

FINAL AGENDA

***A M E N D E D**

**REGULAR COUNCIL MEETING
TUESDAY
OCTOBER 18, 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

- A. Consideration and Approval of Minutes: City Council Special Meeting (Executive Session) of October 4, 2016; the Regular Meeting of October 4, 2016; and the Special Meeting (Executive Session) of October 11, 2016.**

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:** Sustainability Commission.

RECOMMENDED ACTION:

Make three appointments to terms expiring October 2019.

8. **LIQUOR LICENSE PUBLIC HEARINGS**

None

9. **CONSENT ITEMS**

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

A. **Consideration and Approval of Contract:** USGS facility Building #6, General Services Administration Lease No 5AZ0152.

RECOMMENDED ACTION:

Accept the lease agreement by the General Services Administration to enter into a new lease for 20 years (10 years firm term) for Building #6 at the USGS campus. Lease term commencing on August 1st, 2017.

10. **ROUTINE ITEMS**

- A. **Consideration and Approval of Cooperative Agreement:** Payroll Time Entry Software and Implementation Services with Kronos Incorporated.

RECOMMENDED ACTION:

Approve a Cooperative Agreement with Kronos Incorporated (Kronos) and the City of Flagstaff as procured through a cooperative contract agreement with Harford County Public Schools for payroll time entry software and implementation for an amount not to exceed \$206,116.19.

- B. **Consideration and Adoption of Ordinance No. 2016-36:** An ordinance of the Flagstaff City Council authorizing the City of Flagstaff to accept specific deeds of real property and establishing an effective date.

RECOMMENDED ACTION:

- 1) Read Ordinance No. 2016-36 by title only for the final time
- 2) City Clerk reads Ordinance No. 2016-36 by title only (if approved above)
- 3) Adopt Ordinance No. 2016-36

- C. **Consideration and Approval of a Consent, Assignment and Assumption of Obligations of Ground Lease:** No. 130132 - City property located at 4 South San Francisco Street. (*Assignment from Thomas William Moffitt III Revocable Trust to Thomas William Moffitt IV Revocable Trust*)

RECOMMENDED ACTION:

Consent to the assignment of the leasehold interest to Thomas William Moffitt IV Revocable Trust.

- D. **Consideration and Approval of Sole Source Contract:** Purchase a Refurbished Engine and Re-Chassis our Rescue Unit from Fire Trucks Unlimited.

RECOMMENDED ACTION:

Approve the sole source purchase of a refurbished engine in the amount of \$305,000.00 and re-chassis the City's rescue unit in the amount of \$155,000.00.

- E. **Consideration and Approval of Sole Source Contract:** XplorIt agreement is for a virtual video tour of Flagstaff.

RECOMMENDED ACTION:

Approve the agreement with XplorIt for a total cost of \$45,000 for three filming and production shoots, \$4,000 for videographer travel, and \$3,375 for web hosting services.

- F. ***REMOVED FROM THE AGENDA BY THE CITY MANAGER***

RECESS

6:00 P.M. MEETING

RECONVENE

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

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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

None

16. DISCUSSION ITEMS

- A. Discussion: Implementation of Comprehensive Parking Management**

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 Mayor Nabours to place on a future agenda a discussion regarding a resolution joining in / supporting the Northern Arizona Military Advocacy Council.

- B. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Oravits to place on a future agenda a discussion regarding pedestrian and bike improvements at Foxglenn/Butler and safety enhancements from Continental/Butler to Sinagua/Knoles area.

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: Elizabeth A. Burke, City Clerk
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE

Consideration and Approval of Minutes: City Council Special Meeting (Executive Session) of October 4, 2016; the Regular Meeting of October 4, 2016; and the Special Meeting (Executive Session) of October 11, 2016.

RECOMMENDED ACTION:

Amend/approve the minutes of the City Council Special Meeting (Executive Session) of October 4, 2016; the Regular Meeting of October 4, 2016; and the Special Meeting (Executive Session) of October 11, 2016.

EXECUTIVE SUMMARY:

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

INFORMATION:

COUNCIL GOAL

8. Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and development

Attachments: [10.04.2016.CCSMES.Minutes](#)
[10.04.2016.CCRM.Minutes](#)
[10.11.2016.CCSMES.Minutes](#)

SPECIAL MEETING (EXECUTIVE SESSION)
TUESDAY, OCTOBER 4, 2016
COUNCIL CHAMBERS
211 WEST ASPEN
BETWEEN THE 4:00 P.M. AND 6:00 P.M.
PORTIONS OF THE REGULAR MEETING

1. Call to Order

Mayor Nabours called the Special Meeting (Executive Session) of October 4, 2016, to order at 4:30 p.m.

2. Roll Call

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

PRESENT:

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

ABSENT:

NONE

Others present: City Manager Josh Copley and City Attorney Sterling Solomon.

3. Recess into Executive Session.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Scott Overton to recess into Executive Session.

Vote: 7 - 0 - Unanimously

The Flagstaff City Council recessed into Executive Session at 4:30 p.m.

4. Executive Session:

- A.** Discussion or consultation for legal advice with the attorney or attorneys of the public body; discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation; and discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to A.R.S. 38-431.03(A)(3), (4), and (7), respectively.

- i. USGS Campus Proposal

- ii. Possible Purchase and Sales Agreement for Property Near Airport.

5. Adjournment

The Special Meeting (Executive Session) of October 4, 2016, reconvened at 5:36 p.m. at which time the meeting adjourned.

Mayor

ATTEST:

City Clerk

MINUTES

1. CALL TO ORDER

Mayor Nabours called the Regular Meeting of October 4, 2016, to order at 4:00 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

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2. ROLL CALL

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

PRESENT:

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

ABSENT:

NONE

Others present: City Manager Josh Copley and City Attorney Sterling Solomon.

3. PLEDGE OF ALLEGIANCE AND MISSION STATEMENT

The audience and City Council recited the Pledge of Allegiance and Mayor Nabours read the Mission Statement of the City of Flagstaff.

MISSION STATEMENT

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

4. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

- A. Consideration and Approval of Minutes:** City Council Work Session of September 13, 2016; Regular Meeting of September 20, 2016; Special Meeting (Executive Session) of September 27, 2016; and Combined Special Meeting/Work Session of September 27, 2016.

Move by Councilmember Scott Overton, **seconded by** Councilmember Jeff Oravits to approve the minutes of the City Council Work Session of September 13, 2016; Regular Meeting of September 20, 2016; Special Meeting (Executive Session) of September 27, 2016; and Combined Special Meeting/Work Session of September 27, 2016.

Vote: 7 - 0 - Unanimously

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.

None

6. PROCLAMATIONS AND RECOGNITIONS

- A. Presentation of Heroism Award:** To Jessica Hallett, Flagstaff Police Department Dispatcher, and Clint Bleeker, Citizen

Fire Chief Mark Gaillard stated that he would like to recognize a citizen of the community Clint Bleeker and a member of Team Flagstaff, 911 Dispatcher, Jessica Hallett. Chief Gaillard stated that a call was received that a patient was not breathing. Ms. Hallett provided Mr. Bleeker Emergency Medical Dispatch (EMD) which walked Mr. Bleeker through the steps to perform CPR. Ultimately, the patient regained a pulse and was transported to Flagstaff Medical Center.

Police Chief Kevin Treadway stated that EMD is a certification program that all City Dispatchers are currently certified in. It is a program where dispatchers provide instruction to the caller on how to stabilize the patient and perform life saving measures. Chief Treadway offered that he and the department are very proud of Ms. Hallett's work.

Chief Gaillard presented Ms. Hallett and Mr. Bleeker with a Citizen Heroism Award.

Mayor Nabours asked how the process of explaining this kind of procedure works. Ms. Hallett stated that it is a deep partnership with the person on the line; it requires an all out effort from the caller to perform the necessary tasks and Mr. Bleeker performed very well. Mr. Bleeker stated that Ms. Hallett was the true hero with her ability to remain calm in such a stressful situation. He stated that she is an amazing instructor and he commended the Police and Fire Departments for their efforts in adequately training their staff.

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: Airport Commission.

Move by Councilmember Jeff Oravits, **seconded by** Mayor Jerry Nabours to appoint Allen Turner to a term expiring October 2019.

Vote: 7 - 0 - Unanimously

Move by Mayor Jerry Nabours, **seconded by** Councilmember Jeff Oravits to appoint Mary Lou Hagan to a term expiring October 2019.

Vote: 7 - 0 - Unanimously

8. LIQUOR LICENSE PUBLIC HEARINGS

None

9. CONSENT ITEMS

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

Move by Councilmember Scott Overton, **seconded by** Councilmember Karla Brewster to approve Consent Items 9-A and 9-B.

Vote: 7 - 0 - Unanimously

A. Consideration and Approval of Grant Agreement: A Grant Agreement between the City of Flagstaff and the Arizona Department of Transportation, Multimodal Planning Division Aeronautics Group for the Airport Drainage Study.

Approve the Grant Agreement with Arizona Department of Transportation, Multimodal Planning Division Aeronautics Group in the amount of \$315,000. This Grant will allow the Airport to perform a drainage study to assist in both future growth in the area and controlling the flow of water runoff downstream from the Airport. The FAA does require airports to keep a periodically updated drainage study.

B. Consideration and Approval of Agreement:

Consideration of Ratifying Cooperative Law Enforcement Agreement: Approval of the Cooperative Law Enforcement agreement between the City of Flagstaff and the United States Forest Service, Department of Agriculture, for Dispatch Services.

Approve the ratification of the five year Cooperative Law Enforcement Agreement and the CY 16 Annual Operating and Financial Plan (Exhibit A) between the City of Flagstaff and the U.S. Forest Service for dispatching services in the amount of \$5,000.00.

10. ROUTINE ITEMS

- A. Consideration and Adoption of Resolution No. 2016-33:** A resolution of the City Council of the City of Flagstaff, Coconino County, Arizona, repealing Resolution No. 2014-37 which adopted the *2014 Board and Commission Members' Rules and Operations Manual*, and adopting the *2016 Board and Commission Members' Rules and Operations Manual*

Deputy City Clerk Stacy Saltzburg provided a PowerPoint Presentation that covered the following:

PROPOSED CHANGES
CLARIFICATION NEEDED
OPTIONS

Mayor Nabours offered that if the assigned Councilmember chooses not to make an additional motion then he would be in favor of Option A, another member of Council making a follow-up motion.

Councilmember Putzova indicated that she is in favor of Option B because it would maintain the random appointment order of Councilmembers, ensuring that everyone gets a fair chance at making a selection.

Vice Mayor Barotz agreed with Councilmember Putzova stating that it puts the Mayor, or person running the meeting, in an awkward position should two Councilmembers wish to make a subsequent motion; they are then forced to choose who would go first and that could lead to thoughts or accusations of favoritism. If staff goes by the pre-determined list then it keeps the process fair to all Councilmembers.

Councilmember Brewster indicated that she is okay with Option B as well.

Move by Vice Mayor Celia Barotz, **seconded by** Councilmember Eva Putzova to read Resolution No. 2016-33 by title only and adopt Option B and also provide staff the ability to make non-substantive corrections to the document.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, REPEALING RESOLUTION NO. 2014-37 WHICH ADOPTED THE 2014 BOARD AND COMMISSION MEMBERS' RULES AND OPERATIONS MANUAL, AND ADOPTING THE 2016 BOARD AND COMMISSION MEMBERS' RULES AND OPERATIONS MANUAL

Move by Vice Mayor Celia Barotz, **seconded by** Councilmember Eva Putzova to adopt Resolution No. 2016-33.

Vote: 7 - 0 - Unanimously

- B. Consideration and Adoption of Ordinance No. 2016-36:** An ordinance of the Flagstaff City Council authorizing the City of Flagstaff to accept specific deeds of real property and establishing an effective date.

Real Estate Manager Charity Lee stated that real property is often acquired during the development review process through dedication or donation. These acquisitions may be for

drainage, utilities, the urban trails system, slopes, rights of way or other public purposes. Approval of this ordinance will formally accept the real property donated or dedicated to the City.

Mayor Nabours asked if the property is being delivered to the City in good standing with no problems or liabilities. Ms. Lee stated that they are all easements related to the development process and they have been acquired over the last year. When the City accepts easements there is a review procedure through the development review process where staff reviews the necessity and any issues with the easements.

Mayor Nabours asked for clarification on the two fee simple ownerships. Housing Manager Justyna Costa explained that the two fee simple properties are ones that the City has acquired due to them coming into the City's Land Trust Program upon resale. Both are in the Rio Homes subdivision. Mayor Nabours asked if the land would come back to the City if the property was sold. Ms. Costa offered that when the Rio Homes development was negotiated it was done so that the City would receive affordable properties under a deed restricted model to maintain permanent affordability but the City would not own the land under it. When the recession hit there were issues with lending on a deed restricted model but lenders would lend on a Land Trust model. At that time the City decided to incorporate the units that at resale the land would come into the City and the unit would go to the household.

Mayor Nabours asked if the City is going to put these two parcels on the market again to sell to a qualifying family. Ms. Costa explained that the parcels will forever stay in the Flagstaff Land Trust Program; at the time of resale the City will ensure that the homeowners that are going to purchase do income qualify under the City's restricted guidelines and that they qualify to purchase. The City would retain the land and the homebuyer will purchase the improvements.

Move by Councilmember Karla Brewster, **seconded by** Mayor Jerry Nabours to read Ordinance No. 2016-36 by title only for the first time.

Vote: 7 - 0 - Unanimously

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING THE CITY OF FLAGSTAFF TO ACCEPT SPECIFIC DEEDS OF REAL PROPERTY AND EASEMENTS AND ESTABLISHING AN EFFECTIVE DATE

RECESS

The 4:00 p.m. portion of the October 4, 2016, Regular Council Meeting recessed at 4:30 p.m.

6:00 P.M. MEETING

RECONVENE

Mayor Nabours reconvened the Regular Meeting of October 4, 2016, at 6:04 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

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11. ROLL CALL

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

PRESENT:

ABSENT:

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

NONE

Others present: City Manager Josh Copley and City Attorney Sterling Solomon.

12. PUBLIC PARTICIPATION

Assistant to the City Manager Stephanie Smith introduced Annika Ferguson from Tasmania, Australia. Ms. Ferguson manages Community and Economic Development programming in her hometown. Ms. Ferguson is a Fellow through the International City Manager Association partnering with Coconino County.

Ms. Ferguson thanked the Council for the opportunity to observe their meeting. She stated that it has been interesting to see how the government operates in the United States.

Ms. Smith also introduced Karissa Morgan who was recently selected to fill a joint position with NAU as the Neighborhood Liaison. Ms. Smith explained that Karissa will be focusing on fostering relationships at the neighborhood level. In the coming months, NAU and City staff will be back before the Council to provide an update on Karissa's work plan and priorities.

Ms. Morgan thanked the Council for the opportunity to be a part of Team Flagstaff. She offered that she is very excited to learn about the community, get to know and build relationships with members of the community, learn about the culture and building a sense of belonging and pride.

Andy Fernandez addressed the Council with various concerns.

Mr. Copley explained that there are some technical issues with the sound system and asked for a short recess for staff to quickly fix the equipment.

A break was held from 6:15 p.m. through 6:20 p.m.

Mayor Nabours stated that there are a lot of people present who are interested in and

wanting to speak on the Future Agenda Item Request section of the agenda so he will be re-ordering the agenda to take items 17-A, B and C first.

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.

Comprehensive Planning Manager Sarah Dechter provided a PowerPoint presentation that covered the following:

MINOR AMENDMENTS TO THE FLAGSTAFF REGIONAL PLAN, CHAPTER 3: HOW THIS PLAN WORKS

Councilmember Putzova asked if the amendments went through the Planning and Zoning Commission and what their recommendation was. Ms. Dechter stated that the amendments did go to the Planning and Zoning Commission and their recommendation was in support of the staff proposal.

Ms. Dechter continued the presentation.

PROPOSED AMENDMENT CRITERIA

1B. MAJOR AMENDMENTS ACTIVITY CENTERS

1B. MAJOR AMENDMENTS ACTIVITY CENTERS OPTIONS

OPTION A

OPTION B

OPTION C

OPTION D

Councilmember Overton stated that Option D is much more manageable; it makes more sense on the macro scale because it will be difficult with the smaller, individual Activity Centers because they overlap so much. He asked what the drawbacks would be to doing something such as this. Ms. Dechter offered that it is not clear that moving a Neighborhood Scale Activity Center would always be a Minor Amendment as not all of the Activity Centers have the same level of interest or sensitivity. However, it would only be seven of twenty eight Activity Centers that are affected.

Mayor Nabours stated there are areas where Regional Scale Activity Centers overlap with Neighborhood Scale Activity Centers. Ms. Dechter agreed stating that the overlaps primarily occur along Milton and in the Southside neighborhood.

Ms. Dechter continued the presentation.

1D. MAJOR AMENDMENTS CORRIDORS AND GREAT STREETS

1D. MAJOR AMENDMENTS CORRIDORS AND GREAT STREETS OPTIONS

Mayor Nabours offered that Council needs to determine if it is something that can be changed with a Specific Plan. Ms. Dechter stated that there is a footnote that says some categories can be done as a Major Amendment or a Specific Plan if Council wanted to give that flexibility. Specific Plans have the same public meeting and notification criteria, just not

the same timeline criteria as a Major Amendment.

Mayor Nabours asked Ms. Dechter to provide the Council with staff's recommendation on the four items provided in the handouts. Ms. Dechter stated that for Corridors and Great Streets staff supports Option A and Option B with the Specific Plan language. For Activity Centers, staff supports Option B the strongest but likes Option A as a backup. For the Rural to Suburban item staff supports Option A but can see the value and will also support Option C.

Ms. Dechter then reviewed the Decision Tracking handout provided to Council. This handout with resulting Council direction is attached hereto as Exhibit A.

Charlie Silver addressed Council in opposition to Option D related to Activity Centers. He offered that he would support Option C. Neighborhoods consider Activity Centers a big deal and would like them considered in a major way.

Move by Mayor Jerry Nabours, **seconded by** Councilmember Eva Putzova to continue the Public Hearing to the October 18, 2016, Regular Council Meeting.

Vote: 7 - 0 - Unanimously

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.

Fire Marshal Patrick Staskey provided a PowerPoint presentation that covered the following:

2012 INTERNATIONAL FIRE CODE ADOPTION
PUBLIC OUTREACH UPDATE
INSULATED BULK CO2

Councilmember Oravits clarified that the bulk systems are the refillable tanks that require detection systems and the old system is the single fifty pound tanks which are not required to have detection systems. Mr. Staskey agreed offering that the bulk tanks have a much higher quantity and, therefore, have a greater impact should they leak.

Move by Councilmember Jeff Oravits, **seconded by** Councilmember Scott Overton to adopt Resolution No. 2016-20.

Vote: 7 - 0 - Unanimously

Move by Mayor Jerry Nabours, **seconded by** Councilmember Karla Brewster to read Ordinance No. 2016-25 by title only for the final time.

Vote: 7 - 0 - Unanimously

*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*

Move by Councilmember Jeff Oravits, **seconded by** Councilmember Scott Overton to adopt Ordinance No. 2016-25.

Vote: 7 - 0 - Unanimously

Item 14-A was taken next.

16. DISCUSSION ITEMS

None

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 the issue of Recreational Vehicle (RV) parking.

Councilmember Evans stated that the Council should revisit the Zoning Code related to recreational vehicle parking standards. The issue came to her attention from residents in the University Heights neighborhood who have recently received notices of violation about their recreational vehicles as a result of complaints from one individual. It is legal to park on streets but not side yards or driveways and this is an issue for emergency vehicles especially in University Heights where the streets are extremely narrow. She would ask for support of the Council to discuss the issue more fully and in more depth.

The following individuals addressed Council in support of placing the item on a future agenda:

- Josh Collier
- Harold Browning
- Donald Uhles
- Shannon Rice
- David Richardson
- Brannon McCullough
- Melissa Kirk
- Julie Hill
- David Ledbetter

The following comments were received:

- I support revisiting the Zoning Code regarding RVs as there are several unintended consequences of the code.
- It is important to protect the basic property rights of property owners.
- RV Storage is expensive and many people do not have the ability to afford those fees.
- Property values may decline with RVs parked on the street.
- In addition to the safety issue there is an economic issue; many of the homes are on smaller lots that cannot accommodate an RV without extensive construction and/or tree removal.
- One of the things that drew me to University Heights was the lack of an HOA and the ability to park our recreational vehicles.
- Emergency vehicles will not be able to access many streets should all these RVs be

parked in the street.

- It is hard to accept a Code that is enforced only on a complaint basis, it opens the doors to arbitrary and malicious complaints.
- The streets are far too narrow to allow RVs to park in them.
- Many homes have City permitted parking slabs that are used for RV storage. Now these previously permitted structures are in violation of the Code.
- We purchased in University Heights because there was no HOA.
- Over 75 owners have been cited because one person complained.
- The City already has a junk vehicle ordinance; this regulation is not needed.
- Safety is more important than the code, please put a halt to further action until the Code can be re-examined.
- My home value has increased by 18% even with all the recreational vehicles in the neighborhood.
- Other neighborhoods are not being cited, this is the doing of one individual.
- The ordinance is written as a one size fits all when it should be left to the neighborhoods to deal with these types of issues individually through HOAs.

Written comment cards in favor of putting the item on a future agenda were received from the following individuals:

- Elisha Dorfsmith
- Cynthia Dorfsmith
- Pino Marinelli

A majority of Council is in favor of moving the item to a future agenda.

- B. Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Evans to place on a future agenda a discussion regarding the flooding issues at Wildwood Hills and Kit Carson Trailer Park.

Councilmember Evans stated that individuals have come to Council meetings and spoken about the flooding issues in their neighborhood. Over the years there has been an impact to Wildwood Hills and Kit Carson Trailer Park from development upstream. She would like to discuss this further and look at what can be done to mitigate the flooding.

The following individuals addressed Council in support of putting the item on a future agenda:

Todd Vanosdell
Gary Schepper
Marilyn Schwind

The following comments were received:

- The flooding appears to be happening because three surface water collectors are diverting water to the neighborhood and the stormwater basins appear inadequate to hold the surface water.
- The flooding has been more frequent and is getting progressively worse.
- It is a burdensome and financial hardship for the homeowners and the City needs to help with addressing the issue.
- Please help find a solution to the flooding issues, the neighborhood is concern about loss of property, loss of property values and physical safety.

Councilmember Overton stated that he is not sure an agenda item would be necessary if there are mitigation efforts that can be done for these neighborhoods now. If there are issues that cannot be resolved and Council needs to provide direction or approval then an

appropriate item can come forward.

Mr. Copley stated that staff has convened meetings on the issue and he has given a series of deliverables for a future meeting next week. At that point staff will have a better idea of the situation and ways to mitigate the problem. The information is forthcoming and will be provided to Council.

Councilmember Oravits indicated that he does not want to go through the agenda item request process again should there be capital issues that need to come to Council. If there are things that need Council decisions please bring them forward as soon as possible.

Councilmember Evans stated that she is interested in knowing what is going on with the neighborhoods and the plan to mitigate further flooding. She would like to have an update from staff as well as some background and history on the issues. In the meantime, if there are things that can be done to address the issue certainly move those efforts forward. Council agreed and the item will be forwarded to a future agenda.

C. Future Agenda Item Request (F.A.I.R.): A request by Councilmember Putzova and a Citizen Petition to place on a future agenda a discussion regarding a resolution of support for the Standing Rock Sioux re the Dakota Access Pipeline.

Councilmember Putzova stated that a few weeks ago the Council was approached by citizens asking for support of the Standing Rock Sioux in opposition of the Dakota Access Pipeline. This is something that has been in the news for quite a while. The proposed pipeline is a 1,100 mile long pipeline that crosses 209 rivers, creeks or tributaries. The pipeline would also run through the ancestral lands and waters reserved for traditional use by the Standing Rock Sioux tribe. The Flagstaff region has similar context with the uranium mining that has been happening and it affects the tribes that live in and around Flagstaff. The City should join many other cities and tribal nations in support of the Standing Rock Sioux. This is appropriate as the City is discussing issues to better understand the Native American communities. This is the right thing to do to show support and to preserve the land and water that is at stake.

The following individuals addressed Council in support of putting this item on a future agenda:

- Marlena Garcia
- Tyler Barnard
- Selest Manning
- Cody Fetty

The following comments were received:

- Supporting the indigenous peoples here is a huge step and being in support of our brothers and sisters in the Sioux land.
- This issue is very similar to that of the water being delivered and applied on the San Francisco Peaks.
- It is important to know if Council supports its own indigenous communities and sister communities.
- What is happening in North Dakota is similar to the uranium and coal mining that is occurring here.
- It is important for Council to hear our voices and support the indigenous people.
- As a Navajo youth I see in this generation reclaiming our land, language and culture.
- We are taking a stand against these corporations coming into our lands without permission and we want you to take a stand as well.

A written comment card in support of moving the item to a future agenda was submitted by Jessica Hidalgo.

Councilmember Evans stated that she is in support of moving the item forward to a future agenda. She added that the pipeline affects over 200 sacred sites across four states.

Mayor Nabours stated that he is not in support as it is too far from Flagstaff and not related to Flagstaff doing business.

Vice Mayor Barotz offered that she is supportive of it moving forward because it affects people that are close to her.

There were not enough Councilmembers in support of the item moving forward.

A break was held from 7:32 p.m. through 7:46 p.m.

Item 15-A was taken next.

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

Councilmember Oravits requested a FAIR item to consider pedestrian and bike improvements at Foxglenn and Butler as well as safety enhancements from Continental and Butler to the Sinagua/Knoles area. Additionally, he requested that the crosswalk lines at Foxglenn and Butler be repainted.

Councilmember Evans made the following Legal requests:

1. Individuals are being charged \$25 to \$80 for applications for apartments even when no apartments are available or there is an extensive waiting list. She asked if anything could be legally done to require apartments to provide information on availability when people come in to rent.
2. She asked how the City can legally enforce the CUP process as there are several homes in the Southside and La Plaza Vieja neighborhoods that are renting by the room.

19. ADJOURNMENT

The Regular Meeting of the Flagstaff City Council held October 4, 2016, adjourned at 8:59 p.m.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATION

I, ELIZABETH A. BURKE, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on October 4, 2016. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 18th day of October, 2016.

CITY CLERK

MINUTES

1. Call to Order

Mayor Nabours called the Special Meeting (Executive Session) of October 11, 2016, to order at 4:00 p.m.

2. Roll Call

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

PRESENT:

ABSENT:

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

NONE

Others present: City Manager Josh Copley and City Attorney Sterling Solomon.

3. Recess into Executive Session.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Karla Brewster to recess into Executive Session for legal advice re a Litigation Update, property negotiations re Veterans Home property; and personnel issues related to the City Attorney Contract Check-In.

Vote: 7 - 0 - Unanimously

4. Executive Session:

The Flagstaff City Council recessed into Executive Session at 4:02 p.m.

- A.** Discussion or consultation for legal advice with the attorney or attorneys of the public body, pursuant to A.R.S. §38-431.03(A)(3).
 - i.** Litigation Update

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

 - i.** Veterans Administration (VA) Home Property
 - C.** Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting, pursuant to A.R.S. §38-431.03(A)(1).

 - i.** City Attorney Contract Check-In.
- 5. Adjournment**

The Flagstaff City Council reconvened into Open Session at 4:52 p.m. at which time the Special Meeting (Executive Session) of October 11, 2016, adjourned.

MAYOR

CITY CLERK

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE:

Consideration of Appointments: Sustainability Commission.

RECOMMENDED ACTION:

Make three appointments to terms expiring October 2019.

Executive Summary:

The Sustainability Commission consists of seven citizens, and is responsible for recommending and coordinating activities in concert with the City of Flagstaff Sustainability Program. To accomplish this objective, the Commission will address the social, economic, and environmental considerations of meeting the needs of current and future citizens. Among the Commission's directives are the promotion of sustainable practices in all spheres of life and educating Flagstaff citizens.

There are currently three seats 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:

Amelia Blake (current commissioner)
Eli Chamberlain (current commissioner)
Hailey Reeves (new applicant)
Amanda Ulmer (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 Oravits, Councilmember Brewster and Councilmember Putzova

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 three Commissioners: By appointing members 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.

Attachments: [Sustainability Authority](#)

**CHAPTER 2-17
SUSTAINABILITY COMMISSION**

SECTIONS

2-17-001-0001 COMMISSION ESTABLISHED; ORGANIZATIONAL STRUCTURE

2-17-001-0002 PURPOSE; POWERS AND DUTIES

2-17-001-0001 COMMISSION ESTABLISHED; ORGANIZATIONAL STRUCTURE

A. Establishment of the Commission.

1. There is hereby created the Sustainability Commission (the "Commission"), which shall replace the Clean and Green Committee.
2. The membership of the Commission shall consist of seven (7) members. Members of the Commission shall be appointed by the City Council and shall represent the diverse interests and views of the community. The Commission shall be a working Commission, in which each member takes an active role in accomplishing the goals and objectives of the Commission. Members shall serve a term of three (3) years with no member appointed for more than two (2) full consecutive terms.
3. The Commission shall be responsible for electing a Chair and a Vice-Chair. The Chair shall act as public spokesperson for the Commission at public functions, shall serve as an ex officio member of all standing committees, shall appoint the Chair of all standing committees upon the advice and consent of the Commission, and shall perform other duties as required. The Vice-Chair shall act in the absence of the Chair. (Ord. 2014-28, Amended, 11/18/2014)

2-17-001-0002 PURPOSE; POWERS AND DUTIES

The purpose of this Commission shall be to continue the work initiated by the Clean and Green Committee and to further work with the City Council and the City Staff by recommending and coordinating activities as part of the Flagstaff Sustainability Program, the U.S. Mayors Climate Protection Agreement, and any future sustainability initiatives pursued by the City.

Subject to state law and the procedures prescribed herein, the Sustainability Commission shall have and may exercise the following powers, duties, and responsibilities:

- A. The Commission shall work with City staff toward the development and implementation of the Flagstaff Sustainability Program. The issues addressed by this program may include, but not be limited to, the following:
1. Climate and air quality
 2. Transportation
 3. Energy
 4. Solid waste and toxic substances

5. Water, wastewater, and stormwater
6. Sustainable building and purchasing practices
7. Sustainable economic development

B. The Commission shall work with the City staff toward the development and implementation of the U.S. Mayors Climate Protection Agreement and any future sustainability initiatives passed by the City Council.

C. The Commission shall work with the City Council in the development of initiatives linking the concepts of sustainability with economic development and affordability for the benefit of all community members.

D. The Commission shall promote the benefits of sustainable practices in all spheres of life and shall educate the public concerning such practices.

E. The Commission shall promote compliance with City ordinances concerning sustainability and environmental management.

F. The Commission shall encourage sustainable practices by individuals, groups, organizations, industrial and commercial enterprises, educational institutions, and government agencies.

(Ord. 2007-27, Amended 04/17/2007)

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Charity Lee, Real Estate Manager
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE:

Consideration and Approval of Contract: USGS facility Building #6, General Services Administration Lease No 5AZ0152.

RECOMMENDED ACTION:

Accept the lease agreement by the General Services Administration to enter into a new lease for 20 years (10 years firm term) for Building #6 at the USGS campus. Lease term commencing on August 1st, 2017.

Executive Summary:

June 30, 2016 the City received a request for Lease Proposal(RLP 5AZ0152) from the United States General Services Administration (GSA) regarding building 6. The lease on building 6 is scheduled to expire. GSA requested a new lease related to building 6, which would extend the term to 20 years, 10 years firm. Staff submitted the proposal on August 5th, 2016 to GSA.

On August 16, 2016 the City of Flagstaff approved Resolution No. 2016-29, a resolution ratifying the submittal of a Request for Lease Proposal (RLP 5AZ0152) from the United States General Services Administration (GSA) for building 6 of the United States Geological Campus, located at 2400 North Gemini Dr.

GSA has accepted the City of Flagstaff's proposal for the new lease agreement and has submitted the final lease documents for approval by Council.

Financial Impact:

Lease Term 20 years, 10 years firm
Shell Rent \$74,868.00
Operating Costs \$218,823.75
Total Annual Rent \$293,691.75

The City of Flagstaff has committed to replacing the carpet, fixing the HVAC system and providing interior painting to the facility. There are reserve funds set aside for ongoing maintenance and capital improvements for building 6. The City will use the reserve funds for the updating and maintenance.

Connection to Council Goal and/or Regional Plan:

Global Express Editor

LEASE NO. GS-09P-LAZ00170

Global Lease
GSA FORM L100 (03/2016)

This Lease is made and entered into between

City of Flagstaff

(Lessor), whose principal place of business is 211 West Aspen Avenue, Flagstaff, AZ 86001, and whose interest in the Property described herein is that of Fee Owner, and

The United States of America

(Government), acting by and through the designated representative of the General Services Administration (GSA), upon the terms and conditions set forth herein.

Witnesseth: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

Lessor hereby leases to the Government the Premises described herein, being all or a portion of the Property located at

**2255 North Gemini Drive
Building 6
Flagstaff, AZ 86001**

and more fully described in Section 1 and Exhibit A, together with rights to the use of parking and other areas as set forth herein, to be used for such purposes as determined by GSA.

