fees.

**11. LITIGATION**

In the event of litigation between parties to this agreement, if S&A is the prevailing party, S&A shall be entitled to recover all related costs, expenses, and reasonable attorney fees.

**EXHIBIT 1 – SCOPE OF PRE-ENGINEERING SERVICES AND COMPENSATION**

**RR&SS Bundle #2**

**Pre-Engineering Services**

<b>WLB Project No.</b>	<b>316011A001</b>
<b>COF Capital Improvements No.</b>	<b>03-16009</b>
<b>City of Flagstaff Project No.:</b>	<b>ST3345</b>
<b>Prepared August 4, 2016</b>	

**Project Understanding:**

The Road Repairs and Street Safety Program Bundle #2 (Beaver/Dale) project is located in the Downtown Neighborhood within west Flagstaff. The project limits for N Beaver Street begin at the south side of W Columbus Avenue and continue south to the south side of W Cherry Avenue, with the exception of the underground conduit lines continuing south to the traffic signal at W. Birch Avenue. Dale Avenue project limits begin at the east side of N Humphreys Street and extend to the pavement change within the N Agassiz Street Intersection. Project design and construction will incorporate numerous stakeholders, residents, and businesses.

To accelerate the project schedule, the City has requested for WLB to provide pre-engineering services for the project's topographic survey. Our approach to the pre-engineering services is per the follow Scope of Services.

**Scope of Services:**

**BASIC SERVICES**

**Task 2 – Surveying and Mapping:**

WLB Group will perform a topographic survey of Beaver Street and Dale Avenue within the project limits outlined on the attached Exhibit Survey Limits. The cross streets will be surveyed approximately 50' beyond the Beaver or Dale ROW, as well as to the mid-block alleys east of Beaver on Fine, Hunt, and Sullivan Avenues to obtain the necessary information for the design of the proposed light poles. Driveways and walkways from adjacent properties will be surveyed to determine tie in locations for improvements. WLB will work with the City PM to notify residents that surveying will be occurring on their property for the project.

WLB Group will research record documents at the County Recorders Office and perform a control survey to locate and verify existing property/Right of Way monuments within the project site following the requirements of the current Arizona Minimum Standards for Land Boundary surveys. The ROW lines will be shown based on field data, record information and information received from the City for additional ROW that may have been obtained by the City of Flagstaff.

Field measurements will include topographic features within the Rights of Way, existing drainages, culverts, mailboxes, retaining walls, fences, utility appurtenances, sewer manholes and inverts, cleanouts, water valve nut elevations, and trees greater than 4" in diameter. The

survey will not extend beyond the Rights of Way except as needed to locate water and sewer services and verify driveway and walkway tie in locations.

During the survey we will work with the City of Flagstaff Utility Department to obtain as-built plans, water meter descriptions, and sewer logs to locate the existing water meter and sewer services. We will contact franchise utility companies to request as built information and get a list of upcoming and anticipated projects in the area.

WLB will locate existing street signs within the project limits.

Once the field work is completed WLB will prepare the topographic and ROW basemap for the project. WLB will also prepare a results of survey exhibit that will show project control for construction and the existing centerline monuments and property corners that were located in the field during the survey.

*Deliverables:* AutoCAD project basemap for use in preparing the Beaver Street and Dale Avenue Improvement Plans. Results of Survey Exhibit for the project ROW location and construction control.

## **END BASIC SERVICES**

### **Project Assumptions:**

1. Legal descriptions for additional right-of-way and easements are not included in basic services.
2. Sufficient monumentation exists in the immediate vicinity of the Site (within one adjacent Right of Way intersection) to facilitate the relation of the topography survey to the Right of Way/property boundaries.
3. Resolving boundary issues between record information and measured data is not included. If there are any issues we will notify the City to determine the best approach and strategy to resolve.
4. New monuments will not need to be set. If additional monuments are to be set they are on additional service.
5. Horizontal and vertical datum will be based on the City of Flagstaff control network. If a different datum is requested, the client will provide the necessary control information.
6. No boundary survey will be conducted or implied. The horizontal control portion of the services does not include setting monuments at property corners or Right of Way centerline.
7. A title report is not needed for determining record right-of-way locations. If one is needed we will notify the City for approval.
8. No sealed Topography Survey plat will be prepared.
9. CMAR coordination is not included with the pre-engineering services.
10. Potholing to locate existing utilities is not included with the pre-engineering services.
11. WLB prepares the design and construction drawings with AutoCAD Civil 3D 2016. It is assumed that any other entity utilizing WLB design files for the purpose of coordination with this project has the capabilities of using and/or views the files in WLB's original

format. Work on WLB's part to re-format or re-construct files for another entity's use will be considered additional services.

12. Additional services if required and approved by the client will be billed in accordance with the standard hourly rates for The WLB Group, Inc.

The City of Flagstaff will provide or be responsible for the following information:

1. Providing as-built water and sewer line plans for the existing lines in Beaver and Dale.
2. Water meter sizes and addresses for the services being replaced with this project.
3. Locations for sewer services and TV logs for the sewer lines being replaced.

**End of Exhibit 1 – Scope of Services**

**Compensation:**

Our Time and Materials (T&M) Not to Exceed (NTE) budget for the RR&SS Bundle #2 (Beaver/Dale) Project Pre-Engineering Services is \$44,790 including reimbursable expenses. The budget is summarized in the table below:

<b>Tasks (Pre-Design)</b>	<b>Budget</b>
Task 1 - Topographic/Right-of-Way Survey	\$43,790
<b>Subtotal (Design - T&amp;M NTE)</b>	<b>\$43,790</b>
Reimbursable Expenses	\$1,000
<b>Total Fee</b>	<b>\$44,790</b>

End of Compensation

**EXHIBIT B – HOURLY RATE SCHEDULE**

**FLAGSTAFF  
FEE SCHEDULE FOR PROFESSIONAL SERVICES**

**TYPICAL HOURLY RATES**

<b>Personnel</b>	<b>Hourly Rate</b>
Principal .....	\$145.00
Public Presentation or Expert Testimony .....	\$200.00
Senior Project Manager .....	\$125.00
Project Manager PE/RLA/RLS .....	\$115.00
Senior Project: Engineer/Landscape Arch/Planner /Inspector /Surveyor/Designer .....	\$100.00
Project: Engineer/Landscape Arch/Planner /Inspector /Surveyor/Designer .....	\$95.00
Staff: Design Engineer/Landscape Arch/Planner /Inspector /Surveyor/Designer.....	\$85.00
Sr. Cadd Operator .....	\$80.00
Senior Technician.....	\$75.00
Design Technician .....	\$70.00
Technician/Cadd Operator .....	\$65.00
Draftsperson/Assistant Technician .....	\$60.00
Clerical .....	\$50.00
Three Man Survey Crew.....	\$160.00
Two Man Survey Crew .....	\$145.00
One Man Survey Crew .....	\$120.00

End of Exhibit B – Hourly Rate Schedule



**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Eli Reisner, Project Manager - ER  
**Date:** 08/09/2016  
**Meeting Date:** 09/20/2016



---

**TITLE:**

**Consideration and Approval of CMAR Design Phase Services Contract:** Beaver Street and Dale Avenue Bundle #2 Improvements (Road Repair and Street Safety Program) Project.

**RECOMMENDED ACTION:**

- 1) Approve the Construction Manager At Risk (CMAR) Design Phase Services Contract to Eagle Mountain Construction, Inc. of Flagstaff, Arizona on a time a materials basis in an amount not to exceed \$76,147.50, which includes a \$7,000.00 contingency. The contract period is 253 calendar days.
- 2) Authorize Change Order Authority to the City Manager in the amount of \$7,000.00 (10% of contract amount excluding contingencies) for unanticipated or additional items of work; and
- 3) Authorize the City Manager to execute the necessary documents.

**Executive Summary:**

TITLE: CMAR Design Phase Services Contract for the Beaver Street and Dale Avenue Bundle #2 Improvements Project - Road Repair and Street Safety Program (RR&SS)

- Eagle Mountain Construction, Inc. was selected through the qualifications based selection process.
- Eagle Mountain Construction, Inc. will perform CMAR Design Phase Services in coordination with the selected Design Consultant. CMAR Design Phase Services will include but are not limited to review and input on design, constructability, subsurface utility investigations, Construction Plans, Specifications, Cost Estimates, Schedule, as well as developing the Guaranteed Maximum Price (GMP) for the project.
- Upon finalization and the future consideration presentation of the GMP to Council, Eagle Mountain Construction, Inc. will perform Construction Phase Services to deliver the construction of the project under a CMAR Construction Phase Services Contract.
- CMAR Contractor's Design Phase services will be complete by May 2017.
- CMAR Contractor's Guaranteed Maximum Price is anticipated to be presented to Council by June 2017.
- Construction of the project is expected to be completed by August 2018.

**Financial Impact:**

CMAR Design Phase Services Contract will be funded by the Road Repair and Street Safety – Utility Replacements and Overlays FY 2017 budget totaling \$4,062,309.00 for Beaver Street and Dale Avenue Bundle #2 Improvements (RR&SS) project Account (046-05-116-3345-6-4441).

**Connection to Council Goal and/or Regional Plan:**

**COUNCIL GOALS:**

- Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.
- Provide a well-managed transportation system.
- Continue to implement the Flagstaff Regional Plan and focus efforts on specific plans.

**REGIONAL PLAN:**

- The RR&SS supports the Transportation goals (section T.8.6) of the City's Regional Plan to maintain the City's street infrastructure in a cost effective manner to ensure the safety and convenience of all users.

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

Yes, on November 18, 2014, Council adopted the results of the General Election held on November 4, 2014. In the General Election voters approved a dedicated sales tax increase, Proposition 406, which included funding for road repairs and street safety improvements throughout the City of Flagstaff. Also, Council approved and adopted the Road Repair and Street Safety - Utility Replacements and Overlays FY 2017 budget.

**Options and Alternatives:**

- Approve the award as recommended.
- Reject approval of the award and direct staff to continue project scoping and or negotiation with the CMAR Contractor. This option may delay the start of construction work until the 2018 construction season.

**Background/History:**

On May 1 and May 8, 2016, Purchasing solicited a Request for Statement of Qualifications (RSOQ) for a CMAR Contractor. The RSOQ was published in the Arizona Daily Sun, and was posted to the City of Flagstaff's Bid website on April 28, 2016. On May 25, 2016, Purchasing received three Statements of Qualifications (SOQs) from contracting firms. Purchasing facilitated a six-member selection committee, consisting of five City staff and one outside contractor, to review and evaluate the statements. Based on the evaluation scoring results of the SOQs, the selection committee recommended to award the CMAR Design Phase Services Contract to Eagle Mountain Construction, Inc. Eagle Mountain Construction's SOQ demonstrated a clear recognition of the knowledge and experience of working with an engineering design consultant to design and construct a complex sequence of improvements within the Downtown area, as well as understanding the schedule of completing the work.

**Key Considerations:**

The Project area is located within the Downtown Flagstaff neighborhood, on N. Beaver St. from W. Columbus Ave. to W. Cherry Ave., including underground conduit lines continuing down to W. Birch Ave., and on Dale Ave. from N. Humphreys St. to N. Agassiz St. Proposed improvements include:

- Water main extensions in Dale Ave. (Humphreys to Beaver, Beaver to Leroux, and San Francisco to Agassiz)
- Water service line replacements and fire hydrant replacements in N. Beaver St. (Columbus to Cherry) and in Dale Ave. (Humphreys to Agassiz)
- Sewer main replacement in N. Beaver St. (Elm to Dale) and in Dale Ave. (Beaver to Leroux)
- Sewer service line replacements in N. Beaver St. (Columbus to Cherry) and in Dale Ave. (Humphreys to Agassiz)
- Full width pavement replacement on N. Beaver St. (Columbus to Cherry)
- Edge mill and overlay on Dale Ave. (Humphreys to Agassiz)
- Replacement of select sections of sidewalk, handicap ramps, curb and gutter and driveway approaches on N. Beaver St. (Columbus to Cherry) and on Dale Ave. (Humphreys to Agassiz)
- New and relocated streetlights on N. Beaver St. (Columbus to Cherry)

- New Conduit lines on N. Beaver St. (Columbus to Birch) for future traffic signal connections between the traffic signals at W. Columbus Ave. and W. Birch Ave.
- Streetscape enhancements are not included in this Road Repair and Street Safety Initiative funded project.

The CMAR method of procurement was selected to accommodate complex sequencing of construction activities. This contract directs the CMAR Contractor to work with the selected Design Consultant during the design phase of the project to coordinate the design, subsurface utility investigations, Schedule, Specifications, Construction Documents, as well as develop the Guaranteed Maximum Price (GMP) for the project. The associated consideration of award of the Consultant Services Contract will be presented to Council concurrently with this contract. The 253 calendar day duration of the CMAR Design Phase Services Contract will coincide with the proposed design phase to allow for CMAR Design Phase Services during the design phase of the project. The design phase is expected to be completed in May of 2017.

### **Expanded Financial Considerations:**

The Beaver Street and Dale Avenue Bundle #2 Improvements (RR&SS) Project is funded by the Road Repair and Street Safety – Utility Replacements and Overlays FY 2017 budget of \$4,062,309 (046-05-116-3345-6) and \$3,300,000 for FY 2018.

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

The community benefits of this project include:

- Replacement and upgrading of aged water and sewer infrastructure to meet current standards.
  - Existing 8" PVC water main stub out, built between 1993 and 1995, will be extended on Dale Ave. (Humphreys to Beaver, Beaver to Leroux, and San Francisco to Agassiz) to accommodate current standards.
  - Water service line replacements and fire hydrant replacements in N. Beaver St. (Columbus to Cherry) and in Dale Ave. (Humphreys to Agassiz).
  - Existing 8" vitrified clay sewer pipe, built in 1919, will be upgraded to the current standards in N. Beaver St. (Elm to Dale) and in Dale Ave. (Beaver to Leroux).
  - Sewer service line replacements in N. Beaver St. (Columbus to Cherry) and in Dale Ave. (Humphreys to Agassiz).
- Replacement of deteriorated street infrastructure to improve the streets ride quality.
- Sidewalk improvements and ADA compliant ramps will provide a safe place for pedestrian travel.
- Analysis of surface drainage issues and solutions will be considered to provide the street infrastructure with an extended life.
- Construction coordination with two City projects to minimize inconveniences to the downtown area and the public.

### **Community Involvement:**

Inform, Involve, and Empower:

In November 2014, voters approved a dedicated sales tax increase to fund road repairs and street safety improvements throughout the City of Flagstaff. The City of Flagstaff notified the public of the upcoming project in the May 2016 Cityscape. The project is also posted on the list of proposed projects in the interactive map located under the Road Repair and Street Safety Updates on the City of Flagstaff's Website. There will be at least one Project Kickoff Meeting with at least, but not limited to, the following project stakeholders: City of Flagstaff stakeholders, ADOT, FUSD, NAIPTA, DBA, Flagstaff Medical Center, and all First Responders. There will also be two Public Outreach Meetings, one during the initial design phases and the other prior to construction of the project. Eagle Mountain Construction, City staff, and the selected Design Consultant will all be in attendance at all meetings. The CMAR contractor for the project will periodically update the property owners and residents along the project as construction





***Beaver Street and Dale Avenue  
Bundled #2 Improvements Project***

PROJECT NUMBER: 03-16009  
ACCOUNT NUMBER: 046-05-116-3345-6-4381

***CONSTRUCTION MANAGER AT RISK  
Design Phase Services***

**Mayor**

*Gerald W. Nabours*

**Council**

*Karla Brewster  
Scott Overton  
Coral Evans*

*Celia Barotz  
Jeff Oravitz  
Eva Putzova*

**City Manager**

*Josh Copley*

**Utilities Director**

*Brad Hill*

**Community Development Director**

*Mark Landsiedel*

**Public Works Director**

*Andrew Bertelsen*

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## City of Flagstaff, Arizona

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### BEAVER STREET AND DALE BUNDLE #2 IMPROVEMENTS CONSTRUCTION MANAGER AT RISK DESIGN PHASE SERVICES PROJECT NO. 2016-54

THIS Agreement (the "Agreement"), made and entered by and between The City of Flagstaff, an Arizona municipal corporation, hereinafter designated the ("City") and Eagle Mountain Construction, an Arizona corporation, hereinafter designated the ("Construction Manager at Risk" or [CMAR](#)) is entered into on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

#### RECITALS

- A. The City Manager of the City of Flagstaff, Arizona, is authorized and empowered by provisions of the City Charter to execute agreements for professional services and construction services.
- B. The City intends to construct Beaver Street and Dale Avenue Bundle #2 Improvements Project, as more fully described in Exhibit "A" attached, hereinafter referred to as the ("Project").
- C. To undertake the design of said Project the City has entered into a Agreement with The WLB Group, Inc. hereinafter referred to as the ("Design Professional").
- D. CMAR has represented to the City the ability to provide design phase services and to construct the Project.
- E. Based on this representation, the City intends to enter into an Agreement with CMAR for the design phase services identified in this Agreement. At the end of the design phase, at the City's discretion, the City may enter into a separate construction agreement with CMAR for construction phase services.

#### AGREEMENT

**NOW THEREFORE**, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between the City and CMAR as follows:

#### ARTICLE 1 – TERMS AND DEFINITIONS

**"Addenda"** – Written or graphic instruments issued prior to the submittal of the GMP Proposal(s), which clarify, correct or change the GMP Proposal(s) requirements.

**"Agreement (Contract)"** – This written document signed by the City and CMAR covering the design phase of the Project, and including other documents itemized and referenced in or attached to and made part of this Agreement.

**"Alternate Systems Evaluations"** – Alternatives for design, means and methods or other scope considerations that are evaluated using value engineering principles which have the potential to reduce construction costs while still delivering a quality and functional Project that meets the City requirements.

**"Change Order"** – A type of Contract amendment issued after execution of the Contract Documents where unanticipated or unforeseen circumstances in the Work have been encountered. Each change Order shall be signed by the City and CMAR, stating their agreement upon all of the following: the addition, deletion or revision

in the scope of services or Deliverables; the amount of the adjustment to the Contract Amount; the extent of the adjustment to the Contract Time; or modifications of other Agreement terms.

"City (Owner)" -- The City of Flagstaff, a municipal corporation, with whom CMAR has entered into this Agreement and for whom the services are to be provided pursuant to said Agreement.

"City's Representative" – The designated City Project Manager.

"City's Senior Representative" – The City of Flagstaff's designated Division/Department Head.

"Construction Contract Time(s)" – The number of days or the dates related to the construction phase that as stated in Construction Documents applies to the achievement of Substantial and final Completion of the Work.

"Construction Documents" - Certain plans, specifications and drawings prepared by the Design Professional after correcting for permit review requirements or dated plans and specifications specifically identified as the ("Construction Documents") herein or in an Exhibit or Addendum which is attached hereto.

"Construction Fee" – CMAR's administrative costs, home office overhead, and profit, as applicable to this project, whether at CMAR's principal or branch offices.

"Construction Manager at Risk (CMAR)" – The firm selected by the City to provide the Design Phase Services as detailed in this Agreement.

"CMAR Representative" – CMAR designates Jason Woods as its CMAR Representative.

"CMAR Senior Representative" – CMAR designates Marco Spagnuolo as its Senior Representative.

"Contingency, CMAR's" – A fund to cover cost growth during the Project used at the discretion of CMAR usually for costs that result from Project circumstances. The amount of CMAR's Contingency shall be negotiated as a separate line item in each GMP package. Use and management of CMAR's Contingency is described in Section 2.7.

"Contingency, Owners' " – A fund to cover cost growth during the Project used at the discretion of the City usually for costs that result from the City-directed changes or unforeseen Site conditions. The amount of the Owners' Contingency shall be set solely by the City and shall be in addition to the project costs included in CMAR's GMP packages. Use and management of the Owners' Contingency is described in Section 2.7.

"Contract Amount" – The cost for services for this Agreement as identified in Article 4.

"Contract Documents" – The following items and documents in descending order of precedence executed by the City and CMAR: (i) all written modifications, amendments and Change Orders; (ii) this Agreement, including all exhibits and attachments; (iii) Construction Documents; (iv) GMP Plans and Specifications.

"Cost of the Work" – Direct costs necessarily incurred by CMAR in the proper performance of the Work. The Cost of the Work shall include direct labor costs, subagreement costs, costs of materials and equipment incorporated in the completed construction, costs of other materials and equipment, temporary facilities, permit and license fees, materials testing, and related items. The Cost of the Work shall not include CMAR's Construction Fee, General Conditions Cost, or taxes.

"Critical Path Method" – A scheduling technique used to predict project duration by analyzing which sequence of activities has the least amount of scheduling flexibility thus identifying the path (sequence) of activities which represent the longest time required to complete the project. Delay in completion of the identified activities shall cause a delay in achieving Substantial Completion.

"Day(s)" – Indicates calendar days unless otherwise specifically noted in the Contract Documents.

“Deliverables” – The work products prepared by CMAR in performing the scope of work described in this Agreement. Some of the major Deliverables to be prepared and provided by CMAR during the design phase may include but are not limited to: Construction Management Plan, Project Schedule, Schedule of Values, alternative system evaluations, procurement strategies and plans, cost estimates, construction market surveys, cash flow projections, GMP Proposals, Subcontractor procurement plan, Statement of Proposed Minority Business Enterprise/Women’s Business Enterprise (“**MBE/WBE**”) Utilization as may be required or appropriate, Subcontractor agreements, Subcontractor bid packages, Supplier agreements, and others as indicated in this Agreement or required by the Project Team and other services set forth in this Agreement or reasonably inferable therefrom.

“Design Professional” – A licensed design professional who furnishes design, construction documents, and/or construction administration services required for the Project.

“Drawings (Plans)” – Documents, which visually represent the scope, extent and character of the Work to be furnished and performed by CMAR during the construction phase, and which have been prepared or approved by the Design Professional and the City. Includes Drawings that have reached a sufficient stage of completion and released by the Design Professional solely for the purposes of review and/or use in performing constructability or bidability reviews and in preparing cost estimates (e.g. conceptual design Drawings, preliminary design Drawings, detailed design Drawings at 30%, 60%, 90% or 100% or schematic, design development, construction documents), but “*not for construction*”. Shop Drawings are not Drawings as so defined.

“Final Completion” – 100% completion of all construction Work noted in or reasonably inferred from the Contract Documents, including but not limited to all Punch Lists work, all record and close-out documents specified in Owner’s Project specifications and Owner training/start up activities.

“Float” – Number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Substantial Completion date.

“General Conditions Costs “ - Includes, but is not limited to the following types of costs for CMAR during the construction phase: (i) payroll costs for Project manager or CMAR for Work conducted at the Site, (ii) payroll costs for the superintendent and full-time general foremen, (iii) payroll costs for other management personnel resident and working at the Site, (iv) workers not included as direct labor costs engaged in support (e.g. loading/unloading, clean-up, etc.), (v) costs of offices and temporary facilities setup solely for this Project including office materials, office supplies, office equipment and minor expenses, (vi) cost of utilities, fuel, sanitary facilities and telephone services at the Site, (vii) costs of liability and other applicable insurance premiums not included in labor burdens for direct labor costs, (viii) costs of bond premiums, (ix) costs of consultants not in the direct employ of the CMAR or Subcontractors.

“Guaranteed Maximum Price (GMP)” – The sum of the maximum Cost of the Work; the Construction Fee, General Conditions Costs, taxes, and CMAR Contingency.

“GMP Plans and Specifications” – Plans and specifications upon which the Guaranteed Maximum Price Proposal is based.

“Guaranteed Maximum Price (GMP) Proposal” – The offer or proposal of CMAR submitted on the prescribed form setting forth the GMP prices for the entire Work or portions of the Work to be performed during the construction phase. The GMP Proposal(s) are to be developed pursuant to Article 2 of this Agreement.

“Legal Requirements” - All applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

“Notice to Proceed or “NTP” - The directive issued by the City, authorizing CMAR to start Work.

“Opening Physical Conditions” – The current physical conditions present on the Site as jointly documented by an inspection of the Site by City and CM@R at the Pre-construction Conference.

“Payment Request” – The form that is accepted by the City and used by CMAR in requesting progress payments or final payment and which shall include such supporting documentation as is required by the Contract Documents and or the City.

“Pre-construction Conference” – A Conference held between City and CMAR prior to the commencement of any Work, as scheduled by the City’s Representative or designee.

“Project” – Work to be completed in the execution of this Agreement as amended and as described in the Recitals above and in Exhibit “A” attached.

“Project Team” – Design phase services team consisting of the Design Professional, CMAR, the City’s Representative, the City’s Client Department representatives and other stakeholders who are responsible for making decisions regarding the Project.

“Schedule of Values (SOV)” – A statement furnished by CMAR to the City’s Representative for approval, reflecting the portions of the GMP allotted for the various parts of the Work and used as the basis for evaluating CMAR’s applications for progress payments.

“Shop Drawings” – All drawings, diagrams, schedules and other data specifically prepared for the Work by CMAR or a Subcontractor, Sub-Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

“Site” – Land or premises on which the Project is located.

“Specifications” – The part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship, as applied to the Work and certain administrative details applicable thereto.

“Subconsultant” – A person, firm or corporation having an agreement with CMAR to furnish services required as its independent professional associate or consultant with respect to the Project.

“Subcontractor” – An individual or firm having a direct agreement with CMAR or any other individual or firm having an agreement with the aforesaid contractors at any tier, who undertakes to perform a part of the design phase services or construction phase Work at the Site for which CMAR is responsible.

“Submittals” – Documents and/or things that may be produced or presented by one party for consideration review or such other actions as may be required by this Agreement by another party, entity or person. Examples of Submittals include, but are not limited to, preliminary or evolving drafts, product data samples, etc.

“Substantial Completion” – The established date when the Work or designated portion thereof is sufficiently complete, in accordance with the Contract Documents so that the Owner may occupy the Work, or designated portion thereof, for the use for which it is intended. This may include, but is not limited to: (i) Approval by the City or State Fire Marshall and/or other state or local authorities having jurisdiction over the Work or a portion thereof (Certificate of Occupancy); (ii) all systems in place, functional, and displayed to, and accepted by, the City or it’s representative; (iii) City operation and maintenance training complete; (iv) HVAC test and balance completed with reports provided to the Design Professional for review; (v) Operational and Maintenance manuals and final Project Record Documents delivered to the City or Design Professional for review.

“Supplier” – A manufacturer, fabricator, supplier, distributor, materialman or vendor having a direct Agreement with CMAR or with any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by CMAR or any Subcontractor.

“Winter Shutdown” – The period of time typically including December through March during which no Work will be performed by any person or entity (including but not limited to the CMAR) on the Project and CMAR shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the City reserves the right to initiate and terminate a Winter Shutdown at the City’s sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the City despite delays, *for any reason*, on the Project.

“Work” – The entire completed construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials, resources and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

## ARTICLE 2 – BASIC DESIGN PHASE SERVICES

### 2.1 GENERAL

- 2.1.1 CMAR, to further the interests of the City, shall perform the services required by, and in accordance with this Agreement, to the satisfaction of the City, exercising the degree of care, skill and judgment a professional construction manager performing similar services in Flagstaff, Arizona would exercise at such time, under similar conditions. CMAR shall, at all times, perform the required services consistent with sound and generally accepted construction management and construction contracting practice.
- 2.1.2 Program Evaluation: As a participating member of the Project Team, CMAR shall provide to the City and Design Professional a written evaluation of the City’s Project Program and Project Budget, each in terms of the other, with recommendations as to the appropriateness of each.
- 2.1.3 Project Meetings: CMAR shall attend Project Team meetings which may include, but are not limited to, monthly Project management meetings, Project workshops, special Project meetings, construction document rolling reviews and partnering sessions.
- 2.1.4 CMAR shall provide design phase services, described herein, in a proactive manner and consistent with the intent of the most current Drawings and Specifications. CMAR shall promptly notify the City in writing whenever CMAR determines that any Drawings or Specifications are inappropriate for the Project and/or cause changes in the scope of Work requiring an adjustment in the cost estimate, Project Schedule, GMP Proposals and/or in the Contract Time for the Work, to the extent such are established.
- 2.1.5 CMAR, when requested by the City, shall attend, make presentations and participate as may be appropriate in public agency and or community meetings, germane to the Project. CMAR shall provide drawings, schedule diagrams, budget charts and other materials describing the Project, when their use is required or apropos in any such public agency meetings.

### 2.2 CONSTRUCTION MANAGEMENT PLAN

- 2.2.1 CMAR may, and at the written request of the City shall, prepare a Construction Management Plan (“CMP”), which may, and at the written request of the City shall, include CMAR’s professional opinions concerning: (a) Project milestone dates and the Project Schedule, including the broad sequencing of the design and construction of the Project, (b) investigations, if any, to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities, (c) alternate strategies for fast-tracking and/or phasing the construction, (d) the number of separate subagreements to be awarded to Subcontractors and Suppliers for the Project construction, (e) permitting strategy, (f) safety and training programs, (g) construction quality control, (h) a commissioning program, (i) the cost estimate and basis of the model, and (j) a matrix summarizing each Project Team member’s responsibilities and roles.
- 2.2.2 CMAR may, and at the written request of the City shall, add detail to its previous version of the CMP to keep it current throughout the design phase, so that the CMP is ready for implementation at the start of

the construction phase. The update/revisions may, and at the written request of the City shall, take into account (a) revisions in Drawings and Specifications; (b) the results of any additional investigatory reports of subsurface conditions, drawings of physical conditions of existing surface and subsurface facilities and documents depicting underground utilities placement and physical condition, whether obtained by the City, Design Professional or CMAR, (c) unresolved permitting issues, and significant issues, if any, pertaining to the acquisition of land and right of way, (d) the fast-tracking if any of the construction, or other chosen construction delivery methods, (e) the requisite number of separate bidding documents to be advertised, (f) the status of the procurement of long-lead time equipment (if any) and/or materials, and (g) funding issues identified by the City.

## **2.3 PROJECT MASTER SCHEDULE**

- 2.3.1 The fundamental purpose of the "Project Master Schedule" is to identify, coordinate and record the tasks and activities to be performed by all of the Project Team members and then for the Project Team to utilize that Deliverable as a basis for managing and monitoring all member's compliance with the schedule requirements of the Project. Each Project Team member is responsible for its compliance with the Project Master Schedule requirements. CMAR shall develop and maintain the "Project Master Schedule" on behalf of and to be used by the Project Team based on input from the other Project Team members. The Project Master Schedule shall be consistent with the most recent revised/updated CMP. The Project Master Schedule shall use the Critical Path Method (CPM) technique, unless required otherwise, in writing by the City. CMAR shall use scheduling software to develop the Project Master Schedule that is acceptable to the City. The Project Master Schedule shall be presented in graphical and tabular reports as agreed upon by the Project Team. If Project phasing as described below is required, the Project Master Schedule shall indicate milestone dates for the phases once determined.
- 2.3.2. The Project Master Schedule shall include a Critical Path Method (CPM) diagram schedule that shall show the sequence of activities, the interdependence of each activity and indicate the Critical Path.
- 2.3.2.1 The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities. The CPM diagram shall be presented in a time scaled graphical format for the Project as a whole.
- 2.3.2.2 The CPM diagram schedule shall indicate all relationships between activities.
- 2.3.2.3 The activities making up the schedule shall be in sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work. Formulation of the Project Master Schedule must also be based on the Opening Physical Conditions of the Site and any potential Winter Shutdown in the event the Work on the Project is delayed for any reason.
- 2.3.2.4 The CPM diagram schedule shall be based upon activities, which would coincide with the schedule of values.
- 2.3.2.5 The CPM diagram schedule shall show all Submittals associated with each work activity and the review time for each submittal.
- 2.3.2.6 The schedule shall show milestones, including milestones for Owner-furnished information, and shall include activities for Owner-furnished equipment and furniture when those activities are interrelated with CMAR activities.
- 2.3.2.7 The schedule shall include a critical path activity that reflects anticipated weather delay during the performance of this Agreement. The duration shall reflect the average climatic range and usual industrial conditions prevailing in the locality of the Site. Weather data shall be based on the information set forth on the City of Flagstaff's Table of "Monthly Anticipated Adverse Weather Calendar Days" and the explanatory paragraphs attached thereto. (See Section 4.5.5.7 of Construction Agreement)

- 2.3.3 The Project Schedule shall consider the City's and the tenants' occupancy requirements showing portions of the Project having occupancy priority, and Contract Time.
- 2.3.4 Float time shall be as prescribed below:
- 2.3.4.1 The total Float within the overall schedule, is not for the exclusive use of either the City or CMAR, but is jointly owned by both and is a resource available to and shared by both parties as needed to meet Agreement milestones and the Project completion date.
- 2.3.4.2 CMAR shall not sequester shared Float through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing, etc. Since Float time within the schedule is jointly owned, no time extensions shall be granted nor delay damages paid until or unless a delay occurs which extends the Work beyond the Substantial Completion date.
- 2.3.4.3 Since Float time within the schedule is jointly owned, it is acknowledged that the City-caused delays on the Project may be offset by City-caused time savings (i.e., critical path Submittals returned in less time than allowed by the Agreement, approval of substitution requests and credit changes which result in savings of time to CMAR, etc.). In such an event, CMAR shall not be entitled to receive a time extension or delay damages until all City-caused time savings are exceeded, and the Substantial Completion date is also exceeded.
- 2.3.5 The Project Schedule shall be updated and maintained by CMAR throughout the design phase such that it shall not require major changes at the start of the construction phase to incorporate CMAR's plan for the performance of the construction phase Work. CMAR shall provide updates and/or revisions to the Project Schedule for use by the Project Team, whenever required, but no less often than at the monthly Project Team meetings. CMAR shall include with such Submittals a narrative describing its analysis of the progress achieved to-date vs. that planned, any concerns regarding delays or potential delays, and any recommendations regarding mitigating actions. (See Sections 2.7.6 and 2.7.6.1 of this Agreement)
- 2.3.6 Project Phasing: If phased construction is deemed appropriate and the City and Design Professional approve, CMAR shall review the design and make recommendations regarding the phased issuance of Construction Documents to facilitate phased construction of the Work, with the objective of reducing the Project Schedule and/or Cost of the Work. CMAR shall take into consideration such factors as natural and practical lines of Work severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, labor and materials availability, and any other factors pertinent to saving time and cost.

## **2.4 DESIGN DOCUMENT REVIEWS**

- 2.4.1 CMAR shall evaluate periodically the availability of labor, materials/equipment, building systems, cost-sensitive aspects of the design; and other factors that may impact the cost estimate, GMP Proposals and/or the Project Master Schedule.
- 2.4.2 CMAR shall recommend, in conjunction with the Project Team, those additional surface and subsurface investigations that, in its professional opinion, are required to provide the necessary information for CMAR to construct the Project. Before initiating construction operations, CMAR may request additional investigations in their GMP Proposal to improve the adequacy and completeness of the Site condition information and data made available with the Construction Documents.
- 2.4.3 CMAR shall meet with the Project Team, as required, to review designs during their development. CMAR shall familiarize itself with the evolving documents through the various design phases. CMAR shall proactively advise the Project Team and make recommendations on factors related to construction costs, and concerns pertaining to the feasibility and practicality of any proposed means and methods, selected materials, equipment and building systems, and, labor and material availability. CMAR shall

advise the Project Team on proposed Site improvements, excavation and foundation considerations, as well as, concerns that exist with respect to coordination of the Drawings and Specifications. CMAR shall recommend cost effective alternatives.