LEASE TERM

To Have and To Hold the said Premises with its appurtenances for the term beginning upon acceptance of the Premises as required by this Lease and continuing for a period of

To Have and To Hold the said Premises with its appurtenances for the term beginning **August 1, 2017** and continuing for a period of

20 Years, 10 Years Firm,

subject to termination and renewal rights as may be hereinafter set forth. The commencement date of this Lease, along with any applicable termination and renewal rights, shall be more specifically set forth in a Lease Amendment upon substantial completion and acceptance of the Space by the Government.

In Witness Whereof, the parties to this Lease evidence their agreement to all terms and conditions set forth herein by their signatures below, to be effective as of the date of delivery of the fully executed Lease to the Lessor.

FOR THE LESSOR:

Name: _____
Title: _____
Entity Name: _____
Date: _____

FOR THE GOVERNMENT:

Name: _____
Title: Lease Contracting Officer
General Services Administration, Public Buildings Service
Date: _____

WITNESSED FOR THE LESSOR BY:

Name: _____
Title: _____
Date: _____

The information collection requirements contained in this Solicitation/Contract, that are not required by the regulation, have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned the OMB Control No. 3090-0163.

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SECTION 1 THE PREMISES, RENT, AND OTHER TERMS

1.01 THE PREMISES (SEP 2015)

The Premises are described as follows:

- A. Office and Related Space: **27,525** rentable square feet (RSF), yielding **24,338** ANSI/BOMA Office Area (ABOA) square feet (SF) of office and related Space located on the **1st** floor of the Building 6, as depicted on the floor plan(s) attached hereto as Exhibit **A**.
- B. Common Area Factor: The Common Area Factor (CAF) is established as **1.13** percent. This factor, which represents the conversion from ABOA to rentable square feet, rounded to the nearest whole percentage, shall be used for purposes of rental adjustments in accordance with the Payment Clause of the General Clauses.
- C. Unless otherwise noted, the Government accepts the Premises and tenant improvements in their existing condition, except where specifications or standards are contained elsewhere in this Lease. These standards include security improvements, Fire Protection and Life Safety requirements, ABAAS compliance, as well as compliance with all local codes and ordinances. Such acceptance by the Government of existing Premises shall not relieve Lessor of continuing obligations for cleaning, janitorial, maintenance, repair, etc. as set forth in the Lease paragraphs and attached General Clauses.

1.02 EXPRESS APPURTENANT RIGHTS (SEP 2013)

The Government shall have the non-exclusive right to the use of Appurtenant Areas, and shall have the right to post Rules and Regulations Governing Conduct on Federal Property, Title 41, CFR, Part 102-74, Subpart C within such areas. The Government will coordinate with Lessor to ensure signage is consistent with Lessor's standards. Appurtenant to the Premises and included in the Lease are rights to use the following:

- A. Parking: **77** parking spaces as depicted on the plan attached hereto as Exhibit **B**, reserved for the exclusive use of the Government, of which **0** shall be structured/inside parking spaces, and **77** shall be surface/outside parking spaces. In addition, the Lessor shall provide such additional parking spaces as required by the applicable code of the local government entity having jurisdiction over the Property.
- B. Antennas, Satellite Dishes, and Related Transmission Devices: (1) Space located on the roof of the Building sufficient in size for the installation and placement of telecommunications equipment, (2) the right to access the roof of the Building, and (3) use of all Building areas (e.g., chases, plenums, etc.) necessary for the use, operation, and maintenance of such telecommunications equipment at all times during the term of this Lease.

1.03 RENT AND OTHER CONSIDERATION (SEP 2015)

- A. The Government shall pay the Lessor annual rent, payable in monthly installments in arrears, at the following rates:

	FIRM TERM	NON FIRM TERM
	ANNUAL RENT	ANNUAL RENT
SHELL RENT ¹	\$74,868.00	\$74,868.00
OPERATING COSTS ²	\$218,823.75	\$218,823.75
TOTAL ANNUAL RENT	\$293,691.75	\$293,691.75

Shell rent calculation:
(Firm Term) **\$2.72** per RSF multiplied by **27,525** RSF
(Non Firm Term) **\$2.72** per RSF multiplied by **27,525** RSF
²Operating Costs rent calculation: **\$7.95** per RSF multiplied by **27,525** RSF

- B. Rent is subject to adjustment upon reconciliation from quantities in the Lease to the approved DIDs and post-DID change orders, based on unit costs negotiated and agreed upon prior to Lease award.
- C. If the Government occupies the Premises for less than a full calendar month, then rent shall be prorated based on the actual number of days of occupancy for that month.
- D. Rent shall be paid to Lessor by electronic funds transfer in accordance with the provisions of the General Clauses. Rent shall be payable to the Payee designated by the Lessor in the System for Award Management (SAM). If the payee is different from the Lessor, both payee and Lessor must be registered and active in SAM.

E. Lessor shall provide to the Government, in exchange for the payment of rental and other specified consideration, the following:

1. The leasehold interest in the Property described in the paragraph entitled "The Premises."

2. All costs, expenses and fees to perform the work required for acceptance of the Premises in accordance with this Lease, including all costs for labor, materials, and equipment, professional fees, contractor fees, attorney fees, permit fees, inspection fees, and similar such fees, and all related expenses.

3. Performance or satisfaction of all other obligations set forth in this Lease; and all services, utilities, and maintenance required for the proper operation of the Property, the Building, and the Premises in accordance with the terms of the Lease, including, but not limited to, all inspections, modifications, repairs, replacements, and improvements required to be made thereto to meet the requirements of this Lease.

1.04 INTENTIONALLY DELETED

1.05 TERMINATION RIGHTS (AUG 2011)

The Government may terminate this Lease, in whole or in part, at any time on or after August 1, 2027, by providing not less than **60** days' prior written notice to the Lessor. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rental shall accrue after the effective date of termination.

1.06 INTENTIONALLY DELETED

1.07 DOCUMENTS INCORPORATED IN THE LEASE (SEP 2015)

The following documents are attached to and made part of the Lease:

DOCUMENT NAME	No. OF PAGES	EXHIBIT
FLOOR PLAN(S)	1	A
PARKING PLAN(S)	1	B
SECURITY REQUIREMENTS LEVEL II	6	
SECURITY UNIT PRICE LIST	2	
GSA FORM 3517B GENERAL CLAUSES	15	
GSA FORM 3518, REPRESENTATIONS AND CERTIFICATIONS	12	
GSA FORM 3518-SAM, ADDENDUM TO SYSTEM FOR AWARD MANAGEMENT (SAM) REPRESENTATIONS AND CERTIFICATIONS (ACQUISITIONS OF LEASEHOLD INTERESTS IN REAL PROPERTY)	2	
SEISMIC FORM B COMPLIANCE EXISTING BUILDING, PREAWARD COMMITMENT	1	
SMALL BUSINESS SUBCONTRACTING PLAN	6	

1.08 TENANT IMPROVEMENT RENTAL ADJUSTMENT (SEP 2015)

A. The Lessor has agreed to total TI pricing of **\$0.00** and has offered the space "as-is", with the agreed upon building improvements as identified in Paragraph 1.18.

1.09 INTENTIONALLY DELETED

1.10 INTENTIONALLY DELETED

1.11 INTENTIONALLY DELETED

1.12 PERCENTAGE OF OCCUPANCY FOR TAX ADJUSTMENT (JUN 2012)

As of the Lease Award Date, the Government's Percentage of Occupancy, as defined in the "Real Estate Tax Adjustment" paragraph of this Lease is **100** percent. The Percentage of Occupancy is derived by dividing the total Government Space of **27,525** RSF by the total Building space of **27,525** RSF.

1.13 INTENTIONALLY DELETED

1.14 OPERATING COST BASE (SEP 2013)

The parties agree, for the purpose of applying the paragraph titled "Operating Costs Adjustment," that the Lessor's base rate for operating costs shall be **\$7.95** per RSF (**\$218,823.75**/annum).

1.15 RATE FOR ADJUSTMENT FOR VACANT LEASED PREMISES (SEP 2013)

In accordance with the paragraph entitled "Adjustment for Vacant Premises," if the Government fails to occupy or vacates the entire or any portion of the Premises prior to expiration of the term of the Lease, the operating costs paid by the Government as part of the rent shall be reduced by \$4.11 per ABOA SF of Space vacated by the Government.

1.16 HOURLY OVERTIME HVAC RATES (AUG 2011)

The following rates shall apply in the application of the paragraph titled "Overtime HVAC Usage:"

- \$ 75.00 per hour for the entire Space.

1.17 INTENTIONALLY DELETED

1.18 BUILDING IMPROVEMENTS (MAR 2016)

Within 60 working days of lease award, the Lessor shall complete the following Building improvements:

- A. The Lessor shall repaint the interior space, with a Government approved color. The repainting shall include moving and replacing furniture, phones and data.
- B. The Lessor shall replace the carpet, with Government approved carpet color and type. The carpet replacement shall include moving and replacing furniture, phones and data.
- C. The Lessor shall repair and/or replace the existing HVAC for the building.
- D. The Lessor shall correct all items identified on the GSA Building Inspection Report dated July 28, 2016 and consisting of 2 pages.

1.19 INTENTIONALLY DELETED

SECTION 2 GENERAL TERMS, CONDITIONS, AND STANDARDS

2.01 DEFINITIONS AND GENERAL TERMS (SEP 2013)

Unless otherwise specifically noted, all terms and conditions set forth in this Lease shall be interpreted by reference to the following definitions, standards, and formulas:

- A. Appurtenant Areas. Appurtenant Areas are defined as those areas and facilities on the Property that are not located within the Premises, but for which rights are expressly granted under this Lease, or for which rights to use are reasonably necessary or reasonably anticipated with respect to the Government's enjoyment of the Premises and express appurtenant rights.
- B. Broker. If GSA awarded this Lease using a contract real estate broker, Broker shall refer to GSA's broker.
- C. Building. The building(s) situated on the Property in which the Premises are located shall be referred to as the Building(s).
- D. Commission Credit. If GSA awarded this Lease using a Broker, and the Broker agreed to forego a percentage of its commission to which it is entitled in connection with the award of this Lease, the amount of this credit is referred to as the Commission Credit.
- E. Common Area Factor (CAF). The Common Area Factor (CAF) is a conversion factor determined by the Building owner and applied by the owner to the ABOA SF to determine the RSF for the leased Space. The CAF is expressed as a percentage of the difference between the amount of rentable SF and ABOA SF, divided by the ABOA SF. For example 11,500 RSF and 10,000 ABOA SF will have a CAF of 15% [(11,500 RSF-10,000 ABOA SF)/10,000 ABOA SF]. For the purposes of this Lease, the CAF shall be determined in accordance with the applicable ANSI/BOMA standard for the type of space to which the CAF shall apply.
- F. Contract. Contract and contractor means Lease and Lessor, respectively.
- G. Days. All references to "day" or "days" in this Lease shall mean calendar days, unless specified otherwise.
- H. FAR/GSAR. All references to the FAR shall be understood to mean the Federal Acquisition Regulation, codified at 48 CFR Chapter 1. All references to the GSAR shall be understood to mean the GSA supplement to the FAR, codified at 48 CFR Chapter 5.
- I. Firm Term/Non-Firm Term. The Firm Term is that part of the Lease term that is not subject to termination rights. The Non-Firm Term is that part of the Lease term following the end of the Firm Term.
- J. Lease Term Commencement Date. The Lease Term Commencement Date means the date on which the lease term commences.
- K. Lease Award Date. The Lease Award Date means the date of execution of the Lease by the LCO and the mailing or otherwise furnishing written notification of the executed Lease to the successful Offeror (and on which the parties' obligations under the Lease begin).
- L. Premises. The Premises are defined as the total Office Area or other type of Space, together with all associated common areas, described in Section 1 of this Lease, and delineated by plan in the attached exhibit. Parking and other areas to which the Government has rights under this Lease are not included in the Premises.
- M. Property. The Property is defined as the land and Buildings in which the Premises are located, including all Appurtenant Areas (e.g., parking areas) to which the Government is granted rights.
- N. Rentable Space or Rentable Square Feet (RSF). Rentable Space is the area for which a tenant is charged rent. It is determined by the Building owner and may vary by city or by building within the same city. The Rentable Space may include a share of Building support/common areas such as elevator lobbies, Building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. The Rentable Space does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts, and vertical ducts. Rentable Square Feet is calculated using the following formula for each type of Space (e.g., office, warehouse, etc.) included in the Premises: $ABOA\ SF\ of\ Space \times (1 + CAF) = RSF$.
- O. Space. The Space shall refer to that part of the Premises to which the Government has exclusive use, such as Office Area, or other type of Space. Parking areas to which the Government has rights under this Lease are not included in the Space.
- P. Office Area. For the purposes of this Lease, Space shall be measured in accordance with the standard (Z65.1-1996) provided by American National Standards Institute/Building Owners and Managers Association (ANSI/BOMA) for Office Area, which means "the area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed." References to ABOA mean ANSI/BOMA Office Area.
- Q. Working Days. Working Days shall mean weekdays, excluding Saturdays and Sundays and Federal holidays.

2.02 AUTHORIZED REPRESENTATIVES (JUN 2012)

The signatories to this Lease shall have full authority to bind their respective principals with regard to all matters relating to this Lease. No other persons shall be understood to have any authority to bind their respective principals, except to the extent that such authority may be explicitly

delegated by notice to the other party, or to the extent that such authority is transferred by succession of interest. The Government shall have the right to substitute its Lease Contracting Officer (LCO) by notice, without an express delegation by the prior LCO.

2.03 ALTERATIONS REQUESTED BY THE GOVERNMENT (SEP 2013)

A. The Government may request the Lessor to provide alterations during the term of the Lease. Alterations will be ordered by issuance of a Lease Amendment, GSA Form 300, Order for Supplies or Services, or, when specifically authorized to do so by the LCO, a tenant agency-approved form. The GSAM clause, 552.270-31, Prompt Payment, including its invoice requirements, shall apply to orders for alterations. All orders are subject to the terms and conditions of this Lease and may be placed by the LCO or a warranted contracting officer's representative (COR) in GSA or the tenant agency when specifically authorized to do so by the Lease Contracting Officer, subject to the threshold limitation below.

B. Orders for alterations issued by an authorized COR are limited to no more than \$150,000 (LCOs are not subject to this threshold). This threshold will change according to future adjustments of the simplified acquisition threshold (see FAR 2.101). The LCO will provide the Lessor with a list of tenant agency officials authorized to place orders and will specify any limitations on the authority delegated to tenant agency officials. The tenant agency officials are not authorized to deal with the Lessor on any other matters.

C. Payments for alterations ordered by the tenant agency under the authorization described in sub-paragraph B will be made directly by the tenant agency placing the order.

2.04 WAIVER OF RESTORATION (APR 2011)

The Lessor shall have no right to require the Government to restore the Premises upon termination of the Lease, and waives all claims against the Government for waste, damages, or restoration arising from or related to (a) the Government's normal and customary use of the Premises during the term of the Lease (including any extensions thereof), as well as (b) any initial or subsequent alteration to the Premises regardless of whether such alterations are performed by the Lessor or by the Government. At its sole option, the Government may abandon property in the Space following expiration of the Lease, in which case the property will become the property of the Lessor and the Government will be relieved of any liability in connection therewith.

2.05 INTENTIONALLY DELETED

2.06 CHANGE OF OWNERSHIP (APR 2015)

A. If during the term of the Lease, title to the Property is transferred, the Lease is assigned, or the Lessor changes its legal name, the Lessor and its successor shall comply with the requirements of FAR Subpart 42.12. If title is transferred, the Lessor shall notify the Government within five days of the transfer of title.

B. The Government and the Lessor may execute a Change of Name Agreement if the Lessor is changing only its legal name, and the Government's and the Lessor's respective rights and obligations remain unaffected. A sample form is found at FAR 42.1205.

C. If title to the Property is transferred, or the Lease is assigned, the Government, the original Lessor (Transferor), and the new owner or assignee (Transferee) shall execute a Novation Agreement providing for the transfer of Transferor's rights and obligations under the Lease to the Transferee. When executed on behalf of the Government, a Novation Agreement will be made part of the Lease via Lease Amendment.

D. In addition to all documents required by FAR 42.1204, the LCO may request additional information (e.g., copy of the deed, bill of sale, certificate of merger, contract, court decree, articles of incorporation, operation agreement, partnership certificate of good standing, etc.) from the Transferor or Transferee to verify the parties' representations regarding the transfer, and to determine whether the transfer of the Lease is in the Government's interest.

E. If the LCO determines that recognizing the Transferee as the Lessor will not be in the Government's interest, the Transferor shall remain fully liable to the Government for the Transferee's performance of obligations under the Lease, notwithstanding the transfer. Under no condition shall the Government be obligated to release the Transferor of obligations prior to (a) the rent commencement date; and (b) any amounts due and owing to the Government under the Lease have been paid in full or completely set off against the rental payments due under the Lease.

F. As a condition for being recognized as the Lessor and entitlement to receiving rent, the Transferee must register in the System for Award Management (SAM) (See FAR 52.232-33), and complete and sign GSA Form 3518-SAM, Addendum to System for Award Management (SAM) Representations and Certifications (Acquisition of Leasehold Interests in Real Property).

G. If title to the Property is transferred, or the Lease is assigned, rent shall continue to accrue, subject to the Government's rights as provided for in this Lease. However, the Government's obligation to pay rent to the Transferee shall be suspended until the Government has received all information reasonably required by the LCO under sub-paragraph D, the Government has determined that recognizing the Transferee as the Lessor is in the Government's interest (which determination will be prompt and not unreasonably withheld), and the Transferee has met all conditions specified in sub-paragraph F. So long as any delays in effecting the recognition of Transferee as Lessor are not the responsibility of the Government, no interest shall accrue on suspended rent.

2.07 REAL ESTATE TAX ADJUSTMENT (JUN 2012)

A. Purpose: This paragraph provides for adjustment in the rent (tax adjustment) to account for increases or decreases in Real Estate Taxes for the Property after the establishment of the Real Estate Tax Base, as those terms are defined herein. Tax adjustments shall be calculated in accordance with this paragraph.

B. Definitions: The following definitions apply to the use of the terms within this paragraph:

Property is defined as the land and Buildings in which the Premises are located, including all Appurtenant Areas (e.g., parking areas to which the Government is granted rights).

Real Estate Taxes are those taxes that are levied upon the owners of real property by a Taxing Authority (as hereinafter defined) of a state or local Government on an ad valorem basis to raise general revenue for funding the provision of government services. The term excludes, without limitation, special assessments for specific purposes, assessments for business improvement districts, and/or community development assessments.

Taxing Authority is a state, commonwealth, territory, county, city, parish, or political subdivision thereof, authorized by law to levy, assess, and collect Real Estate Taxes.

Tax Year refers to the 12-month period adopted by a Taxing Authority as its fiscal year for assessing Real Estate Taxes on an annual basis.

Tax Abatement is an authorized reduction in the Lessor's liability for Real Estate Taxes below that determined by applying the generally applicable real estate tax rate to the Fully Assessed (as hereinafter defined) valuation of the Property.

Unadjusted Real Estate Taxes are the full amount of Real Estate Taxes that would be assessed for the Property for one full Tax Year without regard to the Lessor's entitlement to any Tax Abatements (except if such Tax Abatement came into effect after the date of award of the Lease), and not including any late charges, interest or penalties. If a Tax Abatement comes into effect after the date of award of the Lease, "unadjusted Real Estate Taxes" are the full amount of Real Estate Taxes assessed for the Property for one full Tax Year, less the amount of such Tax Abatement, and not including any late charges, interest, or penalties.

Real Estate Tax Base is the unadjusted Real Estate Taxes for the first full Tax Year following the commencement of the Lease term. If the Real Estate Taxes for that Tax Year are not based upon a Full Assessment of the Property, then the Real Estate Tax Base shall be the Unadjusted Real Estate Taxes for the Property for the first full Tax Year for which the Real Estate Taxes are based upon a Full Assessment. Such first full Tax Year may be hereinafter referred to as the Tax Base Year. Alternatively, the Real Estate Tax Base may be an amount negotiated by the parties that reflects an agreed upon base for a Fully Assessed value of the Property.

The Property is deemed to be Fully Assessed (and Real Estate Taxes are deemed to be based on a Full Assessment) only when a Taxing Authority has, for the purpose of determining the Lessor's liability for Real Estate Taxes, determined a value for the Property taking into account the value of all improvements contemplated for the Property pursuant to the Lease, and issued to the Lessor a tax bill or other notice of levy wherein the Real Estate Taxes for the full Tax Year are based upon such Full Assessment. At no time prior to the issuance of such a bill or notice shall the Property be deemed Fully Assessed.

Percentage of Occupancy refers to that portion of the Property exclusively occupied or used by the Government pursuant to the Lease. For Buildings, the Percentage of Occupancy is determined by calculating the ratio of the RSF occupied by the Government pursuant to the Lease to the total RSF in the Building or Buildings so occupied, and shall not take into account the Government's ancillary rights including, but not limited to, parking or roof space for antennas (unless facilities for such ancillary rights are separately assessed). This percentage shall be subject to adjustment to take into account increases or decreases for Space leased by the Government or for rentable space on the Property.

C. Adjustment for changes in Real Estate Taxes. After the Property is Fully Assessed, the Government shall pay its share of any increases and shall receive its share of any decreases in the Real Estate Taxes for the Property, such share of increases or decreases to be referred to herein as "tax adjustment." The amount of the tax adjustment shall be determined by multiplying the Government's Percentage of Occupancy by the difference between the current year Unadjusted Real Estate Taxes and the Real Estate Tax Base, less the portion of such difference not paid due to a Tax Abatement (except if a Tax Abatement comes into effect after the date of award of the Lease). If a Tax Abatement comes into effect after the date of award of the Lease, the amount of the tax adjustment shall be determined by multiplying the Government's Percentage of Occupancy by the difference between the current year Unadjusted Real Estate Taxes and the Real Estate Tax Base. The Government shall pay the tax adjustment in a single annual lump sum payment to the Lessor. In the event that this tax adjustment results in a credit owed to the Government, the Government may elect to receive payment in the form of a rental credit or lump sum payment.

If the Property contains more than one separately assessed parcel, then more than one tax adjustment shall be determined based upon the Percentage of Occupancy, Real Estate Tax Base, and Real Estate Taxes for each respective parcel.

After commencement of the Lease term, the Lessor shall provide to the LCO copies of all real estate tax bills for the Property, all documentation of Tax Abatements, credits, or refunds, if any, and all notices which may affect the assessed valuation of the Property, for the Tax Year prior to the commencement of the Lease Term, and all such documentation for every year following. Lessor acknowledges that the LCO shall rely on the completeness and accuracy of these submissions in order to establish the Real Estate Tax Base and to determine tax adjustments. The LCO may memorialize the establishment of the Real Estate Tax Base by issuing a unilateral administrative lease amendment indicating the base year, the amount of the Real Estate Tax Base, and the Government's Percentage of Occupancy.

The Real Estate Tax Base is subject to adjustment when increases or decreases to Real Estate Taxes in any Tax Year are attributable to (a) improvements or renovations to the Property not required by this Lease, or (b) changes in net operating income for the Property not derived from this Lease. If either condition results in a change to the Real Estate Taxes, the LCO may re-establish the Real Estate Tax Base as the Unadjusted Real Estate Taxes for the Tax Year the Property is reassessed under such condition, less the amount by which the Unadjusted Real Estate Taxes for the Tax Year prior to reassessment exceeds the prior Real Estate Tax Base.

If this Lease includes any options to renew the term of the Lease, or be otherwise extended, the Real Estate Tax Base for determining tax adjustments during the renewal term or extension shall be the last Real Estate Tax Base established during the base term of the Lease.

If any Real Estate Taxes for the Property are retroactively reduced by a Taxing Authority during the term of the Lease, the Government shall be entitled to a proportional share of any tax refunds to which the Lessor is entitled, calculated in accordance with this Paragraph. Lessor acknowledges that it has an affirmative duty to disclose to the Government any decreases in the Real Estate Taxes paid for the Property during the term of the Lease. Lessor shall annually provide to the LCO all relevant tax records for determining whether a tax adjustment is due, irrespective of whether it seeks an adjustment in any Tax Year.

If the Lease terminates before the end of a Tax Year, or if rent has been suspended, payment for the real estate tax increase due because of this section for the Tax Year will be prorated based on the number of days that the Lease and the rent were in effect. Any credit due the Government after the expiration or earlier termination of the Lease shall be made by a lump sum payment to the Government or as a rental credit to any succeeding Lease, as determined in the LCO's sole discretion. Lessor shall remit any lump sum payment to the Government within 15 calendar days of payment or credit by the Taxing Authority to Lessor or Lessor's designee. If the credit due to the Government is not paid by the due date, interest shall accrue on the late payment at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978, as amended (41 USC § 611), that is in effect on the day after the due date. The interest penalty shall accrue daily on the amount of the credit and shall be compounded in 30-day increments inclusive from the first day after the due date through the payment date. The Government shall have the right to pursue the outstanding balance of any tax credit using all such collection methods as are available to the United States to collect debts. Such collection rights shall survive the expiration of this Lease.

In order to obtain a tax adjustment, the Lessor shall furnish the LCO with copies of all paid tax receipts, or other similar evidence of payment acceptable to the LCO, and a proper invoice (as described in GSA Form 3517, General Clauses, 552.270-31, Prompt Payment) for the requested tax adjustment, including the calculation thereof. All such documents must be received by the LCO within 60 calendar days after the last date the real estate tax payment is due from the Lessor to the Taxing Authority without payment of penalty or interest. FAILURE TO SUBMIT THE PROPER INVOICE AND EVIDENCE OF PAYMENT WITHIN SUCH TIME FRAME SHALL CONSTITUTE A WAIVER OF THE LESSOR'S RIGHT TO RECEIVE A TAX ADJUSTMENT PURSUANT TO THIS PARAGRAPH FOR THE TAX YEAR AFFECTED.

Tax Appeals. If the Government occupies more than 50 percent of the Building by virtue of this and any other Government Lease(s), the Government may, upon reasonable notice, direct the Lessor to initiate a tax appeal, or the Government may elect to contest the assessed valuation on its own behalf or jointly on behalf of Government and the Lessor. If the Government elects to contest the assessed valuation on its own behalf or on behalf of the Government and the Lessor, the Lessor shall cooperate fully with this effort, including, without limitation, furnishing to the Government information necessary to contest the assessed valuation in accordance with the filing requirements of the Taxing Authority, executing documents, providing documentary and testimonial evidence, and verifying the accuracy and completeness of records. If the Lessor initiates an appeal at the direction of the Government, the Government shall have the right to approve the selection of counsel who shall represent the Lessor with regard to such appeal, which approval shall not be unreasonably withheld, conditioned or delayed, and the Lessor shall be entitled to a credit in the amount of its reasonable expenses in pursuing the appeal.

2.08 ADJUSTMENT FOR VACANT PREMISES (SEP 2013)

A. If the Government fails to occupy any portion of the leased Premises or vacates the Premises in whole or in part prior to expiration of the term of the Lease, the rental rate and the base for operating cost adjustments will be reduced.

B. If no rate reduction has been established in this Lease, the rate will be reduced by that portion of the costs per ABOA SF of operating expenses not required to maintain the Space. Said reduction shall occur after the Government gives 30 calendar days' prior notice to the Lessor and shall continue in effect until the Government occupies the vacant Premises or the Lease expires or is terminated.

2.09 OPERATING COSTS ADJUSTMENT (JUN 2012)

A. Beginning with the second year of the Lease and each year thereafter, the Government shall pay annual incremental adjusted rent for changes in costs for cleaning services, supplies, materials, maintenance, trash removal, landscaping, water, sewer charges, heating, electricity, and certain administrative expenses attributable to occupancy.

B. The amount of adjustment will be determined by multiplying the base rate by the annual percent of change in the Cost of Living Index. The percent change will be computed by comparing the index figure published for the month prior to the Lease Term Commencement Date with the index figure published for the month prior which begins each successive 12-month period. For example, a Lease which commences in June of 2005 would use the index published for May of 2005, and that figure would be compared with the index published for May of 2006, May of 2007, and so on, to determine the percent change. The Cost of Living Index will be measured by the Department of Labor revised Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), U.S. city average, all items, (1982 to 1984 = 100) published by the Bureau of Labor Statistics. Payment will be made with the monthly installment of fixed rent. Rental adjustments will be effective on the anniversary date of the Lease; however, payment of the adjusted rental rate will become due on the first workday of the second month following the publication of the Cost of Living Index for the month prior to the commencement of each 12-month period.

C. In the event of any decreases in the Cost of Living Index occurring during the term of the occupancy under the Lease, the rental amount will be reduced accordingly. The amount of such reductions will be determined in the same manner as increases in rent provided under this paragraph.

D. If the Government exercises an option to extend the Lease term at the same rate as that of the original term, the option price will be based on the adjustment during the original term. Annual adjustments will continue.

2.10 INTENTIONALLY DELETED

2.11 INTENTIONALLY DELETED

SECTION 3 CONSTRUCTION STANDARDS AND SHELL COMPONENTS

3.01 INTENTIONALLY DELETED

3.02 WORK PERFORMANCE (JUN 2012)

All work in performance of this Lease shall be done by skilled workers or mechanics and shall be acceptable to the LCO. The LCO may reject the Lessor's workers 1) if such are unlicensed, unskilled, or otherwise incompetent, or 2) if such have demonstrated a history of either untimely or otherwise unacceptable performance in connection with work carried out in conjunction with either this contract or other government or private contracts.

3.03 RECYCLED CONTENT PRODUCTS (COMPREHENSIVE PROCUREMENT GUIDELINES) (SEP 2013)

A. The Lessor shall comply to the extent feasible with the Resource Conservation and Recovery Act (RCRA), Section 6002, 1976. The Lessor shall use recycled content products as indicated in this Lease and as designated by the U.S. Environmental Protection Agency (EPA) in the Comprehensive Procurement Guidelines (CPG), 40 CFR Part 247, and its accompanying Recovered Materials Advisory Notice (RMAN). The CPG lists the designated recycled content products. EPA also provides recommended levels of recycled content for these products. The list of designated products, EPA's recommendations, and lists of manufacturers and suppliers of the products can be found at <http://www.epa.gov/cpg>.

B. The Lessor, if unable to comply with both the CPG and RMAN lists, shall submit a Request for Waiver for each material to the LCO with the TI pricing submittal. The request for waiver shall be based on the following criteria:

1. The cost of the recommended product is unreasonable.
2. Inadequate competition exists.
3. Items are not available within a reasonable period.
4. Items do not meet Lease performance standards.

3.04 ENVIRONMENTALLY PREFERABLE BUILDING PRODUCTS AND MATERIALS (SEP 2013)

A. The Lessor shall use environmentally preferable products and materials. The Lessor is encouraged to consider the lifecycle analysis of the product in addition to the initial cost.

B. Refer to EPA's environmentally preferable purchasing Web site, www.epa.gov/epp and USDA Bio-Preferred products Web site www.biopreferred.gov. In general, environmentally preferable products and materials do one or more of the following:

1. Contain recycled material, are bio-based, are rapidly renewable (10-year or shorter growth cycle), or have other positive environmental attributes.
2. Minimize the consumption of resources, energy, and water.
3. Prevent the creation of solid waste, air pollution, or water pollution.
4. Promote the use of nontoxic substances and avoid toxic materials or processes.

C. The Lessor is encouraged to use products that are extracted and manufactured regionally.

3.05 EXISTING FIT-OUT, SALVAGED, OR REUSED BUILDING MATERIAL (JUN 2012)

A. Items and materials existing in the Premises, or to be removed from the Premises during the demolition phase, are eligible for reuse in the construction phase of the project. The reuse of items and materials is preferable to recycling them; however, items considered for reuse shall be in refurbished condition and shall meet the quality standards set forth by the Government in this Lease. In the absence of definitive quality standards, the Lessor is responsible to confirm that the quality of the item(s) in question shall meet or exceed accepted industry or trade standards for first quality commercial grade applications.

B. The Lessor shall submit a reuse plan to the LCO. The Government will not pay for existing fixtures and other TIs accepted in place. However, the Government will reimburse the Lessor, as part of the TIA, the costs to repair or improve such fixtures or improvements identified on the reuse plan and approved by the LCO.

3.06 CONSTRUCTION WASTE MANAGEMENT (SEP 2015)

A. Recycling construction waste is mandatory for initial space alterations for TIs and subsequent alterations under the Lease.

B. Recycling construction waste means providing all services necessary to furnish construction materials or wastes to organizations which will employ these materials or wastes in the production of new materials. Recycling includes required labor and equipment necessary to separate individual materials from the assemblies of which they form a part.

C. **SUBMITTAL REQUIREMENT:** Prior to construction commencement, a proposed plan following industry standards to recycle construction waste. The construction waste management plan shall quantify material diversion goals and maximize the materials to be recycled and/or salvaged (at least 50 percent) from construction, demolition, and packaging debris. Where the small quantity of material, the extraordinarily complex nature of

the waste disposal method, or prohibitive expense for recycling would represent a genuine hardship, the Government, upon written request of the Lessor and approval of the LCO, may permit alternative means of disposal.