- 2.4.4 CMAR shall conduct constructability and bidability reviews of the Drawings and Specifications as necessary to satisfy the needs of the Project Team and at a minimum as scheduled and identified by milestones in the Project Master Schedule required in Article 2.3 above. The reviews shall attempt to identify all discrepancies and inconsistencies in the Construction Documents especially those related to clarity, consistency, and coordination of Work of Subcontractors and Suppliers.
- 2.4.4.1 Constructability Reviews: CMAR shall evaluate whether (a) the Drawings and Specifications are configured to enable efficient construction, (b) design elements are standardized, (c) construction efficiency is properly considered in the Drawings and Specifications, (d) module/preassembly design are prepared to facilitate fabrication, transport and installation, (e) the design promotes accessibility of personnel, material and equipment and facilitates construction under adverse weather conditions, (f) sequences of Work required by or inferable from the Drawings and Specifications are practicable, and (g) the design has taken into consideration, efficiency issues concerning; access and entrance to the Site, laydown and storage of materials, staging of Site facilities, construction parking, and other similar pertinent issues.
- 2.4.4.2 Bidability Reviews: CMAR shall check cross-references and complementary Drawings and sections within the Specifications, and in general evaluate whether (a) the Drawings and Specifications are sufficiently clear and detailed to minimize ambiguity and to reduce scope interpretation discrepancies, (b) named materials and equipment are commercially available and are performing well or otherwise, in similar installations, (c) Specifications include alternatives in the event a requirement cannot be met in the field, and (d) in its professional opinion, the Project is likely to be subject to differing Site conditions.
- 2.4.4.3 Results of the reviews shall be provided to the City in formal, written reports clearly identifying all discovered discrepancies and inconsistencies in the Drawings and Specifications with notations and recommendations made on the Drawings, Specifications and other documents. If requested by the City, CMAR shall meet with the City and Design Professional to discuss any findings and review reports.
- 2.4.4.4 CMAR's reviews shall be from a contractor's perspective, and though it shall serve to reduce the number of Requests for Information (RFI) and changes during the construction phase, responsibility for the Drawings and Specifications shall remain with the Design Professional and not CMAR.
- 2.4.5 Notification of Variance or Deficiency: It is CMAR's responsibility to assist the Design Professional in ascertaining that, in CMAR's professional opinion, the Construction Documents are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. If CMAR recognizes that portions of the Construction Documents are at variance with applicable laws, statutes, ordinances, building codes, rules and regulations, it shall promptly notify the Design Professional and City in writing, describing the apparent variance or deficiency. However, the Design Professional is ultimately responsible for the compliance with those laws, statutes, ordinances, building codes, rules and regulations.
- 2.4.6 Alternate Systems Evaluations: The Project Team shall routinely identify and evaluate using value engineering principles any alternate systems, approaches, design changes that have the potential to reduce Project costs while still delivering a quality and functional product. If the Project Team agrees, CMAR in cooperation with the Design Professional shall perform a cost/benefit analysis of the alternatives and submit such in writing to the Project Team. The Project Team shall decide which alternatives shall be incorporated into the Project. The Design Professional shall have full responsibility for the incorporation of the alternatives into the Drawings and Specifications. CMAR shall include the cost of the alternatives into the cost estimate and any GMP Proposals.

## **2.5 COST ESTIMATES**

- 2.5.1 Unless otherwise agreed by both parties, within fourteen (14 ) days after receipt of the documents for

the various phases of design, CMAR shall provide a detailed cost estimate and a written review of the documents. The Design Professional and CMAR shall reconcile any disagreements on the estimate to arrive at an agreed cost. If no consensus is reached, the City shall make the final determination.

- 2.5.2 If any estimate submitted to the City exceeds previously accepted estimates or the City's Project budget, CMAR shall make appropriate recommendations on methods and materials to the City and Design Professional that CMAR believes shall bring the Project back into the Project budget.
- 2.5.3 In between these milestone estimates, CMAR shall periodically provide a tracking report, which identifies the upward or downward movements of costs due to value engineering or scope changes. It shall be the responsibility of CMAR to keep the City and Design Professional informed as to the major trend changes in costs relative to the City's budget.
- 2.5.4 If requested by the City, CMAR shall prepare a preliminary "cash flow" projection based upon historical records of similar type projects to assist the City in the financing process.

**2.6 *Section left intentionally blank***

**2.7 GUARANTEED MAXIMUM PRICE (GMP) PROPOSALS**

- 2.7.1 The proposed GMP for the entire Work (or portions thereof) shall be presented in a format acceptable to the City (see Exhibit "C" attached). The City may request a GMP Proposal for all or any portion of the Project and at any time during the design phase. Any GMP Proposals submitted by CMAR shall be based on and consistent with the current update/revised cost estimate at the time of the request, the associated estimates for construction costs and include any clarifications or assumptions upon which the GMP Proposal(s) are based. CMAR guarantees to complete the Project at or less than the final approved GMP Proposal amount, plus approved Change Orders, and agrees that it shall be responsible for any increase in the actual cost of the Work above that amount.
- 2.7.2 Guaranteed Maximum Price is comprised of the following not-to-exceed cost reimbursable or lump sum amounts defined below.
  - 2.7.2.1 The Cost of the Work is actual costs and is a not-to-exceed, reimbursable amount.
  - 2.7.2.2 The General Conditions Costs and the Construction Fee are firm fixed lump sums.
  - 2.7.2.3 CMAR's Contingency is an amount CMAR may use under the following conditions: (1) at its discretion for increases in the Cost of the Work, or (2) with written approval of the City for increases in General Condition Costs. CMAR's Contingency is assumed to be a direct Project cost so all applicable markups shall be applied at the time of GMP submission.
  - 2.7.2.4 Taxes are deemed to include all sales, use, consumer and other taxes, which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective, or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount.
- 2.7.3 Owner's Contingency are funds to be used at the sole discretion of the Owner. Owner's Contingency shall be added to the Contract Price, for approval by Council, to cover any increases in Project costs that result from Owner directed changes or unforeseen Site conditions. At the time that Owner's Contingency is used, the appropriate markups shall be applied.
- 2.7.4 GMP amendments are cumulative except for CMAR's Contingency. The amount of CMAR's Contingency for each GMP shall be negotiated separately.
- 2.7.5 CMAR, in preparing any GMP Proposal, shall obtain from the Design Professional, three sets of signed, sealed, and dated plans and specifications (including all addenda). CMAR shall prepare its GMP in

accordance with the City's request for GMP Proposal requirements based on the most current completed plans and specifications at that time. CMAR shall mark the face of each document of each set upon which its proposed GMP is based. These documents shall be identified as the GMP Plans and Specifications. CMAR shall send one set of those documents to the City's Representative, keep one set and return the third set to the Design Professional.

2.7.6 An updated/revised Project Master Schedule shall be included with any GMP Proposal(s) that reflects the GMP Plans and Specifications. Any such Project Master Schedule updates/revisions shall continue to comply with the requirements of Section 2.3 above.

2.7.6.1 The Project Master Schedule required above shall include a preliminary Construction Schedule developed in a Critical Path Method (CPM) with the first requested GMP. If subsequent GMP's are requested, CMAR shall include an updated CPM Construction Schedule with their GMP submittal.

2.7.7 GMP savings resulting from a lower actual Project cost than anticipated by CMAR remaining at the end of the project, shall revert to the City.

### **2.7.8 GMP Proposal(s) Review and Approval**

2.7.8.1 The City may request a GMP from CMAR at any time during the Design Phase. It is the City's expectation that the GMP shall not exceed the City-stated Project budget.

2.7.8.2 CMAR shall meet with the City and Design Professional to review the GMP Proposal(s) and the written statement of its basis. In the event the City or Design Professional discovers inconsistencies, inaccuracies or confusion in the information presented, CMAR shall make adjustments as necessary to the GMP Proposal, its basis or both.

2.7.8.3 CMAR's detailed construction cost estimates and GMP shall be reviewed by the Design Professional and the City for reasonableness and compatibility with the City's Project and the City's budget. CMAR shall provide a response to the Design Professionals and City's questions and an explanation of differences between the City's Project budget and CMAR's construction cost estimate and corresponding GMP. City may require that such responses and explanations be submitted in writing. CMAR, City and Design Professional shall engage in a mutually agreeable process in an effort to achieve a clearly understood mutually acceptable GMP.

2.7.8.4 In the event that the GMP exceeds the City's Project budget, the City reserves the right to direct CMAR (and CMAR shall) work in conjunction with the Design Professional to assist in the redesign of the Project as necessary to meet the agreed upon program and the stated Project budget as follows:

- a) After direction from the City, CMAR shall coordinate and cooperate with the Project Team to assist the Design Professional in altering and re-drafting Construction Documents as necessary to accomplish the required reduction in cost.
- b) CMAR shall develop and provide to the City a GMP in connection with the altered Construction Documents to accomplish the necessary reductions in cost.
- c) CMAR shall analyze the Design Professional's original submittal and as altered and redrafted Construction Documents, and make recommendations to the City as to ways and methods to reduce the costs of constructing the Project to a sum which does not exceed the stated Project budget.

Notwithstanding anything in the RSOQ or CMAR's response to the contrary, CMAR shall perform the work set forth in this Section without additional compensation.

2.7.8.5 The City, upon receipt of any GMP proposal from CMAR, may submit the GMP Plans and Specifications to a third party for review and verification.

2.7.8.6 If CMAR GMP Proposal is greater than the third party estimate or if the City, for some other stated

reason may desire, the City may require CMAR to reconfirm its GMP Proposal. CMAR shall accept the third party's estimate for the cost of Work as part of its GMP Proposal, or present a report within seven (7) days of a written request by the City for such a report identifying, explaining and substantiating the differences and/or explaining other concerns the City may raise. CMAR may be requested to, or at its own discretion, submit a revised GMP Proposal for consideration by the City.

2.7.8.7 If during the review and negotiation of GMP Proposals design changes are required, the City shall authorize and cause the Design Professional to revise the Construction Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the final approved GMP Proposal. Such revised Construction Documents shall be furnished to CMAR. CMAR shall promptly notify the Design Professional and City in writing if any such revised Construction Documents are inconsistent with the agreed-upon assumptions and clarifications.

2.7.8.8 After final submission of the GMP Proposal, the City may do any of the following:

- a) Accept CMAR original or revised GMP Proposal, if within the City's budget, without comment;
- b) Accept CMAR original or revised GMP Proposal that exceeds the City budget, and indicate in writing to CMAR that the Project Budget has been increased to fund the differences; or
- c) Reject CMAR original or revised GMP Proposal in which event, the City may terminate this Agreement and/or elect to not enter into a separate Agreement with CMAR for the construction phase associated with the scope of Work reflected in the GMP Proposal.

2.7.8.9 Upon acceptance by the City of a GMP Proposal, the City shall prepare and CMAR shall execute the City's specified form of Agreement to reflect the GMP, and the GMP as approved shall become part of the Construction Services Agreement. Within ten (10) days after execution of the Construction Services Agreement, CMAR shall provide to the City's Senior Procurement Specialist a Performance Bond and a Labor and Material Payment Bond, each for 100% of the full Agreement price.

## **2.8 SUBCONTRACTOR AND MAJOR SUPPLIER SELECTIONS**

2.8.1 There are two ways to select Subcontractors and major Suppliers prior to submission of any GMP Proposal. They are:

- a) A combination of qualifications and price derived through competitive bidding; and
- b) Qualitative selection with the subsequent negotiation of a price that is reasonable, a prudent use of public funds and in the City's best interest.

Absent special circumstances documented in writing by CMAR as set forth below, the combination of qualifications and price derived through the competitive bidding process shall be used to select Subcontractors and major Suppliers. The City has the sole discretion as to whether or not to allow the purely qualitative selection of Subcontractors and Suppliers. In any event, CMAR shall ensure compliance with Arizona Revised Statutes § 34-603 et seq. as amended in 2005 and as it may be further amended relative to the selection of Subcontractors and major Suppliers.

2.8.2 The City may approve the selection of a Subcontractor(s) or Supplier(s) based only on their qualifications when CMAR can demonstrate, in writing, that it is in the best interest of the Project and that the selection process shall constitute a prudent use of public funds.

2.8.2.1 A purely qualification-based selection of a Subcontractor(s) or Supplier(s) shall only occur prior to the submittal of any applicable GMP Proposal.

2.8.2.2 CMAR shall prepare a Subcontractor or Supplier selection plan and submit the plan to the City for approval. CMAR shall apply the plan in the evaluation of the qualifications of a Subcontractor(s) or Supplier(s) and provide the City with its review and recommendation.

- 2.8.2.3 CMAR shall obtain City approval of the selected Subcontractor(s) or Supplier(s). If CMAR is to self-perform under this alternative, CMAR shall submit a detailed explanation and demonstration of the cost of the Work it shall self-perform. CMAR shall further provide documentation to demonstrate that for any Work that is self-performed, the cost of any such Work is a reasonable and prudent use of public funds. The City shall approve CMAR self-performance of any part of the Work and the cost therefore prior to accepting any GMP Proposal.
- 2.8.2.4 CMAR shall negotiate costs for services/supplies from each Subcontractor or Supplier selected under this method.
- 2.8.2.5 Within three (3) days of negotiating cost for services/supplies from all Subcontractors or Suppliers selected under this method, CMAR shall then prepare a report for the City's approval identifying the recommended Subcontractor or Supplier for each category of the Work to be performed. The report shall be in a format approved by the City's Representative and shall include, among other things, the amount of each such cost. CMAR shall, at its discretion or at the request of the City's Representative, request written verification of any costs selected. CMAR shall provide an explanation of the qualifying factors for each selection.
- 2.8.3 In all other cases, CMAR shall select Subcontractors and major Suppliers pursuant to the following process, which includes a combination of qualifications and price, derived through competitive bidding or as may otherwise be agreed in writing by the parties. CMAR shall ensure that any such process is fully compliant with the above-referenced Arizona law.
- 2.8.3.1 CMAR shall develop Subcontractor interest, submit the names of a minimum of three (3) qualified Subcontractors selected pursuant to a qualifications-based procedure, for each trade in the Project for approval by the City and solicit bids for the various construction categories. If there are not three (3) qualified Subcontractors available for a specific trade or there are extenuating circumstances warranting such, CMAR may request approval by the City to submit less than three (3) names. Without prior written approval by the City, no change in the City-approved Subcontractors shall be allowed.
- 2.8.3.2 If CMAR desires to self-perform certain portions of the Work, it shall comply with, and be subject to, the requirements set forth in Subsection 2.8.2.3 above.
- 2.8.3.3 If the City objects to any nominated Subcontractor or to any nominated self-performed Work for good reason, CMAR shall nominate a substitute Subcontractor.
- 2.8.3.4 CMAR shall distribute drawings and specifications, and when appropriate, conduct a pre-bid conference with prospective Subcontractors.
- 2.8.3.5 CMAR shall receive, open, record and evaluate the bids. The apparent low bidders shall be interviewed to determine the responsiveness of their proposals. In evaluating the responsiveness of bid proposals, CMAR, in addition to bid price, shall consider the following factors: past performance on similar projects, qualifications and experience of personnel assigned, quality management plan, approach or understanding of the Work to be performed, and performance schedule to complete the Work. The final evaluation of Subcontractor bids shall be done with the City representative in attendance to observe and witness the process. CMAR shall resolve any Subcontractor bid withdrawal, protest or disqualification in connection with the award at no increase in the cost of the Work.
- 2.8.4 Upon completion of the Subcontractor selection process, CMAR shall submit a summary report to the City of the entire Subcontractor selection process. The report shall indicate, by bid process, all Subcontractors contacted to determine interest, the Subcontractors solicited, the bids received and costs negotiated, compliance with Arizona law as cited in Subsection 2.8.1 above and the selected Subcontractors for each category of Work.
- 2.8.5 The selected Subcontractors shall provide a schedule of values, which shall be used to create the overall Project schedule of values.

- 2.8.6 CMAR shall employ only Subcontractors who are duly licensed in Arizona and qualified to perform the Work per the requirements of the Contract Documents.
- 2.8.7 Regardless of the selection procedure, CMAR is responsible for ensuring that the costs of the Subcontractor's and/or Supplier's services are reasonable and a prudent use of public funds.
- 2.8.8 Regardless of the selection procedure and in any case, CMAR is solely responsible for the cost and performance of the selected Subcontractors or Suppliers. The City's approvals under this section are not and shall not be construed to be a waiver, in part or in whole, of CMAR's responsibility and obligation to perform as set forth in this Agreement or any subsequent construction agreement or GMP and for the cost, or less than the cost, set forth in any GMP to which the parties agree.

**ARTICLE 3 – PERIOD OF SERVICES**

- 3.1 The design phase services described in this Agreement shall be performed by CMAR in accordance with the most current updated/revised Project Master Schedule. Failure on the part of CMAR to adhere to the Project Master Schedule requirements for activities for which it is responsible shall be sufficient grounds for termination of this Agreement by the City.
- 3.1.1 Upon failure to adhere to the approved Project Master Schedule, the City may provide written notice to CMAR that it intends to terminate this Agreement unless the problem cited is cured, or commenced to be cured, within three (3) days of CMAR's receipt of such notice.
- 3.2 If the date of performance of any obligation or the last day of any time period provided for herein should fall on a Saturday, Sunday, or holiday for the City, then said obligation shall be due and owing, and said time period shall expire, on the first day thereafter which is not a Saturday, Sunday or legal City holiday. Except as may otherwise be set forth herein, any performance provided for herein shall be timely made if completed no later than 4:00 p.m. (Flagstaff time) on the day of performance.

**ARTICLE 4 – CONTRACT AMOUNT AND PAYMENTS**

**4.1 CONTRACT AMOUNT**

- 4.1.1 Based on the design phase services fee proposal submitted by CMAR and accepted by the City (which by reference is made a part of this Agreement); the City shall pay CMAR a fee not to exceed \$76,147.50 as follows:

For the basic services described in Article 2, CMAR shall receive a fee not to exceed:	\$76,147.50
<u>Additional services and allowances</u> , as described in Section 4.3:	
Contingency (Inclusive)	\$7,000.00
Total Contract Amount, not to exceed:	<u>\$76,147.50</u>

## 4.2 PAYMENTS

- 4.2.1 Requests for monthly payments by CMAR for design phase services shall be submitted on the City's "Contract Payment Request" form and shall be accompanied by a progress report, detailed invoices and receipts, if applicable. Any requests for payment shall include, as a minimum, a narrative description of the tasks accomplished during the billing period, a listing of any Deliverables submitted, and copies of any Subconsultants' associated with their Work. Payment for services negotiated as a lump sum shall be made in accordance with the percentage of Work completed during the preceding month. Services negotiated as a not-to-exceed fee shall be paid in accordance with the Work effort expended on that service during the preceding month. □ requests to
- 4.2.2 Fees for CMAR and any Subconsultants shall be based upon the Hourly Rate Schedule included as Exhibit "B" attached hereto.
- 4.2.3 CMAR shall pay all sums due Subconsultants for services and reimbursable expenses within fourteen (14) calendar days after CMAR has received payment for those services from the City. In no event shall the City pay more than ninety percent (90%) of the Contract Amount until final acceptance of all design phase services, and award of the final approved GMP for the entire Project by City Council.
- 4.2.4 CMAR agrees that no charges or claims for costs or damages of any type shall be made by it for any delays or hindrances beyond the reasonable control of the City during the progress of any portion of the services specified in this Agreement. Such delays or hindrances, if any, shall be solely compensated for by an extension of time for such reasonable period as may be mutually agreed between the parties. It is understood and agreed, however, that permitting CMAR to proceed to complete any services, in whole or in part after the date to which the time of completion may have been extended, shall in no way act as a waiver on the part of the City of any of its legal rights herein.
- 4.2.5 No compensation to CMAR shall be allowed contrary to Article I, Chapter I, Title 34 of the Arizona Revised Statutes.
- 4.2.6 If any service(s) executed by CMAR is delayed or suspended in whole or in part, for a period of more than one hundred eighty (180) days through no fault of CMAR, CMAR shall be paid for the services performed prior to the delay or suspension.

## 4.3 ADDITIONAL DESIGN PHASE SERVICES

- 4.3.1 CMAR may be required to provide services in excess of those set forth in Article 2. Mark-ups are not authorized and only the reimbursables specifically identified below shall be reimbursed as authorized herein. Any additional services shall be requested by the City, in writing, prior to the delivery of said services. There shall be no payment by the City for any additional services provided prior to or without the written request of the City for said services.
- 4.3.2 When authorized by the City, CMAR shall be entitled to reimbursement at cost of design phase services related expenses incurred for the following items:
- (a) Reasonable charges for air transportation (not to exceed standard coach rates), ground travel (for automobile rental, taxi, parking, etc. not to exceed \$50 per day), and authorized expenses while traveling (not to exceed the corporate rate at major business hotels in the area and a per diem for meal and miscellaneous business expenses of \$45) shall be reimbursed. CMAR shall provide detailed receipts for all reimbursable charges. Travel expenses shall not exceed \$ N/A without further approval of the City.
  - (b) Long-distance telephone and long-distance facsimile costs incurred on behalf of the Project shall be reimbursed. These costs shall not exceed \$ N/A without further approval of the City.

- (c) Non-overhead printing expenses incurred including the printing of Construction Documents for bidding, courier services or other Project-related services that may be requested by the City. The cost of such service shall not exceed \$ N/A (reimbursable allowance) without further approval by the City.

## **ARTICLE 5 - CITY'S RESPONSIBILITIES**

- 5.1 The City, at no cost to CMAR, shall furnish the following information:
  - 5.1.1 One (1) copy of data the City determines pertinent to the work. However, CMAR shall be responsible for searching the records and requesting information it deems reasonably required for the Project.
  - 5.1.2 All available data and information pertaining to relevant policies, standards, criteria, studies, etc.
  - 5.1.3 The name of the person designated to be the City's representative during the term of this Agreement. The City's Representative has the authority to administer this Agreement and shall monitor CMAR's compliance with all terms and conditions stated herein. All requests for information from or decisions by the City on any aspect of the work or Deliverables shall be directed to the City's Representative.
- 5.2 The City additionally shall:
  - 5.2.1 Contract separately, with one or more design professionals, to provide architectural and/or engineering design services for the Project. The scope of services for the Design Professional shall be provided to CMAR for its information. CMAR shall have no right, to limit or restrict any changes of such services that are otherwise mutually acceptable to the City and Design Professional.
  - 5.2.2 Supply, without charge, all necessary copies of programs, reports, drawings, and specifications reasonably required by CMAR except for those copies whose cost has been reimbursed by the City.
  - 5.2.3 Provide CMAR with adequate information in its possession or control regarding the City's requirements for the Project.
  - 5.2.4 Give prompt written notice to CMAR when the City becomes aware of any default or defect in the Project or non-conformance with the Drawings and Specifications, or any of the services required hereunder. Upon notice of failure to perform, the City may provide written notice to CMAR that it intends to terminate this Agreement unless the problem cited is cured, or commenced to be cured, within three (3) days of CMAR's receipt of such notice.
  - 5.2.5 Notify CMAR of changes affecting the budget allocations or schedule.
- 5.3 The City's Representative, shall have authority to approve the Project Budget and Project Master Schedule, and render decisions and furnish information the City's Representative deems appropriate to CMAR.

## **ARTICLE 6 – AGREEMENT CONDITIONS**

### **6.1 PROJECT DOCUMENTS AND COPYRIGHTS**

- 6.1.1 City Ownership of Project Documents: All work products (electronically or manually generated) including but not limited to: cost estimates, studies, design analyses, original mylar drawings, Computer Aided Drafting and Design (CADD) file diskettes, and other related documents which are prepared specifically in the performance of this Agreement (collectively referred to as Project Documents) are to be and remain the property of the City and are to be delivered to the City's Representative before the final payment is made to CMAR. Nonetheless, in the event these Projects Documents are altered, modified or adapted without the written consent of CMAR, which consent CMAR shall not unreasonably withhold, the City agrees to hold CMAR harmless to the extent permitted by law, from the legal liability

arising out of and or resulting from the City's alteration, modification or adaptation of the Project Documents.

- 6.1.2 CMAR to Retain Copyrights: The copyrights, patents, trade secrets or other intellectual property rights associated with the ideas, concepts, techniques, inventions, processes or works of authorship developed or created by CMAR, its Subconsultants or personnel, during the course of performing this Agreement or arising out of the Project shall belong to CMAR.
- 6.1.3 License to City for Reasonable Use: CMAR hereby grants, and shall require its Subconsultants to grant, a license to the City, its agents, employees, and representatives for an indefinite period of time to reasonably use, make copies, and distribute as appropriate the Project Documents, works or Deliverables developed or created for the Project and this Agreement. This license shall also include the making of derivative works. In the event that the derivative works require the City to alter or modify the Project Documents, then Subsection 6.1.1 above applies.
- 6.1.4 Documents to Bear Seal: When applicable and required by state law, CMAR and its Subconsultants shall endorse by an Arizona professional seal all plans, works, and Deliverables prepared by them for this Agreement.
- 6.1.5 Records Inspection: The City and its employees, agents, and authorized representatives shall have the right at all reasonable times and during all business hours to inspect and examine CMAR's records related to this Agreement.
- 6.1.6 Record Retention: CMAR shall comply with the City's record retention policy with regard to all records associated with the Project. This record retention requirement shall remain in effect following expiration of the Agreement or termination of the Agreement by either Party.

## **6.2 COMPLETENESS AND ACCURACY OF CMAR'S WORK**

CMAR shall be responsible for the completeness and accuracy of its reviews, reports, supporting data, and other design phase Deliverables prepared or compiled pursuant to its obligations under this Agreement and shall at its sole expense correct its work or Deliverables. Any damage incurred by the City as a result of additional construction cost caused by such willful or negligent errors, omissions or acts shall be chargeable to CMAR to the extent that such willful or negligent errors, omissions and acts fall below the standard of care and skill that a professional CMAR in Flagstaff, Arizona would exercise under similar conditions. The fact that the City has accepted or approved CMAR's work or Deliverables shall in no way relieve CMAR of any of its responsibilities under this Agreement, nor does this requirement to correct the work or Deliverables constitute a waiver of any claims or damages otherwise available by law or Agreement to the City. Correction of errors, omissions and acts discovered on architectural or engineering plans and specifications shall be the responsibility of the Design Professional.

## **6.3 ALTERATION IN CHARACTER OF WORK**

- 6.3.1 In the event an unanticipated or unforeseen alteration or modification in the character of Work or Deliverables results in a substantial change in this Agreement, thereby materially increasing or decreasing the scope of services, cost of performance, or Project Master Schedule, the Work or Deliverables shall nonetheless be performed as directed by the City. However, before any altered or modified Work begins, a Change Order or Amendment shall be approved and executed by the City and CMAR. Such Change Order or Amendment shall not be effective until approved by the City.
- 6.3.2 Additions to, modifications, or deletions from the Project provided herein may be made, and the compensation to be paid to CMAR may accordingly be adjusted by mutual agreement of the contracting parties.

6.3.3 No claim for extra work done, or materials furnished, by CMAR shall be allowed by City except as provided herein, nor shall CMAR do any work or furnish any material(s) not covered by this Agreement unless such work or material is first authorized in writing. Work or material(s) furnished by CMAR without such prior written authorization shall be at CMAR's sole jeopardy, cost, and expense, and CMAR hereby agrees that without prior written authorization no claim for compensation for such work or materials furnished shall be made.

#### **6.4 DATA CONFIDENTIALITY**

6.4.1 As used in this Agreement, data ("**Data**") means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by CMAR in the performance of this Agreement.

6.4.2 The parties agree that all Data, including originals, images, and reproductions, prepared by, obtained by, or transmitted to CMAR in connection with CMAR's performance of this Agreement is confidential and proprietary information belonging to the City.

6.4.3 CMAR shall not divulge Data to any third party without prior written consent of the City. CMAR shall not use the Data for any purposes except to perform the services required under this Agreement. These prohibitions shall not apply to the following Data:

6.4.3.1 Data, which was known to CMAR prior to its performance under this Agreement unless such data was acquired in connection with work performed for the City;

6.4.3.2 Data which was acquired by CMAR in its performance under this Agreement and which was disclosed to CMAR by a third party, who to the best of CMAR's knowledge and belief, had the legal right to make such disclosure and CMAR is not otherwise required to hold such data in confidence; or

6.4.3.3 Data which is required to be disclosed by CMAR by virtue of law, regulation, or court.

6.4.4 In the event CMAR is required or requested to disclose Data to a third party, or any other information to which CMAR became privy as a result of any other Agreement with the City, CMAR shall first notify the City as set forth in this Article of the request or demand for the Data. CMAR shall timely give the City sufficient facts, such that the City can have a meaningful opportunity to either first give its consent or take such action that the City may deem appropriate to protect such Data or other information from disclosure.

6.4.5 CMAR, unless prohibited by law, within ten (10) calendar days after completion of services for a third party on real or personal property owned or leased by the City, shall promptly deliver, as set forth in this section, a copy of all Data to the City. All Data shall continue to be subject to the confidentiality agreements of this Agreement.

6.4.6 CMAR assumes all liability for maintaining the confidentiality of the Data in its possession and agrees to compensate the City if any of the provisions of this section are violated by CMAR, its employees, agents or Subconsultants. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this section shall be deemed to cause irreparable harm that justifies injunctive relief in court.

#### **6.5 PROJECT STAFFING**

6.5.1 Prior to the start of any work or Deliverables under this Agreement, CMAR shall submit to the City, an organization chart for CMAR staff and Subconsultants and detailed resumes of key personnel listed in its response to the City's Request for Qualifications or subsequent fee proposals (or revisions thereto), that shall be involved in performing the services prescribed in this Agreement. Unless otherwise informed, the City hereby acknowledges its acceptance of such personnel to perform such services

under this Agreement. In the event CMAR desires to change such key personnel from performing such services under this Agreement, CMAR shall submit the qualifications of the proposed substituted personnel to the City for prior approval. Key personnel shall include, but are not limited to, principal-in-charge, project manager, superintendent, project director or those persons specifically identified to perform services of cost estimating, scheduling, value engineering, and procurement planning.

- 6.5.2 CMAR shall maintain an adequate number of competent and qualified persons, as determined by the City, to ensure acceptable and timely completion of the scope of services described in this Agreement throughout the period of those services. If the City objects, with reasonable cause, to any of CMAR's staff, CMAR shall take prompt corrective action acceptable to the City and, if required, remove such personnel from the Project and replace with new personnel acceptable to the City.

## **6.6 INDEPENDENT CONTRACTOR**

- 6.6.1 CMAR is and shall be an independent contractor and whatever measure of control the City exercises over the work or Deliverables pursuant to this Agreement shall be as to the results of the work only. No provision in this Agreement shall give, or be construed to give, the City the right to direct CMAR as to the details of accomplishing the work or Deliverables. These results shall comply with all applicable laws and ordinances.

## **6.7 SUBCONSULTANTS**

- 6.7.1 Prior to beginning the work or Deliverables, CMAR shall furnish, for the City's approval, the names of all Subconsultants to be used on this Project. All subsequent changes shall be subject to the approval of the City.

## **6.8 TERMINATION**

- 6.8.1 The City and CMAR hereby agree to the full performance of the covenants contained herein, except that the City reserves the right, at its discretion and without cause, to terminate any or all services provided for in this Agreement, or terminate any portion of the Project for which services have been performed by CMAR.
- 6.8.2 In the event the City terminates any or all of the services or any part of the services as herein provided, the City shall so notify CMAR in writing, and CMAR shall immediately after receiving such notice, discontinue advancing the Work specified under this Agreement and mitigate the expenditure, if any, of costs resulting from such termination.
- 6.8.3 CMAR, upon such termination, shall promptly deliver to the City all reports, estimates and other work or Deliverables entirely or partially completed, together with all unused materials supplied by the City.
- 6.8.4 CMAR shall appraise the work completed and submit an appraisal to the City for evaluation. The City shall have the right to inspect CMAR's Work or Deliverables to appraise the Work completed.
- 6.8.5 CMAR shall receive compensation in full for services satisfactorily performed to the date of such termination and the reasonable direct costs and direct expenses attributable to such termination. The fee shall be paid in accordance with Article 4 of this Agreement, and shall be an amount mutually agreed upon by CMAR and the City. If there is no mutual agreement, the final determination shall be made in accordance with Section 6.9, "Disputes". However, in no event shall the fee exceed that set forth in Article 4 or as amended in accordance with Section 6.3 above, "Alteration in Character of Work". The City shall make the final payment within sixty (60) days after CMAR has delivered the last of the partially or otherwise completed Work items and the final fee has been agreed upon.

## **6.9 DISPUTE AVOIDANCE AND RESOLUTION**

- 6.9.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, CMAR and City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.
- 6.9.2 CMAR and the City shall first attempt to resolve disputes or disagreements at the field level through discussions between CMAR's Representative and the City's Representative.
- 6.9.3 If a dispute or disagreement cannot be resolved through CMAR's Representative and the City's Representative, CMAR's Senior Representative and the City's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Senior Representatives, the parties shall exchange relevant information that shall assist the parties in resolving their dispute or disagreement.
- 6.9.4 Except as otherwise agreed by the parties, any litigation brought by either party against the other to enforce the provisions of this Agreement shall be filed in the Coconino County Superior Court and Arizona law shall apply and control. In the event any action at law or in equity is instituted between the parties in connection with this Agreement, the prevailing party in the action shall be entitled to its costs including reasonable attorneys' fees and court costs from the non-prevailing party.

#### **6.10 WITHHOLDING PAYMENT**

- 6.10.1 The City reserves the right to withhold funds from the City's progress payments up to the amount equal to the claims the City may have against CMAR, until such time that a settlement on those claims has been reached.

#### **6.11 RECORDS/AUDIT**

- 6.11.1 Records of CMAR's direct personnel payroll, reimbursable expenses pertaining to the Project and records of accounts between the City and CMAR shall be kept on a generally recognized accounting basis and shall be available for up to three (3) years following final completion of the Project. The City, its authorized representative, and/or the appropriate federal agency, reserve the right to audit CMAR's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate this Agreement and any Change Orders. The City reserves the right to decrease Contract Amount and/or payments made on this Agreement if, upon audit of CMAR's records, the audit discloses CMAR has provided false, misleading, or inaccurate cost and pricing data.
- 6.11.2 CMAR shall include a provision similar to Subsection 6.11.1 above in all of its agreements with Subconsultants, Subcontractors, and Suppliers providing services under this Agreement to ensure the City, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants', Subcontractors', and Suppliers' records to verify the accuracy of cost and pricing data. The City reserves the right to decrease Contract Amount and/or payments made on this Agreement if the above provision is not included in Subconsultant, Subcontractor, and Supplier Agreements, and one or more of those parties do not allow the City to audit their records to verify the accuracy and appropriateness of pricing data.

#### **6.12 INDEMNIFICATION**

- 6.12.1 To the fullest extent permitted by law, Contractor shall indemnify, save and hold harmless the City of Flagstaff and its officers, officials, agents, and employees from and against all liabilities, damages, losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of the Contractor, subcontractor, design professional or other persons employed or used by Contractor, subcontractor or design professional in

the performance of the Contract. The amount and type of insurance coverage required under the Contract shall in no way be construed as limiting the scope of this indemnification provision. This indemnification provision shall survive termination or expiration of the Contract.

**6.13 NOTICES**

6.13.1 Many notices or demands required to be given, pursuant to the terms of this Agreement, may be given to the other Party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested at the address set forth below **and** to legal counsel for the party to whom the notice is being given.

To City:	Patrick Brown, Senior Procurement Specialist City of Flagstaff 211 West Aspen Avenue Flagstaff, Arizona 86001
To CMAR	Marco Spagnuolo, CEO Eagle Mountain Construction 3100 N. Caden Ct. Flagstaff, Arizona 86004
Copy to City:	Eli Reisner, Project Manager City of Flagstaff 211 West Aspen Avenue Flagstaff, Arizona 86001
Copy to: Design Professional (if applicable)	Dan Burke, P.E. The WLB Group 500 N. Beaver Street Flagstaff, Arizona 86001

Or to other such place and with such other copies as either party may designate as to itself by written notice to the other party. Rejection, any refusal to accept, or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal, or inability to deliver.