D. The Lessor shall recycle the following items during both the demolition and construction phases of the project, subject to economic evaluation and feasibility:

1. Ceiling grid and tile
2. Light fixtures, including proper disposal of any transformers, ballasts, and fluorescent light bulbs
3. Duct work and HVAC equipment
4. Wiring and electrical equipment
5. Aluminum and/or steel doors and frames
6. Hardware
7. Drywall
8. Steel studs
9. Carpet, carpet backing, and carpet padding
10. Wood
11. Insulation
12. Cardboard packaging
13. Pallets
14. Windows and glazing materials
15. All miscellaneous metals (as in steel support frames for filing equipment)
16. All other finish and construction materials.

E. If any waste materials encountered during the demolition or construction phase are found to contain lead, asbestos, polychlorinated biphenyls (PCBs) (such as fluorescent lamp ballasts), or other harmful substances, they shall be handled and removed in accordance with Federal and state laws and requirements concerning hazardous waste.

F. In addition to providing "one time" removal and recycling of large scale demolition items such as carpeting or drywall, the Lessor shall provide continuous facilities for the recycling of incidental construction waste during the initial construction.

G. Construction materials recycling records shall be maintained by the Lessor and shall be accessible to the LCO. Records shall include materials recycled or land-filled, quantity, date, and identification of hazardous wastes.

3.07 INTENTIONALLY DELETED

3.08 ADHESIVES AND SEALANTS (AUG 2008)

All adhesives employed on this project (including, but not limited to, adhesives for carpet, carpet tile, plastic laminate, wall coverings, adhesives for wood, or sealants) shall be those with the lowest possible volatile organic compounds (VOC) content below 20 grams per liter and which meet the requirements of the manufacturer of the products adhered or involved. The Lessor shall use adhesives and sealants with no formaldehyde or heavy metals. Adhesives and other materials used for the installation of carpets shall be limited to those having a flash point of 140 degrees F or higher.

3.09 BUILDING SHELL REQUIREMENTS (SEP 2013)

A. The Building Shell shall be designed, constructed, and maintained in accordance with the standards set forth herein and completed prior to acceptance of Space. For pricing, fulfillment of all requirements not specifically designated as TIs, Building Specific Amortized Capital, Operating Costs, or other rent components as indicated shall be deemed included in the Shell Rent.

B. Base structure and Building enclosure components shall be complete. All common areas accessible by the Government, such as lobbies, fire egress corridors and stairwells, elevators, garages, and service areas, shall be complete. Restrooms shall be complete and operational. All newly installed Building shell components, including but not limited to, heating, ventilation, and air conditioning (HVAC), electrical, ceilings, sprinklers, etc., shall be furnished, installed, and coordinated with TIs. Circulation corridors are provided as part of the base Building only on multi-tenanted floors where the corridor is common to more than one tenant. On single tenant floors, only the fire egress corridor(s) necessary to meet code is provided as part of the shell.

3.10 RESPONSIBILITY OF THE LESSOR AND LESSOR'S ARCHITECT/ENGINEER (JUN 2012)

The Lessor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Lessor under this contract. The Lessor shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, or other services.

3.11 QUALITY AND APPEARANCE OF BUILDING (JUN 2012)

During the life of the Lease the Building shall project a professional and aesthetically pleasing appearance including an attractive front and entrance way. The facade, downspouts, roof trim, and window casing shall be clean and in good condition.

3.12 VESTIBULES (APR 2011)

A. Existing vestibules shall remain in place at public entrances and exits wherever weather conditions and heat loss are important factors for consideration. In the event of negative air pressure conditions, provisions shall be made for equalizing air pressure.

B. Existing grilles and grates shall remain in place to control dirt and particulates from entering the Building at all primary exterior entryways.

3.13 MEANS OF EGRESS (MAY 2015)

- A. Prior to occupancy, the Premises and any parking garage areas shall meet or will be upgraded to meet, either the applicable egress requirements in the National Fire Protection Association, Life Safety Code (NFPA 101), or the International Code Council, International Building Code (IBC), each current as of the Lease Award Date, or use an alternative approach or method that achieves an equivalent level of safety deemed acceptable by the Government.
- B. The Space shall have unrestricted access to a minimum of two remote exits on each floor of Government occupancy.
- C. Interlocking or scissor stairs located on the floor(s) where Space is located shall only count as one exit stair.
- D. A fire escape located on the floor(s) where Space is located shall not be counted as an approved exit stair.
- E. Doors shall not be locked in the direction of egress unless equipped with special locking hardware in accordance with requirements of NFPA 101 or the IBC.

3.14 AUTOMATIC FIRE SPRINKLER SYSTEM (SEP 2013)

- A. Any portion of the Space located below-grade, including parking garage areas, and all areas in a Building referred to as "hazardous areas" (defined in National Fire Protection Association (NFPA) 101) that are located within the entire Building (including non-Government areas) shall be protected by an automatic fire sprinkler system or an equivalent level of safety.
- B. For Buildings in which any portion of the Space is on or above the sixth floor, then, at a minimum, the Building up to and including the highest floor of Government occupancy shall be protected by an automatic fire sprinkler system or an equivalent level of safety.
- C. For Buildings in which any portion of the Space is on or above the sixth floor, and lease of the Space will result, either individually or in combination with other Government Leases in the Building, in the Government leasing 35,000 or more ANSI/BOMA Office Area SF of Space in the Building, then the entire Building shall be protected throughout by an automatic fire sprinkler system or an equivalent level of safety.
- D. Automatic fire sprinkler system(s) shall be installed in accordance with the requirements of NFPA 13, Standard for the Installation of Sprinkler Systems that was in effect on the actual date of installation.
- E. Automatic fire sprinkler system(s) shall be maintained in accordance with the requirements of NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems (current as of the Lease Award Date).
- F. "Equivalent level of safety" means an alternative design or system (which may include automatic fire sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic fire sprinkler systems.

3.15 FIRE ALARM SYSTEM (SEP 2013)

- A. A Building-wide fire alarm system shall be installed in the entire Building in which any portion of the Space is located on the 3rd floor or higher.
- B. The fire alarm system shall be installed in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code, that was in effect on the actual date of installation.
- C. The fire alarm system shall be maintained in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date).
- D. The fire alarm system shall transmit all fire alarm signals to the local fire department via any of the following means: directly to the local fire department, to the (911) public communications center, to a central station, to a remote supervising station, or to a proprietary supervising station.
- E. If the Building's fire alarm control unit is over 25 years old as of the date of award of this Lease, Lessor shall install a new fire alarm system in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date), prior to Government acceptance and occupancy of the Space.

3.16 ENERGY INDEPENDENCE AND SECURITY ACT (MAR 2016)

- A. Energy-related Requirements:
 - 1. The Energy Independence and Security Act (EISA) establishes the following requirements for Government Leases in Buildings that have not earned the ENERGY STAR® Label conferred by the Environmental Protection Agency (EPA) within one year prior to the due date for final proposal revisions ("most recent year").
 - 2. If this Lease was awarded under any of EISA's Section 435 statutory exceptions, the Lessor shall either:
 - a. Earn the ENERGY STAR® Label prior to acceptance of the Space (or not later than one year after the Lease Award Date of a succeeding or superseding Lease); or

b. (i) Complete energy efficiency and conservation improvements if any, agreed to by Lessor in lieu of earning the ENERGY STAR® Label prior to acceptance of the Space (or not later than one year after the Lease Award Date of a succeeding or superseding Lease); and
(ii) Obtain and publicly disclose the Building's current ENERGY STAR® score (using EPA's Portfolio Manager tool), unless the Lessor cannot access whole building utility consumption data, or there is no building category within Portfolio Manager to benchmark against, including spaces—

- I. That are located in States with privacy laws that provide that utilities shall not provide such aggregated information to multitenant building owners; and
- II. For which tenants do not provide energy consumption information to the commercial building owner in response to a request from the building owner. (A Federal agency that is a tenant of the space shall provide to the building owner, or authorize the owner to obtain from the utility, the energy consumption information of the space for the benchmarking and disclosure required by this subparagraph D).
- III. That cannot be benchmarked (scored) using EPA's Portfolio Manager tool because of excessive vacancy; in which case Lessor agrees to obtain the score and publicly disclose it within 120 days of the eligibility to obtain a score using the EPA Portfolio Manager tool.

Note: "public disclosure" means posting the Energy Star® score on state or local websites in those areas that have applicable disclosure mandates, and reporting the score to the Government via Portfolio Manager. In the absence of an applicable state or local disclosure mandate, Lessor shall either generate and display the Energy Star® score in a public space at the building location or post the score on Lessor's or Lessor's Parent/Affiliate website.

3. If this Lease was awarded to a Building to be built or to a Building predominantly vacant as of the due date for final proposal revisions and was unable to earn the ENERGY STAR® label for the most recent year (as defined above) due to insufficient occupancy, but was able to demonstrate sufficient evidence of capability to earn the ENERGY STAR® label, then Lessor must earn the ENERGY STAR® label within 18 months after occupancy by the Government.

4. The Lessor is encouraged to purchase at least 50 percent of the Government tenant's electricity from renewable sources.

B. Hydrology-related Requirements:

1. Per EISA Section 438, the sponsor of any development or redevelopment project involving a Federal facility with a footprint that exceeds 5,000 square feet shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the Property with regard to the temperature, rate, volume, and duration of flow. If the Lessor proposes to satisfy the Government's space requirements through a development or redevelopment project, and the Government will be the sole or predominant tenant such that any other use of the Property will be functionally or quantitatively incidental to the Government's use, the Lessor is required to implement hydrology maintenance and restoration requirements as required by EISA Section 438.

a. For the purposes of applying EISA Section 438 in this lease, "sponsor" shall mean "Lessor", and "exceeds 5,000 square feet" shall mean construction that disturbs 5,000 square feet or more of land area at the Property or on adjoining property to accommodate the Government's requirements, or at the Property for whatever reason. Information regarding implementation of the hydrology maintenance and restoration requirements can be found at: <http://www.epa.gov/greeningepa/technical-guidance-implementing-stormwater-runoff-requirements-federal-projects>

b. Lessor is required to implement these hydrology maintenance and restoration requirements to the maximum extent technically feasible, prior to acceptance of the Space, (or not later than one year after the Lease Award Date or Lease Term Commencement Date, whichever is later, of a succeeding or superseding Lease). Additionally, this Lease requires EISA Section 438 storm water compliance not later than one year from the date of any applicable disturbance (as defined in EISA Section 438) of more than 5,000 square feet of ground area if such disturbance occurs during the term of the Lease if the Government is the sole or predominant tenant. In the event the Lessor is required to comply with EISA Section 438, Lessor shall furnish the Government, prior to the filing for permits for the associated work, with a certification from Lessor's engineer that the design meets the hydrology maintenance and restoration requirements of EISA Section 438.

3.17 ELEVATORS (SEP 2013)

A. The Lessor shall provide suitable passenger and, when required by the Government, freight elevator service to any of the Premises not having ground level access. Service shall be available during the normal hours of operation specified in the in this Lease. However, one passenger and, when required by the Government, one freight elevator shall be available at all times for Government use. When a freight elevator is required by the Government, it shall be accessible to the loading areas. When possible, the Government shall be given 24-hour advance notice if the service is to be interrupted for more than 1-1/2 hours. Normal service interruption shall be scheduled outside of the Government's normal working hours. The Lessor shall also use best efforts to minimize the frequency and duration of unscheduled interruptions.

B. Code: Elevators shall conform to the current requirements of the American Society of Mechanical Engineers ASME A17.1/CSA B44, Safety Code for Elevators and Escalators (current as of the Lease Award Date). Elevators shall be provided with Phase I emergency recall operation and Phase II emergency in-car operation in accordance with ASME A17.1/CSA B44. Fire alarm initiating devices (e.g., smoke detectors) used to initiate Phase I emergency recall operation shall be installed in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code. The elevators shall be inspected and maintained in accordance with the current edition of the ASME A17.2, Inspector's Manual for Elevators. Except for the reference to ASME A17.1 in ABAAS, Section F105.2.2, all elevators must meet ABAAS requirements for accessibility in Sections 407, 408, and 409 of ABAAS.

C. Safety Systems: Elevators shall be equipped with telephones or other two-way emergency communication systems. The system used shall be marked and shall reach an emergency communication location staffed 24 hours per day, 7 days per week.

D. Speed: The passenger elevators shall have a capacity to transport in 5 minutes 15 percent of the normal population of all upper floors (based on 150 SF per person). Further, the dispatch interval between elevators during the up-peak demand period shall not exceed 35 seconds.

E. Interior Finishes: Elevator cab walls shall be hardwood, marble, granite, or an equivalent pre-approved by the LCO. Elevator cab floors shall be marble, granite, terrazzo, or an equivalent pre-approved by the LCO.

3.18 BUILDING DIRECTORY (APR 2011)

A tamper-proof directory with lock shall be provided in the Building lobby listing the Government agency. It must be acceptable to the LCO.

3.19 INTENTIONALLY DELETED

3.20 DEMOLITION (JUN 2012)

The Lessor shall remove existing abandoned electric, telephone, and data cabling and devices, as well as any other improvements or fixtures in place to accommodate the Government's requirements. Any demolition of existing improvements that is necessary to satisfy the Government's layout shall be done at the Lessor's expense.

3.21 ACCESSIBILITY (FEB 2007)

The Building, leased Space, and areas serving the leased Space shall be accessible to persons with disabilities in accordance with the Architectural Barriers Act Accessibility Standard (ABAAS), Appendices C and D to 36 CFR Part 1191 (ABA Chapters 1 and 2, and Chapters 3 through 10). To the extent the standard referenced in the preceding sentence conflicts with local accessibility requirements, the more stringent shall apply.

3.22 CEILINGS (APR 2015)

A complete acoustical ceiling system (which includes grid and lay-in tiles or other Building standard ceiling system as approved by the LCO) throughout the Space and Premises shall be required. The acoustical ceiling system shall be furnished, installed, and coordinated with TIs.

A. Ceilings shall be at a minimum 9 feet and 0 inches measured from floor to the lowest obstruction. Areas with raised flooring shall maintain these ceiling-height limitations above the finished raised flooring. Bulkheads and hanging or surface mounted light fixtures which impede traffic ways shall be avoided. Ceilings shall be uniform in color and appearance throughout the Space, with no obvious damage to tiles or grid.

B. Prior to closing the ceiling, the Lessor shall coordinate with the Government for the installation of any items above the ceiling.

C. Should the ceiling be installed in the Space prior to construction of the TIs, then the Lessor shall be responsible for all costs in regard to the disassembly, storage during construction, and subsequent re-assembly of any of the ceiling components which may be required to complete the TIs. The Lessor shall also bear the risk for any damage to the ceiling or any components thereof during the construction of the TIs.

D. Ceilings shall be a flat plane in each room and shall be suspended and finished as follows unless an alternate equivalent is pre-approved by the LCO:

1. Restrooms. Plastered or spackled and taped gypsum board.

2. Offices and conference rooms. Mineral and acoustical tile or lay in panels with textured or patterned surface and tegular edges or an equivalent pre-approved by the LCO. Tiles or panels shall contain a minimum of 30% recycled content.

3. Corridors and eating/galley areas. Plastered or spackled and taped gypsum board or mineral acoustical tile.

3.23 EXTERIOR AND COMMON AREA DOORS AND HARDWARE (SEP 2013)

A. Exterior Building doors and doors necessary to the lobbies, common areas, and core areas shall be required. This does not include suite entry or interior doors specific to TIs.

B. Exterior doors shall be weather tight and shall open outward. Hinges, pivots, and pins shall be installed in a manner which prevents removal when the door is closed and locked. These doors shall have a minimum clear opening of 32" clear wide x 80" high (per leaf). Doors shall be heavy duty, flush, (1) hollow steel construction, (2) solid core wood, or (3) insulated tempered glass. As a minimum requirement, hollow steel doors shall be fully insulated, flush, #16-gauge hollow steel. Solid-core wood doors and hollow steel doors shall be at least 1-3/4 inches thick. Door assemblies shall be of durable finish and shall have an aesthetically pleasing appearance acceptable to the LCO. The opening dimensions and operations shall conform to the governing building, fire safety, accessibility, and energy codes and/or requirements. Fire door assemblies shall be listed and labeled. Labels on fire door assemblies shall be maintained in a legible condition. Fire door assemblies and their accompanying hardware, including frames and closing devices shall be installed in accordance with the requirements of NFPA 80, Standard for Fire Doors and Other Opening Protectives.

C. Exterior doors and all common area doors shall have door handles or door pulls with heavyweight hinges. All doors shall have corresponding doorstops (wall or floor mounted) and silencers. All public use doors and restroom doors shall be equipped with kick plates. All doors shall have automatic door closers. All Building exterior doors shall have locking devices installed to reasonably deter unauthorized entry.

3.24 DOORS: IDENTIFICATION (APR 2011)

All signage required in common areas unrelated to tenant identification shall be provided and installed by the Lessor.

3.25 WINDOWS (APR 2011)

- A. Office Space shall have windows in each exterior bay unless waived by the LCO.
- B. All windows shall be weather tight. Operable windows that open shall be equipped with locks. Off-street, ground-level windows and those accessible from fire escapes, adjacent roofs, and other structures that can be opened must be fitted with a sturdy locking device. Windows accessible from fire escapes must be readily operable from the inside of the Building.

3.26 PARTITIONS: GENERAL (APR 2015)

Partitions in public areas shall be marble, granite, hardwood, or drywall covered with durable wall covering or high performance coating, or equivalent pre-approved by the LCO. Newly installed gypsum board material must be Greenguard Gold Certified or have 0 grams per liter of VOCs.

3.27 PARTITIONS: PERMANENT (APR 2015)

Permanent partitions shall extend from the structural floor slab to the structural ceiling slab. They shall be provided by the Lessor as part of shell rent as necessary to surround the Space, stairs, corridors, elevator shafts, restrooms, all columns, and janitor closets. They shall have a flame spread rating of 25 or less and a smoke development rating of 450 or less (ASTM E-84). Stairs, elevators, and other floor openings shall be enclosed by partitions and shall have the fire resistance required by the applicable building code, fire code and ordinances adopted by the jurisdiction in which the Building is located (such as the International Building Code, etc.) current as of the Lease Award Date. Newly installed gypsum board material must be Greenguard Gold Certified or have 0 grams per liter of VOCs.

3.28 INSULATION: THERMAL, ACOUSTIC, AND HVAC (SEP 2013)

- A. All insulation products shall contain recovered materials as required by EPA's CPG and related recycled content recommendations.
- B. No insulation installed with this project shall be material manufactured using chlorofluorocarbons (CFCs), nor shall CFCs be used in the installation of the product.
- C. All insulation containing fibrous materials exposed to air flow shall be rated for that exposure or shall be encapsulated.
- D. Insulating properties for all materials shall meet or exceed applicable industry standards. Polystyrene products shall meet American Society for Testing and Materials (ASTM) C578 91.
- E. All insulation shall be low emitting with not greater than .05 ppm formaldehyde emissions.
- F. The maximum flame spread and smoke developed index for insulation shall meet the requirements of the applicable local codes and ordinances (current as of the Lease Award Date) adopted by the jurisdiction in which the Building is located.

3.29 WALL FINISHES – SHELL (SEP 2015)

- A. All restrooms within the Building common areas of Government-occupied floors shall have 1) ceramic tile, recycled glass tile, or comparable wainscot from the finished floor to a minimum height of 4'-6" and 2) semigloss paint on remaining wall areas, or other finish approved by the Government.
- B. All elevator areas that access the Space and hallways accessing the Space shall be covered with wall coverings not less than 20 ounces per square yard, high performance paint, or an equivalent.

3.30 PAINTING – SHELL (JUN 2012)

- A. The Lessor shall bear the expense for all painting associated with the Building shell. These areas shall include all common areas. Exterior perimeter walls and interior core walls within the Space shall be spackled and prime painted with low VOC primer. If any Building shell areas are already painted prior to TIs, then the Lessor shall repaint, at the Lessor's expense, as necessary during TIs.
- B. The costs for cyclical painting requirements as outlined in Section 6 shall be included in the shell rent.

3.31 FLOORS AND FLOOR LOAD (APR 2015)

- A. All adjoining floor areas shall be of a common level not varying more than 1/4 inch over a 10-foot horizontal run in accordance with the American Concrete Institute standards, non-slip, and acceptable to the LCO.
- B. Under-floor surfaces shall be smooth and level. Office areas shall have a minimum live load capacity of 50 pounds per ABOA SF plus 20 pounds per ABOA SF for moveable partitions. Storage areas shall have a minimum live load capacity of 100 pounds per ABOA SF, including moveable partitions. Lessor may be required to provide a report by a registered structural engineer showing the floor load capacity, at the Lessor's expense. Calculations and structural drawings may also be required.

3.32 FLOOR COVERING AND PERIMETERS – SHELL (SEP 2013)

- A. Exposed interior floors in primary entrances and lobbies shall be marble, granite, or terrazzo. Exposed interior floors in secondary entrances, elevator lobbies, and primary interior corridors shall be high-grade carpet, marble, granite, or terrazzo. Resilient flooring shall be used in telecommunications rooms. Floor perimeters at partitions shall have wood, rubber, vinyl, marble, or carpet base.
- B. Terrazzo, unglazed ceramic tile, recycled glass tile, and/or quarry tile shall be used in all restroom and service areas of Government-occupied floors.
- C. Any alternate flooring must be pre-approved by the LCO.
- D. The costs for cyclical carpet replacement requirements as outlined in Section 6 shall be included in the shell rent.

3.33 MECHANICAL, ELECTRICAL, PLUMBING: GENERAL (APR 2011)

The Lessor shall provide and operate all Building equipment and systems in accordance with applicable technical publications, manuals, and standard procedures. Mains, lines, and meters for utilities shall be provided by the Lessor. Exposed ducts, piping, and conduits are not permitted in office Space.

3.34 BUILDING SYSTEMS (APR 2011)

Whenever requested, the Lessor shall furnish to GSA as part of shell rent, a report by a registered professional engineer(s) showing that the Building and its systems as designed and constructed will satisfy the requirements of this Lease.

3.35 ELECTRICAL (JUN 2012)

- A. The Lessor shall be responsible for meeting the applicable requirements of local codes and ordinances. When codes conflict, the more stringent standard shall apply. Main service facilities shall be enclosed. The enclosure may not be used for storage or other purposes and shall have door(s) fitted with an automatic deadlocking latch bolt with a minimum throw of 1/2 inch. Main distribution for standard office occupancy shall be provided at the Lessor's expense. All floors shall have 120/208 V, 3-phase, 4-wire with bond, 60 hertz electric service available. In no event shall such power distribution (not including lighting and HVAC) for the Space fall below 4 watts per ABOA SF.
- B. Main power distribution switchboards and distribution and lighting panel boards shall be circuit breaker type with copper buses that are properly rated to provide the calculated fault circuits. All power distribution panel boards shall be supplied with separate equipment ground buses. All power distribution equipment shall be required to handle the actual specified and projected loads and 10 percent spare load capacity. Distribution panels are required to accommodate circuit breakers for the actual calculated needs and 10 percent spare circuits that will be equivalent to the majority of other circuit breakers in the panel system. Fuses and circuit breakers shall be plainly marked or labeled to identify circuits or equipment supplied through them.
- C. Convenience outlets shall be installed in accordance with NFPA Standard 70, National Electrical Code, or local code, whichever is more stringent. The Lessor shall provide duplex utility outlets in restrooms, corridors, and dispensing areas.

3.36 INTENTIONALLY DELETED

3.37 INTENTIONALLY DELETED

3.38 DRINKING FOUNTAINS (APR 2011)

On each floor of Government-occupied Space, the Lessor shall provide a minimum of two drinking fountains with chilled potable water within 200 feet of travel from any Government-occupied area on the floor. The fountains shall comply with Section F211 of the Architectural Barriers Act Accessibility Standard.

3.39 RESTROOMS (SEP 2013)

- A. If this Lease is satisfied by new construction or major alterations, Lessor shall provide water closets, sinks and urinals on each floor that is partially or fully occupied by the government per the following schedule. The schedule is per floor and based on a density of one person for each 135 ABOA SF of office Space, allocated as 50% women and 50% men. If major alterations to the restrooms occur during the term of this Lease, the number of fixtures then must meet the schedule as part of the major alterations.

ESTIMATED TOTAL NUMBER OF PEOPLE PER FLOOR			(WOMEN'S) WATER CLOSETS	(WOMEN'S) SINKS	(MEN'S) WATER CLOSETS	(MEN'S) URINALS	(MEN'S) SINKS
1	to	8	2	1	1	1	1
9	to	24	3	2	2	1	1
25	to	36	3	2	2	1	2
37	to	56	5	3	3	2	2
57	to	75	6	4	4	2	2
76	to	96	6	5	4	2	3
97	to	119	7	5	5	2	3
120	to	134	9	5	6	3	4
Above 135			3/40	1/24	1/20	1/40	1/30

B. If no new construction or major renovation of a restroom is occurring, compliance with local code is sufficient. Separate restroom facilities for men and women shall be provided in accordance with local code or ordinances, on each floor occupied by the Government in the Building. The facilities shall be located so that employees will not be required to travel more than 200 feet on one floor to reach the restrooms. Each restroom shall have sufficient water closets enclosed with modern stall partitions and doors, urinals (in men's room), and hot (set in accordance with applicable building codes) and cold water. Water closets and urinals shall not be visible when the exterior door is open.

C. Each main restroom shall contain the following:

1. A mirror and shelf above the lavatory.
2. A toilet paper dispenser in each water closet stall that will hold at least two rolls and allow easy, unrestricted dispensing.
3. A coat hook on the inside face of the door to each water closet stall and on several wall locations by the lavatories.
4. At least one modern paper towel dispenser, soap dispenser, and waste receptacle for every two lavatories.
5. A coin-operated sanitary napkin dispenser in women's restrooms with a waste receptacle in each water closet stall.
6. A disposable toilet seat cover dispenser.
7. A counter area of at least 2 feet, 0 inches in length, exclusive of the lavatories (however, it may be attached to the lavatories) with a mirror above and a ground-fault interrupter-type convenience outlet located adjacent to the counter area. The counter should be installed to minimize pooling or spilling of water at the front edge.
8. A floor drain.
9. For new installations and major renovations, restroom partitions shall be made from recovered materials as listed in EPA's CPG.

3.40 PLUMBING FIXTURES: WATER CONSERVATION (DEC 2011)

For new installations and whenever plumbing fixtures are being replaced (replacement per floor is required prior to Lease commencement in all instances of nonconformance where the Government occupies the full floor):

- A. Water closets must conform to EPA WaterSense or fixtures with equivalent flush volumes must be utilized.
- B. Urinals must conform to EPA WaterSense or fixtures with equivalent flush volumes must be utilized. Waterless urinals are acceptable.
- C. Faucets must conform to EPA WaterSense or fixtures with equivalent flow rates must be utilized.

Information on EPA WaterSense fixtures can be found at <http://www.epa.gov/watersense/>.

3.41 JANITOR CLOSETS (SEP 2015)

Janitor closets shall meet all local codes and ordinances. When not addressed by local code, Lessor shall provide containment drains plumbed for appropriate disposal of liquid wastes in spaces where water and chemical concentrate mixing occurs for maintenance purposes. Disposal is not permitted in restrooms.

3.42 HEATING, VENTILATION, AND AIR CONDITIONING - SHELL (SEP 2013)

- A. Central HVAC systems shall be installed and operational, including, as appropriate, main and branch lines, VAV boxes, dampers, flex ducts, and diffusers, for an open office layout, including all Building common areas. The Lessor shall provide conditioned air through medium pressure duct work at a rate of .75 cubic feet per minute per ABOA SF and systems shall be designed with sufficient systems capacity to meet all requirements in this Lease.
- B. Areas having excessive heat gain or heat loss, or affected by solar radiation at different times of the day, shall be independently controlled.
- C. Equipment Performance. Temperature control for office Spaces shall be provided by concealed central heating and air conditioning equipment. The equipment shall maintain Space temperature control over a range of internal load fluctuations of plus 0.5 W/SF to minus 1.5 W/SF from initial design requirements of the tenant.
- D. Ductwork Re-use and Cleaning. Any ductwork to be reused and/or to remain in place shall be cleaned, tested, and demonstrated to be clean in accordance with the standards set forth by NADCA. The cleaning, testing, and demonstration shall occur immediately prior to Government occupancy to avoid contamination from construction dust and other airborne particulates.

E. During working hours in periods of heating and cooling, ventilation shall be provided in accordance with the latest edition of American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) Standard 62.1, Ventilation for Acceptable Indoor Air Quality.

F. Air filtration shall be provided and maintained with filters having a minimum efficiency rating as determined by the latest edition of ASHRAE Standard 52.2, Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle Size. Pre-filters shall have a Minimum Efficiency Reporting Value (MERV) efficiency of 8. Final filters shall have a MERV efficiency of 13.

G. Restrooms shall be properly exhausted, with a minimum of 10 air changes per hour.

3.43 TELECOMMUNICATIONS: DISTRIBUTION AND EQUIPMENT (SEP 2015)

Telecommunications switch rooms, wire closets, and related spaces shall meet applicable NFPA standards. Bonding and grounding shall be in accordance with NFPA Standard 70, National Electrical Code, and other applicable NFPA standards and/or local code requirements.

3.44 TELECOMMUNICATIONS: LOCAL EXCHANGE ACCESS (JUN 2012)

A. The Government may elect to contract its own telecommunications (voice, data, video, Internet or other emerging technologies) service in the Space. The Government may contract with one or more parties to have INS wiring (or other transmission medium) and telecommunications equipment installed.

B. The Lessor shall allow the Government's designated telecommunications providers access to utilize existing Building wiring to connect its services to the Government's Space. If the existing Building wiring is insufficient to handle the transmission requirements of the Government's designated telecommunications providers, the Lessor shall provide access from the point of entry into the Building to the Government's floor Space, subject to any inherent limitations in the pathway involved.

C. The Lessor shall allow the Government's designated telecommunications providers to affix telecommunications antennas (high frequency, mobile, microwave, satellite, or other emerging technologies), subject to weight and wind load conditions, to roof, parapet, or Building envelope as required. Access from the antennas to the Premises shall be provided.

D. The Lessor shall allow the Government's designated telecommunications providers to affix antennas and transmission devices throughout the Space and in appropriate common areas frequented by the Government's employees to allow the use of cellular telephones and communications devices necessary to conduct business.

3.45 LIGHTING: INTERIOR AND PARKING - SHELL (SEP 2013)

NOTE: FOR PRICING ESTIMATING PURPOSES, FIXTURES WILL BE INSTALLED AT THE AVERAGE RATIO OF 1 FIXTURE PER 80 ABOA SF.

A. INTERIOR FIXTURES: High efficiency T-8, T-5, or LED light fixtures (and associated ballasts or drivers) shall be installed as either ceiling grid or pendant mounted for an open-office plan. Ceiling grid fixtures shall be either 2' wide by 4' long or 2' wide by 2' long. Lessor shall provide, as part of Shell Rent, a minimum overall lighting fixture efficiency of 85 percent. Lamps shall maintain a uniform color level throughout the lease term.

B. LIGHTING LEVELS: Fixtures shall have a minimum of two tubes and shall provide 50 foot-candles at desktop level (30" above finished floor) with a maximum uniformity ratio of 1.5:1. Lessor shall provide, as part of Shell Rent, 10 average foot-candles in all other Building areas within the Premises with a uniformity ratio of 4:1. Emergency egress lighting levels shall be provided in accordance with the local applicable building codes (but not less than 1 foot-candle) by either an onsite emergency generator or fixture mounted battery packs.

C. POWER DENSITY:

Existing Buildings: The maximum fixture power density shall not exceed 1.4 watts per ABOA SF.

New Construction: The maximum fixture power density shall not exceed 1.1 watts per ABOA SF.

D. DAYLIGHTING CONTROLS: If the Lease is more than 10,000 ABOA SF, the Lessor shall provide daylight dimming controls in atriums or within 15 feet of windows and skylights where daylight can contribute to energy savings. Daylight harvesting sensing and controls shall be either integral to the fixtures or ceiling mounted and shall maintain required lighting levels in work spaces.

E. OCCUPANCY/VACANCY SENSORS: The Lessor shall provide ceiling mount occupancy sensors, or vacancy sensors (preferred), or scheduling controls through the building automation system (BAS) throughout the Space in order to reduce the hours that the lights are on when a particular space is unoccupied. No more than 1,000 square feet shall be controlled by any one sensor. Occupancy sensors in enclosed rooms shall continue to operate after the BAS has shutdown the building at the end of the workday.

F. BUILDING PERIMETER:

1. Exterior parking areas, vehicle driveways, pedestrian walks, and the Building perimeter lighting levels shall be designed per Illuminating Engineering Society (IES) standards. Provide 5 foot-candles for doorway areas, 3 foot-candles for transition areas and at least 5 foot-candles throughout the parking lot. Parking lot fixtures shall provide a maximum to minimum uniformity ratio of 10:1.

2. If the leased space is 100 percent occupied by Government tenants, all exterior parking lot fixtures shall be "Dark Sky" compliant with no property line trespass.

G. **PARKING STRUCTURES:** The minimum illuminance level for parking structures is 5 foot-candles as measured on the floor with a uniformity ratio of 10:1.