**6.14 COMPLIANCE WITH ALL LAWS**

6.14.1 CMAR will comply with all applicable Federal, State, County and City laws, regulations and policies, including but not limited to the mandatory statutory provisions in Exhibit \_\_, attached and made a part of this Agreement. CMAR understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. CMAR agrees to comply with these laws in performing the Contract Documents and to permit the City to verify such compliance.

**6.15 CONFLICT OF INTEREST**

6.15.1 To evaluate and avoid potential conflicts of interest, CMAR shall provide written notice to the City, as set forth in this section, of any work or services performed by CMAR for third parties that may involve or be associated with any real property or personal property owned or leased by the City. Such notice shall be given at least seven (7) business days prior to commencement of the Project by CMAR for a third party,

or at least seven (7) business days prior to an adverse action as defined below. Written notice and disclosure shall be sent to:

Patrick Brown, C.P.M.  
Senior Procurement Specialist  
City of Flagstaff  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

6.15.2 Actions considered to be adverse to the City under this Agreement include but are not limited to:

- (a) Using Data, as defined in this Agreement, acquired in connection with this Agreement to assist a third party in pursuing administrative or judicial action against the City;
- (b) Testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against the City; and
- (c) Using Data to produce income for CMAR or its employees independently of performing the services under this Agreement, without the prior written consent of the City.

6.15.3 CMAR represents that except for those persons, entities and projects previously identified in writing to the City, the services to be performed by CMAR under this Agreement are not expected to create an interest with any person, entity, or third party project that is or may be adverse to the interests of the City.

6.15.4 CMAR's failure to provide a written notice and disclosure of the information as set forth in this section shall constitute a material breach of this Agreement.

## **6.16 CONTRACTOR'S LICENSE**

6.16.1 Prior to award of this Agreement, CMAR shall provide to the City's Senior Procurement Specialist, its Contractor's License Classification and number and its Federal Tax I.D. number.

## **6.17 SUCCESSORS AND ASSIGNS**

6.17.1 The City and CMAR and their partners, successors, assigns, and legal representatives shall each be bound to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party in respect to all covenants of this Agreement. Neither the City nor CMAR shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. In no event shall any contractual relationship be created or be construed to be created as between any third party and the City. Notwithstanding the City's consent to assignment, CMAR as Assignor, and the Assignee shall both remain liable under all rights, obligations, terms, and conditions of this Agreement.

## **6.18 FORCE MAJEURE**

6.18.1 If either party is delayed or prevented from the performance of any service, in whole or part, required under this Agreement by reason of acts of God or other cause beyond the control and without fault of that party (financial inability excepted), performance of that act shall be excused, but only for the period of the delay. The time for performance of the act shall be extended for a period equivalent to the period of delay.

## **6.19 COVENANT AGAINST CONTINGENT FEES**

6.19.1 CMAR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that

no member of the City Council, or any employee of the City has any interest, financially, or otherwise, in CMAR. The City shall in the event of the breach or violation of this warranty, have the right to annul this Agreement without liability, or at its discretion to deduct from the Contract Amount or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

**6.20 NON-WAIVER PROVISION**

6.20.1 The failure of either party to enforce any of the provisions of this Agreement or to require performance by the other party of any of the provisions hereof shall not be construed to be a waiver of such provisions, nor shall it affect the validity of this Agreement or any part thereof, or the right of either party to thereafter enforce each and every provision.

**6.21 JURISDICTION**

6.21.1 This Agreement shall be deemed to be made under, and shall be construed in accordance with, and governed by the laws of the State of Arizona, without regard to the conflicts or choice of law provisions thereof. An action to enforce any provision of this Agreement or to obtain any remedy with respect hereto shall be brought in the Superior Court, Coconino County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such Court.

**6.22 SURVIVAL**

6.22.1 All warranties, representations and indemnifications by CMAR shall survive the completion or termination of this Agreement.

**6.23 MODIFICATION**

6.23.1 No supplement, modification, or amendment of any term of this Agreement shall be deemed binding or effective unless in writing and signed by the parties hereto and in conformation with provisions of this Agreement, except as expressly provided herein to the contrary.

**6.24 SEVERABILITY**

6.24.1 If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

**6.25 INTEGRATION**

6.25.1 This Agreement contains the full agreement of the parties hereto. Any prior or contemporaneous written or oral agreement between the parties regarding the subject matter hereof is merged and superseded hereby.

**6.26 TIME IS OF THE ESSENCE**

6.26.1 Time of each of the terms, covenants, and conditions of this Agreement is hereby expressly made of the essence.

**6.27 THIRD PARTY BENEFICIARY**

6.27.1 This Agreement shall not be construed to give any rights or benefits in the Agreement to anyone other than the City and CMAR. All duties and responsibilities undertaken pursuant to this Agreement shall be for the sole and exclusive benefit of the City and CMAR and not for the benefit of any other party.

**6.28 COOPERATION AND FURTHER DOCUMENTATION**

6.28.1 CMAR agrees to provide the City such other duly executed documents as may be reasonably requested by the City to implement the intent of this Agreement.

**6.29 CONFLICT IN LANGUAGE**

6.29.1 All Work or Deliverables performed shall conform to all applicable City codes, ordinances and requirements as outlined in this Agreement. If there is a conflict in interpretation between provisions in this Agreement and any Exhibits, the provisions in this Agreement shall prevail.

**6.30 CANCELLATION FOR CONFLICT OF INTEREST**

6.3.1 All parties hereto acknowledge that this Agreement is subject to cancellation for conflict of interest by the City pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

**6.31 CONFIDENTIALITY OF PLANS & SPECIFICATIONS**

6.31.1 Any plans or specifications received by CMAR regarding the Project are for official use only. CMAR may not share them with others except as required to fulfill Agreement obligations with the City.

**ARTICLE 7 - INSURANCE**

CMAR shall procure and maintain for the duration of this Agreement, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the Work or Deliverables hereunder by CMAR, its agents, representatives, employees, Subconsultants, Subcontractors, and/or Suppliers. Insurance requirements related to any construction Work done during the design phase or during the construction phase shall be defined in a separate Agreement associated with the construction phase. CMAR shall cause all Subcontracts to contain identical terms and conditions to those included in this Article.

The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants that might arise out of the performance of the Work or Deliverables under this Agreement by CMAR, its agents, representatives, employees, Subconsultants, Subcontractors, or Suppliers and CMAR is free to purchase such additional insurance as it may determine necessary.

**7.1 MINIMUM SCOPE AND LIMITS OF INSURANCE**

7.1.1 CMAR shall provide coverage at least as broad and with limits of liability not less than those stated below.

7.1.1.1 Commercial General Liability-Occurrence Form

General Aggregate/per project	\$2,000,000/\$1,000,000
Products-Completed Operations Aggregate	\$1,000,000
Each Occurrence	\$1,000,000

7.1.1.2 Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles

Combined Single Limit Per Accident for Bodily Injury and Property Damage	\$1,000,000
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The policy shall be endorsed to include the following additional insured language: **"The City of Flagstaff shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of CMAR, including automobiles owned, leased, hired or borrowed by CMAR."**

7.1.1.3 Workers Compensation and Employers Liability

The CMAR shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes.

**Additional Insured Status.** The insurance coverage, except Workers' Compensation, required by this Agreement, shall name the CITY, its agents, representatives, directors, officials, employees, and officers, as additional insured AND be accompanied by the required endorsement. Such evidence of additional insured status shall be subject to the approval of the Risk Management Department of the City of Flagstaff. The absence of acceptable insurance and endorsement shall be deemed a breach of this agreement.

7.1.2 Self-Insured Retentions Any self-insured retentions and deductibles greater than \$10,000 shall be declared to and approved by the City.

## **7.2 OTHER INSURANCE REQUIREMENTS**

7.2.1 The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

7.2.1.1 The City, its officers, officials, agents, and employees, are to be named as additional insureds with respect to liability arising out of: activities performed by or on behalf of CMAR, including the City's general supervision of CMAR; products and completed operations of CMAR; and automobiles owned, leased, hired or borrowed by CMAR.

7.2.1.2 The Commercial General Liability Insurance shall contain broad form contractual liability coverage and shall not exclude liability arising out of the explosion, collapse or underground hazard ("EXU").

7.2.1.3 The City, its officers, officials, agents, and employees shall be additional insureds to the full limits of liability purchased by CMAR, even if those limits of liability are in excess of those required by this Agreement. The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form B CG 20 10 11 85.

7.2.2 CMAR's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, and employees. Insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of CMAR's insurance and shall not contribute to it.

7.2.3 CMAR'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. The coverage provided by CMAR and its Subcontractors shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

7.2.4 The policies shall contain a waiver of subrogation against the City, its officers, officials, agents, and employees for losses arising from Work performed for the City.

7.2.5 Workers' Compensation and Employers Liability policies are to contain, or be endorsed to contain, the following: The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, agents, and employees for losses arising from work performed for the City.

## **7.3 SUBCONSULTANT INSURANCE**

7.3.1 CMAR's certificate(s) shall include all Subcontractors as insureds under its policies. All coverages for Subcontractors shall be subject to the minimum requirements identified above.

## **7.4 NOTICE OF CANCELLATION**

7.4.1 Each insurance policy required by the insurance provisions of this Agreement shall provide the required

coverage and not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given, by certified mail, return receipt requested to:

Patrick Brown, C.P.M.  
Senior Procurement Specialist  
The City of Flagstaff  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

## **7.5 ACCEPTABILITY OF INSURERS**

7.5.1 Insurance is to be placed with insurers duly licensed companies in the State of Arizona, and with an A.M. Best's rating of no less than A-,7, or as approved by the City and licensed in the State of Arizona with policies and forms satisfactory to the City. The City in no way warrants that the above required minimum insurer rating is sufficient to protect CMAR from potential insurer insolvency.

## **7.6 VERIFICATION OF COVERAGE**

7.6.1 CMAR shall furnish the City, Certificates of Insurance (ACORD form or equivalent approved by the City) with original endorsements effecting coverage as required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsement(s) that restricts or limits coverages shall be clearly noted on the Certificate of Insurance.

7.6.2 All certificates and endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Agreement shall be in effect at or prior to the earlier of commencement of work under this Agreement or signing of 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 shall constitute a material breach of this Agreement.

7.6.3 All Certificates of Insurance required by this Agreement shall be sent directly to the Contracts Division. The Project Number and Project description shall be included on the Certificates of Insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

## **7.7 APPROVAL**

7.7.1 Any modification or variation from the insurance requirements in this Agreement shall be approved by the City Attorney's Office, whose decision shall be final. Such action shall not require a formal Agreement amendment, but may be made by administrative action.

This Agreement shall be in full force and effect only when it has been approved and executed by the duly authorized City officials.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on \_\_\_\_\_.

THE CITY OF FLAGSTAFF, ARIZONA,

Eagle Mountain Construction

By: \_\_\_\_\_  
Josh Copley  
City Manager

By: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

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

APPROVED AS TO FORM:

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

## **EXHIBIT A – SCOPE AND FEE**

Following is a brief description of the Project for which the design phase service services specified in this Agreement are to be performed:

See attached Scope of Work dated August 19, 2016.



August 19, 2016

Sent Via Email

Eli Reisner  
Capital Improvements Project Manager  
City of Flagstaff  
211 W. Aspen Avenue  
Flagstaff, AZ 86001

Re: **RR&SS BUNDLE 2 (BEAVER/DALE) ("PROJECT")**  
**DESIGN PHASE SERVICES NARRATIVE & FEE PROPOSAL ("PROPOSAL")**

Mr. Reisner,

Eagle Mountain Construction (EMC) is pleased to provide this Proposal for the above Project. The Team met on 7/18/16 & 7/22/16 to define the Project's initial goals, expectations and design phase requirements.

EMC offers to provide the CMAR Design Phase Services defined herein for **\$69,147.50** with a \$7,000.00 Owners contingency, for a Total Contract Amount of **\$76,147.50**.

The following is a narrative of the scopes of work and deliverables as assumed by EMC.

1.1 - PROJECT KICK-OFF MEETINGS - TWO (2) MEETINGS IF NEEDED

EMC to participate in initial Project Kick-off and Scoping Meeting(s) with the City of Flagstaff (City) and its various departments, WLB, and stakeholders such as NAIPTA, FUSD, ADOT, FDBA, FMC, and first responders. The City will run the meeting, and EMC will provide input as required. Due to the seemingly high number of stakeholders, EMC has budgeted time for two meetings.

1.2 - CMAR DESIGN DEVELOPMENT SERVICES

EMC to participate in twelve (12) Project bi-weekly meetings to provide general design review, VE analysis, constructability reviews, design schedule analysis, phasing options, and to provide a Project Execution Plan. The PEP will address traffic control, construction sequencing, access plans for business and residents, SWPPP analysis, and strategies to minimize pressure to the project stakeholders referenced above. Relevant information from the public outreach meetings will be incorporated into the PEP. The PEP will be an evolving plan, modified as needed. Design development reviews will be completed by EMC at document stages of 30%, 60%, 90%, (Final 1). EMC has also included anticipated hours for "homework" type tasks such as ADOT permitting and franchise utility research. Lastly, EMC will participate in a Design Team Walkthrough Meeting.

1.3 - PUBLIC OUTREACH MEETINGS - TWO (2) MEETINGS ANTICIPATED

EMC to participate in two public outreach meetings - one at 60% design, led by the City; and one Pre-Construction led by EMC. These outreach meetings will be in a public forum format, including a presentation and QA session. The purpose of the first outreach meeting is to provide the public with general Project knowledge and information, while allowing for feedback from vested parties. The Pre-Construction meeting will be similar to the first in format, but more detailed with regards to schedule, phasing, and access restrictions.



#### 1.4 - SUBSURFACE UTILITY INVESTIGATION

EMC has included the attached proposal from Cardno, Inc. for underground utility exploration and mapping, to assist WLB and to provide EMC with as much information as possible on existing utilities. EMC has agreed with the City and Cardno on \$13,125.00 for up to 25 potholes. EMC will coordinate with WLB and Cardno on the location of the potholes to be provided. EMC will assist and coordinate with franchise utilities as needed.

#### 1.5 - SCHEDULE DEVELOPMENT

EMC will develop and maintain an overall CMAR Project Schedule identifying both design and construction phase milestones. A detailed Construction Phase Schedule will be developed at the 60% stage, and refined as additional information is made available from the 90% (Final 1) documents.

Current target milestone dates include: EMC's comprehensive GMP proposal for City review and approval April 12th, 2017; design complete - May 3rd, 2017; City staff approves Final GMP Proposal May 2nd, 2017; Council GMP approval - June 6, 2017; and construction completion - August 2018.

#### 1.6 - COST BUDGETING

At the 30% drawing stage EMC will generate a detailed Schedule of Values (SOV), populated with historical cost data. At 60% EMC will incorporate initial supplier and subcontractor estimates to generate a more reliable SOV for review and discussion with the COF. At 90% EMC will provide a budget with finalized quantities, and approved suppliers and subcontractors.

#### 1.7 - SUBCONTRACTOR AND SUPPLIER PROCUREMENT

At the 60% stage EMC will solicit subcontractor and supplier interest, and present an initial approved list for discussion with the City. EMC will then distribute contract documents to the approved list and gather proposals for review and analysis. EMC will develop a matrix to compare and contrast proposals, providing Best Value Analysis ranking. EMC will make recommendations for review and approval by the City.

#### 1.8 - GMP DEVELOPMENT AND PROPOSAL

Upon completion of 100% (Final 2) documents, EMC will generate a comprehensive GMP Proposal for review and approval. This proposal will include the following:

- Project Description
- Clarifications, Assumptions & Exclusions List
- GMP Summary
- General Conditions Expenses
- Insurance and Bond Rates
- Schedule of Values
- Subcontractor and Supplier List
- Project Master Schedule & Phasing Plan

The services described herein are proposed on a Not to Exceed (NTE) time and material basis, where expenses and hours will be tracked, documented, and billed against the Design Phase Services Agreement. Labor classifications and rates are listed on the CMAR Design Phase Fee Proposal.

Thank you for your consideration, and do not hesitate to contact me with any questions.

**Eagle Mountain Construction**

**Jason Woods**  
**Project Manager**



3100 North Caden Court  
Flagstaff, Arizona 86004

Mass Earthwork • Utilities • Concrete • Paving  
AZROC # 231544 231545 • EMC is a dba of KEAR Civil Corp.

928-526-2587  
www.emcaz.com

## CMAR Design Phase Fee Proposal

**To:** Eli Reisner, City of Flagstaff  
**Project:** RR&SS Bundle 2 - Beaver/Dale  
**Date:** 8/19/2016  
**Rev #:** \_\_\_\_\_

#	ITEM DESCRIPTION	Project Director	Project Manager	Superintendent	Estimator	Scheduler	Direct Hrs.	Direct Labor Total	Allowances Fee 10.0%	TOTAL
		Hourly Rate \$ 95.00	\$ 85.00	\$ 65.00	\$ 75.00	\$ 55.00				
#	ITEM DESCRIPTION	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.				
<b>1.1 - Project Kick-Off Meetings</b>										
1.1.1	Kick-Off Meeting #1	2.0	4.0	4.0			10.0	\$ 790.00	\$ -	\$ 790.00
1.1.2	Kick-Off Meeting #2	2.0	4.0	4.0			10.0	\$ 790.00	\$ -	\$ 790.00
	<b>SUBTOTAL:</b>	<b>4.0</b>	<b>8.0</b>	<b>8.0</b>	<b>0.0</b>	<b>0.0</b>	<b>20.0</b>	<b>\$ 1,580.00</b>	<b>\$ -</b>	<b>\$ 1,580.00</b>
<b>1.2 - CMAR Design Development Services</b>										
1.2.1	Bi-Weekly Design Meetings	12.0	24.0	12.0			48.0	\$ 3,960.00	\$ -	\$ 3,960.00
1.2.2	Design Team Walkthrough Meeting	4.0	4.0	4.0			12.0	\$ 980.00	\$ -	\$ 980.00
1.2.3	Project Execution Plan	1.0	16.0	2.0			19.0	\$ 1,585.00	\$ -	\$ 1,585.00
1.2.4	Homework & Research		8.0	4.0			12.0	\$ 940.00	\$ -	\$ 940.00
	<b>SUBTOTAL:</b>	<b>17.0</b>	<b>52.0</b>	<b>22.0</b>	<b>0.0</b>	<b>0.0</b>	<b>91.0</b>	<b>\$ 7,465.00</b>	<b>\$ -</b>	<b>\$ 7,465.00</b>
<b>1.3 Public Outreach Meetings</b>										
1.3.1	Design Phase Outreach Mtg	1.0	4.0	2.0			7.0	\$ 565.00	\$ -	\$ 565.00
1.3.2	Pre-Con Outreach Mtg	1.0	8.0	2.0			11.0	\$ 905.00	\$ -	\$ 905.00
	<b>SUBTOTAL:</b>	<b>2.0</b>	<b>12.0</b>	<b>4.0</b>	<b>0.0</b>	<b>0.0</b>	<b>18.0</b>	<b>\$ 1,470.00</b>	<b>\$ -</b>	<b>\$ 1,470.00</b>
<b>1.4 - Subsurface Investigation</b>										
1.4.1	Potholing \ Allowance		2.0	8.0			10.0	\$ 690.00	\$ -	\$ 690.00
1.4.2	Franchise Utility Coordination		2.0	8.0			10.0	\$ 690.00	\$ -	\$ 690.00
1.4.3	Subsurface Utility Engineering by Cardno							\$ 42,575.00	\$ 4,257.50	\$ 46,832.50
	<b>SUBTOTAL:</b>	<b>0.0</b>	<b>4.0</b>	<b>16.0</b>	<b>0.0</b>	<b>0.0</b>	<b>20.0</b>	<b>\$ 43,955.00</b>	<b>\$ 4,257.50</b>	<b>\$ 48,212.50</b>
<b>1.5 - Schedule Development</b>										
1.5.1	CMAR Project Schedule		2.0			2.0	4.0	\$ 280.00	\$ -	\$ 280.00
1.5.2	60% Construction Phase CPM		2.0	1.0	1.0	4.0	8.0	\$ 530.00	\$ -	\$ 530.00
1.5.3	90% Construction Phase CPM		2.0	1.0	1.0	2.0	6.0	\$ 420.00	\$ -	\$ 420.00
	<b>SUBTOTAL:</b>	<b>0.0</b>	<b>6.0</b>	<b>2.0</b>	<b>2.0</b>	<b>8.0</b>	<b>18.0</b>	<b>\$ 1,230.00</b>	<b>\$ -</b>	<b>\$ 1,230.00</b>
<b>1.6 - Cost Budgeting</b>										
1.6.1	30% SOV & Budget		2.0		32.0		34.0	\$ 2,570.00	\$ -	\$ 2,570.00
1.6.2	60% Budget		2.0		24.0		26.0	\$ 1,970.00	\$ -	\$ 1,970.00
1.6.3	90% Budget	1.0	2.0		16.0		19.0	\$ 1,465.00	\$ -	\$ 1,465.00
	<b>SUBTOTAL:</b>	<b>1.0</b>	<b>6.0</b>	<b>0.0</b>	<b>72.0</b>	<b>0.0</b>	<b>79.0</b>	<b>\$ 6,005.00</b>	<b>\$ -</b>	<b>\$ 6,005.00</b>
<b>1.7 - Subcontractor &amp; Supplier Procurement</b>										
1.7.1	Sub & Supplier Scoping		4.0		3.0		7.0	\$ 565.00	\$ -	\$ 565.00
1.7.2	Bid Solicitation		4.0		3.0		7.0	\$ 565.00	\$ -	\$ 565.00
1.7.3	Bid Analysis & Recommendation	1.0	4.0		3.0		8.0	\$ 660.00	\$ -	\$ 660.00
	<b>SUBTOTAL:</b>	<b>1.0</b>	<b>12.0</b>	<b>0.0</b>	<b>9.0</b>	<b>0.0</b>	<b>22.0</b>	<b>\$ 1,790.00</b>	<b>\$ -</b>	<b>\$ 1,790.00</b>
<b>1.8 - GMP Development</b>										
1.8.1	GMP Development	2.0	6.0		4.0		12.0	\$ 1,000.00	\$ -	\$ 1,000.00
1.8.2	Final Schedule & Phasing Plan	1.0	2.0	2.0			5.0	\$ 395.00	\$ -	\$ 395.00
	<b>SUBTOTAL:</b>	<b>3.0</b>	<b>8.0</b>	<b>2.0</b>	<b>4.0</b>	<b>0.0</b>	<b>17.0</b>	<b>\$ 1,395.00</b>	<b>\$ -</b>	<b>\$ 1,395.00</b>
<b>1.9 - Owners Contingency</b>										
1.9.1	Owners Contingency									\$7,000.00
	<b>TOTALS:</b>	<b>28.0</b>	<b>108.0</b>	<b>54.0</b>	<b>87.0</b>	<b>8.0</b>	<b>285.0</b>	<b>\$ 64,890.00</b>	<b>\$ 4,257.50</b>	<b>\$ 76,147.50</b>

August 21, 2016

**Jason Woods**  
**Project Manager**  
**Eagle Mountain Construction Co.**  
3100 N. Caden Ct.  
Flagstaff, AZ 86004

Cardno, Inc.  
Robert Ramsey, PE, LEED AP  
Phone 602.320.8121  
Email  
robert.e.ramsey@cardno.com

[www.Cardno.com](http://www.Cardno.com)

**Re: RR&SS Bundle #2 (Beaver/Dale)**  
**N. Beaver St. - W. Columbus Ave. to W. Birch Ave. and Dale Ave. - N. Humphreys St. to Agassiz St.**  
**Flagstaff, Arizona**  
**Proposal for Subsurface Utility Engineering Services – ASCE 38-02**

Dear Mr. Woods:

Cardno, Inc. is pleased to submit this proposal to provide professional Subsurface Utility Engineering services for the above referenced project to Eagle Mountain Construction Co. (EMC). The scope of work and fee structure are as follows:

## **SCOPE OF WORK**

### **Project Limits**

The project limits for professional Subsurface Utility Engineering services include N. Beaver St. from W. Columbus Ave. to W. Birch Ave. and Dale Ave. from N. Humphreys St. to Agassiz St. Street in Flagstaff, Arizona. The scope will also include 5 additional intersection along the N. Beaver corridor (Cherry, Elm, Fine, Hunt, and Sullivan) and 2 additional intersection along the W. Dale corridor (Leroux, and San Francisco). See Exhibit A for overall project limits, exhibit was provided to Cardno by COF on 8/12/16.

### **Task 1 Subsurface Utility Engineering (Quality Level B)**

Cardno will provide Quality Level 'B' and 'A' subsurface utility engineering services within the project limits as described above for existing Subsurface Utilities in accordance with the Quality Level definitions provided below and requirements of the CI/ASCE 38-02 publication entitled ***“Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data”***.

- **Quality Level 'D' (QLD) Not completed by Cardno:** QLD mapping will be completed by WLB. WLB will provide records research of existing subsurface and overhead utilities within the project limits by contacting each utility owner and obtaining their available facility records. WLB and project team will issue the full records research and field notes to Cardno prior to commencing any field activities. QLD mapping is based on information obtained from record drawings and includes utility type, ownership, size and material composition. WLB will provide one copy of each utility record obtained along with contact list of utility owners.
- **Quality Level 'C' (QLC) Not completed by Cardno:** WLB will provide QLC mapping to Cardno of existing untraceable subsurface utilities by correlating surveyed surface evidence to the QLD utility records to obtain the utility location. QLC mapping includes utility type, ownership, size and material composition based on available record information (this includes but not limited to: sanitary sewer, all utility structures, power poles, overhead utility mapping, storm drain systems, etc.). WLB and project team will provide a CAD file with all QLC and QLD mapping to Cardno prior to completing Cardno's field operations.

- **Quality Level 'B' (QLB):** Inclusive to the WLB QLD and QLC effort. Cardno will provide QLB mapping of existing traceable (metallic or nonmetallic buried with trace wire) subsurface utilities utilizing a variety of geophysical locating equipment to detect, verify and designate the location of subsurface utilities from above ground. Once designated, the utilities are marked using appropriate APWA colors and surveyed and mapped into a digitized CAD file compatible with the project design files. QLB utility mapping includes utility type, ownership, size and material composition of subsurface utilities. In addition, QLB utility mapping includes the location and identification of surface evidence of both traceable and untraceable utilities.

QLB utility designation and mapping includes major laterals and commercial service lines only unless otherwise noted below. It excludes landscape irrigation systems, traffic signal loop detection devices and underground storage tanks or septic systems. Water lines, force mains, and other non tonable utilities may be able to be located using ground penetrating radar and will be marked as Quality Level B in these areas. When the ground penetrating radar is not effective, these utilities will be marked Quality Level D or Test Holes may be performed to determine the precise location for design.

The degree of success of a GPR investigation is based entirely on the composition of the soils and the depth and scale of subsurface targets. Electrically soils, such as quartz sands, typically allow for the study of phenomena to depths greater than 15 feet. However, electrically conductive soils, such as clay, moist silt or saline soils, typically preclude the investigation of targets deeper than 3-6 feet. A determination of a maximum attainable depth of investigation requires on- resistive site calibration of the GPR equipment. Subsequently, due to the unknown susceptibility of specific site soils to the passage of radar energy, conclusive results cannot be guaranteed from ground penetrating radar.

Included in this task: residential water and sewer services (total of 60 services are estimated per COF document for each utility, if a services is not able to be designated to QLB it will be noted on the final deliverable as QLD, this task also assumes that Cardno can gain access to property to complete the investigation to achieve QLB mapping), dry utilities, water main (metallic or nonmetallic buried with trace wire, lines are not marked QLB they will be mapped by WLB during QLD mapping stage), 2 sections of storm drain (at Dale and Agassiz and Beaver and Birch all other areas will be mapped QLC and completed by WLB), full corridor utility sweeps (unknowns), electronic depths will be recorded for all QLB mapping and provided in an exhibit format as well as in CAD. All QLC and QLD mapping will be completed by WLB, Cardno will review records and determine if any additional research is necessary.

Note: During the sewer services investigation, the outcomes of the investigation will depend on locating sewer cleanouts for individual residences or GPR success in areas of need. Sondes will be utilized to snake and map sewer laterals as needed, this process will require protective and clean-up materials due to blood borne pathogens (protective disposable gloves, face masks, disinfectant spray and wipes). Cardno will utilize its technologies to designate the said services, but in a case where GPR does not work or individual residence cleanouts are missing, the laterals will be mapped QLD by WLB based on past records.

EMC will provide Cardno with the topographic base mapping, QLD & QLC mapping from WLB, CAD standards and conventions, existing right-of-way, monument lines, and the horizontal and vertical survey control for the project files.

## **Task 2 Subsurface Utility Engineering – Test Holes (Quality Level A)**

- **Quality Level 'A' (QLA):** Cardno will provide up to 25 vacuum excavation test holes for the project, on existing subsurface utilities requested by the team for the City of Flagstaff. Additional test holes will be provided as needed and as requested by the team for the COF. If additional test holes are requested (in excess of 25), those holes will be completed under an additional work request to this contract for an additional fee based on the unit rates provided. The test hole locations will be identified during the development of the plans. The utility data obtained through our standard procedure includes the depth, horizontal and vertical location tied to project datum via survey, size and material composition of the utility exposed. The test hole procedure for this project includes backfill of excavated test holes using slurry, 12" x 12" pavement restoration using "Perma-Patch" brand permanent asphalt cold patch for test holes excavated in existing pavement, and 12" x 12" concrete restoration of test holes excavated in concrete sidewalks using bagged pre-mixed concrete. Prior to beginning excavation, Cardno will request a test hole list provided by WLB identifying the hole number, and the type of utility to be

located along with 11" x 17" plan sheets displaying background topography, existing utilities, and hole locations clearly marked and annotated with the corresponding test hole number.

**DELIVERABLES**

For the Quality Level B Mapping Cardno will provide QLB utility mapping in an ASCE 38-02 plan set sealed (pdf) by a Registered Professional Engineer as well as provide the mapping in electronic Civil 3D format. Pertinent QLA utility test hole data will be presented in scanned electronic format on our standard "Test Hole Data Summary" and individual "Test Hole Data Report" forms sealed by an Arizona Registered Professional (licensed with the AZ Board of Technical Registration) that includes the depth, horizontal coordinates, vertical elevation, size, and material composition of the utility line exposed at each test hole.

**SCHEDULE**

Cardno will work closely with the project team to provide deliverables in a timeframe consistent with the overall project schedule. For scheduling purposes of the QLB utility mapping, please allow 1 week for Utility Records Research/coordination with WLB on Quality Level D information, four weeks of utility designating and field work, and 8 days for deliverable preparation. For the QLA test holes, a set schedule will be defined if the project team is selected to execute test holes for the project (need quantity and location to complete full schedule).

**ESTIMATED FEE**

Cardno proposes compensation for the Quality Level B Subsurface Utility Engineering Services on a lump sum basis. In addition, Cardno proposes compensation for the Quality Level A Subsurface Utility Engineering services and reimbursable expenses on a time/unit rate (for QLA test holes \$525 per hole) and materials not to exceed the agreed upon amount unless additional holes are requested as outline in task 2.

**Task 1 Quality Level B Subsurface Utility Designating**

Subsurface Utility designating Quality Level B Utility Mapping Services	\$18,950.00
Designating Quality Level B Water and Sewer Laterals	\$ 3,500.00
<b>Total: Quality level B Mapping</b>	<b>\$22,450.00</b>

**Task 2 Quality Level 'A' Utility Locating (test hole, up to 25 holes)**

Test hole (\$525/hole up to 25 holes)	<b>\$13,125.00</b>
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**Reimbursable Expenses**

Traffic Plans, Traffic Control, Slurry Backfill, police printing (Estimate Invoiced at Cost + 10%)	\$7,000.00
City of Flagstaff Right of Way Permit will be supplied by the City account as direct by the City.	

Cardno will not exceed the estimated fee without prior authorization from Client. **An invoice will be prepared upon completion for the actual work completed up to the estimated budget amount.** We appreciate this opportunity to provide professional Subsurface Utility Engineering services for this project. Should you have any questions or require additional information, please do not hesitate to call.

This Agreement and the attached Terms and Conditions constitute the complete agreement between Cardno and Client with respect to the scope of services hereunder.

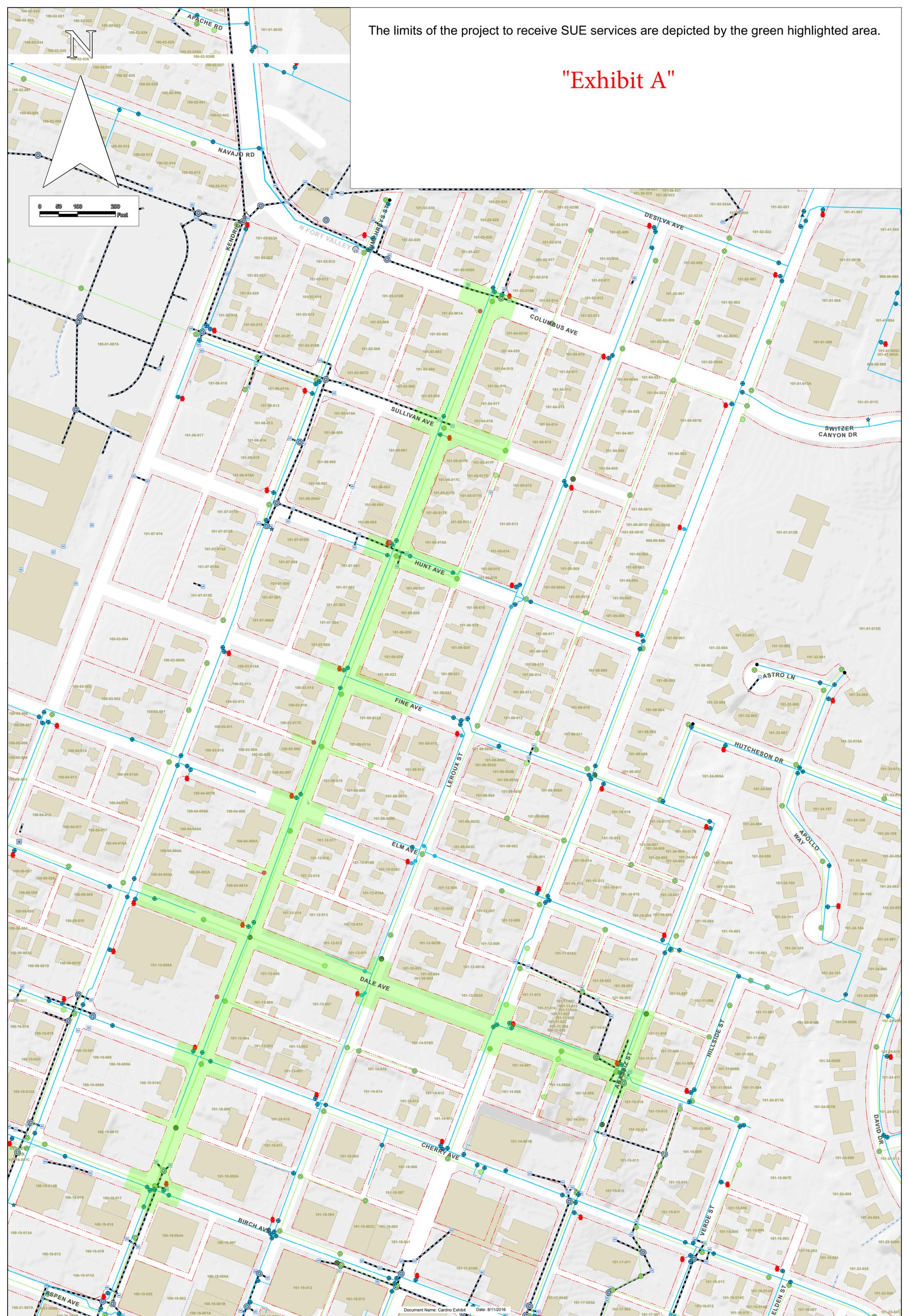
Sincerely,



Robert Ramsey, P.E, LEED AP  
Southwest Regional Manager

The limits of the project to receive SUE services are depicted by the green highlighted area.