H. **PARKING SENSORS:** If the leased space is 100 percent occupied by Government tenants, exterior parking area and parking structure lighting shall be sensor or BAS controlled in order that it may be programmed to produce reduced lighting levels during non use. This non-use time period will normally be from 11:00 pm to 6:00 am.

I. **EXTERIOR POWER BACKUP:** Exterior egress, walkway, parking lot, and parking structure lighting must have emergency power backup to provide for safe evacuation of the Building.

3.46 ACOUSTICAL REQUIREMENTS (JUN 2012)

A. **Reverberation Control.** Private office and conference rooms using suspended acoustical ceilings shall have a noise reduction coefficient (NRC) of not less than 0.65 in accordance with ASTM C-423. Open office using suspended acoustical ceilings shall have an NRC of not less than 0.75. Private offices, conference rooms, and open offices using acoustical cloud or acoustical wall panels with a minimum of 70% coverage shall have an NRC of not less than 0.85.

B. **Ambient Noise Control.** Ambient noise from mechanical equipment shall not exceed noise criteria curve (NC) 35 in accordance with the ASHRAE Handbook of Fundamentals in offices and conference rooms; NC 40 in corridors, cafeterias, lobbies, and restrooms; NC 50 in other spaces.

C. **Noise Isolation.** Rooms separated from adjacent spaces by ceiling high partitions (not including doors) shall not be less than the following noise isolation class (NIC) standards when tested in accordance with ASTM E-336:

Conference rooms: NIC 40
Offices: NIC 35

D. **Testing.** The LCO may require, at Lessor's expense, test reports by a qualified acoustical consultant showing that acoustical requirements have been met.

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3.52 INDOOR AIR QUALITY DURING CONSTRUCTION (SEP 2013)

A. The Lessor shall provide to the Government material safety data sheets (MSDS) or other appropriate documents upon request, but prior to installation or use for the following products, including but not limited to, adhesives, caulking, sealants, insulating materials, fireproofing or fire stopping materials, paints, carpets, floor and wall patching or leveling materials, lubricants, clear finishes for wood surfaces, janitorial cleaning products, and pest control products.

B. The LCO may eliminate from consideration products with significant quantities of toxic, flammable, corrosive, or carcinogenic material and products with potential for harmful chemical emissions. Materials used often or in large quantities will receive the greatest amount of review.

C. All MSDS shall comply with Occupational Safety and Health Administration (OSHA) requirements. The Lessor and its agents shall comply with all recommended measures in the MSDS to protect the health and safety of personnel.

D. To the greatest extent possible, the Lessor shall sequence the installation of finish materials so that materials that are high emitters of volatile organic compounds (VOCs) are installed and allowed to cure before installing interior finish materials, especially soft materials that are woven, fibrous, or porous in nature, that may adsorb contaminants and release them over time.

E. Where demolition or construction work occurs adjacent to occupied Space, the Lessor shall erect appropriate barriers (noise, dust, odor, etc.) and take necessary steps to minimize interference with the occupants. This includes maintaining acceptable temperature, humidity, and ventilation in the occupied areas during window removal, window replacement, or similar types of work.

F. **HVAC during Construction:** If air handlers are used during construction, the Lessor shall provide filtration media with a MERV of 8 at each return air grill, as determined by the latest edition of ASHRAE Standard 52.2, Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle Size. The permanent HVAC system may be used to move both supply and return air during the construction process only if the following conditions are met:

1. A complete air filtration system with 60 percent efficiency filters is installed and properly maintained;
2. No permanent diffusers are used;
3. No plenum type return air system is employed;
4. The HVAC duct system is adequately sealed to prevent the spread of airborne particulate and other contaminants; and

5. Following the Building "flush out," all duct systems are vacuumed with portable high-efficiency particulate arrestance (HEPA) vacuums and documented clean in accordance with National Air Duct Cleaners Association (NADCA) specifications.

G. Flush-Out Procedure:

1. A final flush-out period of 72 hours minimum is required after installation of all interior finishes and before occupancy of the Space. The Lessor shall ventilate 24 hours a day, with new filtration media at 100% outdoor air (or maximum outdoor air while achieving a relative humidity not greater than 60%).

2. After the 3-day period the Space may be occupied; however, the flush-out must continue for 30 days using the maximum percentage of outdoor air consistent with achieving thermal comfort and humidity control.

3. Any deviation from this ventilation plan must be approved by the LCO.

4. The Lessor is required to provide regularly occupied areas of the Space with new air filtration media before occupancy that provides a MERV of 13 or better.

5. During construction, meet or exceed the recommended design approaches of the Sheet Metal and Air Conditioning National Contractors Association (SMACNA) IAQ Guideline for Occupied Buildings Under Construction, 1995, Chapter 3.

6. Protect stored onsite and installed absorptive materials from moisture damage.

3.53 SYSTEMS COMMISSIONING (APR 2011)

The Lessor shall incorporate commissioning requirements to verify that the installation and performance of energy consuming systems meet the Government's project requirements. The commissioning shall cover only work associated with TIs or alterations or at a minimum: heating, ventilating, air conditioning and refrigeration (HVAC&R) systems and associated controls, lighting controls, and domestic hot water systems.

3.54 DUE DILIGENCE AND NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENTS – LEASE (SEP 2014)

A. Environmental Due Diligence

Lessor is responsible for performing all necessary "response" actions (as that term is defined at 42 U.S.C. § 9601(25) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)) with regard to all "recognized environmental conditions," as that term is defined in ASTM Standard E1527-13, as such standard may be revised from time to time. This obligation extends to any contamination of the Property where such contamination is not attributable to the Government. Lessor must provide the Government with a summary report demonstrating completion of all required response actions prior to Substantial Completion. Any remediation performed by or on behalf of Lessor must be undertaken in strict compliance with all applicable federal, state and local laws and regulations.

B. National Environmental Policy Act

The National Environmental Policy Act regulations provide for analyzing proposed major federal actions to determine if there are ways to mitigate the impact of the proposed actions to avoid, minimize, rectify, reduce, or compensate for environmental impacts associated with such actions. Where the Government has determined that any or all of these mitigation measures should be or must be adopted to lessen the impact of these proposed actions, Lessor must incorporate all mitigation measures identified and adopted by the Government in the design and construction drawings and specifications. All costs and expenses for development of design alternatives, mitigation measures and review submittals for work to be performed under the Lease are the sole responsibility of Lessor.

3.55 INTENTIONALLY DELETED

SECTION 4 DESIGN, CONSTRUCTION, AND POST AWARD ACTIVITIES

4.01 SCHEDULE FOR COMPLETION OF SPACE (SEP 2015)

Design and construction activities for the Space shall commence upon Lease award.

Construction of TIs and completion of other required construction work: The Lessor shall complete all work as required in this Lease not later than **60** Working Days following Lease award.

4.02 CONSTRUCTION DOCUMENTS (SEP 2012)

The Lessor's CDs shall include all mechanical, electrical, plumbing, fire protection, life safety, lighting, structural, security, and architectural improvements scheduled for inclusion into the Space. CDs shall be annotated with all applicable specifications. CDs shall also clearly identify TIs already in place and the work to be done by the Lessor or others. Notwithstanding the Government's review of the CDs, the Lessor is solely responsible and liable for their technical accuracy and compliance with all applicable Lease requirements.

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4.07 PROGRESS REPORTS (JUN 2012)

After start of construction, the Lessor shall submit to the LCO written progress reports at intervals of **5** Working Days. Each report shall include information as to the percentage of the work completed by phase and trade; a statement as to expected completion and occupancy dates; changes introduced into the work; and general remarks on such items as material shortages, strikes, weather, etc, that may affect timely completion. In addition, at the Government's discretion, the Lessor shall conduct meetings every two weeks to brief Government personnel and/or contractors regarding the progress of design and construction of the Space. The Lessor shall be responsible for taking and distributing minutes of these meetings.

4.08 CONSTRUCTION INSPECTIONS (SEP 2015)

A. The LCO or the LCO's designated technical representative may periodically inspect construction work to review compliance with Lease requirements and approved DIDs, if applicable.

B. Periodic reviews, witnessing of tests, and inspections by the Government shall not constitute approval of the Lessor's apparent progress toward meeting the Government's objectives but are intended to discover any information which the LCO may be able to call to the Lessor's attention to prevent costly misdirection of effort. The Lessor shall remain responsible for designing, constructing, operating, and maintaining the Building in full accordance with the requirements of the Lease.

4.09 INTENTIONALLY DELETED

4.10 ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (SEP 2015)

A. Ten (10) Working Days prior to the completion of the Space, the Lessor shall issue written notice to the Government to schedule the inspection of the Space for acceptance. The Government shall accept the Space only if the construction of Building shell and TIs conforming to this Lease and the approved DIDs, if applicable, is substantially complete, a Certificate of Occupancy (C of O) has been issued as set forth below, and the Building improvements necessary for acceptance as described in the paragraph "Building Improvements" are completed.

B. The Space shall be considered substantially complete only if the Space may be used for its intended purpose, and completion of remaining work will not interfere unreasonably with the Government's enjoyment of the Space. Acceptance shall be final and binding upon the Government with respect to conformance of the completed TIs to the approved DIDs, with the exception of items identified on a punch list generated as a result of the inspection, concealed conditions, latent defects, or fraud, but shall not relieve the Lessor of any other Lease requirements.

C. The Lessor shall provide a valid C of O, issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction does not issue C of O's or if the C of O is not available, the Lessor may satisfy this condition by providing a report prepared by a licensed fire protection engineer that indicates the Space and Building are compliant with all applicable local codes and ordinances and all fire protection and life safety-related requirements of this Lease.

D. The Government will not be required to accept space prior to the schedule outlined in this Lease.

4.11 INTENTIONALLY DELETED

4.12 AS-BUILT DRAWINGS (JUN 2012)

Not later than **30** days after the acceptance of the Space, the Lessor, at Lessor's expense, shall furnish to the Government a complete set of Computer Aided Design (CAD) files of as-built floor plans showing the Space under Lease, as well as corridors, stairways, and core areas. The plans shall have been generated by a CAD program which is compatible with the latest release of AutoCAD. The required file extension is ".DWG." Clean and purged files shall be submitted on CD-ROM. They shall be labeled with Building name, address, list of drawing(s), date of the drawing(s), and Lessor's architect and architect's phone number. The Lessor's operator shall demonstrate the submission on GSA equipment, if requested by the LCO.

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SECTION 5 TENANT IMPROVEMENT COMPONENTS

5.01 TENANT IMPROVEMENT REQUIREMENTS (SEP 2013)

The TIs shall be designed, constructed, and maintained in accordance with the standards set forth in this Lease. For pricing, only those requirements designated as TIs within this section, or designated as TIs within the attached agency requirements and Security Requirements, shall be deemed to be TI costs.

5.02 TENANT IMPROVEMENT SPECIFICATIONS (SEP 2015)

With respect to the following bulleted paragraphs, the Government accepts the tenant improvements in their existing condition. Notwithstanding this acceptance, the requirements under these paragraphs shall pertain to future repair or replacement due to maintenance or alterations performed throughout the term of the Lease.

- DOORS: INTERIOR
- DOORS: HARDWARE
- PARTITIONS; SUBDIVIDING
- HEATING AND AIR CONDITIONING
- ELECTRICAL: DISTRIBUTION
- LIGHTING: INTERIOR AND PARKING - TI

5.03 FINISH SELECTIONS (SEP 2015)

The Lessor must consult with the Government prior to developing a minimum of three (3) finish options to include coordinated samples of finishes for all interior elements such as paint, wall coverings, base coving, carpet, window treatments, laminates, and flooring. All samples provided must comply with specifications set forth elsewhere in this Lease. All required finish option samples must be provided at no additional cost to the Government within 10 Working Days after initial submission of DIDs, if applicable. GSA must deliver necessary finish selections to the Lessor within 10 Working Days after receipt of samples. The finish options must be approved by GSA prior to installation. The Lessor may not make any substitutions after the finish option is selected.

5.04 WINDOW COVERINGS (JUN 2012)

A. Window Blinds. All exterior windows shall be equipped with window blinds in new or like new condition, which shall be provided as part of the TIs. The blinds may be aluminum or plastic vertical blinds, horizontal blinds with aluminum slats of one-inch width or less, solar fabric roller shades, or an equivalent product pre-approved by the Government. The window blinds shall have non-corroding mechanisms and synthetic tapes. Color selection will be made by the Government.

B. Draperies:

1. If draperies are required, they shall be part of the TIs and the following minimum specifications shall apply:
 - a. Fabrics shall be lined with either white or off-white plain lining fabric suited to the drapery fabric weight. Draperies shall be floor, apron, or sill length, as specified by the Government, and shall be wide enough to cover window and trim. Draperies shall be hung with drapery hooks on well-anchored heavy duty traverse rods. Traverse rods shall draw from the center, right, or left side.
 - b. Construction. Any draperies to be newly installed shall be made as follows:
 - i. Fullness of 100 percent, including overlap, side hems, and necessary returns;
 - ii. Double headings of 4 inches turned over a 4-inch permanently finished stiffener;
 - iii. Doubled side hems of 1-1/2 inches; 4-inch doubled and blind stitched bottom hems;
 - iv. Three-fold pinch pleats;
 - v. Safety stitched intermediate seams;
 - vi. Matched patterns;
 - vii. Tacked corners; and,
 - viii. No raw edges or exposed seams.
 - c. Use of existing draperies must be approved by the Government.

5.05 DOORS: SUITE ENTRY (SEP 2013)

Suite entry doors shall be provided as part of the TIs and shall have a minimum clear opening of 32" wide x 84" high (per leaf). Doors shall meet the requirements of being a flush, solid core, 1-3/4-inch thick, wood door with a natural wood veneer face or an equivalent pre-approved by the Government. Hollow core wood doors are not acceptable. They shall be operable by a single effort; and shall meet the requirement of NFPA 101, Life Safety Code or the International Building Code (current as of the Lease Award Date). Doors shall be installed in a metal frame assembly which is primed and finished with a low VOC semi gloss oil-based paint finish with no formaldehyde.

5.06 DOORS: INTERIOR (SEP 2013)

Doors within the Space shall be provided as part of the TIs and shall have a minimum clear opening of 32" wide x 80" high. Doors shall be flush, solid core, wood with a natural wood veneer face or an equivalent door pre-approved by the LCO. Hollow core wood doors are not acceptable. They shall

be operable with a single effort, and shall meet the requirements of NFPA 101, Life Safety Code or the International Building Code (current as of the Lease Award Date). Doors shall be installed in a metal frame assembly which is primed and finished with a low VOC semi-gloss oil-based paint with no formaldehyde.

5.07 DOORS: HARDWARE (SEP 2013)

Doors shall have door handles or door pulls with heavyweight hinges. The Lessor is encouraged to avoid the use of chrome-plated hardware. All doors shall have corresponding doorstops (wall- or floor-mounted) and silencers. All door entrances leading into the Space from public corridors and exterior doors shall have automatic door closers. Doors designated by the Government shall be equipped with 5-pin, tumbler cylinder locks and strike plates. All locks shall be master keyed. Furnish at least two master keys for each lock to the Government. Any exterior entrance shall have a high security lock, with appropriate key control procedures, as determined by Government specifications. Hinge pins and hasps shall be secured against unauthorized removal by using spot welds or pinned mounting bolts. The exterior side of the door shall have a lock guard or astragal to prevent tampering of the latch hardware. Doors used for egress only shall not have any operable exterior hardware. All security-locking arrangements on doors used for egress shall comply with requirements of NFPA 101 or the International Building Code current as of the Lease Award Date.

5.08 INTENTIONALLY DELETED

5.09 PARTITIONS: SUBDIVIDING (SEP 2015)

A. Office subdividing partitions shall comply with applicable building codes and local requirements and ordinances and shall be provided as part of the TIs. Partitioning shall extend from the finished floor to the finished ceiling and shall be designed to provide a minimum sound transmission class (STC) of 37. Partitioning shall be installed by the Lessor at locations to be determined by the Government as identified in the DIDs, if applicable. They shall have a flame spread rating of 25 or less and a smoke development rating of 450 or less (ASTM E-84).

B. HVAC shall be rebalanced and lighting repositioned, as appropriate, after installation of partitions.

C. If installed in accordance with the "Automatic Fire Sprinkler System" and "Fire Alarm System" paragraphs, sprinklers and fire alarm notification appliances shall be repositioned as appropriate after installation of partitions to maintain the level of fire protection and life safety.

D. Partitioning requirements may be satisfied with existing partitions if they meet the Government's standards and layout requirements.

E. Newly installed gypsum board material must be Greenguard Gold Certified or have 0 grams per liter of VOCs.

5.10 WALL FINISHES (JUN 2012)

If the Government chooses to install a wall covering, the minimum standard is vinyl-free, chlorine-free, plasticizer-free wall covering with recycled content or bio-based commercial wall covering weighing not less than 13 ounces per square yard or equivalent. If the Government chooses to install a high-performance paint coating, it shall comply with the VOC limits of the Green Seal Standard GS-11.

5.11 PAINTING – TI (SEP 2013)

A. Prior to acceptance, all surfaces within the Space which are designated by GSA for painting shall be newly finished in colors acceptable to the Government.

B. The Lessor shall provide interior paints and coatings that meet or are equivalent to the following standards for VOC off gassing:

1. Topcoat paints: Green Seal Standard GS-11, Paints, First Edition, May 20, 1993.
2. All other architectural coatings, primers, and undercoats: South Coast Air Quality Management District (SCAQMD) Rule 1113, Architectural Coatings, effective January 1, 2004.
3. Architectural paints, coatings, and primers applied to interior walls and ceilings:
 - a. Flats: 50 grams per liter (g/L).
 - b. Non-flats: 150 g/L.
4. Anti-corrosive and anti-rust paints applied to interior ferrous metal substrates: 250 g/L.
5. Clear wood finishes:
 - a. Varnish: 350 g/L.
 - b. Lacquer: 550 g/L.
6. Floor coatings: 100 g/L.
7. Sealers:
 - a. Waterproofing sealers: 250 g/L.
 - b. Sanding sealers: 275 g/L.
 - c. All other sealers: 200 g/L.
8. Shellacs:
 - a. Clear: 730 g/L.
 - b. Pigmented: 550 g/L.
9. Stains: 250 g/L.

C. Use reprocessed latex paint in accordance with EPA's CPG (Comprehensive Procurement Guidelines) on all painted surfaces where feasible. The type of paint shall be acceptable to the Government.

5.12 FLOOR COVERINGS AND PERIMETERS (APR 2015)

- A. Broadloom carpet or carpet tiles shall meet the requirements set forth in the specifications below. Floor perimeters at partitions shall have wood, rubber, vinyl, or carpet base. Floor covering shall be installed in accordance with manufacturing instructions to lay smoothly and evenly.
- B. The use of existing carpet may be approved by the Government; however, existing carpet shall be repaired, stretched, and cleaned before occupancy and shall meet the static buildup requirement as stated in the specifications below.
- C. Any alternate flooring shall be pre-approved by the Government.
- D. SPECIFICATIONS FOR CARPET TO BE NEWLY INSTALLED OR REPLACED

1. Product sustainability and environmental requirements. In order to achieve superior performance in multiple environmental attribute areas, carpet must have third party certification in accordance with ANSI/NSF 140 2007e Sustainable Carpet Assessment Standard at a "Gold" level minimum. Carpet manufacturer must supply certificate as part of the procurement documentation.

2. Recycled content: Recycled content is measured by total product weight of pre-consumer and/or post-consumer materials. Recycled content must be at least 10% post-consumer recovered content.

3. Low emitting materials. The carpet and floor adhesive (for glue-down installations) must meet the Green Label Plus (GLP) and floor adhesive (for direct glue down) requirements of the Carpet and Rug Institute (CRI). GLP number must be provided. Adhesives must meet VOC content standards per South Coast Air Quality Management District Rule #1168.

4. Face fiber content. Face yarn must be 100 percent nylon fiber. Loop Pile shall be 100 percent Bulk Continuous Filament (BCF); cut and loop shall be 100 percent BCF for the loop portion and may be BCF or staple for the cut portion; cut pile carpet shall be staple or BCF.

5. Performance requirements for broadloom and modular tile:

- a. Static: Less than or equal to 3.5 kV when tested by AATCC Test Method 134 (Step Test Option).
- b. Flammability: Meets CPSC-FF-1-70, DOC-FF-1-70 Methenamine Tablet Test criteria.
- c. Flooring Radiant Panel Test: Meets NFPA 253 Class I or II depending upon occupancy and fire code when tested under ASTM E-648 for glue down installation.
- d. Smoke Density: NBS Smoke Chamber - Less than 450 Flaming Mode when tested under ASTM E-662.

NOTE: Testing must be performed in a NVLAP accredited laboratory.

6. Texture Appearance Retention Rating (TARR). Carpet must meet TARR ratings specified below:

Space Definition	Traffic Classification	TARR Classification
Private Offices	Moderate	≥ 3.0 TARR
Training, conference, courtrooms, etc.	Heavy	≥ 3.0 TARR
Open Office, cafeteria, corridors, lobbies	Severe	≥ 3.5 TARR

The carpet must be evaluated using ASTM D-5252 Hexapod Drum Test as per the commercial carpet test procedure and the TARR classification determined using ASTM D-7330.

7. Carpet reclamation. Reclamation of existing carpet to be determined with potential vendor. When carpet is replaced, submit certification documentation from the reclamation facility to the LCO.

8. Warranty. Submit a copy of the manufacturer's standard warranty to the LCO within the first 60 days of Government occupancy. The Government is to be a beneficiary of the terms of this warranty.

5.13 HEATING AND AIR CONDITIONING (JUN 2012)

Zone Control. Provide individual thermostat control for office Space with control areas not to exceed 1,500 ABOA SF. Interior spaces must be separately zoned. Specialty occupancies (conference rooms, kitchens, etc.) must have active controls capable of sensing Space use and modulating HVAC system in response to Space demand. Areas that routinely have extended hours of operation shall be environmentally controlled through dedicated heating and air conditioning equipment. Special purpose areas (such as photocopy centers, large conference rooms, computer rooms, etc.) with an internal cooling load in excess of 5 tons shall be independently controlled. Provide concealed package air conditioning equipment to meet localized spot cooling of tenant special equipment. Portable space heaters are prohibited.

5.14 ELECTRICAL: DISTRIBUTION (SEP 2015)

A. All electrical, telephone, and data outlets within the Space shall be installed by the Lessor in accordance with the DIDs, if applicable. All electrical outlets shall be installed in accordance with NFPA Standard 70.

B. All outlets within the Space shall be marked and coded for ease of wire tracing; outlets shall be circuited separately from lighting. All floor outlets shall be flush with the plane of the finished floor. Outlet cover colors shall be coordinated with partition finish selections.

C. The Lessor shall in all cases safely conceal outlets and associated wiring (for electricity, voice, and data) to the workstation(s) in partitions, ceiling plenums, in recessed floor ducts, under raised flooring, or by use of a method acceptable to the Government.

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5.17 DATA DISTRIBUTION (JUN 2012)

The Lessor shall be responsible for the cost of purchasing and installing data cable. The Lessor shall safely conceal data outlets and the associated wiring used to transmit data to workstations in floor ducts, walls, columns, or below access flooring. The Lessor shall provide as part of the TI, outlets with rings and pull strings to facilitate the installation of the data cable. When cable consists of multiple runs, the Lessor shall provide ladder type or other acceptable cable trays to prevent Government-provided cable coming into contact with suspended ceilings or sprinkler piping. Cable trays shall form a loop around the perimeter of the Space such that they are within a 30-foot horizontal distance of any single drop.

5.18 ELECTRICAL, TELEPHONE, DATA FOR SYSTEMS FURNITURE (JUN 2012)

A. The Lessor shall provide as part of the TIs separate data, telephone, and electric junction boxes for the base feed connections to Government provided modular or systems furniture, when such feeds are supplied via wall outlets or floor penetrations. When overhead feeds are used, junction boxes shall be installed for electrical connections. Raceways shall be provided throughout the furniture panels to distribute the electrical, telephone, and data cable. The Lessor shall provide all electrical service wiring and connections to the furniture at designated junction points. Each electrical junction shall contain an 8-wire feed consisting of 3 general purpose 120-V circuits with 1 neutral and 1 ground wire, and a 120-V isolated ground circuit with 1 neutral and 1 isolated ground wire. A 20-ampere circuit shall have no more than 8 general purpose receptacles or 4 isolated ground "computer" receptacles.

B. The Government shall be responsible for the cost of purchasing data and telecommunications cable. Said cable shall be installed and connected to systems furniture by the Lessor/contractor with the assistance and/or advice of the Government or computer vendor. The Lessor shall provide wall mounted data and telephone junction boxes, which shall include rings and pull strings to facilitate the installation of the data and telecommunications cable. When cable consists of multiple runs, the Lessor shall provide ladder-type or other acceptable cable trays to prevent Government provided cable coming into contact with suspended ceilings or sprinkler piping. Cable trays shall form a loop around the perimeter of the Space such that they are within a 30-foot horizontal distance of any single drop. Said cable trays shall provide access to both telecommunications data closets and telephone closets.

C. The Lessor shall furnish and install suitably sized junction boxes near the "feeding points" of the furniture panels. All "feeding points" shall be shown on Government approved design intent drawings. The Lessor shall temporarily cap off the wiring in the junction boxes until the furniture is installed. The Lessor shall make all connections in the power panel and shall keep the circuit breakers off. The Lessor shall identify each circuit with the breaker number and shall identify the computer hardware to be connected to it. The Lessor shall identify each breaker at the panel and identify the devices that it serves.

D. The Lessor's electrical contractor must connect power poles or base feeds in the junction boxes to the furniture electrical system and test all pre-wired receptacles in the systems furniture. Other Government contractors will be installing the data cable in the furniture panels for the terminal and printer locations, installing the connectors on the terminal/printer ends of the cable, and continuity testing each cable. Work shall be coordinated and performed in conjunction with the furniture, telephone, and data cable installers. Much of this work may occur over a weekend on a schedule that requires flexibility and on-call visits. The Lessor must coordinate the application of Certification of Occupancy with furniture installation.

5.19 LIGHTING: INTERIOR AND PARKING – TI (SEP 2015)

A. **FIXTURES:** Once the design intent drawings are approved, the Lessor shall design and provide interior lighting to comply with requirements under the paragraph, "Lighting: Interior and Parking – Shell." Any additional lighting fixtures and/or components required beyond what would have been provided for an open office plan (shell) are part of the TIs.

B. **PENDANT STYLE FIXTURES:** If pendant style lighting fixtures are used, the increase between the number of fixtures required in the Building shell and the Space layout is part of the TIs.

C. **MIXED FIXTURES:** DIDs, if applicable, may require a mixed use of recessed or pendant style fixtures in the Space.

D. **BUILDING PERIMETER:** There may be additional requirements for lighting in exterior parking areas, vehicle driveways, pedestrian walkways, and Building perimeter in the Security Requirements attached to this Lease.

SECTION 6 UTILITIES, SERVICES, AND OBLIGATIONS DURING THE LEASE TERM

6.01 PROVISION OF SERVICES, ACCESS, AND NORMAL HOURS (JUN 2012)

A. The Government's normal hours of operations are established as 7:00 AM to 5:00 PM, Monday through Friday, with the exception of Federal holidays. Services, maintenance, and utilities shall be provided during these hours. The Government shall have access to the Premises and its Appurtenant Areas at all times without additional payment, including the use, during other than normal hours, of necessary services and utilities such as elevators, restrooms, lights, and electric power. Cleaning shall be performed during normal hours.

B. The Lessor and the Lessor's representatives, employees and contractors shall demonstrate a cooperative, positive, welcoming, respectful, professional and business-like demeanor and shall present a neat, clean, job-appropriate (professional) appearance.

6.02 UTILITIES (APR 2011)

The Lessor is responsible for providing all utilities necessary for base Building and tenant operations as part of the rental consideration.

6.03 INTENTIONALLY DELETED

6.04 UTILITY CONSUMPTION REPORTING (SEP 2015)

Upon the effective date of the Lease, only for leases over 10,000 RSF, the Lessor shall provide regular quarterly reports for the amount of utilities (including water) consumed at the Building broken down by utility type per month for the duration of the Lease. Lessors shall report this utility consumption data within 45 calendar days of the end of each calendar quarter. Data reported includes, but is not limited to, the number of actual units consumed, by utility type per month, and associated start and end date(s) for that consumption.

(Refer to the following link for reporting guidance: www.gsa.gov/ucf)

6.05 HEATING AND AIR CONDITIONING (SEP 2014)

A. In all office areas, temperatures shall conform to local commercial equivalent temperature levels and operating practices in order to maximize tenant satisfaction. These temperatures shall be maintained throughout the leased Premises and service areas, regardless of outside temperatures, during the hours of operation specified in the Lease. The Lessor shall perform any necessary systems start-up required to meet the commercially equivalent temperature levels prior to the first hour of each day's operation. At all times, humidity shall be maintained below 60% relative humidity.

B. During non working hours, heating temperatures shall be set no higher than 55° Fahrenheit, and air conditioning shall not be provided except as necessary to return Space temperatures to a suitable level for the beginning of working hours. Thermostats shall be secured from manual operation by key or locked cage. A key shall be provided to the Government's designated representative.

C. Thermal comfort. During all working hours, comply with the latest edition of ASHRAE Standard 55, Thermal Comfort Conditions for Human Occupancy.

D. Warehouse or garage areas require heating and ventilation only. Cooling of this Space is not required. Temperature of warehouse or garage areas shall be maintained at a minimum of 50° Fahrenheit.

E. The Lessor shall conduct HVAC system balancing after any HVAC system alterations during the term of the Lease and shall make a reasonable attempt to schedule major construction outside of office hours.

F. Normal HVAC systems' maintenance shall not disrupt tenant operations.

G. 300 ABOA SF of the Premises shall receive cooling at all times (24 hrs a day, 365 days a year) for purposes of cooling the designated server room. The temperature of this room shall be maintained at 65-70 degrees F, with humidity control not to exceed 60% relative humidity, regardless of outside temperature or seasonal changes. Notwithstanding the foregoing, Lessor shall provide this service at no additional cost to the Government if the Lessor provides this service to other tenants in the Building at no additional charge.

6.06 OVERTIME HVAC USAGE (JUN 2012)

A. If there is to be a charge for heating or cooling outside of the Building's normal hours, such services shall be provided at the hourly rates set forth elsewhere in the Lease. Overtime usage services may be ordered by the Government's authorized representative only.

B. When the cost of service is \$3,000 or less, the service may be ordered orally. An invoice shall be submitted to the official placing the order for certification and payment. Orders for services costing more than \$3,000 shall be placed using GSA Form 300, Order for Supplies or Services, or other approved service requisition procurement document. An invoice conforming to the requirements of this Lease shall be submitted to the official placing the order for certification and payment.

C. Failure to submit a proper invoice within 120 days of providing overtime utilities shall constitute a waiver of the Lessor's right to receive any payment for such overtime utilities pursuant to this Lease.

6.07 JANITORIAL SERVICES (JUN 2012)

The Lessor shall maintain the Premises and all areas of the Property to which the Government has routine access in a clean condition and shall provide supplies and equipment for the term of the Lease. The following schedule describes the level of services intended. Performance will be based on the LCO's evaluation of results, not the frequency or method of performance.

- A. Daily. Empty trash receptacles. Sweep entrances, lobbies, and corridors. Spot sweep floors, and spot vacuum carpets. Clean drinking fountains. Sweep and damp mop or scrub restrooms. Clean all restroom fixtures, and replenish restroom supplies. Dispose of all trash and garbage generated in or about the Building. Wash inside and out or steam clean cans used for collection of food remnants from snack bars and vending machines. Dust horizontal surfaces that are readily available and visibly require dusting. Spray buff resilient floors in main corridors, entrances, and lobbies. Clean elevators and escalators. Remove carpet stains. Police sidewalks, parking areas, and driveways. Sweep loading dock areas and platforms. Clean glass entry doors to the Space.
- B. Three times a week. Sweep or vacuum stairs.
- C. Weekly. Damp mop and spray buff all resilient floors in restrooms and health units. Sweep sidewalks, parking areas, and driveways (weather permitting).
- D. Every two weeks. Spray buff resilient floors in secondary corridors, entrance, and lobbies. Damp mop and spray buff hard and resilient floors in office Space.
- E. Monthly. Thoroughly dust furniture. Completely sweep and/or vacuum carpets. Sweep storage Space. Spot clean all wall surfaces within 70 inches of the floor.
- F. Every two months. Damp wipe restroom wastepaper receptacles, stall partitions, doors, window sills, and frames. Shampoo entrance and elevator carpets.
- G. Three times a year. Dust wall surfaces within 70 inches of the floor, vertical surfaces and under surfaces. Clean metal and marble surfaces in lobbies. Wet mop or scrub garages.
- H. Twice a year. Wash all interior and exterior windows and other glass surfaces. Strip and apply four coats of finish to resilient floors in restrooms. Strip and refinish main corridors and other heavy traffic areas.
- I. Annually. Wash all venetian blinds, and dust 6 months from washing. Vacuum or dust all surfaces in the Building more than 70 inches from the floor, including light fixtures. Vacuum all draperies in place. Strip and refinish floors in offices and secondary lobbies and corridors. Shampoo carpets in corridors and lobbies. Clean balconies, ledges, courts, areaways, and flat roofs.
- J. Every two years. Shampoo carpets in all offices and other non-public areas.
- K. Every five years. Dry clean or wash (as appropriate) all draperies.
- L. As required. Properly maintain plants and lawns. Provide initial supply, installation, and replacement of light bulbs, tubes, ballasts, and starters. Provide and empty exterior ash cans and clean area of any discarded cigarette butts.
- M. Pest control. Control pests as appropriate, using Integrated Pest Management techniques, as specified in the GSA Environmental Management Integrated Pest Management Technique Guide (E402-1001).