# "Exhibit A"



Document Name: Cardno Exhibit Date: 8/11/2016

**AGREEMENT**

This Agreement sets forth the following terms and conditions for retention of **Cardno, Inc.** ("**Cardno**") to provide consulting services to **Eagle Mountain Construction Co.** (hereinafter referred to as "**CLIENT**") in connection with the subject project. This Agreement consists of the following identified subparts, all of which are attached hereto and by this reference incorporated herein: ***SCOPE OF SERVICES, FEE SCHEDULE, and GENERAL CONDITIONS.*** The basis of Cardno's retention is described in the attached SCOPE OF SERVICES, COMPENSATION, and GENERAL CONDITIONS. Client acknowledges they have read and agree to the Scope of Services, Fee Schedule, and General Conditions as provided in the General Conditions. Any requested services which are in addition to the attached Scope of Services will be invoiced according to Cardno's standard schedule of rates or included in a contract addendum.

***THIS IS A LEGALLY BINDING AGREEMENT APPROVED AND AGREED TO:***

Approved for **Eagle Mountain Construction Co.**

Approved for **Cardno, Inc.**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Robert Ramsey, PE

Title: \_\_\_\_\_

Title: Southwest Regional Manager

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

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

Cardno shall perform the services proposed for the stated fee in accordance with these terms and conditions:

- 1) **Access To Site (if applicable):** Upon execution of this Agreement, the Client represents that they have secured legal rights to access the property and authorizes Cardno staff to access the site for activities necessary for the performance of the services.
- 2) **Payment:** Invoices for Cardno's services shall be submitted on a monthly basis. Invoices shall be payable within thirty (30) days after the invoice date. In the event that the Client disputes any portion of an invoice, client shall notify Cardno of such disputed items within ten (10) days of invoice date. Retainers/deposits shall be credited on the final invoice. Failure to make any payment when due is a material breach of this Agreement and will entitle Cardno, at its option, to suspend or terminate this Agreement and the provision of the Services. Interest will accrue on accounts overdue by 30 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest allowable. In the event any invoice has not been paid in full within ninety (90) days of the invoice date, Cardno shall have the right to immediately suspend all or any portion of the Services hereunder indefinitely pending payment in full of such invoice(s).
- 3) **Indemnification:** Cardno and Client shall indemnify and hold harmless each other from and against damages, liabilities, costs and expenses, including but not limited to reimbursement of reasonable attorney fees arising out of damages or injuries to persons or property to the extent caused by the negligence, gross negligence or willful misconduct by the other party or anyone acting under its direction or control or on its behalf in the course of its performance under this Agreement; provided that each party's aforesaid indemnity agreement shall not be applicable to any liability based upon willful misconduct or negligence of the other party. In no event shall either party be responsible for any form of consequential damages, including, but not limited to loss of sales, loss of profits, and attorney fees thereon. For purposes of this Paragraph, the duty to indemnify does not include the duty to pay for or to provide an up-front defense against unproven claims or allegations. Where any claim results from the joint negligence, gross negligence or willful misconduct by Client and Cardno, the amount of such damage for which Client or Cardno is liable as indemnitor under this Paragraph shall equal the proportionate part that the amount of such claim attributable to such indemnitor's negligence, gross negligence or willful misconduct bears to the amount of the total claim attributable to the joint negligence, gross negligence or willful misconduct at issue.
- 4) **Limitation of Liabilities:** Notwithstanding any other provision in this Agreement, the Client agrees to strictly limit Cardno's liability under this Agreement or arising from the performance or non-performance of the Services under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, to the lesser of the fees paid to Cardno for the Services or maximum of insurance provided. No claim may be brought against Cardno in contract or tort more than two (2) years after the cause of action arose. Any claim, suit, demand or action brought under this Agreement shall be directed and/or asserted only against Cardno and not against any of Cardno's employees, shareholders, officers or directors. Cardno's liability with respect to any claims arising out of this Agreement shall be limited as provided herein to direct damages arising out of the performance of the Services and Cardno shall not be held responsible or liable whatsoever for any consequential damages, injury or damage incurred by the actions or inactions of the Client, including but not limited to claims for loss of use, loss of profits and loss of markets.
- 5) **Termination:** Subject to Paragraph 2, this Agreement will continue in effect until terminated by either party upon thirty (30) days written notice to the other party. In the event of any termination, Cardno shall be paid for all services rendered and reimbursables incurred through the date of notice of termination. In the event of termination, the Client shall pay all additional costs reasonably related to termination of the project and a proportionate amount of the consideration hereunder commensurate with the portion of the project accomplished.
- 6) **Force Majeure:** Any suspension, temporary or permanent, in the performance of this Agreement caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract: labor strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophic events, or any other similar event beyond the reasonable control or contemplation of either party.
- 7) **Assignment:** Neither party to this Agreement shall, without the prior written consent, of the other party, which shall not be unreasonably withheld, assign the benefit or in any way transfer any claim or obligation under this Agreement or any part hereof. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and except as otherwise provided herein, upon their executors, administrators, successors, and assigns.
- 8) **Ownership of Documents:** All report documents produced by Cardno under this Agreement shall be made available to the Client upon receipt of full payment for services rendered. Cardno shall retain ownership of all field notes, computer files and project files used to produce the work products and may make copies of all work products.
- 9) **Notices:** Any notices or written statements hereunder shall be deemed to have been given when mailed by certified or registered mail or via email, with receipt of reply, to the party entitled thereto at its address noted at the top of this Agreement or at such other latest address as it may designate in writing to the other party for this purpose.
- 10) **Non-Solicitation:** Neither party shall knowingly solicit, recruit, hire or otherwise employ or retain the employees of the other working under this Agreement during the term of this Agreement and for one (1) year following the termination or expiration of this Agreement without the prior written consent of the other party.
- 11) **Waiver:** Failure by one party to notify the other party of a breach of any provision of this Agreement shall not constitute a waiver of any continuing breach. Failure by one party to enforce any of its rights under this Agreement shall not constitute a waiver of those rights. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision hereof.
- 12) **Governing Law:** The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be interpreted and governed by the laws of the place of the project.
- 13) **Legal Construction:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof. This Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.
- 14) **Entire Agreement:** This Agreement includes Cardno's proposed scope and budget and these terms and conditions. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties relating to the subject matter of this Agreement and is the entire understanding and agreement related thereto. This Agreement may be amended by mutual consent of the parties in writing to be attached hereto and incorporated herein, executed by Cardno's and the Client's respective representatives.



**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Rick Compau, Purchasing Director  
**Co-Submitter:** Rick Tadder  
**Date:** 09/01/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration of Amendment to Lease Agreement:** Cogdill Recreation Center Lease With Boys & Girls Club of Flagstaff

**RECOMMENDED ACTION:**

- 1) Approve Amendment No. one to provide \$50,000 in continued funding to the Boys & Girls Club of Flagstaff for various recreational programs for under served youth within the Flagstaff community.
- 2) Authorize the City Manager to execute the necessary documents.

**Executive Summary:**

The City is currently receiving services from a non-profit community based organization through a Lease Agreement with the Boys & Girls Club of Flagstaff (BGCF) for the Cogdill Recreation Center to provide and enhance youth related, character building, recreational programs to under served youth within the Flagstaff community. The BGCF is dedicated to developing, coordinating and providing programs offered in five (5) core areas that have been determined through significant community outreach, to meet the specific needs of the Flagstaff community: sports; fitness and recreation; health and life skills; arts, education, and character; and leadership development.

For the first three (3) years of the Lease Agreement, the City provided start-up costs in the amount of \$175,000 that were phased for the three (3) year period (July 1, 2012 - June 30, 2015). These start-up costs were necessary costs associated with the successful operation and programming of the Cogdill Recreation Center.

The BGCF continues to improve their funding through grants, donations and self funding after school programming. However, the vast majority of under privileged youth, utilizing the Cogdill Recreation Center, are on scholarships and that results in a shortfall in programming fees which the BGCF have been unable to make up through other funding sources. Due to the BGCF funding shortfall, they are requesting \$50,000 from the City for FY 2017.

**Financial Impact:**

The BGCF's funding request of \$50,000 is budgeted for FY2017 in account 001-09-402-1311-1-4273.

**Connection to Council Goal and/or Regional Plan:**

### **COUNCIL GOALS:**

- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics
- 8) Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments
- 9) Improve the economic quality of life for Flagstaff through economic diversification, and by fostering jobs and programs that grow wages and revenues
- 10) Support and assist the most vulnerable

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

On April 3, 2012, Council approved and awarded a Lease Agreement for the Boys & Girls Club of Flagstaff to utilize the Cogdill Recreation Center to operate age appropriate recreational programs and activities for all under served youth in our community. The initial term of the awarded Lease Agreement is for a five (5) year period, with the option to extend for one (1) additional five (5) year period.

### **Options and Alternatives:**

- 1) Approve the Lease Agreement amendment for a funding request of \$50,000 in continuing start-up costs that will assist the BGCF in providing important character building programs;
- 2) Approve the Lease Agreement amendment for a funding request, with an adjusted financial contribution other than the \$50,000; or
- 3) Not approve the Lease Agreement amendment for a request of \$50,000 in continuing start-up costs.

### **Background/History:**

The Brannen Homes Community Building was erected by the City of Flagstaff Housing Authority and the Public Housing Administration in 1963. This community building was named Cogdill Recreation Center after the prominent Cogdill family. Initially the building contained a gym, bathrooms, & offices. Through additions and renovations, Cogdill now includes a new wood floor in the gym, a weight and exercise room, a game room, computer/tv room, classrooms, outdoor basketball court, and a playground.

The Cogdill Recreation Center has been utilized to provide youth enrichment activities to our local Flagstaff community. The Cogdill Recreation Center specifically serves several nearby neighborhoods, including 127 units of Housing Urban Development (HUD) managed housing with developed educational, recreational, fine arts and leadership development programs for school age youth with special focus on children dealing with disadvantaged circumstances. The City conducted a formal competitive Request For Proposals process and received a total of one (1) proposal response from the Boys and Girls Club of Flagstaff (BGCF). The evaluation Committee, comprised of five members, evaluated and scored BGCF and determined its proposal response to be acceptable that outlined a presented approach that has been deemed to be in the best interest of the City. The Boys and Girls Club is one of the nation's oldest and largest youth service organizations with a primary mission of service to young people from disadvantaged circumstances.

### **Key Considerations:**

The BGCF's request for an additional \$50,000, will allow them to continue providing important character building programs to under served youth in our community and to continue expanding their outreach and programming opportunities.

### **Expanded Financial Considerations:**

N/A

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



## COGDILL RECREATION CENTER LEASE AGREEMENT

THIS Lease Agreement ("Lease") is entered into this 1st, day of July, 2012, by and between the City of Flagstaff, an Arizona municipal corporation ("Lessor"), and the Boys & Girls Club of Flagstaff, an Arizona nonprofit corporation ("Lessee"), with offices located at 2736 Rio de Flag, Flagstaff, Arizona.

### RECITALS

- A. The City seeks services from a non-profit community-based organization, through a Lease Agreement for the Cogdill Recreation Center, to provide and enhance youth-related recreational programs within the Flagstaff community;
- B. Lessee is a non-profit community-based organization dedicated to developing, coordinating and providing programs offered in the following five (5) core areas that have been determined, through significant community outreach, to meet the specific needs of the Flagstaff Community: sports, fitness and recreation, health and life skills, and arts, education and character and leadership development;
- C. The City will obtain a significant public benefit through this Lease by decreasing expenditures related to recreational staffing, minor building maintenance, and recreational administration while ensuring that high quality recreational programming is provided to Flagstaff residents.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth below, the Lessor and Lessee agree as follows:

### **1. Lease of the Premises and Possession.**

1.1. Lease of Premises. The Lessor leases to the Lessee and the Lessee leases from the Lessor the real property and improvements situated at 301 S. Paseo Del Flag, City of Flagstaff, Coconino County, Arizona, (the "Premises" or "Cogdill Recreation Center") in accordance with the terms and conditions of this Lease.

1.2. Condition of Premises. The Lessor makes no representations or warranties regarding the condition or tenant ability of the Premises. The Premises are leased to the Lessee "AS IS, AND WITH ALL DEFECTS, LATENT OR PATENT."

1.3. Term and Commencement Date. The term of this Lease shall commence on July 1, 2012 ("Commencement Date") and shall end at midnight on June 30, 2017, unless terminated earlier as provided in Section 8 ("Termination of Lease").

1.4. Required Use. The Lessee's required use under this Lease is to operate the Cogdill Recreation Center and develop, coordinate and provide recreational programs serving youths in the City of Flagstaff, offered in five (5) core areas: sports, fitness and recreation, health and life skills, the arts, education and character/leadership development ("Required Use") as described in the Project Description/Scope of Work Section of City of Flagstaff Request For Proposals No. 2012-18, incorporated by reference in this Lease. Lessee shall not charge public housing residents a membership fee, or shall cover the membership fee for such residents through scholarships or other arrangements that result in no cost to public housing residents for access to the Premises. The Head Start Program will remain housed at the Premises and the Lessee shall work collaboratively with that program, both in terms of schedule/facility space but also in support of joint programming when possible. The Lessee shall identify and engage community

organizations to develop and/or deliver programs, including but not limited to Flagstaff Unified School District ("FUSD"), YMCA, other nonprofit entities, and law enforcement agencies.

1.5. Base Rent. The Lessee shall pay the annual rent of Twelve Dollars (\$12.00) (the "Base Rent").

## **2. Possession.**

2.1. Possession of Premises. The Lessor shall deliver possession of the Premises to the Lessee on the Commencement Date. The Lessor covenants on behalf of itself, and its successors and assigns, not to disturb the quiet enjoyment, possession or Required Use of the Lessee during the Term of this Lease, subject to the Lessor's rights set forth in this Lease.

2.2. Early Possession. If the Lessee occupies the Premises prior to the Commencement Date, then (i) such occupancy shall be subject to all provisions of this Lease, (ii) such occupancy shall not change the termination date, and (iii) the Lessee shall pay rent for such occupancy.

## **3. Rent.**

3.1. Time of Payment. The Base Rent shall be due and payable annually in advance on the Commencement Date of this Lease and on the anniversary of the Commencement Date for each subsequent year of this Lease.

3.2. Late Charges. The Lessee shall pay to the Lessor a late payment charge equal to five percent (5%) of any amount due and owing for any rental payment not paid within seven (7) days of the due date thereof. Any late payments not paid as described above shall bear interest until paid at the lesser of two percent (2%) per month or the highest rate permitted by law.

3.3. Form and Payment of Rent. The Lessee shall pay rent in the form of cash, a check or money order made payable to the Lessor. The Lessee shall deliver the payment to the Lessor at the Lessor's address set forth in Section 9.1 on or before the due date for the rent payment.

3.4. Taxes. The Lessor shall pay, as the same become due and payable, all general real estate taxes and all special assessments levied upon or assessed against, or which become due and payable in connection with, the Premises. In addition, the Lessee shall be liable for and shall pay before the same shall be past due all taxes levied against its trade fixtures and equipment and other personal property placed upon, or owned by the Lessee in, on or about the Premises, plus those levied against the personal property, if any, being leased to the Lessee under this Lease.

3.5. Start-up Costs. The City agrees to provide start-up costs to Lessee that shall be phased over a three (3) year period ("Start-up Costs"). The City will pay Start-up Costs of up to One Hundred Thousand Dollars ("\$100,000") for Year 1 (July 1, 2012 – June 30, 2013), up to Fifty Thousand Dollars ("\$50,000") for Year 2 (July 1, 2013 – June 30, 2014), and up to Twenty-Five Thousand Dollars ("\$25,000") for Year 3 (July 1, 2014 – June 30, 2015). Acceptable Start-up Costs for which the City would provide reimbursement would include hiring of an executive director, hiring additional staff, marketing and advertising costs, matching grant funds as needed, or any other necessary costs associated with the successful operation and programming of the Cogdill Recreation Center. The City shall make all payments on a reimbursement basis upon presentation by Lessee of documentation of costs satisfactory to the Purchasing Director. Lessee shall make its books and records available to Lessor for inspection upon request and shall retain records with regard to the Start-up Costs for five (5) years from the date any Start-up Costs were incurred.

#### **4. Representations, Warranties and Covenants of Lessee.**

4.1. Use of Premises. The Lessee shall occupy and use the Premises for the Required Use as outlined in the Project Description/Scope of Work Section of City of Flagstaff Request For Proposals No. 2012-18, and no other purpose, and the Lessee shall occupy the entire Premises during the Term of this Lease and any renewal thereof. The Lessee shall conduct no industrial, manufacturing or processing activity on the Premises. Lessee shall not (i) cause or permit any auction, fire, closing out or bankruptcy sales in or about the Premises; (ii) make or permit any noise or odor objectionable to the public to emit from the Premises; (iii) create, maintain or permit a nuisance in or about the Premises; (iv) permit or do anything that is contrary to any law or regulation of any federal, state or local governmental body or agency; or (v) permit or do anything that is contrary to any covenant, condition or restriction affecting the Premises.

4.2. Hazardous Material. The Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by the Lessee, its agents, employees, contractors or invitees, without the prior written consent of the Lessee, which consent may be withheld for any reason or for no reason.

4.2.1. Hazardous Material Indemnity. The Lessee shall indemnify, defend and hold the Lessee, its officers, officials, employees and agents, harmless from and against any and all claims, judgements, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of space, sums paid in settlement of claims and attorneys' fees, consultant fees and expert fees) which arise during or after the Lease Term as a result of (i) the Lessee's breach of the obligations stated in this Section 4.2, or (ii) the presence of Hazardous Material on the Premises caused or permitted by the Lessee. This indemnification of the Lessor by the Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil on or groundwater under or within the Premises caused or permitted by the Lessee results in any contamination of the Premises or elsewhere, the Lessee shall promptly take all actions at its sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises.

4.2.2. Definitions. As used in this Lease, the term "Hazardous Material" means any hazardous or toxic substance, material or waste, which is or becomes regulated by any local governmental authority, the State of Arizona or the United States. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under applicable law, (ii) petroleum, (iii) asbestos, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. Section 1321, (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6903, (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 or (vii) defined as a "regulated substance" pursuant to Section 9001, Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. Section 6991.

4.3. Alterations, Improvements and Additions. The Lessee shall not make any alteration, improvement or addition to the Premises without the prior written consent of the Lessor, which consent shall not be

unreasonably withheld. Notwithstanding the foregoing, the Lessor consents to, and the Lessee shall be responsible for any alteration, improvement or addition to the Premises mandated by the Americans With Disabilities Act of 1990, as amended, and applicable rules and regulations as promulgated from time to time. All alterations, improvements and additions (i) shall be performed at the sole cost and expense of the Lessee in compliance with all applicable laws and regulations of any federal, state or local governmental body or agency, and (ii) shall become and remain the property of the Lessor. In contracting for the performance of any alterations, improvements or additions, the Lessee shall not act as the agent of the Lessor.

4.4. Covenant Against Liens. The Lessee covenants and agrees not to suffer or permit any lien (including, but not limited to, tax liens, mechanics' liens and material men's liens) to be placed against the Premises. If a lien is placed against the Premises that is directly or indirectly related to an act or failure to act of the Lessee, the Lessee agrees to pay off and remove such lien within five (5) days' of receipt by the Lessee of notice thereof, irrespective of whether the Lessee contests the validity of the lien. The Lessee has no authority or power to cause or permit any lien or other encumbrance created by act of the Lessee, operation of law, or otherwise, to attach to or be placed upon the Lessor's title or interest in the Premises. Any such lien or encumbrance shall attach, if at all, only to the Lessee's leasehold interest in the Premises.

4.5. Waiver of Claims. Exclusive of direct or consequential damages caused by the gross negligence or willful misconduct of the Lessor, its officers, officials, employees or agents, the Lessee agrees that the Lessor, its officers, officials, employees or agents, shall not be liable for any direct or consequential damages (including damage claimed for actual or constructive eviction) either to persons or property sustained by the Lessee, or its officers, directors, employees, agents, invitees, licensees or contractors due to (i) any part of the Premises not being in repair or (ii) the happening of any incident on the Premises. This provision shall include, but not be limited to, damage caused by water, snow, frost, sewage, gas or malfunction of any electrical, heating, cooling or ventilation systems or installations on the Premises.

4.6. Indemnification. The Lessee agrees to indemnify, defend, save and hold harmless the Lessor, its, officers, officials, agents and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, demands, actions, liabilities, damages, losses, or expenses (including court costs, attorney's fees, and costs of claim processing, investigation and litigation) (collectively referred to as "Claims") for personal injury (including death) or property damage caused, in whole or in part, by the acts, errors, omissions, negligence, or alleged negligence of Lessee or any of Lessee's directors, officers, agents and employees. 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 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.

4.6.1 The foregoing indemnity by the Lessee shall extend, but not be limited, to:

4.6.1.1 construction by or through the Lessee of any improvements or any other work or thing done in, on or about the Premises or any part thereof;

4.6.1.2 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 the Lessee, or any nuisance made or suffered thereon or any failure by the 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;

4.6.1.3 any fire, accident, injury (including death) or damage to any person or property occurring in, on or about the Premises and improvements, 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;

4.6.1.4 any lien or claim which may be alleged to have arisen against or on the Premises or improvements thereon or any part thereof or any of the assets of, or funds appropriated to, the Lessor or any liability which may be asserted against the Lessor with respect thereto;

4.6.1.5 any acts of the Lessee or any subtenant or any of its or their respective agents, contractors, servants, employees, licensees or invitees;

4.6.1.6 any failure on the part of Lessee to pay rent 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 the Lessor of any remedy provided in this Lease with respect thereto;

4.6.1.7 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;

4.6.1.8 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.

4.6.2 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.

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

4.6.4 The obligations of Lessee under this Section 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 project.

4.6.5 If any claim, action or proceeding is made or brought against the Lessor by reason of any event, specified or unspecified, which is the subject of the Lessee's foregoing indemnity, then, upon demand by the Lessor, the Lessee, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Lessor's name. Notwithstanding the foregoing, the 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.

4.7. Waiver of Notice. The Lessee expressly waives the service of any demand for payment of rent or for possession.

4.8. Acceptance of Premises and Disclaimer of Representations. The Lessee is fully familiar with the condition of the Premises and accepts the Premises in their present condition "AS IS, AND WITH ALL DEFECTS, LATENT OR PATENT."

4.9. Subordination and Attornment.

4.9.1. Subordination. The Lessee agrees that this Lease is and shall remain subordinate to any existing or subsequent mortgage or deed of trust covering the fee title to the Premises, together with any renewals, modifications or extensions of such existing or subsequent mortgages or deeds of trust. Upon the request of the Lessor, the Lessee shall execute such instruments as are reasonably required to subordinate this Lease to mortgages or deeds of trust made by the Lessor.

4.9.2. Attornment. The Lessee shall attorn to, and recognize as successor Lessor under this Lease, any person that purchases or obtains title to the Premises pursuant to (i) foreclosure proceedings, (ii) exercise of the power of sale under a deed of trust or (iii) a deed in lieu of foreclosure or similar transfer.

## 5. Services, Repairs and Maintenance.

5.1. Services to be Provided by the Lessor. Lessor shall provide, at its own expense, all reasonably necessary services for the Premises, including electricity, water, sewer, garbage disposal and snow removal in an amount up to Twenty Thousand Dollars (\$20,000) annually; Lessee shall be responsible for any amounts above Twenty Thousand Dollars (\$20,000) for these services, to be reconciled annually. During snow events, Lessor shall plow the Cogdill Recreation Center site twice during the day starting at approximately 7:00 a.m. at the latest, depending on Public Work's start time for any given day with snow accumulation. Lessee shall be responsible for snow removal on the sidewalks. The Lessee is not obligated to supply or maintain any service or equipment to the Premises. The Lessor shall put, keep and maintain all portions of the Premises, including sidewalks, curbs and passageways adjoining the same in a clean and orderly condition, free of dirt, rubbish, snow, ice and obstructions.

5.2. Repairs and Maintenance. The Lessee shall provide and pay for minor maintenance and repair work on the Premises, at minimum, in a condition not less than the condition of the Premises existing as of the Commencement Date, normal wear and tear excepted. The parties agree that the exception for "normal wear and tear" shall not relieve the Lessee of the obligations to maintain in good working order and provide and pay for minor repairs for the roof, paved parking areas and the heating, ventilating, air conditioning, plumbing, electrical and telecommunication systems and to operate the Premises as a high grade and reputable facility. All repairs made by the Lessee shall be at least equal to the original work in class and quality. If the Lessee fails to provide and pay for such maintenance or repairs, the Lessor or its agents may, but shall not be required to, enter the Premises at all reasonable times to make such maintenance or repairs, and the Lessee shall pay to the Lessor the cost of such maintenance or repairs

within five (5) days of receipt of a bill for such maintenance or repairs.

## **6. Insurance**

6.1. Insurance. The Lessee shall procure and maintain for the duration of this Lease insurance against claims for injury to persons or damage to property, which may arise from or in connection with this Lease by the Lessee, Lessee's agents, representatives, employees, volunteers, or contractors. The insurance requirements herein are minimum requirements for this Lease and in no way limit the indemnity covenants contained herein. The Lessor does not represent or warrant that the minimum limits set forth herein are sufficient to protect the 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.

6.1.1 Minimum Scope and Limits of Insurance. Lessee shall provide coverage at least as broad and with limits not less than those stated below.

(i) Commercial General Liability- Occurrence Form (*Form CG 0001, ed. 10/93 or any replacement thereof*)

General Aggregate -- \$1,000,000

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

(ii) 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)

6.1.2 Self-insured Retention/Deductibles. Any self-insured retentions and deductibles must be declared to and approved by the Lessor.

6.1.3 Other Insurance Requirements. The policies shall contain, or be endorsed to contain, the following provisions:

6.1.3.1 Commercial General Liability and Automobile Liability Coverages.

6.1.3.1.1 The City of Flagstaff, its officers, officials, agents and employees 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 the Lessee, including products and completed operations of the Lessee; and automobiles owned, leased, hired or borrowed by the Lessee.

6.1.3.1.2 The Lessee's insurance shall contain broad form contractual liability coverage.

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

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

6.1.3.1.5 The 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.

6.1.3.1.6 Coverage provided by the Lessee shall not be limited to the liability assumed under the indemnification provisions of this Lease.

6.1.3.1.7 The policies shall contain a waiver of subrogation against the Lessor, its officers, officials, agents and employees for losses arising from Lessee's operations, occupancy and use of the Premises subject to this Lease.

6.2 Property Insurance. The City of Flagstaff shall be named as loss payee as its interests may appear. The Lessee may carry any insurance required to be maintained under this Section 6.1 under a "blanket policy" covering other properties of the Lessee and/or its Affiliates.

6.3 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 the Lessor. Such notice shall be sent directly to the City of Flagstaff's Risk Manager, in care of the Purchasing Director, at the address provided in Section 9 herein.

6.4 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 6.5. The Lessor does not represent or warrant that the above required minimum insurer rating is sufficient to provide the Lessee from potential insurer insolvency.

6.5 Verification of Coverage. The Lessee shall furnish the 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. The Lessor must receive and approve all certificates of insurance before the Lessee takes possession of the Premises. The Lessee's failure to maintain the insurance policies as required by this Lease or to provide timely evidence of renewal will be considered a material breach of this Lease. All certificates of insurance shall be sent directly to the City of Flagstaff's Risk Manager at the address set forth in Section 9 hereof. A description of the Premises shall be noted on the certificates of insurance. The Lessor reserves the right to require complete, certified copies of all insurance policies and endorsements required by this Lease at any time.

6.6 Approval. Any modification or variation from the insurance requirements in this Lease must have the prior approval of the Lessor's Risk Manager. Such action will not require a formal lease amendment but may be made by administrative action.

6.7 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.

6.8 Failure to Maintain Insurance. If the Lessee fails or refuses to provide copies of the renewal insurance policies, together with evidence of payment of premiums therefore, or otherwise fails or refuses to procure or maintain insurance as required by this Lease, the Lessor shall have the right, at the Lessor's election, and upon five (5) days' notice to the Lessee, to procure and maintain such insurance. Any premiums paid by the Lessor hereunder shall be due and payable by the Lessee to the Lessor on the first day of the month following the date on which the premiums were paid. The Lessor shall give prompt notice of the payment of such premiums, stating the amounts paid and the name(s) of the insured(s).

## 7. Default.

7.1. Default by Lessee. The Lessee shall be in default under this Lease if any of the following occurs: (i) Lessee fails to pay when due any monthly rental amount or other payment required to be paid by the Lessee under this Lease in accordance with Section 3 hereof; (ii) the Lessee fails to perform or observe any other covenant, agreement or condition which the Lessee is required to perform or observe and such failure shall not be cured within thirty (30) days after delivery of written notice to the Lessee of such failure; (iii) the Lessee is named as a debtor in any voluntary or involuntary bankruptcy proceeding; (iv) substantially all of the Lessee's assets are placed in receivership or are subjected to attachment or other judiciary seizure; (v) the Lessee makes or suffers a general assignment for the benefit of creditors; (vi) the Lessee vacates or abandons the Premises; or (vii) the Lessee breaches any other provision of this Lease.

7.2. Lessor's Remedies. In the event of Lessee's default hereunder, the Lessor shall have available the remedies set forth in this Section 7.2. Except as expressly, otherwise, provided in this Lease, and to the extent permitted by law, the Lessor's remedies shall be cumulative and not alternative remedies.

7.2.1. Legal and Equitable Remedies. The Lessor shall have all remedies available at law or in equity.

7.2.2. Advances. In the event of any breach of this Lease by the Lessee, the Lessor may remedy such breach for the account of and at the expense of the Lessee. If the Lessor at any time, by reason of such breach, is compelled to pay, or elects to pay, any sum of money or perform any act, which will require the payment of any sum of money, or is compelled to incur any expense, including reasonable attorneys' fees, in instituting or processing any action or proceeding to enforce the Lessor's rights under this Lease, the sum or sums so paid by the Lessor, with interest from the date of payment, shall be deemed to be additional rental and shall be due from the Lessee to the Lessor on the first day of the month following such payment.

7.2.3. Definition of Rent. For purposes of this Section 7, the term "rent" shall include any Base Rent, additional rent or other existing or future amounts payable by the Lessee to the Lessor under this Lease if default had not occurred.

7.3. Lessor's Default. The Lessor shall be in default under this Lease if the Lessor fails to perform or observe any covenant, agreement or condition, which the Lessor is required to perform or observe and such failure is not cured within thirty (30) days after delivery of written notice to the Lessor of such failure.

7.4. Lessee's Remedies. In the event of the Lessor's default hereunder, the Lessee shall have all remedies available at law or in equity; provided, however, the Lessee hereby expressly waives any right to abatement or withholding of rent or other amounts payable to the Lessor under this Lease.

**8. Termination of Lease.**

8.1 Events of Termination. The Lease shall terminate upon the occurrence of one or more of the following events: (i) by written agreement between the Lessor and Lessee; (ii) by the Lessor pursuant to this Lease; (iii) by the Lessee pursuant to this Lease; (iv) upon lapse of the Term of the Lease; or (v) by reason of Sections 9.6 or 9.7 relating to destruction or condemnation of the Premises.

8.2. Surrender of Possession. Upon termination of this Lease, the Lessee shall immediately surrender possession of the Premises to the Lessor. If the Lessee does not surrender possession immediately, the Lessor may re-enter and repossess the Premises and remove all persons or property using such force as may be necessary without being deemed guilty of, or liable for, any trespass, forcible entry, detainer or damage to persons or property.

8.3. Condition of Premises Upon Termination or Abandonment. The Lessee, upon termination or abandonment of this Lease or termination of the Lessee's right of possession, covenants and agrees as follows:

8.3.1. Removal of Property. The Lessee shall not remove any alterations, improvements or additions made to the Premises by the Lessee or others without the prior written consent of the Lessor, which consent may be withheld for any reason or for no reason. The Lessee shall immediately remove, in a good and workmanlike manner, all personal property of the Lessee, and such alterations, improvements and additions made to the Premises by the Lessee during the Term as the Lessor may request in writing to be removed. All damage occasioned by such removal shall be promptly repaired by the Lessee in a good and workmanlike manner. If the Lessee fails to remove any such property, the Lessor may accept the title to such property without credit or compensation to the Lessee or remove and store such property, at the Lessee's expense, in any reasonable manner that the Lessor may choose.

8.3.2. Restoration of the Premises. The Lessee shall restore the Premises to the condition existing on the Commencement Date, with the exception of ordinary wear and tear, and alterations, improvements and additions which the Lessor has not directed the Lessee in writing to remove.

8.4. Holding Over. If the Lessee fails to deliver actual possession of the Premises to the Lessor upon termination of this Lease, the Lessor shall have all remedies available at law or in equity to a Lessor of commercial real property in the State of Arizona.

**9. General Provisions.**

9.1 Notices. All notices or other communications under this Lease shall be in writing and shall be deemed to be delivered on the date of delivery if delivered in person or on the date of receipt indicated on the return receipt if delivered by U.S. Mail, certified or registered, return receipt requested, postage prepaid and addressed, or to such other address as a party may provide to the other by written notice, as follows:

**If to Lessor:**

Elizabeth Anderson, Enrichment Services Director  
City of Flagstaff  
211 W. Aspen Avenue  
Flagstaff, Arizona 86001

**If to Lessee:**

Don Lindner, Steering Committee Chair  
Boys & Girls Club of Flagstaff  
2736 Rio de Flag  
Flagstaff, Arizona 86004

With a copy to:  
Purchasing Director  
City of Flagstaff  
211 W. Aspen Avenue  
Flagstaff, Arizona 86001

9.2. Successors and Assigns. This Lease shall inure to the benefit of and be binding upon the successors and permitted assigns of the Lessor and the Lessee.

9.3. Assignment and Subletting.

9.3.1. Prohibition Without Written Consent. The Lessee shall not, without the prior written consent of the Lessor, (i) assign this Lease or any interest therein; (ii) permit or suffer any assignment of this Lease by operation of law; (iii) sublet all or any portion of the Premises; or (iv) permit the use of the Premises by any party other than the Lessee and its officers and employees.

9.3.2. Standards for Consent. The Lessor's consent to any proposed assignment or subletting may be withheld for any reason or no reason unless the credit history, financial strength and reputation of the subtenant or assignee and the proposed uses of the Premises by the subtenant or assignee are acceptable to the Lessor.

9.3.3. No Release of Lessee. No assignment or subletting shall release the Lessee from any of the obligations set forth in this Lease.

9.4. Nonwaiver of Remedies. A waiver of any condition expressed in this Lease shall not be implied by any failure of the Lessor or Lessee to enforce any remedy available by reason of the failure to observe or perform such condition. A waiver by the Lessor or the Lessee shall not affect any condition other than the one specified in such waiver and a waiver shall waive a special condition only for the time and in the manner specifically stated in the waiver. The acceptance by the Lessor of any rent or other money from the Lessee, after termination of the Lessee's right of possession, after the occurrence of a default by the Lessee or after institution of any remedy by the Lessor shall not alter, diminish, affect or waive such lease termination, termination of possession, default or remedy.