6.08 SELECTION OF CLEANING PRODUCTS (APR 2015)

The Lessor shall use cleaning products (including general purpose cleaners, floor cleaners, hand soap, etc.) that comply with either the Green Seal standard, the UL/EcoLogo standard, EPA's Design for the Environment (DfE) designation, or a substitute acceptable to the LCO. Hand soap products shall also be USDA Certified BioPreferred.

6.09 SELECTION OF PAPER PRODUCTS (APR 2015)

The Lessor shall select paper and paper products (e.g., restroom tissue and paper towels) conforming to the Green Seal Standard (GS-1), or a substitute acceptable to the LCO.

6.10 SNOW REMOVAL (APR 2011)

Lessor shall provide snow removal services for the Government on all days for which this Lease has designated normal hours. Lessor shall clear parking lots if the accumulation of snow exceeds two inches. Lessor shall clear sidewalks, walkways and other entrances before accumulation exceeds 1.5 inches. The snow removal shall take place no later than 5:00 AM, without exception. Should accumulation continue throughout the day, the Lessor shall provide such additional snow removal services to prevent accumulation greater than the maximums specified in this paragraph. In addition to snow removal, the Lessor shall keep walkways, sidewalks and parking lots free of ice during the normal hours. The Lessor shall remove excess buildup of sand and/or ice melt to minimize slipping hazards. If the Building entrance(s) has a northern exposure, then Lessor shall take additional measures to protect the safety of pedestrians.

6.11 MAINTENANCE AND TESTING OF SYSTEMS (SEP 2013)

A. The Lessor is responsible for the total maintenance and repair of the leased Premises. Such maintenance and repairs include the site and private access roads. All equipment and systems shall be maintained to provide reliable, energy efficient service without unusual interruption, disturbing noises, exposure to fire or safety hazards, uncomfortable drafts, excessive air velocities, or unusual emissions of dirt. The Lessor's maintenance responsibility includes initial supply and replacement of all supplies, materials, and equipment necessary for such maintenance. Maintenance, testing, and inspection of appropriate equipment and systems shall be done in accordance with current applicable codes, and inspection certificates shall be displayed as appropriate. Copies of all records in this regard shall be forwarded to the Government's designated representative.

B. At the Lessor's expense, the Government reserves the right to require documentation of proper operations, inspection, testing, and maintenance of fire protection systems, such as, but not limited to, fire alarm, fire sprinkler, standpipes, fire pump, emergency lighting, illuminated exit signs, emergency generator, prior to occupancy to ensure proper operation. These tests shall be witnessed by the Government's designated representative.

6.12 MAINTENANCE OF PROVIDED FINISHES (SEP 2013)

A. Paint, wall coverings. Lessor shall maintain all wall coverings and high performance paint coatings in "like new" condition for the life of the Lease. All painted surfaces shall be repainted at the Lessor's expense, including the moving and returning of furnishings, any time during the occupancy by the Government if the paint is peeling or permanently stained, except where damaged due to the negligence of the Government. All work shall be done after normal working hours as defined elsewhere in this Lease. In addition to the foregoing requirement,

1. Lessor shall repaint common areas at least every three years.
2. Lessor shall perform cyclical repainting of the Space every **10** years of occupancy. This cost, including the moving and returning of furnishings, as well as disassembly and reassembly of systems furniture per manufacturer's warranty, shall be at the Lessor's expense.

B. Carpet and flooring.

1. Except when damaged by the Government, the Lessor shall repair or replace flooring at any time during the Lease term when:
 - a. Backing or underlayment is exposed;
 - b. There are noticeable variations in surface color or texture;
 - c. It has curls, upturned edges, or other noticeable variations in texture;
 - d. Tiles are loose; or,
 - e. Tears or tripping hazards are present.
2. Notwithstanding the foregoing, as part of the rental consideration, the Lessor shall replace all carpet in the Space every **10** years, with a product which meets the requirements in the "Floor Coverings and Perimeters" paragraph in this Lease.
3. Repair or replacement shall include the moving and returning of furnishings, including disassembly and reassembly of systems furniture per manufacturer's warranty, if necessary. Work shall be performed after the normal hours established elsewhere in this Lease.

6.13 ASBESTOS ABATEMENT (APR 2011)

If asbestos abatement work is to be performed in the Space after occupancy, the Lessor shall submit to the Government the occupant safety plan and a description of the methods of abatement and re-occupancy clearance, in accordance with OSHA, EPA, DOT, state, and local regulations and guidance, at least 4 weeks prior to the abatement work.

6.14 ONSITE LESSOR MANAGEMENT (APR 2011)

The Lessor shall provide an onsite Building superintendent or a locally designated representative available to promptly respond to deficiencies, and immediately address all emergency situations.

6.15 IDENTITY VERIFICATION OF PERSONNEL (SEP 2013)

A. The Government reserves the right to verify identities of personnel with routine pre-occupancy and/or unaccompanied access to Government space. The Lessor shall comply with the agency personal identity verification procedures below that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24 and M11-11, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended.

B. The Government reserves the right to conduct additional background checks on Lessor personnel and contractors with routine access to Government leased space throughout the term of the lease.

C. Upon request, the Lessor will notify the Government whether they will use either the manual process and submit completed fingerprint charts and background investigation forms, or use the electronic process of ID verification, completed through the e-QIP system. This would be done for each employee of the Lessor, as well as employees of the Lessor's contractors or subcontractors who will provide building operating services requiring routine access to the Government's leased space for a period greater than 6 months. The Government may also require this information for the Lessor's employees, contractors, or subcontractors who will be engaged to perform alterations or emergency repairs in the Government's space.

1. **MANUAL PROCESS:** The Lessor shall provide Form FD 258, Fingerprint Chart (available from the Government Printing Office at <http://bookstore.gpo.gov>), and Standard Form 85P, Questionnaire for Public Trust Positions, completed by each person and returned to the Lease Contracting Officer (or the contracting officer's designated representative) within 30 days from receipt of the forms.

2. **ELECTRONIC PROCESS:** The electronic process will be done through the e-QIP system. The Lessor's contractor/personnel will receive an email along with instructions for completing the Office of Personnel Electronic Questionnaire (e-QIP). The contractor/personnel will have up to (7) seven business days to login and complete the e-QIP for the background investigation. The contractor/personnel will be instructed to access the website, and receive on screen instructions which include but it is not limited to:

- a) How to Log In
- b) How to Answer and Create New Golden Questions
- c) What Additional Documents to Send
- d) To Print and Sign two Signature Forms (Certification That My Answers Are True)
- e) To complete the submission process, press the "Release /Request Transmit to the Agency" and exit the process
- f) Where to Send.

The Lessor must ensure prompt input, and timely receipt of the following, from their contractor/personnel:

- a) Two FBI Fingerprint Cards (Form FD-258) or one card produced by a livescan device,
- b) Certification That My Answers Are True
- c) Authorization for Release of Information.

D. The Lessor must ensure the contracting officer (or the contracting officer's designated representative) has all of the requested documentation to ensure the completion of the investigation.

E. Based on the information furnished, the Government will conduct background investigations of the employees. The contracting officer will advise the Lessor in writing if an employee fails the investigation, and, effective immediately, the employee will no longer be allowed to work or be assigned to work in the Government's space.

F. Throughout the life of the lease, the Lessor shall provide the same data for any new employees, contractors, or subcontractors who will be assigned to the Government's space. In the event the Lessor's contractor or subcontractor is subsequently replaced, the new contractor or subcontractor is not required to submit another set of these forms for employees who were cleared through this process while employed by the former contractor or subcontractor. The Lessor shall resubmit Form FD 258 and Standard Form 85P for every employee covered by this paragraph on a 5 year basis.

G. The Lessor shall insert this paragraph in all subcontracts when the subcontractor is required to have physical access to a federally controlled facility or access to a federal information system.

6.16 SCHEDULE OF PERIODIC SERVICES (JUN 2012)

Within 60 days after occupancy by the Government, the Lessor shall provide the LCO with a detailed written schedule of all periodic services and maintenance to be performed other than daily, weekly, or monthly.

6.17 LANDSCAPING (SEP 2015)

A. Landscape management practices shall prevent pollution by:

1. Employing practices which avoid or minimize the need for fertilizers and pesticides;
2. Prohibiting the use of the 2,4-Dichlorophenoxyacetic Acid (2,4-D) herbicide and organophosphates; and
3. Composting/recycling all yard waste.

B. The Lessor shall use landscaping products with recycled content as required by EPA's CPG for landscaping products. Refer to EPA's CPG web site, www.epa.gov/cpg.

6.18 LANDSCAPE MAINTENANCE (APR 2011)

Landscape maintenance shall be performed during the growing season at not less than a weekly cycle and shall consist of watering, weeding, mowing, and policing the area to keep it free of debris. Pruning and fertilization shall be done on an as-needed basis. In addition, dead, dying, or damaged plants shall be replaced.

6.19 RECYCLING (JUN 2012)

A. For Leases greater than 10,000 rentable SF, with a Lease term greater than six months, the Lessor shall establish a recycling program for (at a minimum) paper, corrugated cardboard, glass, plastics, and metals where local markets for recovered materials exist.

B. Where state or local law, code, or ordinance requires recycling programs for the Premises, Lessor shall comply with such state and/or local law, code, or ordinance.

C. When implementing any recycling program, the Lessor shall provide an easily accessible, appropriately sized area (2 SF per 1,000 SF of Building gross floor area) that serves the Space for the collection and storage of materials for recycling. Telecom rooms are not acceptable as

recycling space. During the Lease term, the Lessor agrees, upon request, to provide the Government with additional information concerning recycling programs maintained in the Building and in the Space.

6.20 RANDOLPH-SHEPPARD COMPLIANCE (SEP 2013)

During the term of the Lease, the Lessor may not establish vending facilities within the leased Space that will compete with any Randolph-Sheppard vending facilities.

6.21 INTENTIONALLY DELETED

6.22 INDOOR AIR QUALITY (SEP 2013)

A. The Lessor shall control contaminants at the source and/or operate the Space in such a manner that the GSA indicator levels for carbon monoxide (CO), carbon dioxide (CO₂), and formaldehyde (HCHO) are not exceeded. The indicator levels for office areas shall be: CO 9 ppm time weighted average (TWA 8 hour sample); CO₂ 1,000 ppm (TWA); HCHO 0.1 ppm (TWA).

B. The Lessor shall make a reasonable attempt to apply insecticides, paints, glues, adhesives, and HVAC system cleaning compounds with highly volatile or irritating organic compounds, outside of working hours. Except in an emergency, the Lessor shall provide at least 72 hours advance notice to the Government before applying noxious chemicals in occupied Spaces and shall adequately ventilate those Spaces during and after application.

C. The Lessor shall promptly investigate indoor air quality (IAQ) complaints and shall implement the necessary controls to address the complaint.

D. The Government reserves the right to conduct independent IAQ assessments and detailed studies in Space that it occupies, as well as in space serving the Space (e.g., common use areas, mechanical rooms, HVAC systems, etc.). The Lessor shall assist the Government in its assessments and detailed studies by:

1. Making available information on Building operations and Lessor activities;
2. Providing access to Space for assessment and testing, if required; and
3. Implementing corrective measures required by the LCO.

E. The Lessor shall provide to the Government material safety data sheets (MSDS) upon request for the following products prior to their use during the term of the Lease: adhesives, caulking, sealants, insulating materials, fireproofing or firestopping materials, paints, carpets, floor and wall patching or leveling materials, lubricants, clear finish for wood surfaces, janitorial cleaning products, pesticides, rodenticides, and herbicides. The Government reserves the right to review such products used by the Lessor within:

1. The Space;
2. Common Building areas;
3. Ventilation systems and zones serving the Space; and
4. The area above suspended ceilings and engineering space in the same ventilation zone as the Space.

F. Where hazardous gasses or chemicals (any products with data in the Health and Safety section of the MSDS sheets) may be present or used, including large-scale copying and printing rooms, segregate areas with deck-to-deck partitions with separate outside exhausting at a rate of at least 0.5 cubic feet per minute per SF, no air recirculation. The mechanical system must operate at a negative pressure compared with the surrounding spaces of at least an average of 5 Pa (pascal) (0.02 inches of water gauge) and with a minimum of 1 Pa (0.004 inches of water gauge) when the doors to the rooms are closed.

6.23 RADON IN AIR (SEP 2013)

If Space planned for occupancy by the Government is on the second floor above grade or lower, the Lessor shall, prior to occupancy, test the leased Space for 2 days to 3 days using charcoal canisters. The Lessor is responsible to provide Space in which radon levels in air are below the GSA action levels of 4 picoCuries per liter (pCi/L) for childcare and 25 pCi/L for all other space. After the initial testing, a follow-up test for a minimum of 90 days using alpha track detectors shall be completed. For further information on radon, go to: <http://www.epa.gov/radon/zonemap.html>.

6.24 RADON IN WATER (JUN 2012)

A. If the water source is not from a public utility, the Lessor shall demonstrate that water provided to the Premises is in compliance with EPA requirements and shall submit certification to the LCO prior to the Government occupying the Space.

B. If the EPA action level is reached or exceeded, the Lessor shall institute appropriate abatement methods which reduce the radon levels to below this action.

6.25 HAZARDOUS MATERIALS (SEP 2013)

A. The leased Space shall be free of hazardous materials, hazardous substances, and hazardous wastes, as defined by and according to applicable Federal, state, and local environmental regulations. Should there be reason to suspect otherwise, the Government reserves the right, at Lessor's expense, to require documentation or testing to confirm that the Space is free of all hazardous materials.

B. Lessor shall, to the extent of its knowledge, notify Government of the introduction of any hazardous materials onto the Property by Lessor or others, including but not limited to, co-tenants occupying Space in the Building.

6.26 MOLD (SEP 2013)

- A. Actionable mold is mold of types and concentrations in excess of that found in the local outdoor air.
- B. The Lessor shall provide Space to the Government that is free from actionable mold and free from any conditions that reasonably can be anticipated to permit the growth of actionable mold or are indicative of the possibility that actionable mold will be present (indicators).
- C. At such times as the Government may direct, including but not limited to: after a flood, water damage not caused by the Government, or repairs caused by the Lessor, the Lessor, at its sole cost, expense and risk shall: (i) cause an industrial hygienist certified by the American Board of Industrial Hygienists or a qualified consultant (the Inspector) who, in either instance, is reasonably acceptable to the Government, to inspect and evaluate the Space for the presence of actionable mold or mold indicators; and (ii) cause the Inspector to deliver the results of its inspection and evaluation (the Report) to the Government within 30 days after it conducts same and, in all events, at the same time that it delivers the Report to Lessor. With the delivery of the Report to the Government, the Inspector shall notify the Government, in writing via cover letter to the report, if the Inspector discovers or suspects the existence of actionable mold or indicators in the leased Space.
- D. The presence of actionable mold in the Premises may be treated as a Casualty, as determined by the Government, in accordance with the Fire and Other Casualty clause contained in the General Clauses of this Lease. In addition to the provisions of the Fire and Other Casualty clause of this Lease, should a portion of the Premises be determined by the Government to be un-tenantable due to an act of negligence by the Lessor or his agents, the Lessor shall provide reasonably acceptable alternative Space at the Lessor's expense, including the cost of moving, and any required alterations.
- E. If the Report indicates that actionable mold or indicators are present in the leased Space, the Lessor, at its sole cost, expense, and risk, shall within 30 days after its receipt of the Report: (1) retain an experienced mold remediation contractor reasonably acceptable to the Government to prepare and submit to the Government and Lessor a remediation plan (the Plan) and within 90 days after the Government's approval of the Plan, remediate the actionable mold or the indicators in the leased Space, but prior to commencing such remediation, Lessor shall send the Government a notice stating: (i) the date on which the actionable mold remediation shall start and how long it is projected to continue; (ii) which portion of the leased Space shall be subject to the remediation; and (iii) the remediation procedures and standards to be used to implement the Plan and the clearance criteria to be employed at the conclusion of the remediation; and (2) notify, in accordance with any applicable Federal, state, and local health and safety requirements, the Government employees as well as all other occupants of and visitors to the leased Space of the nature, location and schedule for the planned remediation and reasons therefore.
- F. The Lessor shall be responsible for conducting the remediation in accordance with the relevant provisions of the document entitled "Mold Remediation in Schools and Commercial Buildings" (EPA 402-K-01-001, March 2001), published by the U.S. Environmental Protection Agency, as same may be amended or revised from time to time, and any other applicable Federal, state, or local laws, regulatory standards and guidelines.
- G. The Lessor acknowledges and agrees that the Government shall have a reasonable opportunity to inspect the leased Space after conclusion of the remediation. If the results of the Government's inspection indicate that the remediation does not comply with the Plan or any other applicable Federal, state, or local laws, regulatory standards or guidelines, the Lessor, at its sole cost, expense, and risk, shall immediately take all further actions necessary to bring the remediation into compliance.
- H. If the Lessor fails to exercise due diligence, or is otherwise unable to remediate the actionable mold, the Government may implement a corrective action program and deduct its costs from the rent.

6.27 OCCUPANT EMERGENCY PLANS (SEP 2013)

The Lessor is required to cooperate, participate and comply with the development and implementation of the Government's Occupant Emergency Plan (OEP) and if necessary, a supplemental Shelter-in Place (SIP) Plan. Periodically, the Government may request that the Lessor assist in reviewing and revising its OEP and SIP. The Plan, among other things, must include an annual emergency evacuation drill, emergency notification procedures for the Lessor's Building engineer or manager, Building security, local emergency personnel, and Government agency personnel.

6.28 INTENTIONALLY DELETED

SECTION 7 ADDITIONAL TERMS AND CONDITIONS

7.01 SECURITY STANDARDS (JUN 2012)

The Lessor agrees to the requirements of Security Level II attached to this Lease.

SECTION 8 INTENTIONALLY DELETED PARAGRAPHS PRIOR TO DISTRIBUTION

- 1.04 BROKER COMMISSION AND COMMISSION CREDIT (SEP 2015)
- 1.06 RENEWAL RIGHTS (SEP 2013)
- 1.09 TENANT IMPROVEMENT FEE SCHEDULE (JUN 2012)
- 1.10 BUILDING SPECIFIC AMORTIZED CAPITAL (SEP 2012)
- 1.11 BUILDING SPECIFIC AMORTIZED CAPITAL RENTAL ADJUSTMENT (SEP 2013)
- 1.13 REAL ESTATE TAX BASE (SEP 2013)
- 1.17 24-HOUR HVAC REQUIREMENT (SEP 2014)
- 1.19 HUBZONE SMALL BUSINESS CONCERNS ADDITIONAL PERFORMANCE REQUIREMENTS (MAR 2012)
- 2.05 PAYMENT OF BROKER (Jul 2011)
- 2.10 ADDITIONAL POST-AWARD financial And Technical DELIVERABLES (JUN 2012)
- 2.11 RELOCATION ASSISTANCE ACT (APR 2011)
- 3.01 LABOR STANDARDS (SEP 2013)
- 3.07 WOOD PRODUCTS (SEP 2013)
- 3.19 FLAGPOLE (SEP 2013)
- 3.36 ADDITIONAL ELECTRICAL CONTROLS (JUN 2012)
- 3.37 PLUMBING (JUN 2012)
- 3.47 SECURITY FOR NEW CONSTRUCTION (NOV 2005)
- 3.48 SEISMIC SAFETY FOR NEW CONSTRUCTION (SEP 2012)
- 3.49 FIRE PROTECTION FOR NEW CONSTRUCTION (APR 2015)
- 3.50 LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN for new construction (LEED-NC) (SEP 2013)
- 3.51 LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN for commercial interiors (LEED-ci) (SEP 2013)
- 3.55 NATIONAL HISTORIC PRESERVATION ACT REQUIREMENTS - LEASE (SEP 2014)
- 4.03 TENANT IMPROVEMENTS PRICE PROPOSAL (SEP 2015)
- 4.04 BUILDING SPECIFIC AMORTIZED CAPITAL (BSAC) PRICE PROPOSAL (SEP 2015)
- 4.05 GREEN LEASE SUBMITTALS (SEP 2015)
- 4.06 CONSTRUCTION SCHEDULE AND INITIAL CONSTRUCTION MEETING (APR 2011)
- 4.11 LEASE TERM COMMENCEMENT DATE AND RENT RECONCILIATION (JUN 2012)
- 4.13 LIQUIDATED DAMAGES (JUN 2012)
- 4.15 LESSOR'S PROJECT MANAGEMENT FEE (SEP 2013)
- 5.08 DOORS: IDENTIFICATION (JUN 2012)
- 5.15 TELECOMMUNICATIONS: DISTRIBUTION AND EQUIPMENT (JUN 2012)
- 5.16 TELECOMMUNICATIONS: LOCAL EXCHANGE ACCESS (AUG 2008)
- 6.03 UTILITIES SEPARATE FROM RENTAL/BUILDING OPERATING PLAN (AUG 2011)
- 6.21 SAFEGUARDING AND DISSEMINATION OF SENSITIVE BUT UNCLASSIFIED (SBU) BUILDING INFORMATION (SEP 2013)
- 6.28 FLAG DISPLAY (SEP 2013)

ADDENDUM to the System for Award Management (SAM) REPRESENTATIONS AND CERTIFICATIONS (Acquisitions of Leasehold Interests in Real Property)	Request for Lease Proposals Number	Dated
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Complete appropriate boxes, sign the form, and attach to offer.

The Offeror makes the following additional Representations. NOTE: The "Offeror," as used on this form, is the owner of the property offered, not an individual or agent representing the owner.

1. ANNUAL REPRESENTATIONS AND CERTIFICATIONS FOR LEASEHOLD ACQUISITIONS (APR 2015)

- (a) (1) The North American Industry Classification System (NAICS) code for this acquisition is 531120, unless the real property is self-storage (#531130), land (#531190), or residential (#531110).
- (2) The small business size standard is 38.5 Million in annual average gross revenue of the concern for the last 3 fiscal years.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b) The System for Award Management (SAM) is a centrally located, searchable database which assists in the development, maintenance, and provision of sources for future procurements. The Offeror, by signing this addendum, hereby certifies he is registered in SAM.

Registration Active and Copy Attached

2. 552.203-72 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT FEDERAL TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION) (OCT 2013)

- (a) In accordance with Sections 630 and 631 of Division of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), and Section 101 of the Continuing Appropriations Act, 2014 (Pub. L. 113-16) none of the funds made available by the Continuing Appropriations Act 2014 may be used to enter into a contract action with any corporation that---
 - (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government, or
 - (2) Was convicted, or had an officer or agent of such corporation acting on behalf of the corporation convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation or such officer or agent and made a determination that this action is not necessary to protect the interests of the Government.
- (b) The Contractor represents that—
 - (1) It is is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or

have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

- (2) It is is not a corporation that was convicted, or had an officer or agent of the corporation acting on behalf of the corporation, convicted of a felony criminal violation under any Federal law within the preceding 24 months.

3. OFFEROR'S DUNS NUMBER

(a) Enter number: _____

(b) An offeror may obtain a DUNS number (i) via the Internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or (ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

OFFEROR OR LEGALLY AUTHORIZED REPRESENTATIVE	NAME, ADDRESS (INCLUDING ZIP CODE)	TELEPHONE NUMBER
	<hr/> <p>Signature</p>	<hr/> <p>Date</p>

SECURITY REQUIREMENTS - FACILITY SECURITY LEVEL II

THESE PARAGRAPHS CONTAIN ADDITIONAL SECURITY REQUIREMENTS, AND, UNLESS INDICATED OTHERWISE, ARE TO BE PRICED AS PART OF THE BUILDING SPECIFIC AMORTIZED CAPITAL (BSAC). WHERE THEY ARE IN CONFLICT WITH ANY OTHER REQUIREMENTS ON THIS LEASE, THE STRICTEST SHALL APPLY.

DEFINITIONS:

CRITICAL AREAS - The areas that house systems that if damaged or compromised could have significant adverse consequences for the facility, operation of the facility, or mission of the agency or its occupants and visitors. These areas may also be referred to as "limited access areas," "restricted areas," or "exclusionary zones." Critical areas do not necessarily have to be within Government-controlled space (e.g., generators, air handlers, electrical feeds which could be located outside Government-controlled space).

SENSITIVE AREAS – Sensitive areas include vaults, SCIFs, evidence rooms, war rooms, and sensitive documents areas. Sensitive areas are primarily housed within Government-controlled space.

FACILITY ENTRANCES, LOBBY, COMMON AREAS, NON-PUBLIC, AND UTILITY AREAS.

FACILITY ENTRANCES AND LOBBY

EMPLOYEE ACCESS CONTROL AT ENTRANCES (SHELL)

The Lessor shall provide key or electronic access control for the entrance to this building. All Government employees, under this lease, shall be allowed access to the leased space (including after-hours access).

COMMON AREAS, NON-PUBLIC, AND UTILITY AREAS.

PUBLIC RESTROOM ACCESS (SHELL)

The Government reserves the right to control access to public restrooms located within the Space.

SECURING CRITICAL AREAS (SHELL)

The Lessor shall secure areas designated as Critical Areas to restrict access:

- A. Keyed locks, keycards, or similar security measures shall strictly control access to mechanical areas. Additional controls for access to keys, keycards, and key codes shall be strictly maintained. The Lessor shall develop and maintain accurate HVAC diagrams and HVAC system labeling within mechanical areas.
- B. Roofs with HVAC systems shall also be secured. Fencing or other barriers may be required to restrict access from adjacent roofs based on a Government Building Security Assessment. Roof access shall be strictly controlled through keyed locks, keycards, or similar measures. Fire and life safety egress shall be carefully reviewed when restricting roof access.
- C. At a minimum, Lessor shall secure building common areas including sprinkler rooms, electrical closets, telecommunications rooms.

VISITOR ACCESS CONTROL (SHELL)

Entrances are open to the public during business hours. After hours, visitor entrances are secured, and have a means to verify the identity of persons requesting access prior to allowing entry into the Space.

INTERIOR (GOVERNMENT SPACE)

DESIGNATED ENTRANCES (SHELL)

The Government shall have a designated main entrance.

IDENTITY VERIFICATION (SHELL)

The Government reserves the right to verify the identity of persons requesting access to the Space prior to allowing entry.

FORMAL KEY CONTROL PROGRAM (SHELL)

The Government reserves the right to implement a formal key control program. The Lessor shall have a means of allowing the electronic disabling of lost or stolen access media, if electronic media is used.

SITES AND EXTERIOR OF THE BUILDING

SIGNAGE

POSTING OF SIGNAGE IDENTIFYING THE SPACE AS GOVERNMENTAL (SHELL)

The Lessor shall not post sign(s) or otherwise identify the facility and parking areas as a Government, or specific Government tenant, occupied facility, including during construction, without written Government approval.

POSTING OF REGULATORY SIGNAGE (SHELL)

The Government may post or request the Lessor to post regulatory, statutory, sensitive areas and site specific signage.

LANDSCAPING

LANDSCAPING REQUIREMENTS (SHELL)

Lessor shall maintain landscaping (trees, bushes, hedges, land contour, etc.) around the facility. Landscaping shall be neatly trimmed in order to minimize the opportunity for concealment of individuals and packages/containers. Landscaping shall not obstruct the views of security guards and CCTV cameras, or interfere with lighting or IDS equipment.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (SHELL)

The Lessor shall separate from public access, restricted areas as designated by the Government, through the application of Crime Prevention Through Environmental Design (CPTED) principles by using trees, hedges, berms, or a combination of these or similar features, and by fences, walls, gates and other barriers, where feasible and acceptable to the Government.

HAZMAT STORAGE

If there is HAZMAT storage, Lessor shall locate it in a restricted area or storage container away from loading docks, entrances, and uncontrolled parking.

PLACEMENT OF RECEPTACLES, CONTAINERS, AND MAILBOXES

Trash receptacles, containers, mailboxes, vending machines, or other fixtures and/or features that could conceal packages, brief cases, or other portable containers shall be located 10 feet away from building.

SECURITY SYSTEMS

INTRUSION DETECTION SYSTEM (IDS)

LESSOR PROVIDED DESIGN, INSTALLATION, AND MAINTENANCE

The Lessor shall design, install, and maintain an Intrusion Detection System (IDS) as described in this section. The Government requires an IDS, which will cover perimeter entry and exit doors, and operable ground-floor windows. Basic Security-in-Depth IDS components include: magnetic door switch(s), alarm system keypad, passive infrared sensor(s) (PIR), an alarm panel (to designated monitoring center) and appropriate communication method i.e. telephone and/or Internet connection, glass-break detector, magnetic window switches or shock sensors.

Technical review of the proposed system shall be coordinated with the Government security representative, at the direction of the Lease Contracting Officer, prior to installation. System testing and acceptance shall be conducted by the Government prior to occupancy.

Basic Security-in-Depth IDS shall be connected to and monitored at a central station operated by the Department of Homeland Security Megacenter. Emergency notification lists shall be coordinated with the monitoring station to include all applicable Government and lessor points of contact. Monitoring shall be designed to facilitate a real-time detection of an incident, and to coordinate an active response to an incident. The Lessor must complete the Megacenter Alarm Requirements (MAR) application process specified by the Government to meet the monitoring requirements for a functional IDS. Components which fail or require maintenance or which fail during testing shall be serviced in accordance with the Security System Maintenance Criteria listed below..

Security System Maintenance Criteria: The Lessor, in consultation and coordination with a security provider, either internal or external, as determined by the Lease Contracting Officer, and the Government security representative, shall implement a preventive maintenance program for all security systems the Lessor has installed. Any critical component that becomes inoperable must be replaced or repaired by the Lessor within 5 business days. Critical components are those required to provide security (IDS, CCTV, access control, etc.) for a perimeter access point or critical area. "Replacement" may include implementing other temporary measures in instances where the replacement or repair is not achievable within the specified time frame (e.g. a temporary barrier to replace an inoperable pop-up vehicle barrier, etc.). Failure by the Lessor to provide sufficient replacement measures within the timeframe identified above may result in the Government's providing guard service, the cost of which must be reimbursed by the Lessor.

STRUCTURE

WINDOWS

SHATTER-RESISTANT WINDOW PROTECTION

The Lessor shall provide and install, shatter-resistant material not less than 0.18 millimeters (7 mil) thick on all exterior windows in Government-occupied space meeting the following properties - Film composite strength and elongation rate measured at a strain rate not exceeding 50% per minute shall not be less than the following:

- Yield Strength: 12,000 psi
- Elongation at yield: 3%
- Longitudinal Tensile strength: 22,000 psi
- Traverse Tensile strength: 25,000 psi
- Longitudinal Elongation at break: 90%
- Traverse Elongation at break: 75%

THE ALTERNATIVE METHOD is for the Lessor to provide a window system that conforms to a minimum glazing performance condition of "3b" for a high protection level and a low hazard level. Window systems shall be certified as prescribed by WINGARD PE 4.3 or later to GSA performance condition 3b (in accordance with the GSA Standard Test Method for Glazing and Window Systems Subject to Dynamic Loadings or Very Low Hazard (in accordance with ASTM F 1642, Standard Test Method for Glazing or Glazing Systems Subject to Air Blast Loading) in response to air blast load of 4 psi/28 psi-msec.

If the Lessor chooses the Alternative Method, they shall provide a description of the shatter-resistant window system and provide certification from a licensed professional engineer that the system as offered meets the above standard. Prior to installation, this will be provided for evaluation by the Government, whose approval shall not be unreasonably withheld.

OPERATIONS AND ADMINISTRATION

LESSOR TO WORK WITH FACILITY SECURITY COMMITTEE (FSC) (SHELL)

The Lessor shall cooperate and work with the buildings Facility Security Committee (FSC) throughout the term of the lease.

ACCESS TO BUILDING INFORMATION (SHELL)

Building Information—including mechanical, electrical, vertical transport, fire and life safety, security system plans and schematics, computer automation systems, and emergency operations procedures—shall be strictly controlled. Such information shall be released to authorized personnel only, approved by the Government, by the development of an access list and controlled copy numbering. The Contracting Officer may direct that the names and locations of -Government tenants not be disclosed in any publicly accessed document or record. If that is the case, the Government may request that such information not be posted in the building directory.

Lessor shall have emergency plans and associated documents readily available in the event of an emergency.