9.5. Rights Cumulative. Except as expressly provided in this Lease, and to the extent permitted by law, the Lessor's or Lessee's remedies described in this Lease are cumulative and not alternative remedies.

9.6. Fire and Casualty.

9.6.1. Termination or Repair. If all or a portion of the Premises are damaged or destroyed by fire or other casualty, the Lessor shall deliver to the Lessee written notice thereof within thirty (30) days of such damage or destruction stating whether the construction work for repairing or rebuilding the damaged or destroyed portion of the Premises to the same condition as existed immediately prior to such damage can be completed within one hundred eighty (180) days of such damage or destruction. In the event that any part of the Premises is damaged by fire or other casualty, the Lessor shall have no obligation to expend more in repairing, restoring or rebuilding than the proceeds of insurance available for such purposes after any amount required to be paid to any mortgagee of the Lessor has been paid. If, in the Lessor's opinion, the permit and construction work for repairing and rebuilding the damaged or destroyed portion of the Premises can be completed within such period with the available insurance proceeds, the Lessor shall

promptly proceed to repair or rebuild the damaged or destroyed portion of the Premises. If, in the Lessor's opinion, the permit and construction work for repairing and rebuilding the damaged or destroyed portion of the Premises cannot be completed within such period with the available insurance proceeds, either the Lessor or the Lessee may terminate this Lease upon thirty (30) days' written notice to the other party.

9.6.2. Abatement of Apportionment of Rent. If the Lease is not terminated and if the damage or destruction to the Premises is not caused by the act or failure to act of the Lessee, its officers, employees, agents, guests or invitees, then a just portion of the rent shall abate as of the date of the damage or destruction until the Premises are repaired or rebuilt. If the Lease is terminated, the rent shall be apportioned as of the date of the damage or destruction.

9.6.3. Alterations, Improvements and Additions. With respect to any damage or destruction of alterations, improvements or additions made to the Premises by the Lessee, (i) this Section 9.6 shall be inapplicable; (ii) no abatement of rent shall occur; and (iii) the Lessor shall not be obligated to repair or rebuild such alterations, improvements or additions.

9.7. Condemnation. If all of the Premises are taken or condemned by any authority for any use or purpose, this Lease shall terminate upon, and the rent shall be apportioned as of the date when actual possession of the Premises is required for such use or purpose. If less than all of the Premises are taken or condemned by any authority for any use or purpose, then (i) the Lessor may terminate this Lease upon thirty (30) days' written notice thereof, or (ii) the Lessor may continue the Lease and a just portion of the rent will abate as of the date when actual possession of such portion of the Premises is required for such use or purpose. The Lessor reserves all rights to damages to the Premises for any taking or condemnation of all or any portion of the Premises, provided that the taking authority is an entity other than the Lessor. The Lessee hereby assigns to the Lessor any right that the Lessee may have to such award or damages. The Lessee shall have the right to claim and recover from the condemning authority compensation for any loss for moving expenses and for interruption of or damage to the Lessee's business only if such award or damages are awarded separately and not as part of the award or damages recoverable by the Lessor.

9.8. Effect of Lessor's Insurance on Lessee's Obligations. From time to time and without obligation to do so, the Lessor may purchase insurance against damage or liability arising out of or related to the Premises. The purchase or failure to purchase such insurance shall not release or waive the obligations of the Lessee set forth in this Lease. The Lessee waives all claims on insurance purchased by the Lessor.

9.9. Attorneys' Fees and Costs. If either party brings an action to enforce the terms of this Lease or declare rights hereunder, the prevailing party in such action, at trial or on appeal, shall be entitled to its reasonable attorneys' fees and costs as may be determined by the court.

9.10. Governing Law, Jurisdiction and Forum. This Lease shall be construed and interpreted in accordance with the laws of the State of Arizona. The parties agree that the courts of Arizona shall have exclusive jurisdiction and that Coconino County shall be the proper venue.

9.11. Estoppel Certificate. The Lessee agrees that, from time to time upon not less than ten (10) days' prior written request by the Lessor, the Lessee will deliver to the Lessor a statement in writing certifying (i) that the Lease is unmodified and in full force and effect (or that the Lease as modified is in full force and effect, describing the modifications), (ii) that the rents and other charges have been paid to date without any prepayments or defaults (or if any prepayments or defaults, the nature of such prepayments or defaults), and (iii) that the Lessor is not in default under any provision of this Lease (or, if in default, the nature of the default). The certificate may be relied on by a mortgagee, assignee of a mortgage or a

purchaser of the Lessor's interest in the Premises. If the Lessee shall fail to respond within ten (10) days of receipt by the Lessee of a written request from the Lessor as herein provided, the Lessee shall be deemed to have given such certificate as provided above without modification.

9.12. Relationship of the Parties. Nothing contained in this Lease shall be construed as creating the relationship of principal or agent or of partnership or joint venture. Neither the method of computation of rent nor any other provision of this Lease, nor any act of the parties, shall be deemed to create any relationship other than that of landlord or tenant.

9.13. Effect of Conveyance. If, during the term of this Lease, the Lessor should sell its interest in the Premises, then from and after the effective date of such sale, the Lessor shall be released and discharged from any and all further obligations and responsibilities under this Lease (except those already accrued) upon written assumption by the buyer of the Lessor's liabilities under this Lease.

9.14. Time of the Essence. Time is of the essence with respect to the obligations to be performed under this Lease.

9.15. Severability. The invalidity of any portion of this Lease, as determined by a court of competent jurisdiction, shall not affect the validity of any other portion of this Lease.

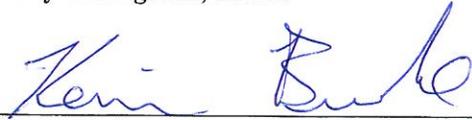
9.16. Cancellation Notice. The Lessee acknowledges that the Lessor is an Arizona municipal corporation and a political subdivision of the State of Arizona, and, as such, is required by Arizona Revised Statutes Section 38-511 to include notice in this Lease that this Lease is subject to cancellation under said statute if any person significantly involved in initiating, negotiating, securing, drafting or creating this Lease on behalf of the City is at any time while the Lease is in effect an employee or agent or consultant of the Lessee with respect to the subject matter of this Lease. (See A.R.S. Section 38-511 for further details.)

9.17. Effective Date. This Lease shall become effective on the date the Internal Revenue Service of the United States Department of the Treasury issues a determination letter to Lessee which recognizes tax exempt status for Boys & Girls Club of Flagstaff.

9.18. Background Checks. Lessee will check all its employees/volunteers for criminal records to ensure that all laws and that City of Flagstaff policies and regulations concerning contact with minors, older adults or the disabled in recreational programs are enforced.

IN WITNESS WHEREOF, the Lessor and Lessee have caused this Lease to be executed by their duly authorized representatives on the signature page immediately following.

City of Flagstaff, Lessor



Kevin Burke, City Manager

Attest:

Boys & Girls Club of Flagstaff, Lessee



Don Lindner, Steering Committee Chair

I hereby attest that Don Lindner, Steering Committee Chair, is authorized by resolution of the Board of Directors for Boys & Girls Club of Flagstaff (BGCF), dated 3/29/12, to execute this Lease on behalf of BGCF.



City Clerk

Approved as to form:



City Attorney



# CITY OF FLAGSTAFF

## AMENDMENT ONE

### CITY OF FLAGSTAFF and BOYS & GIRLS CLUB OF FLAGSTAFF

The following Amendment is incorporated into and made a part of the original Contract between the City of Flagstaff (“City”) and Boys & Girls Club of Flagstaff (“Lessee”), dated July 1, 2012, by mutual agreement of the Parties as set forth below, as follows:

Under **Section 3. RENT, “Start-up Costs”**, The City originally agreed to provide start-up costs to Lessee that shall be phased over a three (3) year period. The City has paid these start-up costs in full, as of June 30, 2015.

The Request for Proposals (RFP) document allowed for pricing adjustments after fully documented requests for any adjustments after the contract has been in effect for the first three (3) year term of start-up costs.

The Boys & Girls Club of Flagstaff requested a one (1) year continuation of start-up costs to be paid by the City in the amount of \$50,000 for fiscal year 2016-2017.

Except as modified by this Amendment No. one, the Lease Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.

**City of Flagstaff, Lessor**

**Boys & Girls Club of Flagstaff, Lessee**

\_\_\_\_\_  
Josh Copely, City Manager

\_\_\_\_\_  
Authorized Signature

Attest:

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

Approved as to form:

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

## AMENDMENT NO. ONE

### SCOPE OF WORK

The City's support with the additional \$50,000 in funding for FY 2017, allows the Boys & Girls Club of Flagstaff (BGCF) to continue providing important character building programs to underserved youth in our community. The BGCF will continue to expand our outreach and programming. For instance, this summer we have had as many as 70 youth in attendance for our summer programs, which is the best turnout we have had yet.

While the BGCF are continually looking to improve our funding through grants, donations (both charitable tax credit donations and otherwise), and self-funding after-school programming, the fact that the vast majority of our Cogdill kids are on scholarship means that we have a shortfall in programming fees which we have been unable to make up through other means.

Per Section 3.5 of the Lease Agreement, the City shall make all payments on a reimbursement basis upon presentation of costs satisfactory to the Purchasing Director.

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Sara Dechter, AICP, Comprehensive Planning Manager  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Public Hearing for Resolution No. 2016-31:** A resolution of the Flagstaff City Council amending the Flagstaff Regional Plan 2030 by amending Chapter 3 to change the categories of Major Plan Amendments and establishing an effective date.

**RECOMMENDED ACTION:**

- 1) Open Public Hearing
- 2) Continue Public Hearing to \_\_\_\_\_

**Executive Summary:**

The purpose of the minor amendments to Chapter 3 is to ensure a fair and transparent public process for all plan amendments and specific plans. The amendments would achieve this by creating a clear description of which development applications and City projects will require a major or minor plan amendment, clarifying the role of specific plans, filling in information missing from the current chapter, and reorganizing information in a more logical sequence.

Staff has limited the scope of this minor amendment to the content of Chapter 3. Changes to other Plan chapters may be considered as part of the future work program.

**Financial Impact:**

There is no financial impact related to this resolution.

**Connection to Council Goal and/or Regional Plan:**

**COUNCIL GOALS:**

- 7) Continue to implement the Flagstaff Regional Plan and focus efforts on specific plans
- 8) Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments

**REGIONAL PLAN:**

Policy CC.1.3. Design development patterns to maintain the open character of rural areas, protect open lands, and protect and maintain sensitive environmental areas like mountains, canyons, and forested settings.

Policy LU.1.1. Plan for and support reinvestment within the existing city centers and neighborhoods for increased employment and quality of life.

Policy LU.1.6. Establish greater flexibility in development standards and processes to assist developers in overcoming challenges posed by redevelopment and infill sites.

Policy NH.6.1. Promote quality redevelopment and infill projects that are contextual with surrounding neighborhoods. When planning for redevelopment, the needs of existing residents should be addressed as early as possible in the development process.

Goal ED.1. Create a healthy environment for business by ensuring transparent, expeditious, and predictable government processes.

Policy ED.1.2. Steadily improve access to easily understandable public information.

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

No.

**Options and Alternatives:**

Major plan amendments are inherently rare. There have only been a handful since 2001, when the last Regional Plan was adopted. It is difficult to determine if the result of any change to major plan amendment categories would result in greater or fewer major plan amendments. The amendments proposed to Chapter 3 are intended to correct factual errors in some of the language, vague descriptions that make it difficult to understand the categories for amendments, incomplete information about the relationship of the Plan to other laws and regulations, and illogical gaps in the categories provided in the ratified Regional Plan.

Adopting this amendment will make the procedures for the Flagstaff Regional Plan 2030 more transparent and will provide a fair process that helps the public and the applicant. It will also ensure that major plan amendments are applied for projects with requests tied to alter the underlying assumptions and balance of the Future Growth Illustration.

**Background/History:**

City staff is proposing minor plan amendments to the Flagstaff Regional Plan 2030, Chapter 3 How the Plan Works, as described in the Regional Plan Annual Report 2015. The Flagstaff Regional Plan 2030 (Regional Plan) is the General Plan for the City of Flagstaff. The amendment includes several types of proposed changes:

1. Changes proposed to major plan amendment categories and criteria (with options for addressing changes from Rural to Suburban Area Types),
2. Clarifications regarding minor plan amendment categories and procedures,
3. Adopt a clear and legally accurate description of specific plans,
4. Clarifications about the role of the City Council, and
5. Non-substantive editorial changes to the Chapter.

The reasons for these proposed changes are because of factual errors in some of the language, vague descriptions that make it difficult to understand the categories for amendments, incomplete information about the relationship of the Plan to other laws and regulations, and illogical gaps in the categories provided in the ratified Regional Plan.

**Key Considerations:**

The key considerations for this decision is whether or not the proposed amendments to Chapter 3 will:

1. Provide for clear and effective implementation of the Flagstaff Regional Plan,
2. Accurately reflect the legal environment of plan implementation,
3. Promote a fair and predictable government process applicants, and
4. Give the community ample opportunity to participate in decisions regarding plan amendments of all types.

**Community Involvement:**

Consult - The Comprehensive Planning Manager met with individuals and groups that were involved in the development of the Regional Plan and asked about their thoughts on major plan amendments before developing a detailed proposal for the public to review. This early feedback influenced several criteria in the table, including making goals and policies a major plan amendment category.

Involve - Staff provided a traditional public review period and posted the sections that changed the most on the Flagstaff Community Forum for the public to comment on and share ideas about how the changes could be different or clearer.

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

Staff's original proposal for the Rural to Suburban category was to have all plan amendments in this category be minor, because conditions of approval cannot be as effectively enforced when attached to a plan amendment compared to a zoning case. Public comment since the Planning and Zoning Commission's review has been centered on this issue and staff is offering to City Council three options for consideration.

- Option A: Treat all changes from Rural to Suburban as minor amendments (original proposal).
- Option B: Keep current major plan amendment category of Rural to Suburban greater than 20 acres.
- Option C: Only require a major amendment for Rural to Suburban area type proposals more than ¼ mile from an activity center.

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**Attachments:**    Att. A Res 2016-31

Att. D

Att. E

Att. F

Att. G

Att. H

## RESOLUTION NO. 2016-31

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA AMENDING THE FLAGSTAFF REGIONAL PLAN 2030 BY AMENDING CHAPTER 3 TO MODIFY THE DESCRIPTIONS OF CRITERIA FOR MAJOR PLAN AMENDMENTS, ACCURATELY DEFINE THE ROLE OF SPECIFIC PLANS, AND COMPLETE MISSING INFORMATION AND ESTABLISHING AN EFFECTIVE DATE**

#### **RECITALS:**

WHEREAS, the Flagstaff Regional Plan 2030 (the "Regional Plan") was adopted by the Mayor and Council of the City of Flagstaff (the "City Council") on January 14, 2014 and ratified by the qualified electors of the City of Flagstaff (the "City") on May 20, 2014; and

WHEREAS, City staff applied for a minor plan amendment to the Regional Plan to amend Chapter 3, titled "How this Plan Works" to modify the descriptions of criteria for major plan amendments, accurately define the role of Specific Plans, and complete missing information; and

WHEREAS, pursuant to section § 9-461.06, Arizona Revised Statutes, and the Regional Plan, the City has consulted with, advised and provided the opportunity for public comment on the proposed amendment to the Regional Plan; and

WHEREAS, pursuant to A.R.S. § 9-461.06 and the Regional Plan, the City Planning and Zoning Commission held a public hearing on the proposed Regional Plan amendment on May 25, 2016 and provided notice of such hearing in the manner required by A.R.S. § 9-461.06(E); and

WHEREAS, the Planning and Zoning Commission recommends the amendment after the required notice and hearing; and

WHEREAS, pursuant to A.R.S. § 9-461.06 and the Regional Plan, the City Council held a public hearing in the City Council Chambers on the proposed Regional Plan amendment on September 6, 2016 and provided notice of such hearing by publication of said notice in the manner required by A.R.S. § 9-461.06(E); and

WHEREAS, the City Council finds and determines that (i) proper notice of the proposed Regional Plan amendment has been given in a manner required by A.R.S. § 9-461.06, and (ii) that each of the required publications have been made in the *Arizona Daily Sun*, a newspaper of general circulation within the City; and

WHEREAS, the amendments to Chapter 3 accurately reflect the Arizona Revised Statutes requirements for major and minor plan amendments and Specific Plans;

WHEREAS, the City Council desires to amend Chapter 3 of the Regional Plan to modify the descriptions of criteria for major plan amendments, accurately define the role of Specific Plans, and complete missing information.

**ENACTMENTS:**

**NOW, THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1. That Chapter 3 of the Regional Plan is hereby amended to modify the descriptions of criteria for major plan amendments, accurately define the role of Specific Plans, and complete missing information, as indicated in the attached **Exhibit A**.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized to take all steps necessary to carry out the purpose and intent of this Resolution.

SECTION 3. This resolution shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6<sup>th</sup> day of September, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

# Options for Plan Amendments for Changes from Rural to Suburban Area Types

## Background

The Rural Area Type makes up 4.4% of the area within the City Limits on the Regional Plan's Future Growth Illustration (See Map for details). Currently, about 20% of the City is zoned for Rural Residential (RR) or Estate Residential (ER), which are the similar Zoning Districts. So the Regional Plan already calls for over 80% of areas that currently have a Rural zoning category (i.e. RR and ER) to convert to Suburban or Urban landscapes if Flagstaff is built out according to the Future Growth Illustration

The remaining 4.4% "Rural" landscape is primarily located in areas at the edge of the City, near County islands, or in areas that are difficult to serve with water and sewer. However, infrastructure improvements on adjacent properties may eventually make those areas more attractive or feasible for Suburban development. For example, the J.W. Powell improvements may make the Rural Area Type on the southeast side of Flagstaff more attractive to be purchased for Suburban neighborhood development at some point in time. So a request to change from Rural to Suburban area type is not imminent but is certainly a possibility that should be considered in setting criteria for major plan amendments.

## Options

There are pros and cons to how changes from Rural to Suburban are treated (Summarized below and explained in more detail in Attachment D). Council may select an option for inclusion in the final amendment.

**Option A:** Treat all changes from Rural to Suburban as minor amendments (original proposal)

In the current Regional Plan, there is a major plan amendment category for "Rural to Suburban greater than 20 acres." In reviewing the categories originally, staff proposed that changes from Rural to Suburban be made a minor amendment. This was proposed because:

- Suburban Neighborhoods in the Regional Plan have a maximum density of 10 dwelling units per acre, unlike the Urban Neighborhood characteristics, which have no maximum density.
- Minor amendments will be accompanied by a precise zoning request and likely a site plan, so conditions of approval can be effectively attached to the zoning request. This would prevent someone from proposing single family homes in their major plan amendment request and then 3 years later proposing a medium density apartment building in their zoning request.
- The requirements for notification of surrounding properties and HOAs is the same for major and minor plan amendments.

One downside of Option A is that minor plan amendments do require fewer public meetings but the application requires more detail and the decision is easier to enforce. Another potential downside is that the public may perceive "minor" amendments as less important. They may therefore fly under the radar for some residents.

**Option B:** Keep current category.

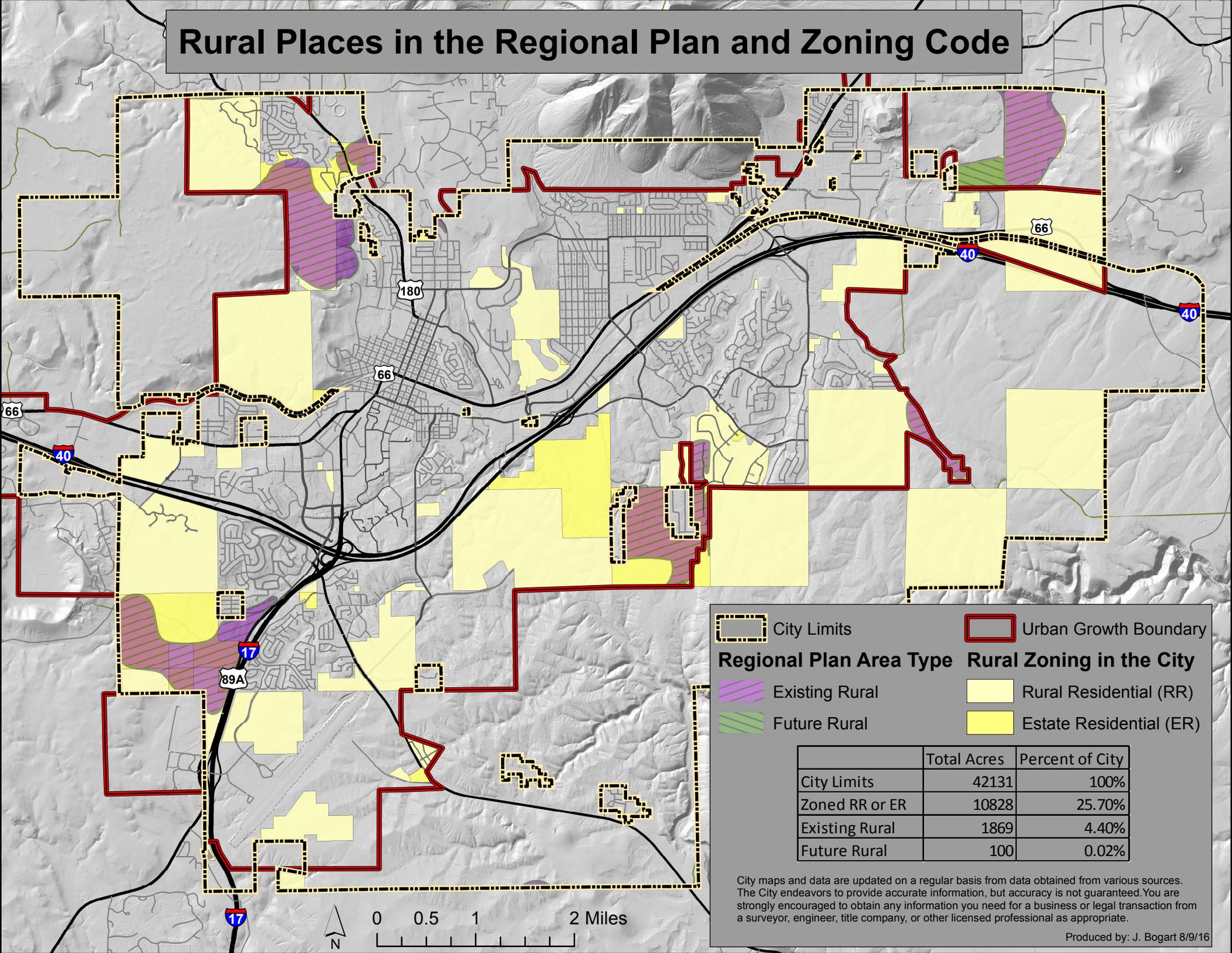
If we were to retain the current category for Rural to Suburban Area Types, it would be the only category with an acre limit. Under Option B, amendments with 19 acres would still be large enough to impact rural character but would not be treated the same as a 20 acres proposal. Option B would create an arbitrary threshold between proposals that staff does not support.

**Option C:** Require a major amendment for changes from Rural to Suburban Area Types more than ¼ mile from an activity center

Option C would provide the greatest protection for the Rural Area Types. It would guarantee the most public involvement for Rural Areas in the Plan. Option C and would separate the plan amendment and the zoning request, which vests of property rights and allows the City to request conditions of approval that can effectively tie the development to the plan amendment. Option C would increase the amount of time and costs for submitting rezoning applications in these areas because of the additional year needed to process a major plan amendment. Option C could not guarantee that major plan amendment proposals are similar to their zoning requests as described for Option A.

Recommendation: Staff supports either Option A or Option C. Staff does not support Option B because of the arbitrary threshold between proposals that it would create.

# Rural Places in the Regional Plan and Zoning Code



  City Limits        Urban Growth Boundary  
**Regional Plan Area Type**      **Rural Zoning in the City**  
  Existing Rural        Rural Residential (RR)  
  Future Rural        Estate Residential (ER)

	Total Acres	Percent of City
City Limits	42131	100%
Zoned RR or ER	10828	25.70%
Existing Rural	1869	4.40%
Future Rural	100	0.02%

City maps and data are updated on a regular basis from data obtained from various sources. The City endeavors to provide accurate information, but accuracy is not guaranteed. You are strongly encouraged to obtain any information you need for a business or legal transaction from a surveyor, engineer, title company, or other licensed professional as appropriate.

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# CHAPTER 3 AMENDMENT - PUBLIC PARTICIPATION PLAN

March 24, 2016

## PURPOSE

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A Public Participation Plan will provide a clear and comprehensive summary of all public participation opportunities and notification procedures required for the Chapter 3 Text Amendment.

## PROPERTY OWNERS AND NOTIFICATION

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The update of Chapter 3 does not impact any particular property; therefore, the requirement to notify property owners within 300 feet does not apply to this amendment. Instead, notification of the general public will take several forms:

- One-on-one and small group meetings to inform the public and seek early feedback
- Press releases for open house and hearings.
- Notification of the Regional Plan email list (approx. 340 recipients) prior to all meetings.
- Notification on the Flagstaff Regional Plan 2030 Facebook page prior to all meetings. Posts for Open House and Hearings will be cross-listed on other City social media and paid for promotions.
- Staff will develop a project webpage and check that it comes up in relevant search engines.
- Flyers for the open house on community bulletin boards around town.
- Posters for the open house in City Hall, libraries, and the Aquaplex
- Legal notices for public hearings.

## MEETINGS OVERVIEW

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In lieu of a neighborhood meeting, staff will hold a community-wide open house at City Hall on April 7th. The open house will provide an opportunity for the public to review the proposed revised amendment table and related text changes.

Prior to and after the open house, Comprehensive Planning staff will meet with several community groups to inform them of the proposed changes to the amendment table and text edits in Chapter 3. Community feedback gathered from these discussions will be reported back to the core team and presented at all public hearings. A calendar showing all community outreach is attached (Appendix A).

The Planning and Zoning commission will have an initial briefing on the plan amendment on January 27, 2016. There second briefing will be a work session to review the proposed draft on April 6, 2016. There will also be a Citizen's Review Meeting held during a working session with the Planning and Zoning Commission prior to the required public hearing.

The required Planning and Zoning Commission and City Council hearings will be held at City Hall approximately in May and June.

## ONLINE PUBLIC INVOLVEMENT

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Staff will post the draft proposal and a topic on the Flagstaff Community Forum during the 30 day comment period. Results of the online forum topic will be provided to the Planning Director in a report at least 15 days prior to the Citizen Review Session.

## MEETING SCHEDULE

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### **Meeting 1: Initial Briefing to the Planning and Zoning Commission**

January 27, 2016 6pm at Flagstaff Aquaplex

### **Meeting 2: Review of the Draft Proposal with the Planning and Zoning Commission**

April 6, 2016 4pm at City Hall

### **Meeting 2: Open House, City Hall, 2 hours**

April 7, 2016 4:30pm to 6:30pm at City Hall

The Comprehensive Planning Manager will consolidate the questions/comments heard at the open house meeting into a FAQ document that will be posted to the project's webpage and distributed to the email distribution list.

### **Meeting 3: Citizen's Review Work Session at Planning & Zoning Commission**

May 2016, TBD

The citizen review work session shall be held at a work session of the Planning Commission scheduled not less than five days and no more than 14 days prior to the public hearing at the Planning Commission for the consideration of the proposed map and text amendments. Landowners and other citizens potentially affected by the proposed text amendment shall have an opportunity to address the Planning Commission on the proposal.

At least 15 days before the Citizen's Review Session, the final proposal shall also be posted on the City's website.

## METHODS TO KEEP THE DIRECTOR INFORMED

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The Director will be notified immediately if there is any change in the location, date or format of the meetings. The results will be provided in a Record of Proceedings, as provided by City Title 11-10.10.020.

Evidence of Plan Approval

X 

Dan Folke, AICP  
Planning Director



### **Chapter 3 Regional Plan Amendment – Public Comment & Open House**

Comprehensive Planning staff identified the need for clarifications and revisions to the Regional Plan's Chapter 3 – How This Plan Works. Specifically, revisions are required for a table used to determine if an application requires a major or minor plan amendment. Currently a public review period of the proposed changes is being held and will close on Friday, April 15, 2016. In addition to sending comments to the City through traditional methods, there is a new way for residents to comment on the Flagstaff Community Forum, using the new Digital Commenter. The Digital Commenter allows you to post your comments on a draft PDF and respond to comments from other citizens, so please share your thoughts online at [www.flagstaff.az.gov/fcf](http://www.flagstaff.az.gov/fcf) by Friday, April 15.

The City will also host an Open House on the proposed plan amendment on Thursday, April 7, 2016 from 4:30 pm to 6:30 pm in the Council conference room.

You can download the draft amendment and find information about upcoming meetings at: <http://tinyurl.com/planamendments>. To be added to a Flagstaff Regional Plan notification email list, or to submit written comments about the proposed amendment, contact Sara Dechter, the City's Comprehensive Planning Manager at: [sdechter@flagstaffaz.gov](mailto:sdechter@flagstaffaz.gov) or (928) 213-2631.

## Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
<b>General</b>	<p>Please add a language definition everywhere a map is referenced, i.e., Map 25 (Road Network Illustration).</p> <p>People will not have map definitions memorized especially if one only references the document sporadically.</p>	
<b>General</b>	<p>there are basic spelling and grammatical errors</p>	<p>These will be corrected in the final between Planning and Zoning and City Council Review.</p>
<b>Neighborhood preservation</b>	<p>Where activity centers are defined next to, or part of a neighborhood, the neighborhood should be involved in the process</p>	<p>Requirements for notification of rezoning, annexation and plan amendment requests ensure that nearby residents are involved in the process. We have added a criteria related to the neighborhood area type.</p>
<b>Neighborhood preservation</b>	<p>I agree generally. I think there needs to be greater protections for neighborhoods. Development proposals visa-vis neighborhood protections feels very lopsided toward development proposals.</p>	<p>We have added a criteria related to the neighborhood area type.</p>
<b>Page III-11</b>	<p>I find it interesting that the proposed distinctions protect a minimum amount of resource space against reduction, but also require a minimum amount of human density. I suppose resource space is a horizontal planning issue, protecting edges and boundaries, but human density has a vertical component that does not necessarily work against resource space, though it requires the consideration of buildings with more bulk and scale. I am not sure the Citizens want bulk and scale everywhere. On the whole I recommend a re-write.</p>	<p>This comment summarizes the issue well. In order to meet the City's estimated demand for future growth and protection of open space, vertical mixed use is a necessary component. The plan does not call for increased density and intensity everywhere, only in activity centers and along corridors. The problem is that the City has zoning that allows activity center intensity and density in large areas outside of our designated activity centers. While the city can't force a property owner to build below their current entitlements, we can incentivize context appropriate scale and not create unnecessary barriers to neighborhood compatibility for those property owners who may wish to rezone to a lower intensity and density in the right locations.</p>

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
<b>Page III-8 Specific Plans</b>	There needs to be a sunset time for when a specific plan needs to be revisited. For example the McMillan Plan was about 15 years old and out of date by the time real development was possible. Times Changes things.	A good comment but outside the scope of this amendment. The place to make changes to procedures and content of specific plans is in Title 11 of the City Code. This is in the work program for the Comprehensive Planning staff within the next 2 years.
<b>Page III-8 Specific Plans</b>	New specific plans may 'clarify' but also must meet the goals and policies. That cannot be restated enough.	Language was removed
<b>Page III-8 Specific Plans</b>	Special Area Plans and studies should be given very high weight in conjunction with the regional plan for conformance unless Council specifically rejected them at the time of completion. This is because with staff or council changes something completely worthy of all the protocol and input can slip by without formal approval. Their value, if done correctly, reflects the areas desire no less.	Language was changed to reflect that even though they cannot be used for findings of conformance that they reflect the community desires unless specifically rejected.
<b>Page III-8 Specific Plans</b>	...the proposed new Special Area Studies section...creates more rather than less confusion. This language gives the example of the 2005 Southside Plan to indicate that, on the one hand such a plan exists, while on the other hand it wasn't adopted--on the one hand, much effort on the part of citizens and staff was spent creating it, on the other hand staff is free to disregard it despite the progress it <u>did</u> make through the system.... as it appears the city will not be undertaking a new Southside Plan in the foreseeable future, it seems especially pointed to dismiss what we do have, though imperfect	Staff rewrote the section to simplify and to recognize that the studies has value even if they cannot be used in conformance analysis. Appendix A was also reorganized to demonstrate which plans have been adopted in what ways.

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
<b>Page III-8 Specific Plans</b>	Explain what a specific plan is up front and explain the differences more clearly and simply.	Staff reorganized this section of the chapter and made it brief based on other comments but incorporated Title 11 by reference. Title 11 is the appropriate place to outline the purpose, content and procedures for Specific Plans.
<b>Page III-8 Specific Plans</b>	The language is unclear because there is more to the story than, "The Flagstaff Regional Plan cannot supersede specific plans adopted by ordinance." For example, my understanding is that only portions of the ordinance-adopted specific plan (goals and policies) cannot be superseded. But there are other portions of specific plans which are advisory only. This needs to be made explicitly clear! This chapter must be able to stand on it own two feet; where required it needs specificity not just simplicity.	Good point. We'll clarify that each specific plan provides guidance on how to interpret it. There are everything from standards to aspirational statements in these documents.
<b>Page III-8 Specific Plans</b>	The new language doesn't so much make it more clear as cover itself regarding the Southside 2005 Plan. The current language in the FRP assigns value to that plan, which it should since it was an important citizen effort. This new language takes a roundabout path toward discrediting the report entirely for not having been adopted. As I understand, since the Southside Plan would be the next specific plan to be re-written, why not leave it as is? The SSP may be outdated but outlines the shared vision for the area quite accurately. Now, with inappropriate development pressing on the area, would be a very poor time to change this language.	The 2005 Southside Plan was not adopted as a specific plan. Regardless of what the current plan says, State law does not allow for it to be considered equally to the Regional Plan or an adopted specific plan because it cannot be used in a finding of conformance. That does not discredit the document as a valuable resource that captures the values and aspirations of the community at the time. Updating the plan and seeing it brought forward for adoption is an important future project for the Comprehensive Planning program. There have now been two development cases where the current language lead to misleading expectations and it is therefore important to replace the oversimplified language. Because the status of a plan can change over time, staff has removed the specific examples from the Chapter 3 text and included them in Appendix A.

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
<b>Page III-8 Specific Plans</b>	the explanation of plans adopted by ordinance, by resolution, or commissioned but not officially adopted, or amended but only by the City, is generally confusing. I understand the distinctions because I have the deep background. But do these paragraphs need to be said at all? The language is not clarifying	Specific Plans are an essential tool in plan implementations. They do need to be described accurately in this chapter. Staff will refine the section to make it simpler and easier to understand.
<b>Overall direction</b>	It is clear from the development of the HUB that the regional plan and city zoning codes aren't working. We should quit hiring California people to tell us how we want our City to be. Flagstaff looks more and more like CA all the time, due to this misguided approach. If we are going to let the HUB proceed, we should just scrap the entire planning process, cuz it ain't working.	Not relevant to the proposal
<b>Page III-10</b>	The process for major and minor plan amendments needs to be defined. For example, major plan amendments require 15 public comment periods, over a 3 year time period, etc. I am being facetious but I hope you see my point - need to understand the procedural differences between the two type of amendments.	The process is defined in detail in Title 11 of the City Code. We will add a call out box that provides some basic information but defers to the City Code for details.