GENERAL CLAUSES
(Acquisition of Leasehold Interests in Real Property)

CATEGORY	CLAUSE NO.	48 CFR REF.	CLAUSE TITLE
GENERAL	1		SUBLETTING AND ASSIGNMENT
	2	552.27011	SUCCESSORS BOUND
	3	552.27023	SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT
	4	552.27024	STATEMENT OF LEASE
	5	552.27025	SUBSTITUTION OF TENANT AGENCY
	6	552.27026	NO WAIVER
	7		INTEGRATED AGREEMENT
	8	552.27028	MUTUALITY OF OBLIGATION
PERFORMANCE	9		DELIVERY AND CONDITION
	10		DEFAULT BY LESSOR
	11	552.27019	PROGRESSIVE OCCUPANCY
	12		MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT
	13		FIRE AND CASUALTY DAMAGE
	14		COMPLIANCE WITH APPLICABLE LAW
	15	552.27012	ALTERATIONS
	16		ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY
PAYMENT	17	52.204-7	SYSTEM FOR AWARD MANAGEMENT
	18	52.204-13	SYSTEM FOR AWARD MANAGEMENT MAINTENANCE
	19	552.270-31	PROMPT PAYMENT
	20	52.232-23	ASSIGNMENT OF CLAIMS
	21		PAYMENT
	22	52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER—SYSTEM FOR AWARD MANAGEMENT
	23	52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT
STANDARDS OF CONDUCT	24	552.270-32	COVENANT AGAINST CONTINGENT FEES
	25	52-203-7	ANTI-KICKBACK PROCEDURES
	26	52-223-6	DRUG-FREE WORKPLACE
	27	52.203-14	DISPLAY OF HOTLINE POSTER(S)
	ADJUSTMENTS	28	552.27030
29		52.215-10	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA
30		552.270-13	PROPOSALS FOR ADJUSTMENT
31			CHANGES
AUDITS	32	552.215-70	EXAMINATION OF RECORDS BY GSA
	33	52.215-2	AUDIT AND RECORDS—NEGOTIATION

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DISPUTES	34	52.233-1	DISPUTES
LABOR STANDARDS	35	52.222-26	EQUAL OPPORTUNITY
	36	52.222-21	PROHIBITION OF SEGREGATED FACILITIES
	37	52.219-28	POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION
	38	52.222-35	EQUAL OPPORTUNITY FOR VETERANS
	39	52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES
	40	52.222-37	EMPLOYMENT REPORTS ON VETERANS
SUBCONTRACTING	41	52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT
	42	52.215-12	SUBCONTRACTOR CERTIFIED COST OR PRICING DATA
	43	52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS
	44	52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN
	45	52.219-16	LIQUIDATED DAMAGES—SUBCONTRACTING PLAN
	46	52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS
	47	552.219-73	GOALS FOR SUBCONTRACTING PLAN

The information collection requirements contained in this solicitation/contract that are not required by regulation have been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act and assigned the OMB Control No. 3090-0163.

INITIALS: _____ & _____
LESSOR GOVERNMENT

GENERAL CLAUSES
(Acquisition of Leasehold Interests in Real Property)

1. SUBLETTING AND ASSIGNMENT (JAN 2011)

The Government may sublet any part of the premises but shall not be relieved from any obligations under this lease by reason of any such subletting. The Government may at any time assign this lease, and be relieved from all obligations to Lessor under this lease excepting only unpaid rent and other liabilities, if any, that have accrued to the date of said assignment. Any subletting or assignment shall be subject to prior written consent of Lessor, which shall not be unreasonably withheld.

2. 552.27011 SUCCESSORS BOUND (SEP 1999)

This lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.

3. 552.27023 SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT (SEP 1999)

(a) Lessor warrants that it holds such title to or other interest in the premises and other property as is necessary to the Government's access to the premises and full use and enjoyment thereof in accordance with the provisions of this lease. Government agrees, in consideration of the warranties and conditions set forth in this clause, that this lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this lease. Government agrees, however, within twenty (20) business days next following the Contracting Officer's receipt of a written demand, to execute such instruments as Lessor may reasonably request to evidence further the subordination of this lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this lease.

(b) No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this lease so long as the Government is not in default under this lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the Contracting Officer promptly upon demand.

(c) In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the Contracting Officer and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this lease, or other writings, as shall be necessary to document the foregoing relationship.

(d) None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

4. 552.27024 STATEMENT OF LEASE (SEP 1999)

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(a) The Contracting Officer will, within thirty (30) days next following the Contracting Officer's receipt of a joint written request from Lessor and a prospective lender or purchaser of the building, execute and deliver to Lessor a letter stating that the same is issued subject to the conditions stated in this clause and, if such is the case, that (1) the lease is in full force and effect; (2) the date to which the rent and other charges have been paid in advance, if any; and (3) whether any notice of default has been issued.

(b) Letters issued pursuant to this clause are subject to the following conditions:

(1) That they are based solely upon a reasonably diligent review of the Contracting Officer's lease file as of the date of issuance;

(2) That the Government shall not be held liable because of any defect in or condition of the premises or building;

(3) That the Contracting Officer does not warrant or represent that the premises or building comply with applicable Federal, State and local law; and

(4) That the Lessor, and each prospective lender and purchaser are deemed to have constructive notice of such facts as would be ascertainable by reasonable pre-purchase and pre-commitment inspection of the Premises and Building and by inquiry to appropriate Federal, State and local Government officials.

5. 552.27025 SUBSTITUTION OF TENANT AGENCY (SEP 1999)

The Government may, at any time and from time to time, substitute any Government agency or agencies for the Government agency or agencies, if any, named in the lease.

6. 552.27026 NO WAIVER (SEP 1999)

No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

7. INTEGRATED AGREEMENT (JUN 2012)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease. Except as expressly attached to and made a part of the Lease, neither the Request for Lease Proposals nor any pre-award communications by either party shall be incorporated in the Lease.

8. 552.27028 MUTUALITY OF OBLIGATION (SEP 1999)

The obligations and covenants of the Lessor, and the Government's obligation to pay rent and other Government obligations and covenants, arising under or related to this Lease, are interdependent. The Government may, upon issuance of and delivery to Lessor of a final decision asserting a claim against Lessor, set off such claim, in whole or in part, as against any payment or payments then or thereafter due the Lessor under this lease. No setoff pursuant to this clause shall constitute a breach by the Government of this lease.

9. DELIVERY AND CONDITION (JAN 2011)

(a) Unless the Government elects to have the space occupied in increments, the space must be delivered ready for occupancy as a complete unit.

(b) The Government may elect to accept the Space notwithstanding the Lessor's failure to deliver the Space substantially complete; if the Government so elects, it may reduce the rent payments.

10. DEFAULT BY LESSOR (APR 2012)

(a) The following conditions shall constitute default by the Lessor, and shall give rise to the following rights and remedies for the Government:

(1) Prior to Acceptance of the Premises. Failure by the Lessor to diligently perform all obligations required for Acceptance of the Space within the times specified, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may terminate the Lease on account of the Lessor's default.

(2) After Acceptance of the Premises. Failure by the Lessor to perform any service, to provide any item, or satisfy any requirement of this Lease, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may perform the service, provide the item, or obtain satisfaction of the requirement by its own employees or contractors. If the Government elects to take such action, the Government may deduct from rental payments its costs incurred in connection with taking the action. Alternatively, the Government may reduce the rent by an amount reasonably calculated to approximate the cost or value of the service not performed, item not provided, or requirement not satisfied, such reduction effective as of the date of the commencement of the default condition.

(3) Grounds for Termination. The Government may terminate the Lease if:

(i) The Lessor's default persists notwithstanding provision of notice and reasonable opportunity to cure by the Government, or

(ii) The Lessor fails to take such actions as are necessary to prevent the recurrence of default conditions,

and such conditions (i) or (ii) substantially impair the safe and healthful occupancy of the Premises, or render the Space unusable for its intended purposes.

(4) Excuse. Failure by the Lessor to timely deliver the Space or perform any service, provide any item, or satisfy any requirement of this Lease shall not be excused if its failure in performance arises from:

(i) Circumstances within the Lessor's control;

(ii) Circumstances about which the Lessor had actual or constructive knowledge prior to the Lease Award Date that could reasonably be expected to affect the Lessor's capability to perform, regardless of the Government's knowledge of such matters;

(iii) The condition of the Property;

(iv) The acts or omissions of the Lessor, its employees, agents or contractors; or

(v) The Lessor's inability to obtain sufficient financial resources to perform its obligations.

(5) The rights and remedies specified in this clause are in addition to any and all remedies to which the Government may be entitled as a matter of law.

11. 552.27019 PROGRESSIVE OCCUPANCY (SEP 1999)

The Government shall have the right to elect to occupy the space in partial increments prior to the substantial completion of the entire leased premises, and the Lessor agrees to schedule its work so as to deliver the space incrementally as elected by the Government. The Government shall pay rent commencing with the first business day following substantial completion of the entire leased premise unless the Government has elected to occupy

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the leased premises incrementally. In case of incremental occupancy, the Government shall pay rent pro rata upon the first business day following substantial completion of each incremental unit. Rental payments shall become due on the first workday of the month following the month in which an increment of space is substantially complete, except that should an increment of space be substantially completed after the fifteenth day of the month, the payment due date will be the first workday of the second month following the month in which it was substantially complete. The commencement date of the firm lease term will be a composite determined from all rent commencement dates.

12. MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT (APR 2015)

The Lessor shall maintain the Property, including the building, building systems, and all equipment, fixtures, and appurtenances furnished by the Lessor under this Lease, in good repair and tenantable condition so that they are suitable in appearance and capable of supplying such heat, air conditioning, light, ventilation, safety systems, access and other things to the premises, without reasonably preventable or recurring disruption, as is required for the Government's access to, occupancy, possession, use and enjoyment of the premises as provided in this lease. For the purpose of so maintaining the premises, the Lessor may at reasonable times enter the premises with the approval of the authorized Government representative in charge. Upon request of the Lease Contracting Officer (LCO), the Lessor shall provide written documentation that building systems have been properly maintained, tested, and are operational within manufacturer's warranted operating standards. The Lessor shall maintain the Premises in a safe and healthful condition according to applicable OSHA standards and all other requirements of this Lease, including standards governing indoor air quality, existence of mold and other biological hazards, presence of hazardous materials, etc. The Government shall have the right, at any time after the Lease Award Date and during the term of the Lease, to inspect all areas of the Property to which access is necessary for the purpose of determining the Lessor's compliance with this clause.

13. FIRE AND CASUALTY DAMAGE (JUN 20126)

If the building in which the Premises are located is totally destroyed or damaged by fire or other casualty, this Lease shall immediately terminate. If the building in which the Premises are located are only partially destroyed or damaged, so as to render the Premises untenable, or not usable for their intended purpose, the Lessor shall have the option to elect to repair and restore the Premises or terminate the Lease. The Lessor shall be permitted a reasonable amount of time, not to exceed **270 days** from the event of destruction or damage, to repair or restore the Premises, provided that the Lessor submits to the Government a reasonable schedule for repair of the Premises within **60 days** of the event of destruction or damage. If the Lessor fails to timely submit a reasonable schedule for completing the work, the Government may elect to terminate the Lease effective as of the date of the event of destruction or damage. If the Lessor elects to repair or restore the Premises, but fails to repair or restore the Premises within **270 days** from the event of destruction or damage, or fails to diligently pursue such repairs or restoration so as to render timely completion commercially impracticable, the Government may terminate the Lease effective as of the date of the destruction or damage. During the time that the Premises are unoccupied, rent shall be abated. Termination of the Lease by either party under this clause shall not give rise to liability for either party.

Nothing in this lease shall be construed as relieving Lessor from liability for damage to, or destruction of, property of the United States of America caused by the willful or negligent act or omission of Lessor.

14. COMPLIANCE WITH APPLICABLE LAW (JAN 2011)

Lessor shall comply with all Federal, state and local laws applicable to its ownership and leasing of the Property, including, without limitation, laws applicable to the construction, ownership, alteration or operation of all buildings, structures, and facilities located thereon, and obtain all necessary permits, licenses and similar items at its own expense. The Government will comply with all Federal, State and local laws applicable to and enforceable against it as a tenant under this lease, provided that nothing in this Lease shall be construed as a waiver of the sovereign immunity of the Government. This Lease shall be governed by Federal law.

15. 552.27012 ALTERATIONS (SEP 1999)

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LESSOR GOVERNMENT

The Government shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. If the lease contemplates that the Government is the sole occupant of the building, for purposes of this clause, the leased premises include the land on which the building is sited and the building itself. Otherwise, the Government shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the leased space.

16. ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (APR 2015)

(a) Ten (10) working days prior to the completion of the Space, the Lessor shall issue written notice to the Government to schedule the inspection of the Space for acceptance. The Government shall accept the Space only if the construction of building shell and TIs conforming to this Lease and the approved DIDs is substantially complete, and a Certificate of Occupancy has been issued as set forth below.

(b) The Space shall be considered substantially complete only if the Space may be used for its intended purpose and completion of remaining work will not unreasonably interfere with the Government's enjoyment of the Space. Acceptance shall be final and binding upon the Government with respect to conformance of the completed TIs to the approved DIDs, with the exception of items identified on a punchlist generated as a result of the inspection, concealed conditions, latent defects, or fraud, but shall not relieve the Lessor of any other Lease requirements.

(c) The Lessor shall provide a valid Certificate of Occupancy, issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction does not issue Certificates of Occupancy or if the Certificate of Occupancy is not available, the Lessor may satisfy this condition by providing a report prepared by a licensed fire protection engineer that indicates that the Space and Building are compliant with all applicable local codes and ordinances and all fire protection and life safety-related requirements of this Lease to ensure an acceptable level of safety is provided. Under such circumstances, the Government shall only accept the Space without a Certificate of Occupancy if a licensed fire protection engineer determines that the offered space is compliant with all applicable local codes and ordinances and fire protection and life safety-related requirements of this Lease.

17. 52.204-7 SYSTEM FOR AWARD MANAGEMENT (JUL 2013)

This clause is incorporated by reference.

18. 52.204-13 SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (JUL 2013)

This clause is incorporated by reference.

19. 552.270-31 PROMPT PAYMENT (JUN 2011)

The Government will make payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.

(a) *Payment due date—*

(1) *Rental payments.* Rent shall be paid monthly in arrears and will be due on the first workday of each month, and only as provided for by the lease.

(i) When the date for commencement of rent falls on the 15th day of the month or earlier, the initial monthly rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.

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LESSOR GOVERNMENT

(ii) When the date for commencement of rent falls after the 15th day of the month, the initial monthly rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.

(2) *Other payments.* The due date for making payments other than rent shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of the work or service. However, if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(b) *Invoice and inspection requirements for payments other than rent.*

(1) The Contractor shall prepare and submit an invoice to the designated billing office after completion of the work. A proper invoice shall include the following items:

(i) Name and address of the Contractor.

(ii) Invoice date.

(iii) Lease number.

(iv) Government's order number or other authorization.

(v) Description, price, and quantity of work or services delivered.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the remittance address in the lease or the order).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(2) The Government will inspect and determine the acceptability of the work performed or services delivered within seven days after the receipt of a proper invoice or notification of completion of the work or services unless a different period is specified at the time the order is placed. If actual acceptance occurs later, for the purpose of determining the payment due date and calculation of interest, acceptance will be deemed to occur on the last day of the seven day inspection period. If the work or service is rejected for failure to conform to the technical requirements of the contract, the seven days will be counted beginning with receipt of a new invoice or notification. In either case, the Contractor is not entitled to any payment or interest unless actual acceptance by the Government occurs.

(c) *Interest Penalty.*

(1) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made by the due date.

(2) The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the **Federal Register** semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date.

(3) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than one year. Interest penalties of less than \$1.00 need not be paid.

(4) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.2331, Disputes.

(d) *Overpayments.* If the Lessor becomes aware of a duplicate payment or that the Government has otherwise overpaid on a payment, the Contractor shall—

(1) Return the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected lease number; (iii) Affected lease line item or sub-line item, if applicable; and

(iii) Lessor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

20. 52.23223 ASSIGNMENT OF CLAIMS (MAY 2014)

(Applicable to leases over the micro-purchase threshold.)

(a) The Contractor, under the Assignment of Claims Act, as amended, [31 U.S.C. 3727](#), [41 U.S.C. 6305](#) (hereafter referred to as “the Act”), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

21. PAYMENT (MAY 2011)

(a) When space is offered and accepted, the amount of American National Standards Institute/Building Owners and Managers Association Office Area (ABOA) square footage delivered will be confirmed by:

(1) The Government’s measurement of plans submitted by the successful Offeror as approved by the Government, and an inspection of the space to verify that the delivered space is in conformance with such plans or

(2) A mutual on-site measurement of the space, if the Contracting Officer determines that it is necessary.

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(b) Payment will not be made for space which is in excess of the amount of ABOA square footage stated in the lease.

(c) If it is determined that the amount of ABOA square footage actually delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of ABOA space delivered and the annual rental will be adjusted as follows:

ABOA square feet not delivered multiplied by one plus the common area factor (CAF), multiplied by the rate per rentable square foot (RSF). That is: $(1+CAF) \times \text{Rate per RSF} = \text{Reduction in Annual Rent}$

22. 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—SYSTEM FOR AWARD MANAGEMENT (JUL 2013)

This clause is incorporated by reference.

23. 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015)

(Applicable to leases over \$5.5 million total contract value and performance period is 120 days or more.)

This clause is incorporated by reference.

24. 552.270-32 COVENANT AGAINST CONTINGENT FEES (JUN 2011)

(Applicable to leases over the Simplified Lease Acquisition Threshold.)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

(b) *Bona fide agency*, as used in this clause, means an established commercial or selling agency (including licensed real estate agents or brokers), maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

(1) *Bona fide employee*, as used in this clause, means a person, employed by a Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

(2) *Contingent fee*, as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

(3) *Improper influence*, as used in this clause, means any influence that induces or tends to induce a *Government* employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

25. 52.2037 ANTICKICKBACK PROCEDURES (MAY 2014)

(Applicable to leases over the Simplified Lease Acquisition Threshold.)

This clause is incorporated by reference.

26. 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

(Applicable to leases over the Simplified Lease Acquisition Threshold, as well as to leases of any value awarded to an individual.)

This clause is incorporated by reference.

27. 52.203-14 DISPLAY OF HOTLINE POSTER(S) (OCT 2015)

(Applicable to leases over \$5.5 Million total contract value and performance period is 120 days or more.)

(a) Definition.

“United States,” as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Display of fraud hotline poster(s). Except as provided in paragraph (c)—

- (1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites—
 - (i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and
 - (ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.
- (2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.
- (3) Any required posters may be obtained as follows:

Poster(s)	Obtain from
GSA Office of Inspector General “FRAUDNET HOTLINE	Contracting Officer

(Contracting Officer shall insert—

- (i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and
- (ii) The website(s) or other contact information for obtaining the poster(s).

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$5.5 million, except when the subcontract—

- (1) Is for the acquisition of a commercial item; or
- (2) Is performed entirely outside the United States.

28. 552.270-30 PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JUN 2011)
(Applicable to leases over the Simplified Lease Acquisition Threshold.)

(a) If the head of the contracting activity (HCA) or his or her designee determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the Federal Acquisition Regulation, the Government, at its election, may—

- (1) Reduce the monthly rental under this lease by five percent of the amount of the rental for each month of the remaining term of the lease, including any option periods, and recover five percent of the rental already paid;

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(2) Reduce payments for alterations not included in monthly rental payments by five percent of the amount of the alterations agreement; or

(3) Reduce the payments for violations by a Lessor's subcontractor by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was placed.

(b) Prior to making a determination as set forth above, the HCA or designee shall provide to the Lessor a written notice of the action being considered and the basis thereof. The Lessor shall have a period determined by the agency head or designee, but not less than 30 calendar days after receipt of such notice, to submit in person, in writing, or through a representative, information and argument in opposition to the proposed reduction. The agency head or designee may, upon good cause shown, determine to deduct less than the above amounts from payments.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this lease.

29. 52.21510 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (AUG 2011)

(Applicable when cost or pricing data are required for work or services over \$750,000.)
This clause is incorporated by reference.

30. 552.27013 PROPOSALS FOR ADJUSTMENT (SEP 1999)

(a) The Contracting Officer may, from time to time during the term of this lease, require changes to be made in the work or services to be performed and in the terms or conditions of this lease. Such changes will be required under the Changes clause.

(b) If the Contracting Officer makes a change within the general scope of the lease, the Lessor shall submit, in a timely manner, an itemized cost proposal for the work to be accomplished or services to be performed when the cost exceeds \$100,000. The proposal, including all subcontractor work, will contain at least the following detail—

- (1) Material quantities and unit costs;
- (2) Labor costs (identified with specific item or material to be placed or operation to be performed);
- (3) Equipment costs;
- (4) Worker's compensation and public liability insurance;
- (5) Overhead;
- (6) Profit; and
- (7) Employment taxes under FICA and FUTA.

(c) The following Federal Acquisition Regulation (FAR) provisions also apply to all proposals exceeding \$500,000 in cost—

(1) The Lessor shall provide cost or pricing data including subcontractor cost or pricing data (48 CFR 15.403-4) and

(2) The Lessor's representative, all Contractors, and subcontractors whose portion of the work exceeds \$500,000 must sign and return the "Certificate of Current Cost or Pricing Data" (48 CFR 15.406-2).

(d) Lessors shall also refer to 48 CFR Part 31, Contract Cost Principles, for information on which costs are allowable, reasonable, and allocable in Government work.

31. CHANGES (MAR 2013)

(a) The LCO may at any time, by written order, direct changes to the Tenant Improvements within the Space, Building Security Requirements, or the services required under the Lease.

(b) If any such change causes an increase or decrease in Lessor's costs or time required for performance of its obligations under this Lease, whether or not changed by the order, the Lessor shall be entitled to an amendment to the Lease providing for one or more of the following:

- (1) An adjustment of the delivery date;
- (2) An equitable adjustment in the rental rate;
- (3) A lump sum equitable adjustment; or
- (4) A change to the operating cost base, if applicable.

(c) The Lessor shall assert its right to an amendment under this clause within 30 days from the date of receipt of the change order and shall submit a proposal for adjustment. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, the pendency of an adjustment or existence of a dispute shall not excuse the Lessor from proceeding with the change as directed.

(d) Absent a written change order from the LCO, or from a Government official to whom the LCO has explicitly and in writing delegated the authority to direct changes, the Government shall not be liable to Lessor under this clause.

32. 552.21570 EXAMINATION OF RECORDS BY GSA (FEB 1996)

The Contractor agrees that the Administrator of General Services or any duly authorized representative shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services or any duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor involving transactions related to the subcontract or compliance with any clauses thereunder. The term "subcontract" as used in this clause excludes (a) purchase orders not exceeding \$100,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

33. 52.215-2 AUDIT AND RECORDS—NEGOTIATION (OCT 2010)

(Applicable to leases over the Simplified Lease Acquisition Threshold.)
This clause is incorporated by reference.

34. 52.2331 DISPUTES (MAY 2014)

This clause is incorporated by reference.

35. 52.22226 EQUAL OPPORTUNITY (APR 2015)

This clause is incorporated by reference.

36. 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015)

This clause is incorporated by reference.

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LESSOR GOVERNMENT

37. 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)

(Applicable to leases exceeding the micro-purchase threshold.)
This clause is incorporated by reference.

38. 52.22235 EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

(Applicable to leases \$150,000 or more, total contract value.)

(a) Definitions. As used in this clause—

“Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at FAR [22.1301](#).

(b) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of \$150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

39. 52.22236 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)

(Applicable to leases over \$15,000 total contract value.)

(a) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

40. 52.22237 EMPLOYMENT REPORTS ON VETERANS (FEB 2016)

(Applicable to leases \$150,000 or more, total contract value.)
This clause is incorporated by reference.

41. 52.2096 PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)

(Applicable to leases over \$35,000 total contract value.)
This clause is incorporated by reference.

42. 52.21512 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA (OCT 2010)

(Applicable if over \$750,000 total contract value.)
This clause is incorporated by reference.

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LESSOR GOVERNMENT

- 43. 52.2198 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2014)**
(Applicable to leases over the Simplified Lease Acquisition Threshold.)
This clause is incorporated by reference.
- 44. 52.2199 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2015) ALTERNATE III (OCT 2015)**
(Applicable to leases over \$700,000 total contract value.)
This clause is incorporated by reference.
- 45. 52.21916 LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (JAN 1999)**
(Applicable to leases over \$700,000 total contract value.)
This clause is incorporated by reference.
- 46. 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2015)**
(Applicable if over \$30,000 total contract value.)
This clause is incorporated by reference.
- 47. 552.219-73 GOALS FOR SUBCONTRACTING PLAN (JUN 2005), ALTERNATE I (SEP 1999)**
(Applicable if over \$700,000 total contract value.)
This clause is incorporated by reference.

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- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern” means a small business concern—

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

“Women-owned small business (WOSB) concern eligible under the WOSB Program” (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

- (b)
 - (1) The North American Industry Classification System (NAICS) code for this acquisition is— 531120, unless the real property is self-storage (#531130), land (#531190), or residential (#531110).
 - (2) The small business size standard is \$38.5 Million in annual average gross revenue of the concern for the last 3 fiscal years.
 - (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (c) Representations.
 - (1) The offeror represents as part of its offer that it [] is, [] is not a small business concern.
 - (2) [*Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.*] The offeror represents that it [] is, [] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.
 - (3) [*Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.*] The offeror represents as part of its offer that it [] is, [] is not a women-owned small business concern.
 - (4) Women-owned small business (WOSB) concern eligible under the WOSB Program. [*Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(3) of this provision.*] The offeror represents as part of its offer that—
 - (i) It [] is, [] is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and
 - (ii) It [] is, [] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(4)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [*The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: _____.*] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

- (5) Economically disadvantaged women-owned small business (EDWOSB) concern. *[Complete only if the offeror represented itself as a women-owned small business concern eligible under the WOSB Program in (c)(4) of this provision.]* The offeror represents as part of its offer that—
- (i) It is, is not an EDWOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and
 - (ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(5)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. *[The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: _____.]* Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.
- (6) *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.
- (7) *[Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.]* The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.
- (8) *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents, as part of its offer, that—
- (i) It is, is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and
 - (ii) It is, is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(8)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. *[The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: _____.]* Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) Notice.

- (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
- (2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall—
 - (i) Be punished by imposition of fine, imprisonment, or both;

- (ii) Be subject to administrative remedies, including suspension and debarment; and
- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

2. 52.204-5 - WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (OCT 2014)

- (a) Definition. "Women-owned business concern," as used in this provision, means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.
- (b) Representation. [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (c)(1) of FAR 52.219-1, Small Business Program Representations, of this solicitation.] The offeror represents that it is a women-owned business concern.

3. 52.222-22 - PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

(Applicable when the estimated value of the acquisition exceeds \$10,000)

The Offeror represents that—

- (a) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;
- (b) It has, has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards. (Approved by OMB under Control Number 1215-0072.)

4. 52.222-25 - AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

(Applicable when the estimated value of the acquisition exceeds \$10,000)

The Offeror represents that—

- (a) It has developed and has on file, has not developed and does not have on file, at each establishment affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or
- (b) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. (Approved by OMB under Control Number 1215-0072.)

5. 552.203-72 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT FEDERAL TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION) (OCT 2013)

- (a) In accordance with Sections 630 and 631 of Division C of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), and Section 101 of the Continuing Appropriations Act, 2014 (Pub. L. 113-46) none of the funds made available by the Continuing Appropriations Act, 2014 may be used to enter into a contract action with any corporation that---
 - (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax

- (c) If the Offeror deletes or modifies subparagraph (a)(2) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

7. 52.203-11 - CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

(Applicable when the estimated value of the acquisition exceeds \$100,000)

- (a) *Definitions.* As used in this provision—"Lobbying contact" has the meaning provided at [2 U.S.C. 1602\(8\)](#). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" ([52.203-12](#)).
- (b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" ([52.203-12](#)) are hereby incorporated by reference in this provision.
- (c) *Certification.* The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.
- (d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.
- (e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by [31 U.S.C. 1352](#). Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

8. 52.209-5 - CERTIFICATION REGARDING RESPONSIBILITY MATTERS (APR 2010)

(Applicable when the estimated value of the acquisition exceeds the simplified lease acquisition threshold)

- (a) (1) The Offeror certifies, to the best of its knowledge and belief, that—
- (i) The Offeror and/or any of its Principals—
- (A) Are [] are not [] presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
- (B) Have [] have not [], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks "have", the offeror shall also see [52.209-7](#), if included in this solicitation);

INITIALS: _____ & _____
LESSOR GOVERNMENT

- (C) Are are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;
- (D) Have , have not , within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.
- (1) Federal taxes are considered delinquent if both of the following criteria apply:
- (i) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
 - (ii) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
- (2) *Examples.*
- (i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.
 - (ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.
 - (iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.
 - (iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection

action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

- (ii) The Offeror has [] has not [], within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
- (2) “Principal,” for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

- (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror’s responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

9. 52.222-38 - COMPLIANCE WITH VETERANS’ EMPLOYMENT REPORTING REQUIREMENTS (SEP 2010)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of [38 U.S.C. 4212\(d\)](#) (i.e., if it has any contract containing Federal Acquisition Regulation clause [52.222-37](#), Employment Reports on Veterans), it has submitted the most recent VETS-100A Report required by that clause.

10. 52.225-20 - PROHIBITION ON CONDUCTING RESTRICTED BUSINESS OPERATIONS IN SUDAN—CERTIFICATION (AUG 2009)

(a) *Definitions.* As used in this provision—

“Business operations” means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

“Marginalized populations of Sudan” means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109-344) ([50 U.S.C. 1701 note](#)); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

“Restricted business operations” means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

(b) *Certification.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

11. 52.225-25 - PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING IN CERTAIN ACTIVITIES OR TRANSACTIONS RELATING TO IRAN—REPRESENTATION AND CERTIFICATIONS (DEC 2012)

(a) *Definitions.* As used in this provision—

“Person”—

(1) Means—

(i) A natural person;

(ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and

(2) Does not include a government or governmental entity that is not operating as a business enterprise.

“Sensitive technology”—

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act ([50 U.S.C. 1702\(b\)\(3\)](#)).

(b) The offeror shall e-mail questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(c) Except as provided in paragraph (d) of this provision or if a waiver has been granted in accordance with [25.703-4](#), by submission of its offer, the offeror—

(1) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(2) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum products in Iran, sale and provision of refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies; and

(3) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds \$3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

(d) *Exception for trade agreements.* The representation requirement of paragraph (c)(1) and the certification requirements of paragraphs (c)(2) and (c)(3) of this provision do not apply if—

(1) This solicitation includes a trade agreements notice or certification (e.g., [52.225-4](#), [52.225-6](#), [52.225-12](#), [52.225-24](#), or comparable agency provision); and

(2) The offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

12. 52.204-3 - TAXPAYER IDENTIFICATION (OCT 1998)

(a) *Definitions.*

“Common parent,” as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the Offeror is a member.

“Taxpayer Identification Number (TIN),” as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the Offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All Offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the Offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the Offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the Offeror's TIN.

(d) *Taxpayer Identification Number (TIN).*

- TIN: _____
- TIN has been applied for.
- TIN is not required because:
- Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
- Offeror is an agency or instrumentality of a foreign government;

INITIALS: _____ & _____
LESSOR GOVERNMENT

Offeror is an agency or instrumentality of the Federal government;

(e) *Type of organization.*

- 4;
- | | |
|---|--|
| <input type="checkbox"/> Sole proprietorship; | <input type="checkbox"/> Government entity (Federal, State, or local); |
| <input type="checkbox"/> Partnership; | <input type="checkbox"/> Foreign government; |
| <input type="checkbox"/> Corporate entity (not tax-exempt); | <input type="checkbox"/> International organization per 26 CFR 1.6049- |
| <input type="checkbox"/> Corporate entity (tax-exempt); | <input type="checkbox"/> Other _____ |

(f) *Common Parent.*

Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

Name and TIN of common parent:

Name _____

TIN _____

13. 52.204-6 – DATA UNIVERSAL NUMBERING SYSTEM NUMBER (JUL 2013)

(a) Definition. “Data Universal Numbering System (DUNS) number”, as used in this provision, means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities, which is used as the identification number for Federal Contractors.

(b) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS number or “DUNS+4” that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional System for Award Management records for identifying alternative Electronic Funds Transfer (EFT) accounts (see [Subpart 32.11](#)) for the same concern.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

- (i) Via the Internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or
- (ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

- (i) Company legal business name.
- (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (iii) Company physical street address, city, state and ZIP Code.
- (iv) Company mailing address, city, state and ZIP Code (if separate from physical).
- (v) Company telephone number.
- (vi) Date the company was started.
- (vii) Number of employees at your location.
- (viii) Chief executive officer/key manager.
- (ix) Line of business (industry).
- (x) Company Headquarters name and address (reporting relationship within your entity).

SECURITY UNIT PRICE LIST (FSL II)

6/15/2016

15-Jun-16

USGS

Flagstaff, AZ

To be filled out with initial offer

The following security countermeasures are required by the Request for Proposals package. Using this form, the offeror shall quote unit prices on all security countermeasures identified in the RLP package, and enter the total costs on the GSA Form 1364 as Building Specific Amortized Capital (BSAC). Upon lease award, BSAC pricing shall be fixed and not subject to further negotiation. Refer to "Security Requirements" attachment to the lease for additional details. This form must be submitted with all offers.

Lease Security Standards Section	Unit Price	Quantity	Total
FACILITY ENTRANCES			
<u>FACILITY ENTRANCES AND LOBBY</u>			
EMPLOYEE ACCESS CONTROL AT ENTRANCES			
<u>COMMON AREAS, NON-PUBLIC, AND UTILITY AREAS</u>			
PUBLIC RESTROOM ACCESS			
SECURING "CRITICAL AREAS"			
VISITOR ACCESS CONTROL			
INTERIOR OF SPACE (GOVERNMENT)			
DESIGNATED ENTRANCES			
IDENTITY VERIFICATION			
FORMAL KEY CONTROL PROGRAM			N/A
SITE AND EXTERIOR OF BUILDING			
<u>SIGNAGE</u>			
POSTING OF SIGNAGE IDENTIFYING THE SPACE AS GOVERNMENTAL			
POSTING OF REGULATORY SIGNAGE			

INITIALS: _____ LESSOR
 _____ GOV'T

	<u>LANDSCAPING AND ENTRANCES</u>		
	LANDSCAPING REQUIREMENTS		
	CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN		
	HAZMAT STORAGE		
	PLACEMENT OF RECEPTACLES, CONTAINERS, AND MAILBOXES		
	SECURITY SYSTEMS		
	<u>CLOSED CIRCUIT TELEVISION</u>		
	LESSOR PROVIDED DESIGN, INSTALLATION, AND MAINTENANCE - LEVEL II		
	GOVERNMENT PROVIDED PRODUCT, INSTALLATION, AND MAINTENANCE		
	<u>INTRUSION DETECTION SYSTEM</u>		
	LESSOR PROVIDED DESIGN, INSTALLATION, AND MAINTENANCE - LEVEL II		
	GOVERNMENT PROVIDED PRODUCT, INSTALLATION, AND MAINTENANCE		
	<u>DURESS ALARM</u>		
	LESSOR PROVIDED DESIGN, INSTALLATION, AND MAINTENANCE - LEVEL II		
	GOVERNMENT PROVIDED PRODUCT, INSTALLATION, AND MAINTENANCE		
	STRUCTURE		
	<u>WINDOWS</u>		
	SHATTER-RESISTANT WINDOW PROTECTION		
	OPERATIONS AND ADMINISTRATION		
	LESSOR TO WORK WITH THE FACILITY SECURITY COMMITTEE (FSC)		
	ACCESS TO BUILDING INFORMATION		
	TOTAL COSTS		

CERTIFICATE OF SEISMIC COMPLIANCE
EXISTING BUILDING

Date: _____

This affirms that _____ served as engineer in charge of the seismic evaluation of the building located at _____.

The building has the following characteristics:

ASCE Building Type:	No. of Stories:	Approx. Area:
Building Design Code:	Year of Design Code:	Year of Construction:

I have evaluated this building at the Life Safety Performance Level as set forth in the ICSSC RP 8, Standards of Seismic Safety for Existing Federally Owned and Leased Buildings, using ASCE/SEI 31 methodology:

___ Tier 1 Evaluation

___ Tier 2 Evaluation

___ Tier 3 Evaluation

___ Other (please explain below)

Documentation of this evaluation must be attached to this Certificate.

On the basis of the building characteristics and to the extent permitted by this level of evaluation it is my opinion that subject Building (*check one*) does / does not meet the Life Safety Performance Level of ICSSC RP 8.

Affix Stamp and Sign Here

Engineer's Name:
Firm:
Address:
Telephone:
License No.:
License State:

Expiration Date:

Comments:

Attach: ASCE/SEI 31 Checklist(s) Structural, Nonstructural, and Geologic Site Hazards and Foundation

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Brandi Suda, Finance Director
Co-Submitter: Damian Gallegos
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE:

Consideration and Approval of Cooperative Agreement: Payroll Time Entry Software and Implementation Services with Kronos Incorporated.

RECOMMENDED ACTION:

Approve a Cooperative Agreement with Kronos Incorporated (Kronos) and the City of Flagstaff as procured through a cooperative contract agreement with Harford County Public Schools for payroll time entry software and implementation for an amount not to exceed \$206,116.19.

Executive Summary:

The City currently administers payroll services for over 1,000 full-time and part-time employees. Automating the time entry associated with payroll administration simplifies labor-intensive timesheet tracking, data entry and approval processes. An automated time entry system also aids labor law compliance.

The proposed cooperative agreement with Kronos will provide the City with payroll time entry software and implementation services. A payroll time entry software and system provides the City the following benefits:

1. Provide employees the ability to enter their daily time worked electronically (and includes supervisor approval),
2. Tracks accruals of paid time off leave,
3. Ensures time entry compliance with federal and state laws as well as City policy,
4. Assist supervisors schedule staff and managing time off requests,
5. Provides Affordable Care Act reporting for part-time employees.

Financial Impact:

The budget of \$50,000 for this project has been carried forward in the budget since FY2008. The FY2017 budget for time entry software is the originally recommended \$50,000. The cost to provide this streamlined service to the City has increased significantly since originally proposed in the budget 9 years ago. In addition to the current budget of \$50,000, the Budget Team approved allocating the additional \$156,000 from projected budget savings in Finance personnel costs due to vacancies and contractual savings in non-departmental.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

- 1) Invest in our employees and implement retention and attraction strategies**
- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics**

Has There Been Previous Council Decision on This:

Yes, Council previously budgeted \$50,000 for this service in FY 2008. The budgeted amount has been carried forward into future budgets for purposes of contracting this service in the future.

Options and Alternatives:

- 1) The City Council may approve this cooperative agreement for time entry software and implementation
- 2) The City Council may decline to enter into this cooperative agreement and direct staff to conduct a formal competitive solicitation.
- 3) The City Council may decline to enter into this cooperative agreement and continue with the city's current process.

Background/History:

The City of Flagstaff has a workforce of approximately 1,000 employees. One of the key requirements in managing the workforce is to accurately account for employees' time on and off of the job. This information is used for several purposes:

1. Payroll – to ensure each employee is paid a fair and accurate wage.
2. Time management – supervisors have to make sure staffing levels are consistent with job requirements and ensure over-time hours are kept to a minimum.
3. Leave time management – employee leave time used must be accurately deducted.
4. Compliance – the City has to adhere to City policy and federal and state laws.
5. Cost accounting – labor costs have to be accurately distributed to the appropriate accounting units.
6. Grant accounting – labor costs related to grants have to be accurately recorded and reported.

The City of Flagstaff currently relies on a very manual and paper intensive process for time reporting. While some departments use Excel spreadsheets, many still record their time on paper timesheets with supporting over-time and leave approval forms. In response to the current inability to close the time-reporting process quickly enough to meet payroll deadlines, some departments are estimating time worked by employees and any estimates have to be reconciled the following pay period creating a duplication of effort. These paper forms are then passed to administrative staff for entry into the City's Naviline system for payroll processing. If forms are incomplete or appear inaccurate the appropriate supervisor is contacted to resolve the issue. Administrative staff then prints the payroll reports which are given to section heads and/or division directors for review and approval. Finally the payroll reports are given to the payroll staff for final review of adherence to City policy.

A major benefit of an automation of time entry is that the added efficiencies will allow staff to be more productive in their other duties. An automated system also make the process consistent and limits the possibility of error that a manual system has.

The City of Flagstaff began initiated the process of procuring a contact for payroll time entry system services on May 4, 2016 and received an initial quote in the amount of \$227,499.00. On 09/16/16, City staff made a second contact with Kronos and received a quote in the amount of \$222,552.81. Further negotiations with Kronos, resulted in a final quote in the amount of \$206,116.19 resulting in cost savings from the original quote of \$21,382.81 and a cost saving of \$16,436.62 from the 09/16/16 quote. The discounts were given as part of the cooperative agreement between Kronos and Harford County Public Schools. The agreement with Harford County Public Schools is effective until March 17, 2017. Kronos will offer software support at no cost in year 1, and the subsequent annual cost is approximately \$21,000

per year.

Key Considerations:

This proposed contract includes Kronos providing implementation services to design and configure the system to match City policy and federal and state regulations. Kronos estimates that the implementation of the payroll time entry software will take 18 weeks to complete.

With this proposed payroll time entry software, employee will report hours electronically via a computer or other electronic devices. Supervisors will then also review and approve hours electronically and the employee hours data will interface into the City's HR/Payroll system. In addition, employee vacation, sick, floating holiday, personal time, and paid time off accruals will be managed within the system and interface with City's HR/Payroll system.

Kronos is compatible with existing City systems. The City's Fire Department currently utilizes TeleStaff. As part of this implementation, Kronos will configure an integration between time entry software and TeleStaff. It will also share accrual balances from time entry software into TeleStaff.

In addition, by implementing the time entry software in coordination with the implementation of the new Innoprise payroll system, it will create several efficiencies as City staff will not need to be trained on two new systems. The City will integrate the implementation of both systems to reduce duplication of effort. We anticipate the Innoprise payroll system to go live in FY2017.

Expanded Financial Considerations:

None

Community Benefits and Considerations:

The community benefits include the reduction of the risk of payroll related liabilities and errors which can have penalties or other consequence. Additionally, Affordable Care Act reporting will be enhanced to ensure timely compliance with regulations.

Community Involvement:

Inform

Expanded Options and Alternatives:

None.

Attachments: [Kronos Quote](#)
 [Cooperative Contract](#)

ORDER FORM

Quote#: 546077 - 1
Expires: 30-DEC-2016
Sales Executive: Lyle, Brenda Green

Order Type: Standard US
Date: 26-SEP-2016
Page: 1/2

Bill To: Attn:DAMIAN M. GALLEGOS
 CITY OF FLAGSTAFF
 211 W. ASPEN AVENUE
 FLAGSTAFF
 AZ 86001
 United States
Solution ID: 6141634

Ship To: Attn:CINDY DORFSMITH
 CITY OF FLAGSTAFF
 211 W. ASPEN AVENUE
 FLAGSTAFF
 AZ 86001
 United States
Contact: Cindy Dorfsmith
Email: cdorfsmith@flagstaffaz.gov
Ship To Phone: 1 928 213-2211

Payment Terms: N30
Currency: USD
Customer PO Number:

FOB: Shipping Point
Ship Method:
Freight Term: Prepay & Add

Order Notes:

This order entered into between the Customer and Kronos is subject to the terms and conditions of the Contract #14-JLR-003 dated March 18th, 2014 between the Lead Agency (acting as the "Owner") and Kronos Incorporated (as the "Contractor"), as amended.

Kronos agrees to provide Customer (12 free months) of no cost software support maintenance at the level of support indicated on this Order Form. The value of such free software support maintenance is \$20,611.80. Upon expiration of the first twelve (12) months of support, a renewal will be generated at the annualized rate subject to the terms of the agreement.

Your Kronos solution includes:

SOFTWARE

Item	License/Qty	Total Price
WORKFORCE TIMEKEEPER V8	1050	
WORKFORCE MANAGER V8	150	
WORKFORCE ACCRUALS V8	1050	
WORKFORCE EMPLOYEE V8	1050	
WORKFORCE INTEGRATION MANAGER V8	1050	
WORKFORCE MOBILE EMPLOYEE V8	100	
WORKFORCE MOBILE MANAGER V8	25	
KSS TOOL,ATTESTATION TOOL KIT V8	1050	
KSS TOOL,FT-PT ANALYSIS REPORT V8	1	
Total Price		93,690.00

*Includes applicable software media

SUPPORT SERVICES

Item	Duration	Total Price
GOLD SUPPORT SERVICE	1 YR	0.00
Total Price		0.00

*Support values listed above are total for all applicable products in each section of this order form

PROFESSIONAL SERVICES / EDUCATIONAL SERVICES

Item	Quantity	Unit Price	Total Price
MOMENTUM MID-MARKET FIELD TEAM	512 Hours		92,160.00
Project Manager	92 Hours	180.00	
Solution Consultant	106 Hours	180.00	
Integration Consultant	58 Hours	180.00	
Senior Integration Consultant	80 Hours	180.00	
Application Consultant	156 Hours	180.00	
Technology Consultant	20 Hours	180.00	
BILL-AS-YOU-GO INSTRUCTOR LEAD TRAINING	11100 Points	0.90	9,990.00
KNOWLEDGE PASS	1 Each	0.00	0.00
ED SERVICES SUBSCRIPTION	1 Contract	1,890.00	1,890.00
		Total Price	104,040.00

QUOTE SUMMARY

Description	Total Price
Subtotal	197,730.00
Deposit	0.00
Tax	8,386.19
Grand Total	206,116.19

CITY OF FLAGSTAFF	Kronos Incorporated
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Effective Date: _____	Effective Date: _____
<p><i>Invoice amount will reflect deposit received. All professional services are billed as delivered with a payment term of Net Upon Receipt. Unless otherwise indicated above, this order is subject to the attached terms and conditions which the customer acknowledges have been read. THIS ORDER IS SUBJECT TO APPLICABLE TAXES. THE TAX AMOUNT SHOWN ON THIS ORDER IS ONLY AN ESTIMATE. THE ACTUAL TAX AMOUNT TO BE PAID BY CUSTOMER WILL BE SHOWN ON CUSTOMER'S INVOICE. The JBoss® Enterprise Middleware components embedded in the Software are subject to the End User License Agreement found at http://www.redhat.com/licenses/jboss_eula.html. Shipping and handling charges will be reflected on the final invoice.</i></p>	

CONTRACT #14-JLR-003

THIS AGREEMENT, made this 18th day of March, 2014, by and between Harford County Public Schools, hereafter called "Owner" and Kronos Incorporated, a corporation at 297 Billerica Road, in the City of Chelmsford and State of Massachusetts, hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR, hereby agrees with the OWNER to commence and complete the services described as follows:

RFP 14-JLR-003: Workforce Management System

Furnish, supply and deliver Workforce Management software in accordance and compliance with all specifications, terms and conditions set forth in RFP #14-JLR-003, and subsequent terms and conditions attached herein.

Hereinafter called the contract, for the period March 18, 2014 through March 17, 2017, and all extra work in connection therewith, under the terms as stated in the General and Special Conditions of the RFP Document; and the related terms and conditions attachment, at his (its or their) own proper cost and expense to furnish all the materials, supplies, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Final Proposal, all of which are made a part hereof and collectively evidence and constitute the Contract.

This is an indefinite quantity contract with no specific assigned dollar value.

IN WITNESS WHEREOF, the parties to these presents have executed this in the year and day first above mentioned.

Harford County Public Schools

Jeffrey LaPorta
Jeffrey LaPorta, CPPB, Supervisor of Purchasing

3/6/14
Date

Kronos Incorporated
Company Name

John O'Brien
Company Representative Printed Name

Sr. Vice President, Americas
Company Representative Title

[Signature]
Company Representative Signature

2/21/14
Date

KRONOS TERMS AND CONDITIONS FOR PARTICIPATING PUBLIC AGENCIES ADMINISTERED BY US COMMUNITIES (103113V1)

KRONOS TERMS

A PARTICIPATING PUBLIC AGENCY ("CUSTOMER"), BY SIGNING AN ORDER FORM OR PURCHASE ORDER WITH KRONOS INCORPORATED, AGREES TO THE APPLICATION OF THESE TERMS AND CONDITIONS FOR ALL PRODUCTS, SERVICES AND OFFERINGS SET FORTH ON SUCH ORDER FORM (OR PURCHASE ORDER) WHICH REFERENCES THESE TERMS AND CONDITIONS.

SECTION A: GENERAL TERMS AND CONDITIONS. This Section apply for all transactions.

SECTION B: TERMS AND CONDITIONS FOR SOFTWARE LICENSES, SOFTWARE AND EQUIPMENT SUPPORT SERVICES, AND EDUCATIONAL AND PROFESSIONAL SERVICES. This Section apply for all transactions except Workforce Ready and the Workforce Central SaaS offering (not including the professional and educational services governed by this Section).

SECTION C: CLOUD HOSTING SUPPLEMENTAL TERMS AND CONDITIONS . This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B and Identified as CLOUD 2.

SECTION C-1: APPLICATION HOSTING TERMS AND CONDITIONS . This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B and identified as CLOUD.

SECTION D: KRONOS WORKFORCE CENTRAL SAAS TERMS AND CONDITIONS. This Section applies only for Workforce Central transactions in a SaaS environment (except for the related professional and educational services see Section B)

SECTION E: KRONOS WORKFORCE READY SAAS TERMS AND CONDITIONS. This Section applies only for Workforce Ready transactions.

SECTION A: GENERAL TERMS AND CONDITIONS

1. APPLICATION OF THESE TERMS

These terms and conditions apply to each order accepted by Kronos Incorporated ("Kronos") from an eligible Participating Public Agency ("Customer") for all Kronos Equipment, Software, Professional and Educational Services, Support and such other Kronos offerings, as specified on an order form (an "Order").

In addition to the terms set forth in this Section A: General Terms and Condition, the following sections apply for the specific offering referenced:

- (i) Section B shall apply to the Software licenses and purchased Equipment, support services, and professional and educational services;
- (ii) Section C shall apply to the Hosting Services purchased in connection with certain Software licensed under Section B;
- (iii) Section D shall apply to the Workforce Central Saas Orders; and
- (iv) Section E shall apply to the Workforce Ready Saas Order.

All orders are subject to the approval of Kronos' corporate office in Chelmsford, Massachusetts. This Agreement and the Order Form shall supersede the pre-printed terms of any Customer purchase order or other Customer ordering document, and no such Customer pre-printed terms shall apply to the items ordered.

2. APPLICABLE LAWS

This Agreement shall be governed by the state law in which Customer is based, provided however, if such jurisdiction has adopted the Uniform Computer Information Transactions Act (UCITA), or such other similar law, the parties expressly agree to "opt-out" of and not be governed by UCITA or such other similar law. The parties waive the application of the United Nations Commission on International Trade Law and United Nations Convention on Contracts for the International Sale of Goods as to the interpretation or enforcement of this Agreement.

3. EXPORT

Customer acknowledges that the Equipment and Software may be restricted by the United States Government or by the country in which the Equipment or Software is installed from export to certain countries and certain organizations and individuals, and agrees to comply with such laws. Customer agrees to comply with all applicable laws of all of the countries in which the Equipment and Software may be used by Customer. Customer's obligations hereunder shall survive the termination or expiration of the Order Form. Customer must obtain Kronos prior written consent before exporting the Software.

4. CONFIDENTIAL INFORMATION

"Confidential Information" is defined as information that is: i) disclosed between the parties after the date of this Agreement that is considered confidential or proprietary to the disclosing party; and ii) identified as "confidential" at the time of disclosure, or would be reasonably obvious to the receiving party to constitute confidential information because of legends or other markings, by the circumstances of disclosure or the nature of the information itself. Additionally, Customer acknowledges and agrees that the Software (and Software documentation), and the Specifications shall be deemed to be Kronos' Confidential Information and trade secret. Each party shall protect the Confidential Information of the other party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such party utilizes for its own information of similar character that it does not wish disclosed to the public. Neither party shall disclose to third parties (except the parent company or the wholly owned subsidiaries of the receiving party who have a need to know) the other party's Confidential Information, or use it for any purpose not explicitly set forth herein, without the prior written consent of the other party. Notwithstanding the foregoing, a party may disclose Confidential Information to the extent required: (a) to any subsidiary or affiliate of such Party, or (b) to any consultants, contractors, and counsel who have a need to know in connection with the Agreement and who are under obligations of non-disclosure agreement at least as stringent as this section 4, or (c) by law, or by a court or governmental agency, or if necessary in any proceeding to establish rights or obligations under the Agreement; provided, the receiving party shall, unless legally prohibited, provide the disclosing party with reasonable prior written notice sufficient to permit the disclosing party an opportunity to contest such disclosure. If a party commits, or threatens to commit, a breach of this Section 4, the other party shall have the right to seek injunctive relief from a court of competent jurisdiction. The obligation of confidentiality shall survive for three (3) years after the disclosure of such Confidential Information.

This Agreement imposes no obligation upon either party with respect to the other party's Confidential Information which the receiving party can establish by legally sufficient evidence: (a) was rightfully possessed by the receiving party without an obligation to maintain its confidentiality prior to receipt from the disclosing party, (b) is generally known to the public without violation of this Agreement; (c) is obtained by the receiving party in good faith from a third party having the right to disclose it without an obligation with respect to confidentiality; (d) is independently developed by the receiving party without use of the disclosing party's confidential information, which can be shown by tangible evidence.

5. TAXES

If Customer presents to Kronos a validly issued tax-exempt certificate, or other sufficient evidence of tax exemption, Customer shall not be liable for those taxes for which Customer is exempt. Otherwise, Customer agrees to pay all other applicable duties and customs fees relating to this Agreement, as well as all taxes levied or based on the products, services or other charges hereunder, including federal, state and local sales and excise taxes, and any taxes or amount in lieu thereof paid or payable by Kronos, exclusive of taxes based on Kronos net income or business privilege.

6. TRAVEL EXPENSES

Customer agrees to reimburse Kronos for all pre-approved, reasonable and necessary travel incurred by Kronos in the performance of its obligations under this Agreement, provided that such travel complies with the then current Kronos Travel and Expense Policies (such policies are available upon request). Customer further agrees to pay any travel expenses such as airfare, lodging, meals and local transportation, incurred by Kronos in the performance of its obligations under this Agreement provided such expenses comply with the Kronos Travel and Expense Policies. Customer will be billed by Kronos for such travel expenses and payment thereof shall be due net 30.

7. GENERAL

- (a) The invalidity or illegality of any provision of this Agreement shall not affect the validity of any other provision. The parties intend for the remaining unaffected provisions to remain in full force and effect.
- (b) Customer shall not assign this Agreement or the license to the Software without the prior written consent of Kronos and any purported assignment, without such consent, shall be void.
- (c) Neither Party shall be responsible for any failure to perform or delay in performing any of its obligations under this Agreement (other than a failure to comply with payment obligations) where and to the extent that such failure or delay results from an unforeseeable event beyond a party's

reasonable control, including but not limited to, acts of war; acts of nature; earthquake; flood; embargo; riot; sabotage; labor shortage or dispute; changes in government codes, ordinances, laws, rules, regulations or restrictions; failure of the Internet; terrorist acts; failure of data, products or services controlled by any third party, including the providers of communications or network services; utility power failure; material shortages or unavailability or other delay in delivery not resulting from the responsible party's failure to timely place orders therefor, or lack of or delay in transportation (each a "Force Majeure Event").

(d) All notices given under this Agreement shall be in writing and sent postage pre-paid, if to Kronos, to the Kronos address on the Order Form, or if to Customer, to the billing address on the Order Form.

(e) The section headings herein are provided for convenience only and have no substantive effect on the construction of this Agreement.

(f) The parties agree that the Order signed by both parties and expressly reference this Agreement, which is delivered via fax or electronically delivered via email it shall constitute a valid and enforceable agreement.

(g) This Agreement and any information expressly incorporated herein (including information contained in any referenced URL), together with the applicable Order Form, constitute the entire agreement between the parties for the products and services described herein and supersede all prior or contemporaneous representations, negotiations, or other communications between the parties relating to the subject matter of this Agreement. This Agreement may be amended only in writing signed by authorized representatives of both parties. Customer understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general product development direction, potential future products and/or product enhancements under consideration, Customer is not entitled to any products or product enhancements other than those contained on the Order Form. Customer has not relied on the availability of any future version of the Software or Equipment identified on an Order Form, nor any other future product in executing this Agreement.

(h) Use, duplication, or disclosure by the United States Government is subject to restrictions as set forth in subparagraph (c) (1) (ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraph (c)(1)(2) of the Commercial Computer Software Restricted Rights clause at FAR 52.227-19, as applicable. Manufacturer/distributor is Kronos Incorporated, 297 Billerica Road, Chelmsford, MA.

(i) The JBoss® Enterprise Middleware components embedded in the Software are subject to the End User License Agreement found at http://www.redhat.com/licenses/jboss_eula.html.

(j) Customer may pay an invoice by credit card if the amount is not greater than \$50,000.00.

SECTION B
TERMS AND CONDITIONS FOR SOFTWARE LICENSES, SOFTWARE AND EQUIPMENT SUPPORT SERVICES,
AND EDUCATIONAL AND PROFESSIONAL SERVICES

This Section B applies to Software licensed, Equipment purchased, support services for Software and Equipment, and educational and professional services, when such items are identified on the Order which expressly references this Agreement.

1. PAYMENT AND DELIVERY

Unless otherwise set forth in this Agreement, payment terms are indicated on the Order Form or other contemporaneous ordering document containing product-specific payment terms signed by the parties. Delivery terms are as stated on the Order Form ("Delivery"). Kronos will invoice Customer for products upon Delivery. Unless otherwise set forth on the Order Form, Professional and Educational Services are provided on a time and materials basis, invoiced monthly as rendered.

2. GENERAL LICENSE TERMS

Kronos owns or has the right to license the Software. The Software and Software documentation are confidential and may not be disclosed to a third party without Kronos' written consent. The Software contains proprietary trade secret technology. Unauthorized use and copying of such Software is prohibited by law, including United States and foreign copyright law. The price Customer pays for a copy of the Software constitutes a license fee that entitles Customer to use the Software as set forth below. Kronos grants to Customer a non-exclusive, nontransferable, perpetual (except as provided herein) license to use the Software. This license may be terminated by Kronos by written notice to Customer upon any material breach of this Agreement by Customer which remains uncured for a period of thirty (30) days after such written notice from Kronos. Upon such termination of this license by Kronos, Customer will have no further right to use the Software and will return the Software media to Kronos and destroy all copies of the Software (and related documentation) in Customer's possession or control. This license is subject to all of the terms of this Section B.

3. FEE BASED LIMITATIONS

Customer recognizes and agrees that the license to use the Software is limited, based upon the amount of the license fee paid by Customer. Limitations, which are set forth on the Order Form, may include the number of employees, simultaneous or active users, Software product modules, Software features, computer model and serial number and partition, and/or the number of telephone lines or terminals to which the Software is permitted to be connected. Customer agrees to: i) use the Software only for the number of employees, simultaneous or active users, computer model, partition and serial number, and/or terminals permitted by the applicable license fee; ii) use only the product modules and/or features permitted by the applicable license fees; and iii) use the Software only in support of Customer's own business. Customer agrees not to increase the number of employees, simultaneous or active users, partitions, terminals, products modules, features, or to upgrade the model, as applicable, unless and until Customer pays the applicable fee for such increase/upgrade. Customer may not relicense or sublicense the Software to, or otherwise permit use of the Software (including timesharing or networking use) by any third party. Customer may not provide service bureau or other data processing services that make use of the Software without the express prior written consent of Kronos.

4. OBJECT CODE ONLY

Customer may use the computer programs included in the Software (the "Programs") in object code form only, and shall not reverse compile, disassemble or otherwise convert the Programs into uncompiled or unassembled code. The Programs include components owned by third parties. Such third party components are deemed to be Software subject to this Section B. Customer shall not use any of the Programs (or the data models therein) except solely as part of and in connection with the Software and as described in the published documentation for such Software.

5. PERMITTED COPIES

Customer may copy the Programs as reasonably necessary to load and execute the Programs and for backup and disaster recovery and testing purposes only, except for additional copies of the Teletime Software and the Kronos iSeries (which must be licensed separately). All copies of the Programs or any part thereof, whether in printed or machine readable form and whether on storage media or otherwise, are subject to all the terms of this license, and all copies of the Programs or any part of the Programs shall include the copyright and proprietary rights notices contained in the Programs as delivered to the Customer.

6. UPDATES

In the event that Kronos supplies Service Packs, Point Releases and Major Releases (including legislative updates if available) of the Software (collectively referred to as "Updates"), such Updates shall be part of the Software and the provisions of this license shall apply to such Updates and to the Software as modified thereby.

7. ACCEPTANCE

For Customer's initial purchase of each Equipment and Software product Kronos shall provide an acceptance test period (the "Test Period") that commences upon installation. Installation shall be defined as: a.) the Equipment, if any, is mounted; b.) the Software is installed on Customer's server(s); and c.) implementation team training, if any, is complete. During the Test Period, Customer shall determine whether the Equipment and Software meet the Kronos published electronic documentation, ("Specifications").

The Test Period shall be for 30 days. If Customer has not given Kronos a written deficiency statement specifying how the Equipment or Software fails to meet the Specifications ("Deficiency Statement") within the Test Period, the Equipment and Software shall be deemed accepted. If Customer provides a Deficiency Statement within the Test Period, Kronos shall have 30 days to correct the deficiency, and Customer shall have an additional 30 days to evaluate the Equipment and Software. If the Equipment or Software does not meet the Specifications at the end of the second 30 day period, either Customer or Kronos may terminate this Agreement. Upon any such termination, Customer shall return all Equipment and Software (and related documentation) to Kronos, and Kronos shall refund any monies paid by Customer to Kronos for the returned Equipment and Software. Neither party shall then have any further liability to the other for the products that were the subject of the Acceptance Test.

8. LIMITED WARRANTY

Kronos warrants that all Kronos Equipment and Software media shall be free from defects in materials and workmanship, for a period of ninety (90) days from Delivery. In the event of a breach of this warranty, Customer's remedy shall be Kronos' repair or replacement of the deficient Equipment and/or Software media, at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the Specifications. This warranty is extended to Customer only and shall not apply to any Equipment (or parts thereof) or Software media in the event of:

- (a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- (b) failure of Customer to provide and maintain a suitable installation environment, as specified in the Specifications; or
- (c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

When using and applying the Information generated by Kronos products, Customer is responsible for ensuring that Customer complies with requirements of federal and state law where applicable. If Customer is licensing Workforce Payroll Software or Workforce Absence Management Software: (i) Customer is solely responsible for the content and accuracy of all reports and documents prepared in whole or in part by using such Software, (ii) using such Software does not release Customer of any professional obligation concerning the preparation and review of such reports and documents, (iii) Customer does not rely upon Kronos, Best Software, Inc. or such Software for any advice or guidance regarding compliance with federal (and state laws where applicable) or the appropriate tax treatment of items reflected on such reports or documents, and (iv) Customer will review any calculations made by using such Software and satisfy itself that those calculations are correct.

9. PROFESSIONAL AND EDUCATIONAL SERVICES

(a) ENGAGEMENTS

Unless otherwise indicated on the Order, Professional and Educational Services ("Professional Services") shall be provided on a time and material basis and described in a statement of work. If a dollar limit is stated in the Order Form or any associated statement of work ("SOW"), the limit shall be deemed an estimate for Customer's budgeting and Kronos' resource scheduling purposes. After the dollar limit is expended, Kronos will continue to provide Professional Services on a time and materials basis, if a Change Order or Schedule of Services for continuation of the Professional Services is signed by the parties.

(b) WARRANTY

Kronos warrants that all professional and educational services performed under this Agreement shall be performed in a professional and competent manner. In the event that Kronos breaches this warranty, and Customer so notifies Kronos within 30 days of receipt of invoice for the applicable services, the Customer's remedy and Kronos' liability shall be to re-perform the services which were deficient in a manner so as to conform to the foregoing warranty, at no additional cost to Customer.

(c) KRONOS PROFESSIONAL/EDUCATIONAL SERVICES POLICIES

Kronos' then-current Professional/Educational Services Policies shall apply to all Professional and/or Educational Services purchased under the applicable SOW and may be accessed at: <http://www.kronos.com/Support/ProfessionalServicesEngagementPolicies.htm> ("Professional Services Policies"). In the event of a conflict between the Professional Services Policies and this Agreement, the terms of this Agreement shall prevail.

10. SOFTWARE SUPPORT SERVICES

The following terms and conditions shall govern the Software support services provided by Kronos to Customer.

10.1 SUPPORT OPTIONS

Customer may select from the following Software support purchase options: Gold (or Gold Plus) and Platinum (or Platinum Plus) support ("Service Type"), each providing different service coverage periods and/or service offerings, as specified herein ("Service Offerings") and in the Kronos Support Service Policies (defined below). Customer must purchase the same Service Type for all of the Software specified on the Order Form, (however, if Customer is purchasing support services for Visionware Software, Customer may only purchase Gold Service Type for the Visionware Software). All Updates shall be provided via remote access.

10.2 TERM OF SOFTWARE SUPPORT

Unless otherwise indicated on the Order Form, support service shall commence on the Software Delivery date and shall continue for an initial term of one (1) year. Support service may be renewed for additional one (1) year terms on the anniversary date of its commencement date by mutual written agreement of the parties or by Kronos sending Customer an invoice for the applicable renewal term and Customer paying such invoice prior the commencement of such renewal term. After the one year initial term of this Agreement, the Service Offerings provided and the Service Coverage period are subject to change by Kronos with sixty (60) days advance written notice to Customer. For the initial two (2) renewal years the annual support fee, for the same products and service type, will not increase by more than 4% over the prior year's annual support fee.

10.3 GOLD SERVICE OFFERINGS

Customer shall be entitled to receive:

- (i) Updates for the Software (not including any Software for which Kronos charges a separate license fee), provided that Customer's operating system and equipment meet minimum system configuration requirements, as reasonably determined by Kronos. If Customer requests Kronos to install such Updates or to provide retraining, Customer agrees to pay Kronos for such installation or retraining at Kronos' pricing set forth in this Agreement.
- (ii) Telephone and/or electronic access to the Kronos Global Support Center for the logging of requests for service during the Service Coverage Period. The Service Coverage Period for the Gold Service Offering is 8:00 a.m. to 8:00 p.m., local time, Monday through Friday, excluding Kronos holidays.
- (iii) Web-based support including access to Software documentation, FAQ's, access to Kronos knowledge base, Customer forums, and e-case management. Such offerings are subject to modification by Kronos. Current offerings can be found at <http://www.kronos.com/services/support-services.aspx>.
- (iv) Web-based remote diagnostic technical assistance which may be utilized by Kronos to resolve Software functional problems and user problems during the Service Coverage Period.
- (v) Access to specialized content as and when made available by Kronos such as technical advisories, learning quick tips, brown bag seminars, technical insider tips, SHRM e-Learning, HR Payroll Answerforce and service case studies.