Topic	Comment	Response
<b>Page III-10</b>	<p>At this point, my confidence that the Plan will be interpreted and applied as the Regional Plan Citizen Advisory Committee (CAC) and voters intended is low. As such, the proposed text about ALL types of amendments not listed as major are minor does not sit well. I think absolutes like ALL can be problematic. I fear design arounds to a proposal that would have triggered a major plan amendment, but with a slight tweak, now "downgrades" it to a minor amendment with less public input. My interpretation may be way off, but that is part of my point, the process needs to be explicit and clear so there is no opportunity for misinterpretation.</p>	<p>We made some additions to this paragraph to clarify. There is no legal way to make administrative changes to the Regional Plan. So the statement that any amendment that is not major is minor is actually an accurate description of the current condition. Once the City establishes categories for major plan amendments they cannot make ad hoc decisions that upgrade minor amendments to major. To add a new category, the plan must be amended. The current table listed some types of minor plan amendments but not all and as a result was confusing for applicants. If someone proposed a project that needed to amend the plan but was not listed in the current table, the City would still require a minor amendment.</p>
<p><b>Page III-10 and 12 Future v. existing area types</b></p>	<p>The section, "Minor Amendments to Other Maps and Plan Content," is very concerning. It reads that changes to land use would be decided equally on what is written in the document as proposed future development and what is existing and possibly embraced by citizens as their preference. First this sets us up for conflicts. What is in the doc as possible futures are only that: possible. The possible development described in the doc may be widely out of favor with public desires even when written and/or out of scale by the time it could be built and so if in the doc it could be pushed on the community.</p>	<p>The future area types in the Regional Plan are not merely possible outcomes of the future condition. The entire plan was calibrated based on the community charrettes to a community model that integrated, the built and natural environment to optimize a future Flagstaff with 150,000 residents and 75,000 jobs (see Page II-11). If the development that occurs is far under the intensity and density described by activity centers and future area types, there may not be affordable housing, enough good paying jobs, room for business to grow, larger environmental impacts, increased congestion, and a less efficient use of water and sewer infrastructure.</p> <p>The transition between the existing condition and the future condition is an essential ongoing community conversation, but to universally favor the existing to the future conditions undermines the foundation of the Regional Plan and would result in a less sustainable future for our community.</p>

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
<b>Page III-11</b>	Thank you for the opportunity to respond to the proposed Regional Plan Amendments. I was a member of the Regional Plan Advisory Committee. I have a few constructive comments. First, there is nothing that is transparent in the proposed substitution of one Table for another. This may be partially due to the nature of our Plan which is more about Placemaking, relies less upon traditional mapping, and emphasizes creating intensity and density centers. Still, and for example, it is hard to comment upon the proposals without actually attaching Maps 21, 22 & 24.	This comment was received on the community forum. Staff added links to the maps within a few days. One of the ways the city staff improved the chapter between the current and proposed version is adding explanatory information about the interpretations commonly used for maps 21 and 22 so that we can be consistent in our reviews and transparent with the public. A better introduction to this section and clearer heading were provided as a result of this comment
<b>Page III-11</b>	#6 Many activity centers designated on the map were placed ‘just because’ but with no description of density. Therefore the phrase should include both ‘reduce and increase’ density.	There is a description of density that is general to all activity centers and specific plans can refine or redefine those ranges. The densities have no maximum right now (for example 6 du/acre+) and so it would be impossible to develop a case in an activity center that is requesting an increase in density and intensity outside the range of what the plan calls for. Because of this, the maximum building heights in the zoning code are the only controls for maximum density and intensity.
<b>Page III-11</b>	Any part that talks about Activity Centers is problematic at this point because the CAC designations on the map had no discussion as to density or anything other than at some point there may be an intersection and development or something already exists. Activity center is an incompletely defined concept and yet it is used that defines a major or minor amendment.	Further refinement of language related to activity centers will be considered as part of the next plan amendment in the program schedule. This amendment is meant to update Chapter IX: Growth and Land Use. Updating how activity centers are refined and defined could have major impacts on the outcomes of the plan.
<b>Page III-11 &amp; 12</b>	#3 The relevant example on page III-12 is not clear.	Clarified
<b>Page III-12</b>	the minor amendment examples need clarifying. For example adding or deleting a policy could change the intent of the corresponding goal.	Added policies into the major plan amendment category

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
Page III-12	The whole thing with urban and suburban seems tangled up with major amendment definition.	Broke it into 2 examples to try and clarify
Page III-12	In general I am uneasy with Page III-12 because in reading it I don't form a clear picture of the checks and balances.	Added explanatory sentences to page III-12. Staff may consider enhanced participation for minor plan amendments, such as a public review period, when the next round of Title 11 updates are considered.
Page III-12	Growth Boundary changes are mentioned as a criteria both in the major amendment wording and minor amendment example. Can it happen in both?	Added a clarifying example
Page III-13	Make the language about future and existing area types clearer that they reference maps 21 and 22 and that they are tied to descriptions in the tables of characteristics in Chapter 9	Added clarifying language
Page III-2	Diagram, Was Vision 2020 finished in 1996?	Started in January 1996 and completed in June 1997
Page III-4	History: The Guide 2000 was the first general plan that talked about goals, open space, FUTS and alternate transportation in a way that reflected city wide input. It is a great reference if one wants to understand our city development from about 1988 to 2005. It is really the basis for Vision 2020 and the 2001 regional plan.	Modified description of the Growth Management Guide 2000 on page III-4 in the call out box to emphasize its foundational purpose.
Page III-5	Use of the broad term 'property rights' bothers me because it can be over interpreted. How about just zone changes?	Removed language and replaced with development applications and city-led projects to identify the scope of the decisions relevant to the plan.
Page III-5	Don't delete 'development approvals' because that is the final step that reflects the goals of the regional plan. The term is used on page III-6.	Put it back in with clarifying language

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
<b>Page III-5</b>	The added phrase ‘intended to be’ I don’t think reflects the understanding of the CAC. It should be deleted because it assumes something I don’t believe is the total thought.	Done.
<b>Page III-5</b>	It is also unclear to me why the words “development approvals” are deleted given the role council plays in approving rezoning requests as well as CUP appeals and other appeals that may come before it.	Not all development approvals are discretionary or presented to the City Council. Some are completed administratively. In addition, not all decisions before Council give equal weight to the Regional Plan. For instance, CUPs do not need a finding of conformance with the Regional Plan.
<b>Page III-5</b>	I am concerned about the meaning of the changes to the role of city council on page III-5. The box on the right indicates that some language was struck, but only three words “inform a final” were shown as struck and those words are out of context.	This sentence has been rephrased to clarify the meaning and intent.
<b>Page III-6</b>	Don’t delete ‘or applications’. This is one of the points some public are using in discussing the HUB project. It encourages public input which also helps in implementing the Regional Plan reflective of its community goals.	The change in wording does not change the meaning, given the list of examples that follows and remains unchanged. Poor wording led to confusion over the legal extent to which the plan can be applied in development decisions.
<b>Page III-8 Specific Plans</b>	The present moment, when there is so much disagreement about whether the Regional Plan is being appropriately applied to large development projects, is exactly the wrong time to try to fine tune the language.	The language in the plan that is largely the source of current disagreement related to Chapters 8, 10 and 13 of the Regional Plan. Any policy analysis, whether for a major or minor plan amendment, would address the trade-offs between these policies. The Region Plan was meant to provide more flexibility than the 2001 Plan. It was also meant to be revised and updated regularly to reflect current issues and concerns. None of the changes proposed would have influenced how the Regional Plan was interpreted in recent development cases.

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
<b>Page III-9</b>	When is the Annual Review due if you delete the phrase? Will the public be purposefully notified of its completion and availability?	The annual review is due on a date that is now left to the discretion of the City Manager. Right now the report is compiled after the budget process is completed for the next fiscal year but before the work program has begun. This is in part due to the timing of data availability. If data availability and reporting can be streamlined in the future, then the report may be prepared and sent to Council earlier in the process.
<b>Prop 207</b>	It terms of the new language, it is important to note that in a Prop 207 world, “changes in property rights” are a one way decision. Council can increase property rights, but its ability to decrease them is quite restricted.	This sentence was changed to remove this language based on other comments. All potential Prop 207 issues are discussed with the City’s legal department.
<b>Staff priorities</b>	Leave the update of Chapter 3 alone in favor of more pressing matters in the community, like the Southside Plan	Staff began working on the update to Chapter 3 in November 2015, based on direction from Council to proceed with a strategic plan for updating the Regional Plan identified in the Annual Report. The City Council did not provide direction on which specific plan staff should pursue next until January 26, 2016. Completing a Specific Plan take about 5-10 times more work than a minor amendment, therefore they are not interchangeable projects.
<b>Timing and Process</b>	The CAC worked on the plan for 5 years, the revision process is not equal to the effort made to create the original.	Records and interviews with former CAC members show that Chapter 3 was not reviewed or discussed with the CAC prior to public hearings. The review period for this plan amendment is intended to provide a second chance for those involved in developing the Plan to comment and revise this section.
<b>Timing and Process</b>	The current draft of the regional plan was developed by a committee of citizens who met over a number of years. It was then extensively revised by city council and passed by the voters.	Records and interviews with former CAC members show that Chapter 3 was not reviewed or discussed with the CAC prior to public hearings. The review period for this plan amendment is intended to provide a second chance for those involved in developing the Plan to comment and revise this section.

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
<b>Timing and Process</b>	<p>The citizen's committee spent 5 years bringing this update forward. To relegate any revisions to a (very) short term window, and an online process, is quite the slap in the face for all who volunteered so many hours to such a lengthy process.</p> <p>I ask you to extend the process a minimum of 30 days, and perhaps consider alternative avenues for additional input.</p>	<p>The process for the proposal included in-person meetings with several members of the Citizen’s Advisory Committee prior to creating a proposal. During those interviews, all but one member had no memory of reviewing Chapter 3 in advance of public hearings and noted that there was very little comment or public input on this topic at the time. Meeting notes also lack evidence of collaborative input on this chapter of the Plan. Staff, therefore, proceeded with providing a more focused second chance for the public to review the Chapter. Prior to releasing a proposal, staff held a work session with the Planning and Zoning commission that was open to the public on January 26<sup>th</sup>. Staff created opportunities for public involvement during the 30 day comment period both online and in person. In person opportunities included an open house on April 7<sup>th</sup> and another Planning and Zoning Commission work session on April 13. In addition, the Comprehensive Planning Manager was available for one-on-one meetings, of which there were 2 during this time period. There will be another chance for involvement at a Citizen's Review Session, which is a meeting of the Planning and Zoning Commission tentatively scheduled on May 11th.</p>
<b>Timing and Process</b>	<p>Agree...please extend both the process and outreach. I see members of the community struggling to understand the ramifications of the replacement text throughout this Chapter. As we are finding, the words matter.</p>	<p>The process for a minor plan amendment was enhanced in the case of this amendment. No comment period is required by Title 11 and staff scheduled time to meet one on one with interested individuals and organizations before developing a proposal for review. There will be further opportunities for citizen’s to comment on the proposal during the public hearing process.</p>

## Track Changes Key

■ Initial proposed text    ■ Post public comment text



# HOW THIS PLAN WORKS

## Who this Plan is For

The *Flagstaff Regional Plan* applies to the 525-square-mile FMPO planning area. It extends from Bellemont to Winona and from Kachina Village and Mountainaire to north of the San Francisco Peaks. The Plan serves as the general plan for the City of Flagstaff, and in the county areas works in conjunction with the Coconino County Comprehensive Plan and other community area plans. This Plan is for the people that live here, and the businesses that employ here. This Plan is for the visitors, prospective businesses, elected officials, City and County departments, the development community, interest groups, and resource agencies. This Plan is for the present and future generations.

## How this Plan is Used

The *Flagstaff Regional Plan* is used for decision making so that Flagstaff City government is accountable for publicly derived policy outcomes and goals. It also provides the basis for policies and regulations to guide physical and economic development within the Flagstaff region. The Plan will be used as a guide, or roadmap, for the future of the City and the region, and it establishes priorities for public action and direction for complementary private decisions, thus striving to establish predictability in the decision-making process.

General plans are not static documents; they recognize growth as a dynamic process, which may require revisions to the plan as circumstances or changes warrant. **This Chapter works in conjunction with Flagstaff City Code, Title 11, Chapter 11-10 (General Plans), to establish the process for how to amend the Plan.**

### Inside this Chapter:

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Photo by: Brittney Proctor

Connected chapter  
to City code

# The Planning Process

## Why Do We Plan?

We plan in order to guide growth and development in a way that allows our region to remain an outstanding area in which to live. We also plan so that we may build and pay for larger projects that benefit our whole community, present and future. This Plan presents a comprehensive vision for the future of the area, and provides guidance as to how that vision can become a reality.

## Why Do We Have a Regional Plan?

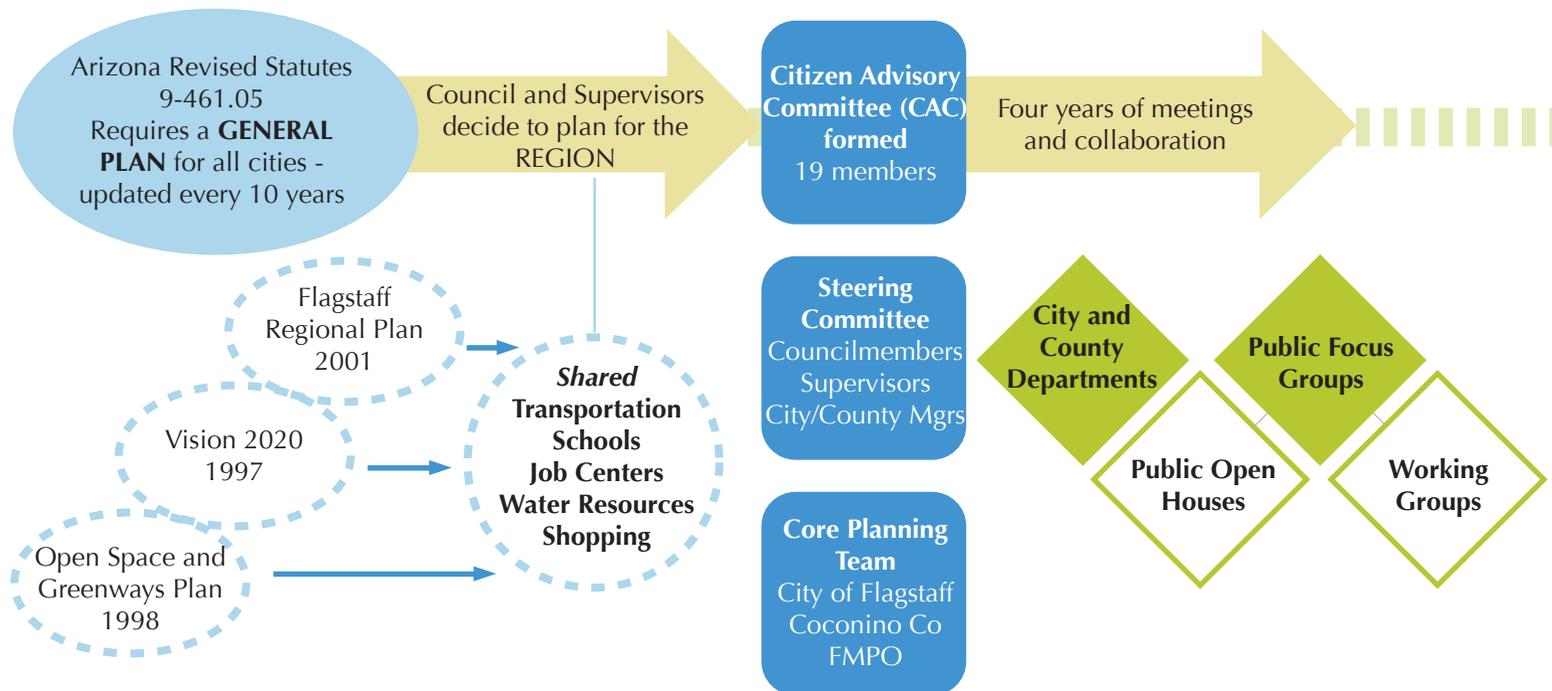
The Growing Smarter Statutes adopted by the State Legislature in 1998 and 2000 require that all municipalities and counties adopt general or comprehensive plans, and that these plans be updated every 10 years. However, the principal reason to have a plan is to make informed choices about our future. The *Flagstaff Regional Plan* contains goals and policies that provide guidance for making choices about public investment and for setting priorities.

## A Regional Focus

The City and surrounding communities all have unique identities and characters, but as a whole, the greater Flagstaff area functions as a unified community. Residents of the outlying neighborhoods and tribal

lands work and shop in the city, attend the schools, and use the services and medical facilities that are largely located within the City. The City and the County do address capital improvements differently; however, economic and environmental issues such as water and air quality, forest protection, and open space do not adhere to political boundaries. As such, the City and County chose to partner on the Plan even though they were not legally required to do so.

Creation of *A Vision for our Community: Flagstaff 2020* was the first step in bringing the City and County together, which was continued through the 2001 Regional Land Use and Transportation Plan (RLUTP) and enhanced in this *Flagstaff Regional Plan*.



## How We Got Here

The *Flagstaff Regional Plan* is the guiding policy document for the City of Flagstaff as required by state law. It is important that the Plan was created as a collaboration of Flagstaff citizens, public officials, and staff members, using an open planning process. A 19-member Citizen Advisory Committee (CAC) was appointed by the Flagstaff City Council and Coconino County Board of Supervisors. The CAC met monthly or bimonthly for over four years to develop the vision, guiding principles, and goals and policies for each of the topics covered by this Plan. In addition, a Steering Committee ~~composed~~ **comprised** of two Councilpersons and two Supervisors met quarterly to keep the process on track and make sure the public participation plan was effective. A core planning team of City and County staff also met regularly throughout the process to provide support to the CAC, draft sections of the Plan, and carry out all aspects of public participation. Hundreds of City and County residents provided important comments through open houses and focus groups, provided comments on the web site, blogs, and participated in surveys, all of which were crucial in defining the Plan's direction.

## Creating a Plan that Works

The *Flagstaff Regional Plan* is a living, working plan that relies on the disciplined and artful execution of three activities. First, the analysis of local conditions and historical trends, larger trends, our community vision, and best practices was learned from other communities. Second, the information gathered for those inputs was incorporated in a planning process that recognized the high level of economic, social, and environmental uncertainty we currently face. Third, the Plan must communicate transparently how those inputs were utilized and why the final plan decisions were chosen over other alternatives.



## Flagstaff's Planning History

Moved Flagstaff's Planning History box from page III-11 to III-4 and removed title "Flagstaff's Planning History" from within the box.

1945 – The City of Flagstaff's Planning and Zoning Commission is established

1957 – A Workable Program is established as a prerequisite to any city redevelopment activity and includes a 20-year physical growth plan

1959 – The *City of Flagstaff Metropolitan Plan* is published

1964 – Coconino County adopts its first zoning ordinance and subdivision ordinance

1965 – Flagstaff General Plan is created

1969 – The Flagstaff City Council adopts a General Plan for the Year 1985 as a guide to the development of the Flagstaff planning area

1974 – The *Coconino County General Plan 1990* is adopted as the County's first comprehensive plan

1975 – The City's 1969 General Plan is revised and renamed the 1990 General Plan

1986 – The Flagstaff City Council adopts the *Growth Management Guide 2000* as a ~~the City's first comprehensive physical plan for the City's growth and the central frame of reference for all other city plans that included goals, open space, FUTS and alternate transportation in a way that reflected citywide input. The Guide was the foundation for all other City plans and future general plans~~

1990 – The *Coconino County Comprehensive Plan* is adopted, differing from its 1974 predecessor by including goals and policies for future growth and development

1997 – *A Vision for our Community: Flagstaff 2020* is developed through a visioning process involving more than 5,000 community members in interviews, focus groups, and surveys designed to elicit a common vision for Flagstaff's future in the year 2020

1998 – The *Flagstaff Area Open Spaces and Greenways Plan* is published "to provide guidance in protecting and preserving existing open spaces with the demands of urban growth"

2001 – The *Flagstaff Area Regional Land Use and Transportation Plan (RLUTP)* is developed as a cooperative effort by the City of Flagstaff and Coconino County, based on the 2020 visioning process, as a resource plan created to guide future land use decisions in the City of Flagstaff and surrounding areas

2003 – The *Coconino County Comprehensive Plan* is updated in response to the state's Growing Smarter Act of 1998 and Growing Smarter Plus Act of 2000, requiring counties to update their comprehensive plans prior to December 31, 2003

SOURCES: "A Short History of Planning and the Future in

Updated per public comments

## Implementing the Flagstaff Regional Plan

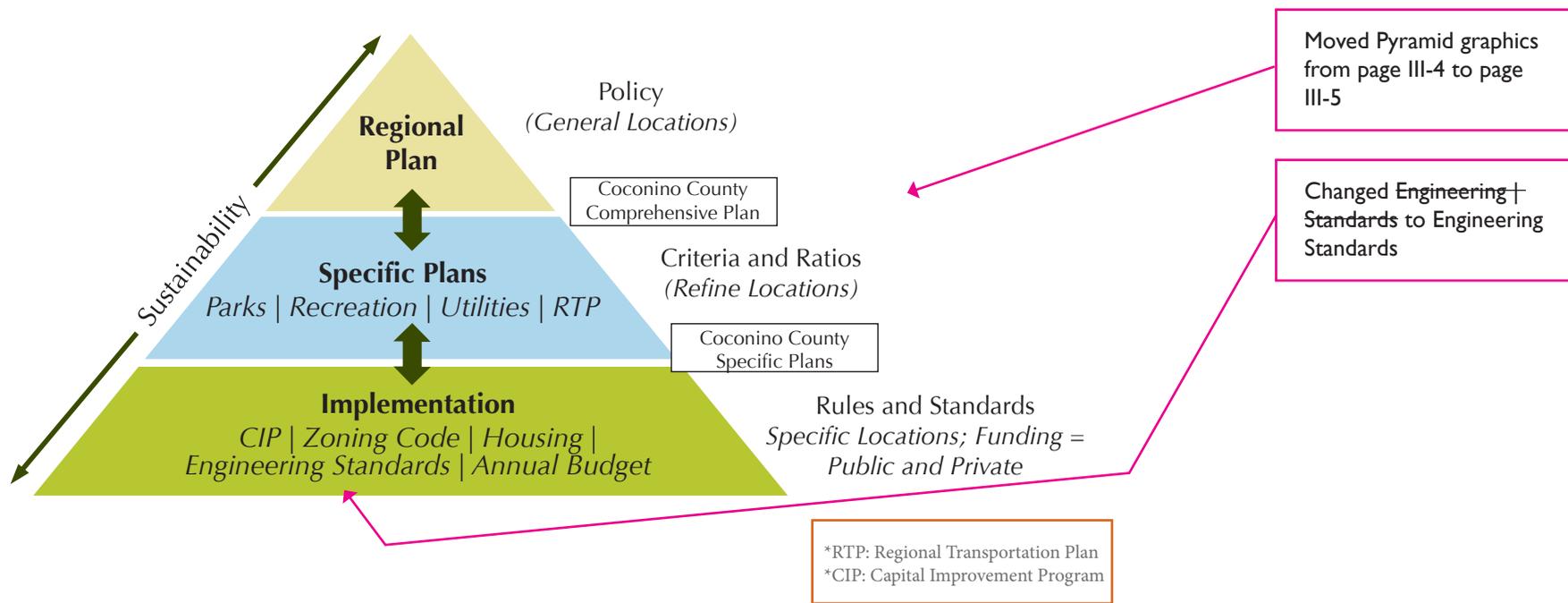
The relationship between the *Flagstaff Regional Plan* and such implementation tools as master plans, the Zoning Code, and other regulations is illustrated below; the *Flagstaff Regional Plan* establishes the vision for the future growth and development of Flagstaff and its surrounding area through goals and policies. City-adopted master plans and County area plans, City and County Zoning Codes, and other City codes, on the other hand, implement the goals and policies of the *Flagstaff Regional Plan* by providing standards, regulations, and tools for land development.

### City of Flagstaff

#### Who Implements the Regional Plan?

Most importantly, the *Flagstaff Regional Plan* is used in the regulatory decision-making process by the City Planning and Zoning Commission, City Council, and City staff. The Commission and the Council are responsible for making development decisions such as zoning map amendments or annexations, approval of which depends on whether the proposed changes or projects are consistent with the Plan's goals and policies. When reviewing development proposals,

Replaced subtitle Implementation by Decision-Making with "Who Implements the Regional Plan?"



City staff, the Planning and Zoning Commission, and the City Council will review applicable goals and policies to determine whether a proposed development is consistent with the Plan. The Future Growth Illustrations (Maps 21 and 22) and the text of the Plan will provide supplemental information for the interpretation of goals and policies. In case of any conflict between the Future Growth Illustration and the Plan's goals and policies, the goals and policies will prevail. The Plan is also used to guide decisions related to the expansion of public infrastructure, for example, the building or improvement of new roads and trails, investment in parks or public buildings, and other facilities. Many initiatives to improve the community start at the grassroots level. Thus, the Plan may be used by all citizens in order to ensure that new development conforms to the Plan and for assistance in implementing actions that will further the Plan's vision and direction. Generally, the City will use the Plan as follows:

- **City Council**—will use the Plan to **inform a final evaluate development applications and City projects that come before Council and require consideration of the Plan requests for changes in property rights. The Plan is the basis for the finding of conformance and discussions of compatibility decisions for such most** land use **decisions, efforts** including Regional Plan amendments, zoning map amendments, annexations, **discretionary development applications approvals,** and master/specific plans, **such as the City's Open Space Plan.** The *Flagstaff Regional Plan* provides a general background (why/intent), goals and policies (how), and a sense of priorities **for making decisions.** The Plan is **intended to be** broad enough to permit Council priorities to change between major plan updates.
- **City Planning and Zoning Commission**—serves in an advisory role to the City Council, and will use the Plan similarly, possibly to provide a clear connection to supporting technical documents to best justify or explain their recommendations.
- **City Management (including legal counsel, department, and division heads)**—also serve in an advisory role to the City Council, and will use the Plan to review staff recommendations, assess legal implications (e.g., property acquisition or impact issues), and explain budget and program recommendations (e.g., funding for master planning efforts, regulation



Photo by: Tom Bean

Corrected confusing/ inaccurate language

Updated per public comments

[Proposed text]-  
**City Council**—will use the Plan to evaluate development applications and City projects that come before Council and require consideration of the Plan. **The Plan is the basis for the finding of conformance and discussions of compatibility for such** land use **decisions,** including Regional Plan amendments, zoning map amendments, annexations, **discretionary development applications,** and master/specific plans. The *Flagstaff Regional Plan* provides a general background (why/intent), goals and policies (how), and a sense of priorities **for making decisions.** The Plan is broad enough to permit Council priorities to change between major plan updates.

updates, business attraction efforts, facilities planning).

Clearer wording

- **Public Agency Staff**—will use the Plan to develop and evaluate **development application application-of-regulations-to-development** requests such as Regional Plan amendments, zoning map amendments, subdivision plats, and other requests that require recommendations to management and governing bodies. The Plan will permit staff to clearly communicate to applicants the community expectations and concerns relevant to the property in question, subsequent recommended modifications or conditions for approval, and the reasoning behind them. Further, the Plan will be an essential tool for all City staff when, for example, prioritizing capital improvement projects, pursuing land acquisition, and developing agency budgets.
- **Development Community/Realtors/Prospective Buyers/Land Owners**—will use the Plan to determine the desirability of different development proposals on their properties, advise developers or owners on best available properties suitable to a proposed use or “highest and best use” for a given property, inform on the range of possible uses surrounding a property and their potential impacts on that property, and inform on long-range changes including infrastructure.
- **Interest Groups (e.g., environmental, business, education)**—similar to property owners, interest groups will use the Plan to advocate positions related to proposals **or-applications**, but often on a broader range of policy issues. These groups may use the Plan to advocate for or against new initiatives such as plans, infrastructure investments, educational programs, or business districts.
- **Resource Agencies**—will use the Plan in discussions with the City on resource/agency management plans, joint agreements, and cooperative initiatives.
- **General Public**—requires an accessible Plan that allows them to decide on whether **the Plan it** represents the “right” direction for the region.
- **Future Generations**—will have the full benefits, as well as address the challenges, of this Plan.

### Implementation Through the Development Process How Do We Implement?

The *Flagstaff Regional Plan* is intended to play a pivotal role in shaping the future of the City. Implementation of the Plan will evolve over time with new budgets, capital plans, work programs, and changing priorities, but listed below are some practical ways to ensure that future activities are consistent with the *Flagstaff Regional Plan*:

- **Capital Improvement Plans**—The City’s capital improvement plans and long-range utility and transportation plans will be prepared consistent with the Flagstaff Regional Plan’s land use policies and infrastructure recommendations (water, sewer, stormwater, transportation, and parks/recreation). Major new improvements that are not reflected in the Flagstaff Regional Plan, and which could dramatically affect the Plan’s recommendations, should be preceded by a comprehensive update to the Plan.
- **Development Approvals**—The approvals process for development proposals, including zoning map amendments and subdivision plats, are an important implementation tool of the Plan. The City of Flagstaff’s Zoning Code ([Flagstaff City Code](#), Title 10) and the Subdivision Regulations (Title 11) will be updated in response to regulatory strategies presented in the Plan.
- **Illustrative Plans**—These are plans or maps that depict (illustrates, but does not regulate) the streets, lots, buildings, and general landscaping **for of a** proposed



Photo by: K DeLong

development and redevelopment areas.

- **Master or Specific Plans**—Master plans or specific plans should include a statement(s) describing how the plan implements *Flagstaff Regional Plan* goals and policies, and how it is compatible with the Plan.
- **Economic Incentives**—Economic incentives should carry out *Flagstaff Regional Plan* goals and policies. **Geographic** Areas identified by **specific and** illustrative plans should have higher priorities for incentives and public/private partnerships.
- **Private Development Decisions**—Property owners and developers should consider the strategies and recommendations of the Plan in their own land planning and investment decisions. Public decision-makers will be using the Plan as a guide in their development-related deliberations.
- **Annual Work Programs and Budgets**—The City Council and individual City divisions will use the **recommendations of the** Plan when preparing annual work programs and budgets.
- **Future Interpretations**—The City Council should call upon the City Planning Director and Planning and Zoning Commission to provide interpretation of major items that are unclear or are not fully addressed in the Plan. In formulating an interpretation, the Planning Director and Commission may call upon outside experts and other groups for advice. Minor items that require interpretation should be handled by the appropriate agency as it implements the Plan.
- **Staff Reports**—When preparing reports to the City Council and City Commissions, staff reports should identify if and how the Plan’s goals and policies are being implemented.

## Coconino County

For areas outside the City of Flagstaff limits, but within the FMPO boundaries, the *Flagstaff Regional Plan* will guide land use decisions in conjunction with the Coconino County Comprehensive Plan and applicable area plans. The goals and policies in the Plan are used by County planning staff, the County Planning and Zoning Commission, and the Board of Supervisors to evaluate development proposals and to determine if such developments are appropriate for the unincorporated areas of the FMPO region. The *Flagstaff Regional Plan* is consistent with and complementary to the Coconino County Comprehensive Plan and the local community area plans in the region. These plans are decision-making tools used by residents, landowners, developers, Coconino County Community Development, Planning and Zoning Commission, and the Board of Supervisors. The Plan also serves as a comprehensive reference and blueprint for community programs as well as for public- and private-sector initiatives.

Moved paragraph  
“Coconino County  
from III-8”

## Relationship to Other Planning Documents

The *Flagstaff Regional Plan* incorporates, updates, and builds upon many past planning efforts within the Flagstaff region, and every effort has been made to ensure consistency with these other planning documents and to minimize conflicts.

**Appendix A contains a list of documents that implement, or are related to, the *Flagstaff Regional Plan*.**

Moved sentence from  
bottom of page III-8

### *Flagstaff Pathways 2030 Regional Transportation Plan*

The FMPO adopted the *Flagstaff Pathways 2030 Regional Transportation Plan (RTP)* in December 2009 that identifies and prioritizes future transportation investments for roads, public transit, and trails. This plan evaluates the cost and effectiveness of projects for each major travel mode and addresses the relationships between land use, transportation, the economy, and the environment. This document is updated every five years.

## Other Regional Planning Documents

There are two federal management plans in the planning area for Walnut Canyon National Monument and Sunset Crater Volcano National Monument. In addition, the Coconino National Forest has been working to revise its Forest Plan. At the county level, the *Coconino County Comprehensive Plan* adopted in 2003 also applies to the 460 square miles of unincorporated county land within the *Flagstaff Regional Plan* area. In addition, the County has 10 community area plans, of which five are within the area covered by the *Flagstaff Regional Plan*—Bellemont, Fort Valley, Doney Park Timberline-Fernwood, Kachina Village, and Mountaineer. These area plans also have goals and policies specific to each community and four of the five also have design review overlay guidelines which serve to ensure that new commercial buildings are compatible with the character of each community.

### Study Area Plans Specific Plans and Studies for Areas and Corridors

~~Over the past decade, the City of Flagstaff's RLUTP proposed the development of special study area plans to deal with unique community and neighborhood issues, including, for example, the *Southside 2005 Plan* and the *La Plaza Vieja Neighborhood Plan (2011)*. These study area plans were developed in close coordination with local residents.~~

~~This new *Flagstaff Regional Plan* does not supersede these plans. They will remain in effect except for any provisions that may conflict with this new Plan, until such times as the plans are amended or repealed by the City Council.~~

~~The *Flagstaff Regional Plan* attempts to integrate social, economic, aesthetic, and environmental issues described within the study area plans into physical manifestations, demonstrated in illustrative plans that will result in increasingly livable communities. Additional special area plans may also be created and adopted as amendments to the *Flagstaff Regional Plan*.~~

~~Prior to the *Flagstaff Regional Plan*, the City of Flagstaff adopted several specific plans for corridors and areas. The purpose of a specific plan is to provide a greater level of detail for a geographic area or element of the Regional Plan, and to provide for the systematic implementation of the Regional Plan. Specific plans can also be adopted as master plans for development when they accompany a request for rezoning. The development of specific plans is essential for implementation of the *Flagstaff Regional Plan* and its vision. These plans are necessary to further determine the nature and scale of activity centers, corridors and neighborhoods, the cross-sections and alignment of future corridors, and the priority of goals and policies in a particular area. For more details about the content and purposes of specific plans, see Flagstaff City Code, Title 11, General Plans, & and Subdivisions. Specific plans can be adopted in a number of ways.~~

~~Specific plans, such as the *The Woodlands Village at Flagstaff Specific Plan*, were adopted by ordinance and provide development standards and phasing of infrastructure for the planned area. The *Flagstaff Regional Plan* cannot supersede specific plans adopted by ordinance, but must be considered if they are amended. When plans adopted by ordinance are updated, the changes made to them will be evaluated for their conformance to the *Flagstaff Regional Plan*. However, the entire document is not required to conform to each and every goal and policy. It is the role of the City Commissions and Council to determine if competing goals and policies have been adequately addressed by a proposed amendment.~~

~~Specific Plans adopted by resolution, such as the *Lone Tree Corridor Specific Plan*, are official City policy providing direction on how to implement the Regional Plan. If the plan was developed prior to May 2014, Only portions of the specific plan that align with the *Regional Plan 2030* are valid, when the plan was adopted by resolution. If the specific plan has a section that conflicts with the new *Flagstaff Regional Plan*, the new Plan supersedes the older specific plan until it is amended or repealed by the City Council.~~

~~Plans that were proposed but not adopted by resolution or ordinance can be used as strategic documents and~~

The original text from page III-11 was deleted and was factually inaccurate. During the comment period, the public identified that the proposed text was too difficult to understand. So the blue text is a simplified version and some details were moved to Appendix A

studies to better understand unique community and neighborhood issues. They reflect the desired future conditions supported by the community unless specifically rejected by the City Council. Rezoning, annexation, and plan amendment requests typically consider these plans and studies, but are not required to demonstrate conformance with them.

Within each specific plan or study, there is language that describes which parts of the documents are aspirational, advisory, strategy, and which are standards and guidelines. Specific Plans need to be read in the context of their status, intent, and conformance with the Regional Plan. Appendix A lists Specific Plans that were adopted or worked on by the City and their status. Some of the *Flagstaff Regional Plan's* policies will need further illustration and evaluation in certain areas to be implemented effectively. New specific plans adopted under the *Flagstaff Regional Plan* can clarify broader policy statements pertaining to an area, activity center or corridor. These plans may further determine the nature and scale of activity centers, the cross-sections and alignment of future corridors, or the priority of goals and policies.

### Special Area Studies

Over the past decade, the City of Flagstaff's RLUTP proposed the development of strategic documents and studies to better understand unique community and neighborhood issues. Some of those studies, such as the *2005 Southside Plan: Strategies for Development*, were completed but not carried forward and adopted as a specific plan. Other studies like the Westside Study were used as the basis for infrastructure projects and for Regional Plan content. Still other studies were completed but the City Council at the time chose not to adopt them as an official City policy.

City staff frequently reviews these studies, when evaluating a development proposal or applications for rezoning, annexations and plan amendments. However, it is important to look at the final action taken by Council on the study to understand how the proposal was adopted (by resolution or ordinance) or why it was not. Rezoning, annexation, and plan amendment requests typically consider these plans and studies, but are not required to demonstrate conformance with them.



Photo by: Tom Bean

Picture moved  
"Annual Plan  
Review and  
Monitoring"  
section from  
page III-7

## Keeping the Plan Current

### Annual Plan Review and Monitoring

The purpose of annual reviews and monitoring is to ensure that **the Plan** it continues to reflect core community values and to evaluate how new developments have been approved in compliance with the Plan. To achieve this, department directors will provide the City Manager and City Council with an annual review of Regional Plan-related activities **prior to the initiation of the budget process each year**. This review will accomplish the following:

### Keeping the Plan Current

The *Flagstaff Regional Plan* is a dynamic document that can be updated, revised, and improved over time to respond to emerging issues, new ideas, and changing conditions. To assess the Plan's effectiveness, the City will need to monitor actions affecting the Plan. As a result of these monitoring efforts or private development requests, the City will need to amend the Plan periodically. The Planning and Zoning Commission and City Council **members** need to consider each proposed amendment carefully to determine whether or not it is consistent with the Plan's goals and policies. In addition, the cumulative effect of many changes may result in a change in policy direction. For this reason, Plan amendments must be evaluated in terms of their significance to overall City policy. A comprehensive summary listing of the goals and policies for the Plan is included at the end of this document, and will serve as a valuable tool to ensure any future changes or amendments are in keeping with the Plan's original vision and intent.

Moved title up

Sidebar moved  
from page  
III-10.

- Measure the City’s success in achieving Plan goals and policies through recommended strategies such as measuring on a per-project basis how sustainability indicators have been achieved
- Identify proposed strategies to be pursued under the coming year’s budget
- Identify unlisted strategies that will achieve Plan goals
- Document growth trends and compare those trends to plan objectives
- List development actions that affect the Plan’s provisions
- Explain difficulties in implementing the Plan
- Review community indicators
- Review outside agencies’ actions affecting the Plan.

Refer to Appendix D, Annual Report Template

### Comprehensive Plan Review

To ensure that the *Flagstaff Regional Plan* remains an effective guide for decision-makers, Flagstaff will conduct comprehensive evaluations of the Plan every 10 years as required by Arizona Revised Statute §9-461.06 and should address the following in addition to any state mandated requirements:

- Progress in implementing the Plan
- Changes in community needs and other conditions that form the basis of the Plan
- Fiscal conditions and the ability to finance public investments recommended by the Plan
- Community support for the Plan goals and policies
- Changes in state or federal laws that affect the City’s tools for Plan implementation
- Changes in land ownership, usage, or development in areas immediately outside of the planning boundary and jurisdiction (such as those that might be implemented on the Navajo Nation to the east and north, or by the Hopi Tribe on parcels it owns, or by Camp Navajo to the west, or in communities such as Parks).

## Amendments and Development Review Processes

The codified processes described below serve as tools for City staff to implement the goals, policies, and strategies of the *Flagstaff Regional Plan*. In addition, through public hearings when applicable, these processes provide opportunities for citizens to make recommendations to the Planning and Zoning Commission and City Council regarding the goals and policies of the *Flagstaff Regional Plan*.

**Annexations** – All proposed annexations will be evaluated for consistency with the goals and policies of this Plan. The proposed annexation should not be detrimental to the majority of the persons or property in the surrounding area or the community in general. The City’s basic position regarding annexation is that the annexation must demonstrate a favorable benefit to the taxpayers of the City. All applications for annexations of real property shall be reviewed, processed, and approved in conformance with Arizona Revised Statute §9-471 et seq. (Annexation of territory, procedures, notice, petitions, access to information, restrictions). Annexations may be initiated by the following:

- City Council or City Manager – The City Council or the City Manager may direct the Planning Director to review a specific property to determine whether it may be legally annexed and to contact property owners to determine whether they will sign an annexation petition.
- Property Owners – One or more property owners may submit an application to the City to annex property.

**Zoning Code Amendments** – In accordance with the City of Flagstaff Zoning Code, Division 10-20.50, an amendment to the zoning map or the text of the Zoning Code may only be approved if:

- The proposed zoning map amendment(s) is consistent with and conforms to the goals and policies of the *Flagstaff Regional Plan* and any applicable specific plans.
- If the application is not consistent with and does not conform to the *Flagstaff Regional Plan*, and any other specific plan, the applicable plan must be amended in compliance with the procedures established in the [Flagstaff City Code](#), Title 11, Chapter 11-10 (General Plans), prior to consideration of the proposed amendment(s).



Moved photo from page III-10

Photo by: Tom Bean

### Major and Minor Plan Amendment Procedures

The Regional Plan is a living document and is expected to be amended regularly to keep it current and relevant. There are two types of plan amendments: major and minor. In Arizona, each jurisdiction can determine what changes require a major plan amendment in the General Plan (*Flagstaff Regional Plan 2030*). The procedures for processing plan amendments can be found in the Flagstaff City Code, Title II General Plans, & Subdivisions. Flagstaff City Code may change independent of the Regional Plan and should be referred to details of any related process.

Arizona Revised Statutes (A.R.S.) require all major amendments to the Regional Plan to be presented at a single public hearing during the calendar year the proposal is made. The process for major amendment proposals is very specific and deadline driven. Major plan amendments must be processed before an application for rezoning or annexation can be accepted. The process includes public notification, Planning and Zoning Commission review, and a minimum of three public hearings. The proposal is also required to be sent to the Planning and Zoning Commission, City Council, and a review and comment period 60 days prior to public notice. Major amendments to the general plan also require an affirmative vote of at least two-thirds of the members of the City Council. These requirements may be changed by the City or the State.

A minor amendment to the general plan requires only one public hearing by the Planning and Zoning Commission and one by the City Council. These minor amendment public hearings may be held at any time during the calendar year, and do not require two-thirds vote of the City Council. Minor plan amendments may be processed concurrently with rezoning and annexation applications.

New text added per public comment

**Public Development Projects** – City- and County-sponsored projects and Capital Improvement Programs should be required to adhere to all applicable goals and policies of the *Flagstaff Regional Plan* through project planning and budgeting to ensure funding is available to implement the Plan.

## Amendments to Goals and Policies and Maps 21, 22 and 24

Major plan amendments should evaluate proposals that would substantially alter the balance between the goals and policies of the *Flagstaff Regional Plan*. When a major plan amendment is proposed, it will be evaluated for its conformance to goals and

policies, and systematic impacts that would alter the expected growth scenario that the Regional Plan embodies (See Page II-11 for details). The growth scenarios used a computer model to integrate land use, transportation, and environmental outcomes to a preferred build out scenario that informed the Regional Plan's Maps 21 and 22 (Future Growth Illustration) and Map 24 (Activity Centers). When a major plan amendment is proposed to these maps, its expected outcome will be compared to the original assumptions of the plan and the systematic impacts of the change. Only those changes listed in the chart as requiring a major plan amendment need such an amendment. **All other changes require only a minor plan amendment.**

Original draft did not have any explanatory text to explain major and minor plan amendments

A major plan amendment is one that meets any one of the criteria on the chart on Page III-14. Major plan amendment categories one through seven relate to Maps 21 and 22 (Future Growth Illustration), and Map 24 (Activity Centers). Any changes made to the content of these maps can be carried forward to other maps, using the same features for background, as part of the City's annual update. Major plan amendment category eight only applies to text found in the "Goals and Policies" call out boxes that are located throughout the plan. Deletions, additions or changes to goals and policies in the Regional Plan can only be proposed by the City of Flagstaff.

We had significant public comment on what information was helpful in understanding the amendment process and how the Regional Plan's Growth and Land Use Chapter relates to this contentworks

Any other changes to Maps 21 and 22, (~~Future Growth Illustration~~), and Map 24 (~~Activity Centers~~) or goals and policies not shown in the Major Plan Amendments Chart are considered minor plan amendments. Minor plan amendment analysis is focused on conformance with the goals and policies of the Regional Plan. Some minor plan amendments may have consequences for how the Plan is implemented, but it is difficult to define them as "major" based on any criteria that could be identified early in the application process. **Some examples of minor plan amendments are:**

- Changes from urban to suburban, ~~or rural to suburban~~ area types outside of activity centers
- Changes from rural to suburban area type outside of an activity center
- Changes from urban, suburban, and rural area types to employment or special district
- Identifying a new area type for an "Area in White" ~~area in white~~ on Maps 21 and 22 (Future Growth Illustration)
- Refinement of place types at the parcel level as part of a specific plan
- Wording changes to goals and policies that do not substantially alter their meaning
- Expansion of the Urban Growth Boundary to bring an area with City utility services into compliance or to serve facilities in parks/open space
- ~~Adding or deleting a policy.~~

## Area and Place Type Guidelines

Maps 21 and 22 (Future Growth Illustration) and Map 24 (Activity Centers) are generalized representations of area and place types. The following descriptions relate to the content of Chapter IX that describes areas and place types through the maps, goals and policies, and Tables of Characteristics, which give detail on the desired conditions within Urban, Suburban, and Rural Activity Centers, Neighborhoods, and Corridors.

If there are overlapping area types, either type could be used to analyze plan consistency without requiring an amendment to Maps 21 and 22 (Future Growth Illustration).

Places ~~areas~~ with "future" area types on Maps 21 and 22 (Future Growth Illustration) that are currently developed to a lower intensity and density ~~that are already developed~~ do not require an amendment if they are compatible with the existing development pattern. ~~to Maps 21 and 22 unless the development application requires a change to the underlying area type.~~ For instance, if an area with a future urban/existing suburban area is proposed for a development that fits the suburban area type according to the table of characteristics, then an amendment is not required. ~~If an area a place~~ has only a future area type and no existing area type, then the application must conform to the future area type or would require an amendment.

Tables of Characteristics for each area and place type are found in Chapter IX: Growth and Land Use. **The tables**

include information that describes the combined area-place type, such as Suburban Neighborhood, in terms of desired pattern, block size, density and intensity, mix of uses, transportation, open space, and parks. Parks/Open Space, Employment, and Special District area types are not described in the tables but have explanations of similar characteristics described in the text. These tables are intended to be interpreted at a scale that at a minimum is a neighborhood or activity center, and may be larger. Every row is not a standard or guideline unto itself. The tables are meant to be taken as a whole, and used along with an analysis of how the project would or would not move the community towards the goals and policies throughout the document. For projects that are generally compatible with the characteristics in the table but do not fall within the range of density or intensity, the planner will consider the site-specific preservation of nature resources and compatibility of the proposal with the existing and future neighborhood context through an analysis of goals and policies. Specific plans may further refine how density and intensity is considered within an activity center or a neighborhood.

Parcels with more than one area or place type do not have to meet the exact acre of each area type. The lines dividing each area type are general, unless a specific plan has made site-specific interpretations. Parcels with more than one area or place type but must show they meet the intent of what is displayed on Maps 21 and 22 (Future Growth Illustration). For example, a 20-acre parcel with “urban” next to a commercial corridor and “suburban” further away can show that the proposal increases density in the front of the property along the road and scales back without having 10 acres of each and no plan amendment would not be required. If the parcel is along a Great Street or within the pedestrian shed of an activity center, characteristics of the place types must also be demonstrated.

## Minor Amendments to Other Maps and Plan Content

If the Plan changes are the result of a development application that complies with the urban growth boundary, area types, and place types, amendments to other maps in the plan may be completed as part of the City’s annual update of the Regional Plan. Changes or updates to other parts of the Regional Plan will be gathered throughout the year and presented for City Council adoption along with the Regional Plan Annual Report. In these cases, it is not required to have a plan amendment processed along with the development application. For instance, changes to Map 25 (Road Network Illustration) as a result of a subdivision plat may be processed separately from the application, if all the underlying land uses and dedications comply.

If the application requires a change to the urban growth boundary, area or place types, then all amendments to other maps in the Regional Plan should be processed concurrent with the changes to Maps 21, 22, and 24.

## Specific Plan Amendments to the Flagstaff Regional Plan 2030

Specific Plans are processed as a minor amendment but follow the enhanced procedural requirements for public participation and notification required of major plan amendments. If a Specific Plan proposes a change to the Regional Plan related to a major amendment category identified on Page III-14, and the application follows the same notification and public participation requirements of a major plan amendment, the proposal may be exempted from the timeline for submittals and reviews of major plan amendments in Title 11. ~~The hearing for the Specific plan must be at the same meeting as hearings for all other major plan amendments in the calendar year, in this case.~~

Reconsidered this requirement



## Comprehensive Updates and New Elements

Refer to Flagstaff City Code, Title 11, Chapter 11-10 (General Plans), for procedures relating to the addition of a new element to the Regional Plan, or for comprehensive General Plan update requirements.

# Major Plan Amendments Chart

Major Plan Amendment Category	Criteria	
1 Urban growth boundary <sup>1</sup>	Expansion of the urban growth boundary that requires an expansion of public utility infrastructure, except where services are already provided, or for the purpose of designating Parks/Open Space area type.	← New Table
2 Area Type - Employment	Reduction of the employment area type, unless offset by an exchange of acres within the same master planned area.	
3 Area Type - Urban/Rural	Changes from urban to rural or rural to urban area types.	
4 Area Type – Special District	Creation of a new special district, or reduction in the size of a special district.	
5 Area Type – Parks/Open Space	Reduction of the land designated for conservation and active or passive recreation. <sup>2</sup>	
6 Area Types – Urban/Suburban/Rural <sup>1</sup>	<ul style="list-style-type: none"> <li>- In activity centers, changes to area types that reduce the <del>anticipated range of intensity, density, and mix of uses<sup>3</sup> except where done to protect natural or cultural resources.</del> <del>without creating a proportional increase in intensity, density and mix of uses within the activity center.</del></li> <li>- In neighborhoods and along commercial corridors more than ¼ mile from an activity center, changes from suburban to urban area types.</li> </ul>	<ul style="list-style-type: none"> <li>← Removed condition to simplify</li> <li>← New criteria</li> </ul>
7 Place Type – Activity Centers <sup>1</sup>	<ul style="list-style-type: none"> <li>- Addition or deletion of an activity center</li> <li>- Moving the center of an activity center more than ½ mile from its original location.</li> <li>- Reduction in the category of an activity center (urban to suburban, suburban to rural, or regional to neighborhood) without creating a proportional increase in scale of an activity center elsewhere in the Flagstaff Region.</li> </ul>	
8 Goals and Policies <sup>1,4</sup>	Add or delete a goal or policy in any chapter of the Plan.	← Per public comment

<sup>1</sup> This category excludes changes that are the result of a Specific Plan. Such changes will be processed as minor amendments.

<sup>2</sup> Lands designated for conservation and active and passive recreation are displayed as Parks/Open Space on the Future Growth Illustration. Within the Parks/Open Space area type, public facilities, such as tanks, utilities, roads, and staging areas, may be located, within the Parks/Open Space area type. If these facilities have substantially altered the natural environment or created a brownfield site, removing them from the Parks/Open Space designation may be processed as a minor amendment. Expansion of such facilities does not require a plan amendment.

<sup>3</sup> See tables of Area/Place Type characteristics found in Chapter IX: Growth and Land Use and relevant Specific Plans for the range of density, intensity and mix of uses..

<sup>4</sup> Deletion or addition, of goals and policies to the Regional Plan can only be proposed by the City of Flagstaff.

← correction

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Patrick Staskey, Fire Marshal  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE:**

**Consideration and Possible Adoption of Resolution No. 2016-20 and Ordinance No. 2016-25:** Declaring as a Public Record that certain document known as the International Fire Code, 2012 Edition, and amendments, additions and deletions thereto and the 2016 Amendments to the Flagstaff City Code, Title 5, Fire Code and adopting said public record by reference.

**RECOMMENDED ACTION:**

At the Council Meeting of September 20, 2016

- 1) Read Resolution No. 2016-20 by title only
- 2) City Clerk reads Resolution No. 2016-20 by title only (if approved above)
- 3) Read Ordinance No. 2016-25 by title only for the first time
- 4) City Clerk reads Ordinance No. 2016-25 by title only (if approved above)

At the Council Meeting of October 4, 2016

- 5) Adopt Resolution No. 2016-20
- 6) Read Ordinance No. 2016-25 by title only for the final time
- 7) City Clerk reads Ordinance No. 2016-25 by title only (if approved above)
- 8) Adopt Ordinance No. 2016-25

**Executive Summary:**

The action of adopting this ordinance will enact the 2012 International Fire Code, and subsequent amendments to the Flagstaff City Code, Title 5, Fire Regulations. The purpose of this adoption is to keep our Flagstaff fire codes in compliance with previously adopted state legislation, as well as the adoption of local amendments. The effective date for the 2012 IFC to take effect would be October 20, 2016.

**Financial Impact:**

There are no costs to the city associated with updating to a more contemporary version of the IFC. Plans review and construction inspections with updated standards will place some new demand on our fire inspectors, for a few months post adoption as they incorporate the new code.

**Connection to Council Goal and/or Regional Plan:**

**COUNCIL GOALS:**

3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics

**REGIONAL PLAN:**

1. Work across all government operations and services to prepare for the impacts of natural and human caused disasters.
2. Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient

and effective manner to service all populations' areas and demographics.

3. Provide high quality emergency response and public safety services including law enforcement, fire, medical and ambulance transport service.

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

The 2006 International Fire Code (The model code presently in use) was amended and subsequently adopted by Ordinance No. 2010-21, adopted by City Council on November 5, 2010

**Options and Alternatives:**

1. Table the ordinance to allow for more public input. The effect of this action would be to delay adoption.
2. Amend the ordinance to add or remove specific requirements.
3. Do not approve the ordinance. This action would have little effect as the State of Arizona has adopted this version of the IFC which placed it as a minimum requirement.

**Background/History:**

Adopting this ordinance will enact the 2012 International Fire Code, and the 2012 amendments to the Flagstaff City Code, Title 5: Fire Regulations and provide for their incorporation into city code. This action codifies the model fire code in Flagstaff that was previously adopted by the State Fire Marshal's Office in January of 2016.

With Resolution No: 2016:-20 the City of Flagstaff Council has declared the 2012 International Fire Code (IFC) and the 2012 amendments to the Flagstaff City Code, Title 5 Fire Regulations (2012 Amendments) to be public record, three copies of which are on file in the office of the city clerk.

The Flagstaff Fire Department routinely updates its local Fire Code with a more contemporary model version. This update traditionally takes place every 6 years in accordance with the building departments model code update. The building department is presently using the 2012 International Building Code (IBC). Model codes such as the IFC and IBC are designed as minimum standards and local jurisdictions are encouraged to amend them locally to suit local conditions. Local amendments are proposed for the IFC. In the future, it is the intent of the Fire Department to match the fire code edition with the other ICC codes adopted by the City.

The 2012 Amendments deal with changes in the model code that are of significant local importance. The changes to the model code specific to Flagstaff are as follows:

1. Fire sprinkler systems to be required in all commercial buildings greater than 5000 square feet or three stories in height. This has been required in Flagstaff since the 1980 s.
2. Adding a chapter specific to community special events, the chapter includes guidelines on fencing and exiting, crowd management and mobile food trucks.
3. Addition of Flagstaff's local addressing criteria.
4. Refrigerant Detection Equipment in convenience stores with a minimum quantities of hazardous materials used for this application.

**Key Considerations:**

1. Little impact on single family residential construction. The IFC is geared to commercial business operations
2. Clarity in requirements. The adoption process will place the 2012 IFC as the single model code for fire protection requirements in the region. NAU, the county and the state of Arizona are presently using the 2012 IFC code adoption will enhance developer friendly environment

3. Stream line the project review process the city building department and the fire department are using the same year model code.

4. Address specific community Hazards through our amendment adoptions. This includes a special events section as an example.

**Community Benefits and Considerations:**

In February and March of this year, the Fire Department scheduled meetings with local general contractors as well as scheduled an open house with fire protection sub-contractors. The purpose of these meetings was to educate these stakeholders about the IFC adoption proposal and review significant updates from the 2006 IFC as well as amendments. Specific external interest groups included: Northern Arizona Homebuilders and service clubs. There was little to no negative feedback from these external interest groups only clarifications as to the code and updates, feedback seemed positive. The Fire Department has also met with various city divisions seeking input and offering our availability to meet and discuss the code adoption process. Those internal city groups included: community development, engineering, the building department, and code compliance. Input was discussed and in most cases incorporated into the local amendments.

**Community Involvement:**

***Choose which of the following that applies and REMOVE ALL OTHERS:***

Consult/Involve:

Through our community outreach activities we have consulted and elicited feedback from those community members who are most effected by the code adoption.

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**Attachments:**      Significant Changes between the 2006 and 2012 Codes as well as the City of Flagstaff  
Adopted Amendments  
3-3-16 FP Open House Roster  
Res. 2016-20  
Ord. 2016-25  
PowerPoint



# FLAGSTAFF FIRE DEPARTMENT

211 W Aspen Avenue  
Flagstaff AZ 86001

Phone 928-779-7688  
Fax 928-779-7668

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## Significant Changes between the 2006 and 2012 Codes as well as the City of Flagstaff Adopted Amendments

Fire Prevention's goal through this 6 month process has been to:

- Simplify our amendments
- Make our amendments more user and customer friendly with regard to understanding and life safety specific information and regulations.
- Clean up deficiencies and ambiguities in the old document by way of removing sections that were no longer needed due to changes in the new Code
- Add language specifically applicable to the community we live in
- Only recommend amendments unique to our community while attempting to standardize requirements, as much as possible, with the building department that will make it easier for the general public and the building trades to work in this area, without compromising life safety.
- Come up with a product that would be understandable, enforceable, and life safety oriented while taking into consideration our customers' needs
- 

Purpose for the adoption of the 2012 Code

- Present code is 6 years old 2 code cycles ( Best practices encourage 6 year code cycles as a maximum)
- Alignment with Building Department (They are working out of the 2012 models codes )
- New code addresses new technology in the construction industry
- SFMO- Moved to the 2012 IFC, this will be a minimum requirement at the state level (NAU's Jurisdiction)
- Our present ISO Rating based on code updates every 6 years

The attached document depicts what code sections have been amended.

This currently is a draft and is subject to change at the discretion of the Building and Fire Board of Appeals or the Fire Department based on feedback prior to submission for approval.

## **Section Specific Recommended Amendments to the 2012 International Fire Code**

### Chapter 1- Scope and Administration

- No significant changes to previous amendments recommended
- New amendment recommendation to include adopting all applicable reference codes and standards in Chapter 80 of the IFC.
- Recommendation – we are presently looking into modifying the existing Fee Schedule to make it more beneficial to our customers and the city.

### Chapter 2- Definitions

- Clarification of a detached building
- Recommendation to add a new definition; “Sky Lantern”. Sky Lanterns have gained popularity, and demonstrated to be problematic.

### Chapter 3- General Requirements

- Recommendation to prohibit the aforementioned “Sky Lantern”(s).

### Chapter 4- Emergency Planning and Preparedness

- No recommended amendments

### Chapter 5- Fire Service Features

- New amendments to reflect existing Fire Department amendments with regard to consistency with other IFC chapter, definitive terminology, and to accommodate the local equipment that will be used in emergency responses.
  - Note- this includes items such as turning radius specific to the apparatus that the fire department currently responds with as well as road and driveway grades.
  - Subject to A.R.S. 9-808 “*Fire apparatus road or approved route; one or two family residences; utility or miscellaneous accessory buildings or structure definitions*”, that the 2012 Code cannot be amended with regard to the current adopted code without the possibility of negating its requirements
- Recommendation to define the dimensions of addressing numbers and letters for visibility to responding emergency units. Sizes can change depending on the distance, location, or visibility of the numbers or letters with regard to the building distance from the approach route of emergency response units.

## Chapter 6- Building Services and Systems

- Recommendation based on 2012 model code that includes detection and alarms systems in areas where refrigerant mechanical equipment is located –Specifically and convenience stores and restaurants. amendments

## Chapter 7- Fire Resistance-Rated Construction

- No recommended amendments

## Chapter 8- Interior Finish, Decorative Materials and Furnishings

- No recommended amendments

## Chapter 9- Fire Protection Systems

- Recommendation to clarify the wording of the current Code language to make it more clear and consistent with the 2012 IFC. The majority of the changes to this section are to reflect the need to carry forward our current amendments and formatting to the new Code. None of the reflected changes are any more restrictive than the existing Code and amendments.
  - Note
    - The 2012 IFC specifically addresses sprinkler system requirements in each occupancy classification. Amendments to each classification center on local previous code amendments to require a sprinkler system in all commercial occupancies when square footage is over 5000 Square feet or 3 stores in height.
- Recommendation to require that records of Fire Protection Systems inspection, tests, and maintenance, revealing significant deficiencies, be forwarded, by hard copy, to the Fire Department within 30 business days.
- Recommendation to delete Section 905.3.4.1 “Hose and Cabinets” in its entirety.
  - Note: the reason for this deletion is that we do not want the general public to attempt to use a fire hose to suppress a fire and we cannot regulate the continued maintenance and testing of private fire hose to assure its functionality for our use. We will however continue to require, per the Code, installation of standpipes that we can connect Fire Department hose to as needed.

## Chapter 56- Explosives and Fireworks

- A.R.S. 36-3601 “Relating to Fireworks ”, The city has adopted ordinance 5-02-002-0001 to comply with new Arizona Revised Statutes requirements

***With regard to subsequent Chapters:***

- The 2012 International Fire Code has significantly changed with regard to comprehensiveness and clarity; therefore, the need to amend Chapters past Chapter 9 has not been found to be necessary during this code cycle.
- Recommendation based on our community's special events calendar and frequency to include the addition of a Special Events Chapter into Flagstaff's IFC which would be Chapter 12

**Appendices to the 2012 Fire Code**

Note:

Per the Fire Code language- "Provisions contained in the appendices are not mandatory unless specifically referenced in the adopting ordinance. "

Appendix "A"- Board of Appeals

- Recommend to delete in its entirety

Appendix "B"- Fire Flow Requirements for Buildings

- Recommend to adopt in its entirety.

Appendix "C"- Fire Hydrant Locations and Distribution

- Recommend to adopt in its entirety.

Appendix "D"- Fire Apparatus Access Roads

- Recommend to adopt in its entirety to be consistent with aforementioned Fire Service Features- (Chapter 5)

Appendix "E"- Hazard Categories

- Not recommended for adoption as it is for information purposes only and not intended for adoption.

Appendix "F"- Hazard Ranking

- Not recommend to adopt in its entirety.

Appendix "G"- Cryogenic Fuels- Weight and Volume

- Not recommended for adoption as it is for information purposes only and not intended for adoption.

Appendix "H"- Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement Instructions (HMIS)

- Recommend to adopt in its entirety.

Appendix "I"- Fire Protection Systems- Noncompliant Conditions

- Recommend to adopt in its entirety.

Appendix "J"- Building Information Sign

- Not recommended for adoption as a valuable tool for our jurisdiction.

FFD Open House – Fire Protection Trades

3-3-16 - Discussion and training on 2012 Code Adoption

Name

Company

E Mail Contact

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8. \_\_\_\_\_

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13. \_\_\_\_\_

RESOLUTION NO. 2016-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT KNOWN AS THE *INTERNATIONAL FIRE CODE, 2012 EDITION, AND AMENDMENTS, ADDITIONS AND DELETIONS THERETO AND THE 2016 AMENDMENTS TO FLAGSTAFF CITY CODE, TITLE 5, FIRE CODE*

RECITALS:

WHEREAS, the Mayor and City Council of the City of Flagstaff ("City") wish to declare the *International Fire Code, 2012 Edition and amendments, additions, and deletions thereto and 2016 Amendments to Flagstaff City Code, Title 5, Fire Code*, to be a public record to be maintained by the City Clerk for the convenience of its citizens and to permit its adoption by reference into the City Code; and

WHEREAS, the City Council finds that three copies of the *International Fire Code, 2012 Edition and amendments, additions, and deletions thereto and 2016 Amendments to Flagstaff City Code, Title 5, Fire Code*, have been placed on file with the City Clerk as a public record available for inspection by the public until such time as the City Council shall adopt a later edition of the Flagstaff Fire Code.

ENACTMENTS:

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

SECTION 1: That the *International Fire Code, 2012 Edition and amendments, additions, and deletions thereto and 2016 Amendments to Flagstaff City Code, Title 5, Fire Code*, three copies of which are on file in the office of the City Clerk, are hereby declared to be a public record.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 20<sup>th</sup> day of September, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

*International Fire Code, 2012 Edition and Amendments, Additions and Deletions Thereto  
and 2016 Amendments to the Flagstaff City Code, Title 5, Fire Code*

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**5-02-001-0005 AMENDMENTS**

The following provisions shall have the effect of either amending, adding to, or deleting from the International Fire Code, ~~2006~~ [2012](#) Edition:

**CHAPTER 1, IFC, Administration****Amend Section 101.1 Title, to read:**

These regulations shall be known as the Fire Code of City of Flagstaff, hereinafter referred to as "this code."

**Amend Section 102.7 entitled "Reference codes and standards", by adding:**

Referenced codes and standards as listed in Chapter 80, and in this document are adopted in their entirety.

**Amend Section 104.6, Official Records, to read:**

The fire code official shall keep official records as required by Sections 104.6.1 through 104.6.4. Such official records shall be retained as prescribed by state and city archival regulations.

**Amend Section 105.6.2 entitled "Amusement Buildings" to read:**

An operational permit is required to operate any amusement building or special event as required by the fire code official.

**Amend Section 105.6.30 Open Burning, by deleting:**

Exception: Recreational fires.

**Amend Section 108.1 entitled "Board of appeals established", to read:**

Or should we do this: The Building and Fire Code Board of Appeals created in Chapter 2-02 of the Flagstaff City Code shall hear and decide appeals of orders, decisions or determinations made by the fire official relative to the application and interpretation of this code.

**Amend Section 109.4 entitled "Violation penalties", to read:**

Persons who violate a provision of this code or fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under a provision or provisions of this code, shall be guilty of a class one misdemeanor and upon conviction shall be punishable by a fine and/or imprisonment set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof, during which any violation of this Code occurs or continues, shall be deemed to constitute a separate offense.

**CHAPTER 2, IFC, Definitions****Amend Section 202 entitled "Definitions; Detached Building" to read:**

DETACHED BUILDING: A separate stand alone structure that is separated from other buildings in accordance with the requirements of the International Building Code, greater than 200 square foot and/or within 15 feet of the existing or primary structure. This classification shall include, but not limited to the following:

Casitas  
Gazebos  
Storage  
Sheds  
Garages  
Green  
Houses  
Ramadas  
Barns  
Shops

**Amend Section 202 entitled Definitions, by adding:**

SPECULATIVE WAREHOUSE. A building designed for high piled combustible storage without a known type or commodity designation specified.

SKY LANTERN. A device designed to carry an open flame as an airborne light. Also known as, but not limited to, Kongming Lantern, Whish Lantern, Sky Candle, Fire Balloon.

**CHAPTER 3, IFC, General Requirements**

**Amend Section 308 entitled "Open Flames" by adding:**

308.1.1.1 Sky Lanterns. The lighting of, and/or release of Sky Lanterns is prohibited.

**Amend Section 308.1.5 Location near combustibles, to read:**

Candles or other open flame devices shall not be left unattended. Open flames shall be extinguished when direct supervision is unavailable.

BBQ grills shall be for outdoor use only. BBQ grills may be used on open balconies if proper clearances from combustibles are maintained. For listed appliances, follow the manufacturer's instructions for proper clearances. Instructions for listed grills must be kept on premises and be made available to the Fire Department. BBQ grills shall never be used directly under unprotected combustible construction. Units must be supported by sturdy, non-combustible construction. In the absence of manufacturer's instructions and for all unlisted appliances, clearances shall be maintained as follows: from the front, sides, floor, and rear of unit 36 inches.

Exception: A minimum of 6 inches may be allowed to the rear of BBQ grills equipped with a metal lid, as long as combustible construction does not exceed the horizontal plane of the unit, i.e. above the unit.

**CHAPTER 5, IFC, Fire Service Features**

**Amend Section 503.1.2 Additional Access, by adding:**

Approved secondary access shall be provided to all subdivisions and developments when fire access exceeds 1200 feet in length. Secondary access shall be provided for all developments that exceed 50 units/lots.

**Amend Section 503.2.3 Surface, to read:**

Fire apparatus access roads shall be designed and maintained to support a minimum 80,000 pounds gross vehicle weight shall be surfaced as to provide all weather driving capabilities. A maintenance agreement for private roads or other fire access may be required showing the responsibility for roadway maintenance and snow plowing.

**Amend Section 503.2.4 entitled "Fire Service Features; Fire Apparatus Access Roads; Specifications; Turning Radius", to read:**

The required minimum turning radius of a fire apparatus access road shall be 35 feet inside, 55 feet outside, or 45 feet on center

**Amend Section 503.2.5 Dead ends, by adding:**

There shall be no parking or other obstructions in fire apparatus turnaround areas that would impair turning of apparatus. When parking or other design features are desired, the proper design must be approved. Accumulation of snow must also be accounted for to prevent winter time obstructions.

**Amend Section 503.2.7 entitled "Fire Service Features; Fire Apparatus Access Roads; Specifications; Grade, to read:**

The gradient for a fire apparatus access road shall not exceed 10 percent on straight sections of roadway and 5 percent side slope on turnarounds and curves

**Amend Section 504.2 Maintenance of exterior doors and openings, by adding:**

Exterior doors and openings required by this code or the building code shall be maintained readily accessible for emergency access by the fire department. Exterior doors shall be supplied with an approved exterior handle

**Amend Section 505.1 Address Numbers, by adding:**

Commercial address numbers shall be a minimum of 6 inches high with a minimum stroke width of 0.5 inch. Buildings in multi-building complexes must be marked with 12" minimum numbers. When address numbers attached to buildings are insufficient to be seen from the street, additional numbers may be required at a location approved by the Chief. Approved identification shall also be provided on the rear door(s) at any location where access into the building may be difficult to determine.

**Amend Section 507.3 Fire Flow, to read:**

Fire flow tests used to design sprinkler systems, standpipe systems, and fire supply mains shall be performed by a contractor licensed by the State of Arizona, and who has a current business license issued by the City of Flagstaff. The test shall be witnessed by the Flagstaff Fire Department.

**Amend Section 508 Fire Protection Water Supplies, by adding:**

508.6 Modifications. When automatic fire sprinkler systems or other approved fire protection systems or features are installed, the specifications of this section may be modified at the discretion of the Chief, when in his opinion, fire fighting or rescue operations will not be impaired.

**Amend Section 507.1 Required water supply, by adding:**

When any portion of the facility or building protected is in excess of 300 feet from a water supply on a public street for commercial occupancies and 500 feet from a water supply for residential single family and duplex occupancies, as measure by an approved route around the exterior of the facility or building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the Chief.

**Amend Section 507.2 Type of water supply, by adding:**

Water supply for a major system component as described by the American Water Works Association must provide a continuous and uninterrupted supply of fire protection water through redundancy. Fire mains in excess of 1,000 feet in length or which have more than 3 hydrants affixed shall be looped to a second source of water. All fire mains hereafter constructed shall be a minimum of 8 inch diameter but in all cases shall be of sufficient size to adequately supply the required fire flow.

**Amend Section 507.3 Fire flow, to read:**

The method for determining fire flow requirements for buildings and subdivisions shall be Appendix B Fire Flow Requirements for Buildings.

**CHAPTER 6, IFC, Building Services and Systems****Amend Section 606.8 Refrigerant detector, to read:**

Machinery rooms shall contain a refrigerant detector with an approved and distinctive audible and visual alarm. The alarm notification devices shall comply with the audible and visual requirements of the *National Fire Alarm Code*, NFPA 72. A supervisory alarm shall be activated when the mechanical ventilation system fails. The detector, or a sampling tube that draws air to the detector, shall be located in an area where refrigerant from a leak will concentrate. The alarm shall be activated at a value not greater than the corresponding TLV-TWA values shown in the International Mechanical Code. Detectors and alarms shall be placed in one or more locations to assure notifications of all occupants.

**CHAPTER 9, IFC, Fire Protection Systems****Amend Section 901.2 entitled "Construction documents", by adding:**

Automatic sprinkler systems designed in accordance with NFPA 13, 13D and 13R shall be submitted and reviewed bearing a review certification and signature of a minimum level III NICET Certified Engineering Technician (CET) or Arizona registrant. Fire alarm systems designed in accordance with NFPA 72 shall be reviewed and submitted bearing a review certification and signature of a minimum level III NICET Technician or Arizona registrant.

**Amend Section 901.3 by adding:**

**901.3.1 Modifications.** No person shall remove or modify any fire protection system installed or maintained under the provisions of this code without prior approval by the fire chief or fire code official.

**Amend Section 901.6.2 entitled "Records", to read:**

Records of all system inspections, tests and maintenance required by the referenced standards shall be maintained on the premises for a minimum of three years and deficiencies shall be copied to the authority having jurisdiction within thirty (30) business days.

**Amend Section 901.6, by adding:**

**901.6.3 Inspection and testing.** All fire protection systems shall be inspected and tested annually by a contractor licensed by the State of Arizona and who has a current business license issued by the City of Flagstaff to work on the specific type of fire protection system being inspected or tested.

**Amend Section 903.2 entitled "Fire Protection Systems; Automatic Sprinkler Systems; Where required", by adding:**

In addition to the requirements of the fire and building codes, an approved automatic monitored sprinkler system shall be installed throughout all levels of all new Group B, E, F, M, U and S occupancies 5,000 square feet (464m<sup>2</sup>) or greater and in all buildings over 3 stories in height regardless of the total square footage.

Such systems shall be in accordance with the International Fire Code, International Building Code and installed in accordance with NFPA 13, 13D or 13R as specified by the fire code official.

Notwithstanding the foregoing, an automatic monitored fire sprinkler system may be installed in any building regardless of floor area.

**Amend Section 903.2.1.1 entitled "Fire Protection Systems, Automatic Sprinkler Systems; Where required; Group A-1, to read:**

An automatic sprinkler system shall be provided for Group A-1 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464m<sup>2</sup>).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.
4. The fire area contains a multi theater complex.

**Amend Section 903.2.1.3 entitled "Fire Protection Systems, Automatic Sprinkler Systems; Where required; Group A-3", to read:**

An automatic sprinkler system shall be provided for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464m<sup>2</sup>).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.

**Amend Section 903.2.1.4 entitled "Fire Protection Systems, Automatic Sprinkler Systems; Where required; Group A-4", to read:**

An automatic sprinkler system shall be provided for Group A-4 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464m<sup>2</sup>).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.

**Amend Section 903 entitled "Fire Protection Systems; Automatic Sprinkler Systems; Where required; by adding:**

## 903.2.2.1 Group B

An automatic monitored sprinkler system shall be provided throughout all Group B occupancies where any of the following exist:

1. Where Group B fire area is 5,000 square feet (464m<sup>2</sup>) and greater, or
2. Fire area is located more than three stories above grade

**Amend Section 903.2.2 Ambulatory care facilities, to read:****903.2.2.2 Ambulatory care facilities**

An *automatic sprinkler system* shall be installed throughout the entire floor containing an ambulatory care facility where either of the following conditions exist at any time:

1. Four or more care recipients are incapable of self-preservation, whether rendered incapable by staff or staff has accepted responsibility for care recipients already incapable.
2. One or more care recipients that are incapable of self-preservation are located at other than the level of exit discharge serving such a facility.

In buildings where ambulatory care is provided on levels other than the *level of exit discharge*, an *automatic sprinkler system* shall be installed throughout the entire floor where such care is provided as well as all floors below, and all floors between the level of ambulatory care and the nearest *level of exit discharge*, including the *level of exit discharge*.

**Amend Section 903.2.3 entitled "Fire Protection Systems, Automatic Sprinkler Systems; Where required; Group E", to read:**

An automatic sprinkler system shall be provided for Group E occupancies as follows:

1. Throughout all Group E fire areas greater than 5000 square feet (462m<sup>2</sup>) in area.
2. Throughout every portion of educational buildings below the lowest level of exit discharge serving that portion of the building.

**Exception:** An automatic sprinkler system is not required in any area below the lowest level of exit discharge serving that area where every classroom throughout the building has at least one exterior exit door at ground level.

**Amend Section 903.2.4 entitled "Fire Protection Systems, Automatic Sprinkler Systems; Where required; Group F-1", to read:**

An automatic sprinkler system shall be provided throughout all buildings containing Group F-1 occupancy where one of the following conditions exists:

1. A Group F-1 fire area exceeds 5,000 square feet (464m<sup>2</sup>).
2. A Group F-1 fire area is located more than three stories above grade plan.
3. The combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 5,000 square feet (464m<sup>2</sup>).
4. A Group F-1 occupancy used for the manufacture of upholstered furniture or mattresses exceeds 2,500 square feet (232 m<sup>2</sup>).

**Amend Section 903.2.4.1 Woodworking operations, to read:**

An automatic sprinkler system shall be provided throughout all F-1 occupancy fire area that conation woodworking operations in excess of 2500–5000 square feet in area (464 m<sup>2</sup>) which generate finely divided combustible waste or which use finely divided combustible materials

**Amend Section 903.2.7 entitled "Fire Protection Systems; Automatic Sprinkler Systems; Where required; Group M", to read:**

An automatic sprinkler system shall be provided throughout buildings containing Group M occupancy where one of the following conditions exists:

1. A Group M fire area exceeds 5,000 square feet (464m<sup>2</sup>).
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 5,000 square feet (464m<sup>2</sup>).
4. A Group M occupancy used for the display and sale of upholstered furniture or mattresses exceeds 5,000 square feet (464 m<sup>2</sup>).

**Amend 903.2.8 entitled Group R, to read:**

An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R-1 and R-2 fire area.

**Amend Section 903.2.9 entitled "Fire Protection Systems, Automatic Sprinkler Systems; Where required; Group S-1", to read:**

An automatic sprinkler system shall be provided throughout all buildings containing Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 fire area exceeds 5,000 square feet (464m<sup>2</sup>).
2. A Group S-1 fire area is located more than three stories above grade plane.
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 5,000 square feet (464m<sup>2</sup>).
4. A Group S-1 fire area used for the storage of commercial trucks or buses where the fire area exceeds 5,000 square feet (464 m<sup>2</sup>).

**Amend Section 903.2.9.1 entitled "Fire Protection Systems, Automatic Sprinkler Systems; Where required; Repair Garages", to read:**

An automatic sprinkler system shall be provided throughout all buildings used as repair garages in accordance with Section 406.8 of the International Building Code, as shown:

1. Buildings having two or more stories above grade plane, including basements, with a fire area containing a repair garage exceeding 5,000 square feet (464m<sup>2</sup>).
2. Buildings no more than one story above grade plane, with a fire area containing a repair garage exceeding 5,000 square feet (464m<sup>2</sup>).
3. Buildings with repair garages servicing vehicles parked in basements.
4. A Group S-1 fire area used for the repair of commercial trucks or buses where the fire area exceeds 5,000 square feet (464 m<sup>2</sup>).

**Amend Section 903.2.10 entitled "Fire Protection Systems, Automatic Sprinkler Systems; Where required; Group S-2 enclosed parking garages", to read:**

An automatic sprinkler system shall be provided throughout buildings classified as enclosed parking garages in accordance with Section 406.6 of the International Building Code as follows:

1. Where the fire area of the enclosed parking garage exceeds 5,000 square feet (464m<sup>2</sup>)
2. Where the enclosed parking garage is located beneath other groups.

**Exception: Enclosed parking garages located beneath Group R-3 occupancies.**

**Amend Section 903.3.1.1.1 entitled "Fire Protection Systems; Automatic Sprinkler Systems; Installation requirements; Exempt locations", to read:**

Automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from any room merely because it is damp, of fire-resistance rated construction or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.
2. Any room or space where sprinklers are considered undesirable because of the nature of the contents, when approved by the fire code official.
3. Generator and transformer rooms separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire resistance rating of not less than 2 (two) hours.
4. Fire service access elevator machine rooms and machinery spaces.
5. Machine rooms and machinery spaces associated with occupant evacuation elevators designed in accordance with Section 3008 of the International Building Code.

**Amend Section 903.3.5 entitled "Fire Protection Systems; Automatic Sprinkler Systems; Installation requirements; Water supplies", by adding:**

The introduction of any toxic substance shall be prohibited. If a sprinkler system is connected to a potable water supply, the use of solutions other than that of pure glycerin (C.P. or U.S.P. 96.5 percent grade) or propylene glycol shall not be permitted."

**Amend Section 903.3 installation requirements, by adding:**

903.3.8 Speculative warehouse special requirements

Speculative warehouses shall comply with Chapter 32, and this Chapter. Where the maximum allowable storage height can exceed 12 feet (3658mm) but less than 22 feet (6706mm) the following shall apply:

1. Design for a Class IV non-encapsulated commodity, double row rack storage, 8 foot (2,438mm) aisles and 286 degree sprinklers; and
2. Hydraulically design to protect the maximum possible clear height of storage without in-rack sprinklers; and
3. Add 500 GPM at the base of the riser for inside hose to hydraulic calculations, and provide the hose stub-outs for future installation or use existing columns for hose installing locations.

**Where the maximum allowable storage height can exceed 22 feet (6706mm) the following shall apply:**

1. Hydraulically design system to protect the maximum possible clear height of storage without in-rack sprinklers; and
2. Provide .64 GPM per square foot over the hydraulically most remote 2,000 square feet (609600mm); or use an approved alternative design such as ESFR sprinklers.

**Amend Section 905 Standpipe Systems, by adding:**

Section 905.12 Other Standpipe Systems Required Locations. Notwithstanding the previously specified required locations, approved standpipe systems shall also be required in: Commercial buildings greater than two stories in height.

**Amend Section 905.3.4.1 entitled "Hose and cabinet" by deleting in its entirety.**

**Amend Section 912.2 Location, to read:**

With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be so located such that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. Fire department connections (FDC) shall be remote from the building if possible.

**Amend Section 912.2.1 Visible Location, to read:**

Fire department connections shall be located at the primary entrance to the site, fully visible and recognizable.

**CHAPTER 12, IFC, Reserved**

**Amended Chapter 12, by adding:**

**Chapter 12 - Special Event Requirements**

**Section 1201 Definitions**

**Special Event:** An organized activity involving the use of, or having impact upon, city property, city facilities, parks, sidewalks, street areas or the temporary use of city property in a manner that varies from its current land use.

**Exhibit:** A space or portable structure used for the display of products or services.

**Outdoor assembly event:** Private or public event conducted outdoors including but not limited to festivals, and or celebrations having the projected attendance of 500 people or more persons throughout the event or conferring 50 or more attendees by the permitted or temporary installation of barricades or fencing.

**Mobile Food truck:** A licensed motorized vehicle or mobile food unit which is temporarily or permanently staged on a property where food items are sold to the general public.

**1201.1 Scope** An assembly of persons with a common purpose to watch or participate in an activity that is different than the normal course of business for a location. The event may include

entertainment, food/beverage, and use of temporary fencing, stands, structures or tents. Events may include but not limited to concerts, circuses, fairs, festivals, parades, trade shows, exhibits, mazes or similar celebrations. Special events may increase the impact or disruption normal traffic flow or involve road closures.

## **1202 General Requirements**

**1202.1 Permit** – permit shall be required as set forth by the City of Flagstaff Special Event Permit Review Process.

**1202.2 Site Plans** – detailed site plans shall be submitted with the special events permit Outdoor Events.

**1202.3** Permits and site plans shall be submitted per the cities special event process and shall include but not limited to:

1. Means of egress
2. Location and width of exits and aisles
3. Location of exit signs
4. Location of fencing or means used to confine attendees
5. Total squared foot of enclosed space
6. Location, size and arrangement of all tents, booths and cooking equipment
7. Location and access of emergency vehicle access roads
8. Location of fire protection equipment
9. Type and location of heating and electrical equipment where applied.

**1202.4 Access for firefighting and medical services** -- Approved vehicle access for firefighting and EMS services.

**1202.5 Combustible Storage** - combustible materials stored at special events shall be stored in approved locations and containers.

**1202.6 Crowd mangers** – crowd mangers shall be provided when the code official determines that an indoor or outdoor gathering warrants crowd control.

**1202.7 Fire Extinguishers** - Fire extinguishers shall be in accordance with section 906.

**1202.8 Fire Watch** - fire watch shall be in accordance with section 115.

**1202.9 Housekeeping** -the special events and related areas shall be kept free from combustible debris at all times

## **1203 Outdoor Assembly Events**

**1203.1 General** – Outdoor events shall be in accordance with this section and section 10.

**1203.2 Exits** - Exits shall comply with chapter 10, be as remote from each other as practical and comply with table below.

**Outdoor Events Table 1203**

Occupant Load	Minimum number of Exits
1-500	2
501-1000	3
1001-1500	4
Each additional 500 Persons	36" of additional exit width for each exit

**1203.3 Exit Width-** The aggregate clear width of exists shall be a minimum of 36 “width wide for each 500 persons to be accommodated

**1203.4 Exit Signs** Exits shall be identified with signs that read -EXIT – The signs shall be weather resistant with letters on a contrasting background. Lettering shall be of sufficient height and brush stroke to be visible within in 75 feet. Placement of the exit signs shall be approved by the fire code official.

**1204 - Outdoor Concerts / Crowd Management**

**1204.1 Front Stage Isle/Separation** - Minimum 10 foot Aisle space for front of stage- Adequate Crowd manager’s during the concert or event to maintain minimum widths.

Main Isle shall be a minimum of 10 feet in width or a minimum required means of egress width whichever is greater and shall be maintained during the event.

**Isle Width Table 1204**

Square Footage of Exhibition	Minimum Isle Width
Greater than 15,000 Square Feet	10 Feet
5000- to 15000 Square Feet	8 feet
Less than 5000 Square Feet	6 feet

**1205 - Mobile Food Vehicles**

**1205.1 General**

Mobile food vehicles that are temporary or permanently stored on a property where food items are processed or prepared and sold to the public shall comply with this section.

Exception: Food Peddlers operating a retail food establishment from a vehicle designated to be readily mobile in which food is sold or given away but not composed compounded, thawed, reheated, cut, cooked, processed, or prepared.

**1205.2 Kitchen Hood**

A type 1 hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors. Commercial kitchen exhaust hoods shall comply with the requirements of the *International Mechanical Code*

**1205.3 Maintenance**

Hoods shall be inspected, tested and maintained in accordance with NFPA 96  
Inspection and testing – Kitchen hood extinguishing systems shall be inspected every 6 months by a registered fire protection system contactor  
Fire Extinguishers 2-A-10BC rated Dry Chemical extinguisher shall be provided within 30 feet of deep fat fryers using animal oil. An approved class K extinguisher shall be provided within 30 feet of deep fat fryers using vegetable oils.

**1205.4 Liquefied Petroleum Gas (LP Gas).** LP gas use shall be in accordance with Chapter 61 and NFPA 58

**1205.5 Maximum number and quantity** – A maximum of 2 LP gas containers with a total aggregate water capacity of 25 gallons is permitted at one mobile food vehicle

**1205.6 LP Gas Cylinder Hoses** - Hoses shall be designed for a working pressure of 350 PSI with a safety factor of 5 to 1 and shall be consistently marked with LP gas, propane 350 PSI working pressure and a manufacturers name or trademark.

Hose assemblies after the application of couplings shall have a design capability of 700 PSIG. Hose assemblies shall be leak tested at the time of installation at not less than the operating pressure of the system in which they are installed.

**1205.7 Location** Mobile food vehicles shall not be located within 20 feet of tents canopies and membrane structure.

**CHAPTER 50, IFC, Hazardous Materials – General Provisions****Amend Section 5003.2.2.1 Design and construction to read:**

(2) Piping and tubing shall be identified in accordance with ASME A13.1 to indicate the material conveyed ~~to indicate the material conveyed and the direction of flow.~~ Pipe labels shall be provided at a maximum spacing of 20 feet at each change of direction and on both sides of walls or floor/ceiling penetrations.

**Amend section 5003.2.2.1 Design and construction and add:**

(7) Pressure tests of piping constructed of non-metallic material used to convey hazardous materials shall be limited to hydrostatic tests. Pneumatic pressure testing of non-metallic piping shall not be permitted.

**Amend Section 5004.9 Emergency alarm to read:**

An approved manual emergency alarm system shall be provided in buildings, rooms or areas used for storage of hazardous materials. ~~The emergency alarm system shall be designed using the manual fire alarm requirements of the National Fire Alarm Code, NFPA 72.~~ Emergency alarm initiating devices shall be installed outside of each interior exit or exit access door of the storage buildings, rooms or areas. Activation of a emergency alarm-initiating device shall sound a local alarm to alert occupants of an emergency situation involving hazardous materials. ~~an audible signal distinctly different than that of the fire alarm signal.~~ Emergency alarm notification devices shall be yellow or amber in color.

**CHAPTER 53, IFC, Compressed Gases****Amend Section 5301.1 Scope, to read:**

Storage, use and handling of compressed gases in compressed gas containers, cylinders, tanks and systems shall comply with this chapter, ~~including those gases regulated elsewhere in this code~~ and National Fire Protection Association standard, NFPA 55, Compressed Gases and Cryogenic Fluids, 2010 edition. Where there is a conflict between the International Fire Code, 2012 edition and NFPA 55, 2010 edition, the more restrictive provision shall apply. Partially full *compressed gas* containers, cylinders or tanks containing residual gases shall be considered as full for the purpose of the controls required.

**Amend Section 5302.1 Definitions to add:**

Point of Use means detection shall be provided at each location where material or chemical is placed into action.

**Amend Section 5303.16.10.1 Insulated Liquid Carbon Dioxide Systems to add:**

(A) Gas detection shall be provided at each point of use whether the cylinder vessel, and/or container are located inside or outside the structure. Basements and/or subterranean spaces that could be physically entered, and which contain CO2 process lines, shall have gas detection.

(B) When a CO2 gas detection device reaches 15,000 ppm a local warning/supervisory alarm shall sound at a normally occupied location, and/or transmit a supervisory signal to a supervising station if system is monitored off-site.

(C) When a CO2 gas detection device reaches 30,000 ppm a general evacuation signal shall sound for the occupancy and transmit a gas specific alarm to a supervisory station if system is monitored off-site.

(D) Where there are less than two 50 lb. DOT approved cylinders stored and/or used inside or outside the structure, per system, gas detection and alarm systems shall not be required.

**CHAPTER 55, IFC, Cryogenic Fluids****Amend Section 5501.1 Scope to read:**

Storage, use and handling of *cryogenic fluids* shall comply with this chapter and National Fire Protection standard NFPA 55, Compressed Gases and Cryogenic Fluids Code, 2010 edition. Where there is a conflict between the International Fire Code, 2012 edition and NFPA 55, 2010 edition, the more restrictive provision shall apply. *Cryogenic fluids* shall also comply with Chapter 50 for general requirements. Partially full containers containing residual *cryogenic fluids* shall be considered as full for the purposes of the controls required.

**CHAPTER 56, IFC, Explosives and Fireworks****Amend Section 5601.2.4 Financial responsibility, to read:**

Before a permit is issued, as required by Section 5601.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$1,000,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The *fire code official* is authorized to specify a greater or lesser amount when, in his or her opinion, conditions at the location

of use indicate a greater or lesser amount is required. Government entities shall be exempt from this bond requirement.

**Amend Section 5608 by deleting it in its entirety.**

**Amend Section 5609 by deleting it in its entirety.**

#### **APPENDIX D Fire Apparatus Access Roads**

**Amend Section D102 Required Access to read:**

**D102.1 Access and loading.** Facilities, buildings or portions of buildings hereafter constructed shall be an accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at last 80,000 pounds.

~~Amend Section 101.1, Title. To read:~~

~~These regulations shall be known as the Fire Code of The City of Flagstaff, hereinafter referred to as "this code."~~

~~Amend Section 104.6, Official Records, to read:~~

~~The fire code official shall keep official records as required by Sections 104.6.1 through 104.6.4. Such official records shall be retained as prescribed by state and city archival regulations.~~

~~Amend Section 105.6.2, Amusement Buildings, to read:~~

~~Amusement buildings or special event. An operational permit is required to operate an amusement building or special event.~~

~~Amend Section 105.6.30 Open Burning by deleting:~~

~~Exception: Recreational fires.~~

~~Amend Section 108, Board of Appeals, as follows:~~

~~The Building and Fire Code Board of Appeals created in Chapter [2-02](#) of the Flagstaff City Code shall hear and decide appeals of orders, decisions or determinations made by the fire official relative to the application and interpretation of this code.~~

#### **CHAPTER 3, IFC, General Precautions Against Fire**

~~Amend Section 308.3.3, Location Near Combustibles, by adding:~~

~~Candles or other open flame devices shall not be left unattended. Open flames shall be extinguished when direct supervision is unavailable.~~

~~BBQ grills shall be for outdoor use only. BBQ grills may be used on open balconies if proper clearances from combustibles are maintained. For listed appliances, follow the manufacturer's instructions for~~

~~proper clearances. Instructions for listed grills must be kept on premises and be made available to the Fire Department. BBQ grills shall never be used directly under unprotected combustible construction. Units must be supported by sturdy, non-combustible construction.~~

~~In the absence of manufacturer's instructions and for all unlisted appliances, clearances shall be maintained as follows: from the front, sides, floor, and rear of unit 36 inches.~~

~~Exception: A minimum of 6 inches may be allowed to the rear of BBQ grills equipped with a metal lid, as long as combustible construction does not exceed the horizontal plane of the unit, i.e. above the unit.~~

#### CHAPTER 5, IFC, Fire Service Features

~~Amend Section 503.1.2, Additional Access, by adding:~~

~~Approved secondary access shall be provided to all subdivisions and developments when fire access exceeds 1200 feet in length. Secondary access shall be provided for all developments that exceed 50 units/lots.~~

~~Amend Section 503.2.3 Surface. By adding:~~

~~Fire apparatus access roads shall be designed and maintained to support a minimum 80,000 pounds gross vehicle weight. A maintenance agreement for private roads or other fire access may be required showing the responsibility for roadway maintenance and snow plowing.~~

~~Amend Section 503.2.5 Dead Ends, by adding:~~

~~There shall be no parking or other obstructions in fire apparatus turnaround areas that would impair turning of apparatus. When parking or other design features are desired, the proper design must be approved. Accumulation of snow must also be accounted for to prevent winter time obstructions.~~

~~Amend Section 503.2.7 Grade. By adding:~~

~~The gradient for a fire apparatus access road shall not exceed 10 percent on straight sections of roadway and 5 percent side slope on turnarounds and curves.~~

~~Amend Section 503, Fire Apparatus Access Roads, by adding Section 503.7 as follows:~~

~~503.7 Modifications. When automatic fire sprinkler systems or other approved fire protection systems or features are installed, the specifications of this section may be modified at the discretion of the Chief, when in his opinion, fire fighting or rescue operations will not be impaired.~~

~~Amend Section 504.2 Maintenance of exterior doors and openings, by adding:~~

~~Exterior doors and openings required by this code or the building code shall be maintained readily accessible for emergency access by the fire department. Exterior doors shall be supplied with an approved exterior handle.~~

~~Amend Section 505.1 Address Numbers, by adding:~~

~~Commercial address numbers shall be a minimum of 6 inches high with a minimum stroke width of 0.5 inch. When address numbers attached to buildings are insufficient to be seen from the street, additional numbers may be required at a location approved by the Chief. Approved identification shall also be provided on the rear door(s) at any location where access into the building may be difficult to determine.~~

~~Amend Section 508 Fire Protection Water Supplies, by adding Section 508.6, Modifications, as follows:~~

~~508.6 Modifications. When automatic fire sprinkler systems or other approved fire protection systems or features are installed, the specifications of this section may be modified at the discretion of the Chief, when in his opinion, fire fighting or rescue operations will not be impaired.~~

~~Amend Section 508.1 Required water supply, by adding:~~

~~When any portion of the facility or building protected is in excess of 300 feet from a water supply on a public street for commercial occupancies and 500 feet from a water supply for residential single family and duplex occupancies, as measure by an approved route around the exterior of the facility or building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the Chief.~~

~~Amend Section 508.2 Type of water supply, by adding 508.2.3, Water Supply, as follows:~~

~~508.2.3 Water Supply. Water supply for a major system component as described by the American Water Works Association must provide a continuous and uninterrupted supply of fire protection water through redundancy. Fire mains in excess of 1,000 feet in length or which have more than 3 hydrants affixed shall be looped to a second source of water. All fire mains hereafter constructed shall be a minimum of 8 inch diameter but in all cases shall be of sufficient size to adequately supply the required fire flow.~~

~~Amend Section 508.3 Fire Flow, by adding:~~

~~The method for determining fire flow requirements for buildings and subdivisions shall be Appendix B Fire Flow Requirements for Buildings.~~

#### ~~CHAPTER 6, IFC, Building Services and Systems~~

~~Amend Chapter 6 by adding Section 610 Apartment Type Buildings, as follows:~~

~~Section 610.1 Apartment Type buildings. Buildings or parts of buildings classified as R1 or R2 are required to utilize exterior wall coverings that have a minimum Class A Flame Spread Rating.~~

#### ~~CHAPTER 7, IFC, Fire-Resistance-Rated Construction~~

~~Amend Section 703 Fire-Resistance-Rated Construction. By adding:~~

~~Section 703.4 Roof Coverings. Roof coverings shall be non-combustible. Wood shake roof coverings are prohibited.~~

~~Exception: Wood shakes may be used as decorative accent coverings when approved by the Community Development Department and Fire Department. Historical buildings desiring to use wood shakes shall be treated on a case-by-case basis with review by both the Community Development Department and the Fire Department.~~

#### ~~CHAPTER 9, IFC, Fire Protection Systems~~

~~Amend Section 903, Automatic Sprinkler Systems, by adding new Section 903.2.14, Other Sprinkler System Required Locations, as follows:~~

~~Section 903.2.14 Other Sprinkler System Required Locations. Notwithstanding the previously dictated required locations, automatic fire sprinkler systems shall also be required in:~~

- ~~1. Commercial buildings greater than 5,000 square feet.~~
- ~~2. Commercial buildings greater than three stories in height.~~
- ~~3. Buildings and structures within Traditional Neighborhood Districts.~~

~~When there are practical difficulties in complying with this provision, alternate methods and materials complying with the intent of the code may be considered by the code official. Refer to Section 104.8.~~

~~Amend Section 905, Standpipe Systems, by adding new Section 905.3.8, Other Standpipe Systems Required Locations, as follows:~~

~~Section 905.3.8 Other Standpipe Systems Required Locations. Notwithstanding the previously specified required locations, approved standpipe systems shall also be required in:~~

- ~~1. Commercial buildings greater than two stories in height.~~

#### CHAPTER 33, IFC, Explosives and Fireworks

~~Amend Section 3301.2.4 Financial responsibility, by deleting and substituting "A \$1,000,000 bond in lieu of a \$100,000 bond."~~

~~Amend Section 3308, Fireworks Display, by adding new Section 3308.2.3, Permit Cancellations, as follows:~~

~~Section 3308.2.3 Permit Cancellations. Outdoor fireworks displays will not be permitted and any previously issued permits will be automatically rescinded when the Fire Danger Rating for the Flagstaff Area of the Coconino National Forest reaches Very High or greater.~~

ORDINANCE NO. 2016-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, ADOPTING THE *INTERNATIONAL FIRE CODE, 2012 EDITION AND AMENDMENTS, ADDITIONS AND DELETIONS THERETO* AND THE *2016 AMENDMENTS TO FLAGSTAFF CITY CODE TITLE 5, FIRE CODE*, BY REFERENCE

RECITALS:

WHEREAS, the City Council has previously adopted the *International Fire Code, 2012 Edition, (providing for amendments, additions, and deletions thereto) and 2016 Amendments to Flagstaff City Code Title 5, Fire Code* as a public document, and directed that three copies be placed on deposit with the City Clerk and shall remain on file; and

WHEREAS, the City Council has determined that amending Flagstaff City Code, Title 5, "Fire Regulations", by incorporating the *International Fire Code, 2012 Edition (and amendments, additions, and deletions thereto) and 2016 Amendments to Flagstaff City Code Title 5, Fire Code* is necessary for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises and the mitigation of wildland fires; and

WHEREAS, the City Council has determined that adopting the *International Fire Code, 2012 Edition (and amendments, additions, and deletions thereto) and 2016 Amendments to Flagstaff City Code Title 5, Fire Code* is necessary for providing the standards necessary to provide safety to firefighters and emergency responders during emergency operations; and

WHEREAS, the City Council has determined that adopting the *International Fire Code, 2012 Edition (and amendments, additions, and deletions thereto) and 2016 Amendments to Flagstaff City Code Title 5, Fire Code* is necessary for the issuance of permits and collection of fees pursuant thereto, and for implementing and enforcing each and all of the regulations, provisions, penalties, conditions and terms of an updated Flagstaff Fire Code; and

WHEREAS, the City Clerk shall maintain as a public record the *International Fire Code, 2012 Edition (and amendments, additions, and deletions thereto) and 2016 Amendments to Flagstaff City Code Title 5, Fire Regulations* as a public record available for inspection until such time as the City Council shall adopt a later edition of the Flagstaff Fire Code.

ENACTMENTS:

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

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SECTION 1:

Section 5-02-01-0001, *Adoption of 2006 International Fire Code*, is hereby amended as follows:

**5-02-001-0001 ADOPTION OF ~~2006~~ 2012 INTERNATIONAL FIRE CODE.**

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There is hereby adopted by the City of Flagstaff for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain Code known as the ~~2006~~ 2012 International Fire Code, including the following appendices:

~~Appendix B – Fire Flow Requirements For Buildings~~  
~~Appendix C – Fire Hydrant Locations and Distribution providing for amendments, additions and deletions thereto and~~  
[Appendix B, Fire Flow Requirements for buildings](#)  
[Appendix C, Fire Hydrant Locations and Distribution providing for amendments, additions and deletions thereto](#)  
[Appendix D, Fire Apparatus Access Roads providing for the amendments thereto](#)  
[Appendix H, Hazardous Materials Management Plan \(HMMP\) and Hazardous Materials Inventory Statement \(HMIS\) Instructions.](#)  
[Appendix I, Fire Protection Systems –Noncompliant Conditions.](#)

International Wildland Urban Interface Code (IWUIC), 2006 Edition, including the following appendices:

Appendix A – General Requirements  
 Appendix B – Vegetation Management Plan  
 Appendix C – Fire Hazard Severity Form  
 Appendix D – Fire Danger Rating System providing for amendments, additions and deletions thereto of which not less than three (3) copies have been and now are on file in the office of the City Clerk of the City of Flagstaff, and the same which are hereby adopted and made part hereto by this reference as fully and completely as if fully herein set forth and from the date on which this Chapter should take effect

Said codes have been adopted as part of a public record through Resolution No. 2016-20 on September 20, 2016, entitled *The International Fire Code, 2012 Edition and amendments, additions, and deletions thereto and 2016 Amendments to Flagstaff City Code Title 5, Fire Code*, three copies of which are on file in the office of the City Clerk, made a part hereof as if fully set out in this ordinance.

**SECTION 2.**

Section 5-02-001-0004, Violation and Penalties, is hereby amended as follows:

**5-02-001-0004 VIOLATION AND PENALTIES**

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- A. Violations. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use or maintain any building or property, or permit the same to be done in violation of this Code.
- B. Penalties. Any person, firm, or corporation violating any provision of this Code shall be deemed guilty of a [class one](#) misdemeanor, and upon conviction thereof, shall be punishable by a fine and/or imprisonment set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof, during which any violation of this Code occurs or continues, shall be deemed to constitute a separate offense.

SECTION 3.

Section 5-02-001-0005, *Amendments*, is hereby amended through adoption of that document known as *The International Fire Code, 2012 Edition and amendments, additions, and deletions thereto and The 2016 Amendments to Flagstaff City Code Title 5, Fire Code*, adopted as a public record through Resolution No. 2016-20 on September 20, 2016, three copies of which are on file in the office of the City Clerk, made a part hereof as if fully set out in this ordinance.

SECTION 4:

These amendments shall become effective thirty (30) calendar days after the adoption of this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20<sup>th</sup> day of September, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY



# FFD 2012 International Fire Code Adoption

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Community Risk Reduction



# Overview

- Purpose
- Goal
- Review





Build and Maintain Safety

Outdated Code

**PURPOSE**

Alignment

Technology in Construction



Life Safety

Regional Consistency

GOAL

Clarity

Keeping Current



# Summary

- Purpose
- Goal
- Adoption of 2012 International Fire Code
- Questions ?

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Elizabeth A. Burke, City Clerk  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE**

**Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Evans to place on a future agenda a discussion regarding a resolution re the Grand Canyon National Park Proposed Backcountry Management Plan.

**RECOMMENDED ACTION:**

Council direction.

**EXECUTIVE SUMMARY:**

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember Evans has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there is a majority of Council interested in placing it on a future agenda.

**INFORMATION:**

None

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**Attachments:**

*No file(s) attached.*

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Elizabeth A. Burke, City Clerk  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE**

**Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Evans to place on a future agenda the Creation of a Commission on Women's Issues.

**RECOMMENDED ACTION:**

Council direction.

**EXECUTIVE SUMMARY:**

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember Evans has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there is a majority of Council interested in placing it on a future agenda.

**INFORMATION:**

None

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**Attachments:**

*No file(s) attached.*

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Elizabeth A. Burke, City Clerk  
**Date:** 09/07/2016  
**Meeting Date:** 09/20/2016



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**TITLE**

**Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Evans to place on a future agenda the discussion of Transect Zones.

**RECOMMENDED ACTION:**

Council direction.

**EXECUTIVE SUMMARY:**

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember Evans has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there is a majority of Council interested in placing it on a future agenda.

**INFORMATION:**

None

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**Attachments:**

*No file(s) attached.*