10.4 PLATINUM AND PLUS SERVICE OFFERINGS:

Platinum: In addition to the Service Offerings specified for the Gold Service Offering above, the Service Coverage Period for the Platinum Service Offering is 24 hours a day, seven days a week, 365 days a year.

Plus option: In addition to the Service Offerings specified for the Gold Service Offering above, Customers purchasing the Plus option shall receive the services of a dedicated, but not exclusive, Kronos Technical Account Manager ("TAM") for one production instance of the Software. Customers purchasing the Gold-Plus option shall designate up to one primary and one secondary backup technical contacts ("Technical Contacts") to be the sole contacts with the TAM, while Customers purchasing the Platinum-Plus option shall designate up to two primary and three secondary backup Technical Contacts. Upon request, Customer may designate additional and/or backup Technical Contacts. Customer is required to place all primary Technical Contacts through Kronos product training for the Software covered under this Section B at Customer's expense.

Customers purchasing the Platinum-Plus option shall also receive a one day per year visit to be performed at the Customer location where the Software is installed. During this onsite visit, Kronos shall work with Customer to identify ways to help Customer increase functionality or maximize utilization of the Software in Customer's specific environment. Customer must be utilizing the then-current version of the Software.

10.5 PAYMENT

Customer shall pay annual support charges for the initial term in accordance with the payment terms on the Order Form and for any renewal term upon receipt of invoice. Customer shall pay additional support charges, if any, and time and material charges upon receipt of invoice

10.6 ADDITION OF SOFTWARE

Additional Software purchased by Customer as per the ordering procedure set out in the agreement during the initial or any renewal term shall be added to the Support Services at the same support option as the then current Software support coverage in place under these terms. Customer agrees to pay the charges for such addition as per the Order.

10.7 RESPONSIBILITIES OF CUSTOMER

Customer agrees (i) to provide Kronos personnel with full, free and safe access to Software for purposes of support, including use of Kronos' standard remote access technology, if required; (ii) to maintain and operate the Software in an environment and according to procedures which conform to the Specifications; and (iii) not to allow support of the Software by anyone other than Kronos without prior written authorization from Kronos. Failure to utilize Kronos' remote access technology may delay Kronos' response and/or resolution to Customer's reported Software problem. If Customer requires the use of a specific remote access technology not specified by Kronos, then Customer must purchase the Plus option to receive support and provide Kronos personnel with full, free and safe access to the remote access hardware and/or software.

10.8 DEFAULT

Customer shall have the right to terminate Kronos support services in the event that Kronos is in breach of the support services warranty set forth below and such breach is not cured within fifteen (15) days after written notice specifying the nature of the breach. In the event of such termination, Kronos shall refund to Customer on a pro-rata basis those pre-paid annual support fees associated with the unused portion of the support term. Kronos reserves the right to terminate or suspend support service in the event the Customer is in default under this Agreement with Kronos and such default is not corrected within fifteen (15) days after written notice. In addition, the support services will terminate and all charges due hereunder will become immediately due and payable in the event that Customer ceases to do business as a going concern or has its assets assigned by law.

10.9 WARRANTY

Kronos warrants that all support services shall be performed in a professional and competent manner.

11. EQUIPMENT SUPPORT SERVICES

The following terms and conditions shall govern the equipment support services provided by Kronos to Customer.

Kronos and Customer hereby agree that Kronos shall provide depot equipment repair support services ("Depot Support Services") for Customer's Kronos Equipment ("Product(s)") specified on an Order Form to and from locations within the United States and Puerto Rico pursuant to the following terms and conditions:

11.1 TERM

Equipment Support Services for the Product(s) have a term of one (1) year commencing upon the expiration of the applicable warranty period, as specified in this Section B. Equipment Support Services can be extended for additional one year terms on the anniversary of its commencement date ("Renewal Date") by mutual written agreement of the parties or by Kronos sending Customer an invoice for the applicable renewal term and Customer paying such invoice prior to the commencement of such renewal term. For the initial two (2) renewal years the annual support fee, for the same products and service type, will not increase by more than 4% over the prior year's annual support fee to the extent consistent with the pricing set forth under the Agreement.

11.2 PAYMENT

Customer agrees to pay the Support Charges for the initial term as set forth on the Order Form for each Product listed. Customer agrees that all Products of the same type that are owned by the Customer, including without limitation Customer's "Spare Products" (as defined below), will be subject to this Agreement. Customer agrees that if Customer purchases, during the term of this Agreement, any Products of the same type as those specified on an Order Form, such additional Products shall be subject to this Agreement. Customer agrees to pay a prorated fee for such additional Products and agrees to pay the full annual fee for such additional Products, upon the renewal date.

Kronos will invoice Customer for the annual Support Charges each year in advance of the Renewal Date. Customer will pay Kronos within thirty (30) days of receipt of invoice.

11.3 DEPOT SUPPORT SERVICE DESCRIPTION

Upon the failure of installed Equipment, Customer shall notify Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Equipment related shall be dispatched to a Kronos Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Equipment if Customer is to return the failed Equipment to Kronos, as reasonably determined by Kronos. Customer must return the failed Equipment with the supplied RMA number. Hours of operation, locations and other information related to Kronos' Depot Repair Centers are available upon request and can be found at <https://customer.kronos.com/contact/contact-phone.aspx> and are subject to change. Return and repair

procedures for failed Equipment shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies. Service packs for the Equipment (as described in subsection (b) below) are included in both Depot Exchange and Depot Repair Support Services.

(i) *Depot Exchange*: Kronos will provide a replacement for the failed Equipment at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Equipment will be shipped the same day, for delivery to Customer's location as further described in the Support Policies. REPLACEMENT EQUIPMENT MAY BE NEW OR RECONDITIONED. Customer shall specify the address to which the Equipment is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Customer, upon receipt of the replacement Equipment from Kronos, shall package the defective Equipment in the materials provided by Kronos, with the RMA supplied and promptly return failed Equipment directly to Kronos.

(ii) *Depot Repair*: Upon failure of installed Equipment, Customer shall install a Spare Product to replace the failed Equipment. Customer shall then return the failed Equipment, with the required RMA, to the applicable Kronos Depot Repair Center. Customer shall make reasonable efforts to return the failed Equipment using the same or substantially similar packing materials in which the original Equipment was sent. Customer shall also specify the address to which the repaired Equipment should be return shipped. Upon receipt of the failed Equipment, Kronos shall repair the failed Equipment and ship it, within ten (10) business days after receipt, to Customer. Kronos shall ship the repaired Equipment by regular surface transportation to Customer.

Kronos warrants that all repairs performed under the Agreement shall be performed in a professional and competent manner. In the event of a breach of this warranty, the exclusive remedy of Customer and sole liability of Kronos shall be replacement of the repaired Equipment.

11.4 EQUIPMENT SERVICE PACK SUPPORT SERVICE DESCRIPTION

If Customer purchase the Equipment service packs support, Kronos manufactured terminals specified on an Order, Customer shall be entitled to receive:

(i) Service packs for the Equipment (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos' customer portal; and

(ii) Access to the Kronos Support Services Center for the logging of requests for assistance downloading service packs for the Equipment. Service packs for the Equipment are not installed by the Kronos Depot Repair Center but are available for download at Kronos' customer portal, provided Customer is maintaining the Equipment under an annual Equipment Support Services plan with Kronos.

Kronos warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Customer's exclusive remedy shall be Kronos' repair or replacement of the deficient service pack(s) or firmware update(s), at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

11.5 RESPONSIBILITIES OF CUSTOMER

Customer agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to Kronos in "batches" which shall result in a longer turnaround time and surcharge to Customer. In addition, Customer agrees to:

- (a) Maintain the Products in an environment conforming to Kronos' published specifications for such Products;
- (b) De-install all failed Products and install all replacement Products in accordance with Kronos' published installation guidelines;
- (c) Ensure that the Product(s) are returned to Kronos properly packaged; and
- (d) Obtain an RMA before returning any Product to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Customer may only return the specific Product authorized by Kronos when issuing the RMA.

11.6 SUPPORT EXCLUSIONS

Depot Support Service does not include the replacement of "consumables". In addition, Depot Support Service does not include the repair of damages, and Customer will not attempt to return damaged Product, resulting from:

- (a) Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
- (b) Customer's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
- (c) Customer's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
- (d) Customer's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
- (e) Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
- (f) Customer's repair, attempted repair or modification of the Products.

Professional services provided by Kronos in connection with the installation of any Software or firmware upgrades, if available, and if requested by Customer, are not covered by Depot Support Services. Firmware (including equipment service packs) which may be available to resolve a Product issue is not installed by the Kronos Depot Repair Center but is available for download at Kronos' customer web site provided Customer is maintaining the Product under an annual Depot Support Services plan with Kronos.

11.7 WARRANTY

(a) *Depot Repair and Exchange warranty*: Kronos warrants that all repairs performed under this Section B shall be performed in a professional and competent manner.

(b) *Services Pack support Warranty*: Kronos warrants that all service packs and firmware updates provided under this Section B shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Customer's remedy shall be Kronos' repair or replacement of the deficient service pack(s) or firmware update(s), at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

11.8 LIMITATION OF REMEDIES

To the extent permitted by law, the remedy of Customer and liability of Kronos shall be replacement of the repaired Product.

12. KRONOS SUPPORT SERVICE POLICIES

Kronos' then-current Support Services Policies shall apply to all Support Services purchased and may be accessed at: <http://www.kronos.com/Support/SupportServicesPolicies.htm> ("Support Policies"). In the event of a conflict between the Support Policies and this Agreement, the terms of this Agreement shall prevail.

13. FIRMWARE

Customer may not download firmware updates for the Kronos Equipment unless Customer is maintaining such Equipment under a support plan with Kronos. If Customer is not maintaining the Equipment under a support plan with Kronos, Kronos shall have the right to verify Customer's Kronos Equipment to determine if Customer has downloaded any firmware to which Customer is not entitled.

14. TRAINING POINTS

Training Points which are purchased by Customer may be redeemed for an equivalent value of Instructor-led training sessions offered by Kronos. Available Instructor-led sessions are listed at <http://customer.kronos.com> and each session has the Training Points value indicated. Training Points are invoiced when used by the Customer. Points may be redeemed at any time within 12 months of the date of the applicable Order Form, at which time they shall expire. Training Points may not be exchanged for other Kronos products and/or services.

15. KNOWLEDGEPASS EDUCATION SUBSCRIPTION:

The parties hereby agree that the following terms shall apply to Customer's purchase of the Kronos KnowledgePass Education Subscription only, if specified on the Order Form:

Scope: The KnowledgePass Education Subscription is available to customers who are licensing Kronos' Workforce Central and iSeries Timekeeper Software products and who are maintaining such products under a support plan with Kronos. The KnowledgePass Education Subscription provides access via the internet to certain educational offerings provided by Kronos (the "KnowledgePass Content"), including:

- Product and upgrade information for project teams and end users
- Hands-on interactive instruction on common tasks
- Self-paced tutorials covering a range of topics
- Job aids
- Knowledge assessment and reporting tools to measure progress
- Webinars

Term of Subscription: The annual KnowledgePass Education Subscription shall run co-terminously with Customer's Software Support, and shall renew for additional one (1) year terms provided Customer renews its KnowledgePass Education Subscription as provided below.

Payment: Customer shall pay the annual subscription charge for the initial term of the KnowledgePass Education Subscription in accordance with the payment terms on the Order Form. Kronos will send Customer a renewal invoice for renewal of the KnowledgePass Education Subscription at least forty five (45) days prior to expiration of the then current term. KnowledgePass Education Subscription shall renew for an additional one (1) year term if Customer pays such Invoice before the end of the initial term or any renewal term.

The KnowledgePass Subscription is available when the Customer subscribes on annual basis.

Limitations: Customer recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Customer is permitted to make copies of the KnowledgePass Content provided in pdf form solely for Customer's internal use and may not disclose such KnowledgePass Content to any third party other than Customer's employees. Customer may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Customer may download and modify contents of Training Kits solely for Customer's internal use.

Train-the-Trainer Program (TTT): Certification under the Train-the-Trainer Program is valid only for the point release of the Software for which the TTT Program is taken, and covers only the Customer employee who completes the TTT Program.

16. INDEMNIFICATION

Kronos agrees to indemnify Customer and to hold it harmless from and against any and all claims, costs, fees and expenses (including reasonable legal fees) relating to actual or alleged infringement of United States or Canadian patents or copyrights asserted against Customer by virtue of Customer's use of the Software as delivered and maintained by Kronos, provided that: i) Kronos is given prompt written notice of any such claim and has sole control over the investigation, preparation, defense and settlement of such claim; and, ii) Customer reasonably cooperates with Kronos in connection with the foregoing and provides Kronos with all information in Customer's possession related to such claim and any further assistance as reasonably requested by Kronos. Kronos will have no obligation to indemnify Customer to the extent any such claim is based on the use of the Software with software or equipment not supplied by Kronos. Should any or all of the Software as delivered and maintained by Kronos become, or in Kronos' reasonable opinion be likely to become, the subject of any such claim, Kronos may at its option: i) procure for Customer the right to continue to use the affected Software as contemplated hereunder; ii) replace or modify the affected Software to make its use non-infringing; or iii) should such options not be available at reasonable expense, terminate this Agreement with respect to the affected Software upon thirty (30) days prior written notice to Customer. In such event of termination, Customer shall be entitled to a pro-rata refund of all fees paid to Kronos for the affected Software, which refund shall be calculated using a five year straight-line depreciation commencing with the date of the relevant Order. Additionally, Kronos agrees to be liable for tangible property damage or personal injury caused solely by the negligence or willful misconduct of its employees.

17. LIMITATION OF LIABILITY

CUSTOMER'S EXCLUSIVE REMEDIES AND KRONOS' SOLE LIABILITY FOR ANY KRONOS BREACH OF THIS AGREEMENT ARE EXPRESSLY STATED HEREIN. EXCEPT AS PROVIDED IN THIS AGREEMENT, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED.

EXCEPT FOR i) KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN ARTICLE 16 ABOVE; (ii) CUSTOMER'S CLAIMS FOR TANGIBLE PROPERTY DAMAGE OR PERSONAL INJURY TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER PARTY'S EMPLOYEES, IN NO EVENT SHALL KRONOS' OR ITS PARENTS', SUBSIDIARIES', AFFILIATES', OR THIRD PARTY LICENSOR'S LIABILITY TO A CUSTOMER, HOWSOEVER CAUSED, EXCEED THE VALUE OF THE ORDER WHICH GIVES RISE TO

THE CLAIM, AND IN NO EVENT WILL KRONOS OR ITS PARENTS, SUBSIDIARIES AFFILIATES OR THIRD PARTY LICENSORS BE LIABLE FOR LOST PROFITS, LOST DATA OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT WHETHER SUCH CLAIM IS BASED ON WARRANTY, CONTRACT, TORT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR CUSTOMER'S SPECIFIC USE OF, OR INABILITY TO SO USE, ANY EQUIPMENT, SOFTWARE OR SERVICES PROVIDED FOR IN THIS AGREEMENT.

**SECTION C
CLOUD APPLICATION HOSTING
SUPPLEMENTAL TERMS AND CONDITIONS**

These terms and conditions apply to the cloud services which are identified in the Pricing as the Cloud 2 in the Pricelist Name.

These Application Hosting Supplemental Terms and Conditions are applicable for hosting services ordered by Customer for Kronos Software licensed under Section B of this Agreement.

1. DEFINITIONS

“Application(s)” means those Kronos software applications set forth in the Cloud Hosting SSS which are made accessible for Customer to use under the terms of this Addendum.

“Application Hosting Program” or “Program” means (i) accessibility to the Applications, by means of access to the password protected customer area of the Kronos hosting environment, and (ii) all Hosting Related Services.

“Content” means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Program, including but not limited to information, data (such as payroll data, vacation time, and hours worked), designs, know-how, logos, text, multimedia images (e.g. graphics, audio and video files), compilations, software programs, third party software, applications, or other materials, or any other Customer content shared or processed on equipment under the control of Kronos.

“Hosting Related Services” means certain services set forth in a Services Scope Statement (SSS) containing hosted related services (the “Cloud Hosting SSS”), such as hosting infrastructure, equipment, bandwidth, server monitoring, backup services, reporting services, storage area network (SAN) services, load balancing services, security services, system administration, connectivity services, performance tuning, service pack installation and all professional and/or Cloud Services and maintenance services related to hosting.

“Initial Term” means the initial term of the Program as set forth in the applicable Cloud Hosting SSS.

“Internal Use” means the use of the Program: (i) by Customer’s personnel solely for Customer’s internal business purposes and (ii) by any authorized employee, agent or contractor of Customer to process information relating to Customer’s employees assigned to, or potential employees of, Customer’s authorized business unit(s), solely for the internal business purposes of such business unit(s).

“Monthly Service Fee(s)” means the monthly fees described in the Cloud Hosting SSS and set forth on the applicable Order Form..

“Order Form” means the order request form supplied by Kronos and signed by the Parties that lists the fees for the elements of Customer’s particular Program.

“Personally Identifiable Data” means information concerning individually identifiable employees of Customer that is protected against disclosure under applicable law or regulation.

“Production Environment” means a permanent environment established for the daily use and maintenance of the Applications in a live environment throughout the term of a Program.

“Service Description” means the detailed service description (including any supplementary service terms) specified in the Cloud Hosting SSS which sets forth the specific Program to be provided to the Customer.

“SLA(s)” means a service level agreement offered by Kronos for the Production Environment and attached to this Section C as Exhibit A which contains key service level standards and commitments that apply to the Program as detailed in the Service Description.

“SLA Credit” means the credit calculated in accordance with the SLA and offered by Kronos in the event of outages, interruptions or deficiencies in the delivery of the Program that result in a failure to meet the terms of the applicable SLA.

“Supplier” means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Program.

“Temporary Environment” means a transient database environment created to serve limited purposes for a limited time period, and identified in the applicable Cloud Hosting SSS as a Temporary Environment.

2. CLOUD HOSTING SERVICES SCOPE STATEMENT

The description of the particular Program ordered by the Customer, the Program term, the Monthly Service Fee rates, and other fees, if any, applicable to the Program are described in the applicable Cloud Hosting SSS and Order Form. Kronos will not change the Monthly Service Fee rates it charges for Customer’s existing Program, or the SLA, during the Initial Term. Kronos may change such Monthly Service Fee rates or the associated SLA for a renewal term of the particular Program by notifying Customer at least sixty (60) days prior to the expiration of the then current term. SLAs are only available in a Production Environment. Unless the Cloud Hosting SSS indicates that the Program is to be implemented in a Temporary Environment, the Program will be deemed to be implemented in a Production Environment.

3. AUTHORIZED USE

Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Program, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Section C.

4. MAINTENANCE ACCESS

If Kronos, its Suppliers, or the local access provider, as applicable, requires access to Customer sites in order to maintain or repair the Program, Customer shall cooperate in a timely manner and reasonably provide such access and assistance as necessary. As part of Kronos' support services, Kronos will make updates to the Applications available to Customer at no charge as they are released generally to Kronos' customers. Customer agrees to receive those updates automatically as part of the Program. Customer may be required to purchase additional Hosting Related Services to address infrastructure requirements as released by Kronos for a new version of a particular Application.

5. CUSTOMER REPRESENTATIONS AND WARRANTIES; CUSTOMER OBLIGATIONS

5.1 Customer represents and warrants to Kronos that it has the right to publish and disclose Customer's Content in the Program.

5.2 Customer represents and warrants to Kronos that Customer's Content will not: (a) infringe or violate any third-party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.

5.3 Customer will, at its own cost and expense, provide all end user equipment, operating systems, and software (including a web browser) not provided by Kronos and needed to access and use the Program. Customer will also provide, at its own cost and expense, all connections from its computer systems to the Program, which shall include all related costs associated with Customer accessing the Program, unless such connectivity services are purchased from Kronos as indicated on the Cloud Hosting SSS and Order Form.

5.4 Customer shall not, and shall not permit any person or entity under Customer's direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide access to the Program to any third party; (b) use the Program on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Program; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Program or any software components of the Program; (e) use, or allow the use of, the Program in contravention of any applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Program any virus or other code or routine intended to disrupt or damage the Program, alter, damage, delete, retrieve or record information about the Program or its users; or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Program.

6. CONNECTIVITY AND ACCESS

6.1 Customer acknowledges that Customer shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); and (b) provide Kronos and Kronos' representatives with such physical or remote access to Customer's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Agreement. Customer will make all necessary arrangements as may be required to provide access to Customer's computer and network environment if necessary for Kronos to perform its obligations under the Agreement. Customer agrees that Kronos may audit Customer's use of the Services.

7. FEES AND PAYMENT TERMS

7.1 In consideration of the delivery of the Program, Customer shall pay Kronos the Monthly Services Fee as defined in the applicable Order Form. The Monthly Services Fee shall begin to accrue on the date the Order Form and SSS are signed by the parties, and shall be invoiced annually in advance.

7.2 All fees payable hereunder shall be paid in United States Dollars and sent to the attention of Kronos as specified on the invoice. Payment terms shall be net 30 days following receipt of invoice.

7.3 SLA Credits, if any, which are due and owing to a Customer under an SLA for a particular month of the Program shall be paid by Kronos in the month following the month in which the SLA Credits were earned.

8. SERVICE LEVEL AGREEMENT

CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE, INTERRUPTION OR DEFICIENCY OF SERVICE(S) OR FAILURE BY KRONOS TO MEET THE TERMS OF AN APPLICABLE SLA, SHALL BE THE REMEDIES PROVIDED IN THE SLA; PROVIDED THAT ANY REMEDIES OR CREDITS CONTAINED IN THE SLA ARE NOT AVAILABLE FOR OUTAGES, INTERRUPTIONS OR DEFICIENCIES OCCURRING DURING ANY PERIOD IN WHICH CUSTOMER IS IN BREACH OF THIS ADDENDUM OR THE LICENSE AGREEMENT. KRONOS DISCLAIMS ANY AND ALL OTHER LIABILITIES OR REMEDIES FOR SUCH OUTAGES, INTERRUPTIONS OR DEFICIENCIES OF SERVICES.

9. LIMITATION OF LIABILITY

IN ADDITION TO THE LIMITATIONS SET FORTH IN THE LICENSE AGREEMENT, EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY AND SERVICE CREDITS, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF SECURITY OR DISCLOSURE, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT OR SOFTWARE OR SYSTEMS, OR MACHINE ERROR.

10. DATA SECURITY

10.1 As part of the Program, Kronos shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data as described at: <http://www.kronos.com/products/smb-solutions/workforce-central-saas/security-description.aspx>. Customer acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular Kronos supplied security-related safeguard as just one tool to be used as part of Customer's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Agreement.

10.2 As between Customer and Kronos, all Personally Identifiable Data is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of Customer's knowledge such Personally Identifiable Data supplied to Kronos is accurate. Customer hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only

for the purposes described herein and only to the extent such use or processing is necessary for Kronos to carry out Kronos' duties and responsibilities under this Agreement or as required by law.

10.3 Prior to initiation of the Program and on an ongoing basis thereafter, Customer agrees to provide notice to Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer's industry and which could be imposed on Kronos as a result of provision of the Program. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or Kronos' data center is permitted under applicable data protection laws and regulations; and (b) Customer will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

11. TERM AND TERMINATION

11.1 At the expiration of the Initial Term, the applicable Program shall automatically renew for successive one year periods unless either party provides notice of its intent not to renew at least sixty (60) days prior to the expiration of the then-current term. Kronos may suspend or terminate the Program upon notice in the event of any breach by Customer of this Section C if such breach is not cured within ten (10) days of the date of Kronos' written notice. No Program Interruption shall be deemed to have occurred during, and no Program credits shall be owed for, any authorized suspension of the Program.

11.2 Customer may terminate the Program by written notice at any time during the term of the Addendum if Kronos materially breaches any provision of this Addendum, and such default is not cured within thirty (30) days after receipt of written notice from Customer. In the event of such termination by Customer, Customer shall pay Kronos within thirty (30) days all fees then due and owing for the Program prior to the date of termination.

11.3 Customer may terminate the Program for convenience on no less than ninety (90) days prior written notice to Kronos.

11.4 In the event of termination of the Program by Customer for convenience or by Kronos for cause during the Initial Term, Customer will pay to Kronos any out of pocket expenses incurred by Kronos in terminating the Program plus an early termination fee based on the following calculation: one (1) month of the then-current Monthly Services Fees for every twelve (12) month period (or portion thereof) remaining in the Initial Term. By way of example only, if Customer terminates the Program for convenience with fifteen (15) months remaining in the Initial Term, Customer will be responsible to pay Kronos two (2) months of the applicable Monthly Services Fees.

EXHIBIT A

SERVICE LEVEL AGREEMENT (SLA)

Service Level Agreement: The Services, in a production environment and as described in the Statement of Work (aka Services Scope Statement), are provided with the service levels described in this Exhibit A. SLAs are only applicable to production environments. SLAs will be available upon Customer's signature of Kronos' Go Live Acceptance Form for Customer's production environment.

99.75% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100) and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Customer in Customer's production environment hosted by Kronos and end when Kronos has restored availability of the Services. Failure to meet the 99.75% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Customer to a credit as follows:

Actual Application Availability % (as measured in a calendar month)	Service Credit to be applied to Customer's monthly invoice for the affected month
<99.75% to 98.75%	10%
<98.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75 to 96.75%	35%
<96.75	50%

"Outage" means the accumulated time, measured in minutes, during which Customer is unable to access the Applications for reasons other than an Excluded Event.

"Excluded Event" means any event that results in an Outage and is caused by (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos, including without limitation Customer Content, failures or malfunctions resulting from circuits provided by Customer, any inconsistencies or changes in Customer's source environment, including either intentional or accidental connections or disconnections to the environment; (c) Force Majeure events; (d) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined below; (e) any suspension of the Services in accordance with the terms of the Agreement to which this Exhibit A is attached; (f) the unavailability of required Customer personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (g) using an Application in a manner inconsistent with the product documentation for such Application.

"Maintenance Period" means scheduled maintenance periods established by Kronos to maintain and update the Services, when necessary. During these Maintenance Periods, the Services are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Services available to Customer; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Customer contact at least one day in advance of any known downtime so planning can be facilitated by Customer.

Currently scheduled Maintenance Periods for the Services are:

Monday through Friday 04:00 am – 06:00 am (U.S. eastern time)
Saturday and Sunday 12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Customer and Kronos.

"Monthly Minutes (MM)" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

"Total Minutes Not Available (TM)" means the total number of minutes during the calendar month that the Services are unavailable as the result of an Outage.

Limitations: Service Credits will not be provided if: (a) Customer is in breach or default under the Agreement at the time the Outage occurred; or (b) the Outage results from an Excluded Event. If Kronos does not provide the appropriate Service Credit as due hereunder, Customer must request the Service Credit within sixty (60) calendar days of the conclusion of the month in which the Service Credit accrues. Customer waives any right to Service Credits not requested within this time period. All performance calculations and applicable Service Credits are based on Kronos records and data unless Customer can provide Kronos with clear and convincing evidence to the contrary.

The Service Level Agreements in this Exhibit, and the related Service Credits, apply on a per production environment basis. For the avoidance of doubt, Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating Service Credits.

Customer acknowledges that Kronos manages its network traffic in part on the basis of Customer's utilization of the Services and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Customer significantly changes its utilization of the Services than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the parties agree to co-operate, in good faith, to resolve the issue.

**SECTION C.1:
APPLICATION HOSTING TERMS AND CONDITIONS .**

**This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B in relation with hosting pricing referred to as CLOUD
This attachment does not apply to CLOUD 2 items.**

APPLICATION HOSTING SUPPLEMENTAL TERMS AND CONDITIONS

These Application Hosting Supplemental Terms and Conditions are applicable for hosting services ordered by Customer for Kronos Software licensed under Section B of this Agreement using the pricing set up on November 21, 2013.

definitions

“Application Hosting Program” or “Program” means (i) accessibility to the commercially available object code version of the Kronos hosted applications, as set forth in the Cloud Services SOW, by means of access to the password protected customer area of the Kronos hosting environment, and (ii) all Hosting Related Services.

“Content” means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Program, including but not limited to information, data (such as payroll data, vacation time, and hours worked), designs, know-how, logos, text, multimedia images (e.g. graphics, audio and video files), compilations, software programs, third party software, applications, or other materials, or any other Customer content shared or processed on equipment under the control of Kronos or a Supplier.

“Hosting Related Services” means certain services set forth in a statement of work containing hosted related services (the “Cloud Services SOW”), such as hosting Infrastructure, equipment, bandwidth, server monitoring, backup services, reporting services, storage area network (SAN) services, load balancing services, security services, system administration, connectivity services, performance tuning, service pack installation and all professional and/or Cloud Services and maintenance services related to hosting.

“Initial Term” means the initial term for which Kronos shall provide the Program to Customer and as set forth in the applicable Cloud Services SOW executed by Customer.

“Internal Use” means the use of the Program: (i) by Customer’s personnel solely for Customer’s Internal business purposes and (ii) by any authorized employee, agent or contractor of Customer to process information relating to Customer’s employees assigned to, or potential employees of, Customer’s authorized business unit(s), solely for the Internal business purposes of such business unit(s).

“Monthly Service Fee(s)” means the monthly fees described in the Cloud Services SOW and set forth on the applicable Order Form, which shall include all Hosting Related Services fees.

“Order Form” means the order request form supplied by Kronos and signed by the Parties that lists the Startup Fees and Monthly Service Fees for the elements of Customer’s particular Program.

“Personally Identifiable Data” means information concerning individually identifiable employees of Customer that is protected against disclosure under applicable law or regulation.

“Production Environment” means a permanent environment established for the daily use and maintenance of the Application in a live environment throughout the term of a Program.

“Services Commencement Date” shall, except as otherwise provided in writing in a Cloud Services SOW or Order Form signed by the parties, mean the earlier of (a) the date the Software is transferred to the hosted environment, as mutually agreed by the parties in writing or (b) 90 days after the Effective Date. Notwithstanding the foregoing, the Services Commencement Date for software hosted in a Temporary Environment shall commence seven (7) days after the Effective Date.

“Service Description” means the detailed service description (including any supplementary service terms) specified in the Cloud Services SOW which sets forth the specific Program to be provided to the Customer.

“SLA(s)” means a service level agreement offered by Kronos for the Production Environment and attached to this Section C.1 as Exhibit A.1 which contains key service maintenance standards and commitments that apply to the Program as detailed in the Service Description.

“SLA Credit” means the credit calculated in accordance with the SLA and offered by Kronos in the event of outages, interruptions or deficiencies in the delivery of the Program that result in a failure to meet the terms of the applicable SLA.

“Supplier” means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Program.

“Temporary Environment” means a transient database environment created to serve limited purposes for a limited time period, and identified in the applicable Cloud Services SOW as a Temporary Environment.

“Startup Fees” means the one time, customer-specific startup fee as indicated on the Order Form that will be charged to Customer to enable access to the Program.

Cloud Services STATEMENT OF WORK

The description of the particular Program ordered by the Customer, the Program term, the Monthly Service Fee rates, the Startup Fees and other fees, if any, applicable to the Program are described in the applicable Cloud Services SOW and Order Form. Kronos will not change the Monthly Service Fee rates it charges for Customer’s existing Program, or the SLA, during the Initial Term. Kronos may change such Monthly Service Fee

rates or the associated SLA for a renewal term of the particular Program by notifying Customer at least sixty (60) days prior to the expiration of the then current term. SLAs are only available in a Production Environment. Unless the Cloud Services SOW indicates that the Program is to be implemented in a Temporary Environment, the Program will be deemed to be implemented in a Production Environment.

Authorized Use

Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Program, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this section C.1.

MAINTENANCE ACCESS

If Kronos, its Suppliers, or the local access provider, as applicable, requires access to Customer sites in order to maintain or repair the Program, Customer shall cooperate in a timely manner and reasonably provide such access and assistance as necessary.

Customer representations and warranties; Customer obligations

5.1 Customer represents and warrants to Kronos that it has the right to publish and disclose Customer's Content in the Program.

5.2 Customer represents and warrants to Kronos that Customer's Content will not: (a) infringe or violate any third-party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.

5.3 Customer will, at its own cost and expense, provide all end user equipment, operating systems, and software (including a web browser) not provided by Kronos and needed to access and use the Program in accordance with the technical requirements set forth in the Cloud Services SOW. Customer will also provide, at its own cost and expense, all connections from its computer systems to the Program, which shall include all related costs associated with Customer accessing the Program, unless such connectivity services are purchased from Kronos as indicated on the Cloud Services SOW and Order Form.

5.4 Customer shall not, and shall not permit any person or entity under Customer's direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide access to the Program to any third party; (b) use the Program on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Program; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Program or any software components of the Program; (e) use, or allow the use of, the Program in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Program any virus or other code or routine intended to disrupt or damage the Program, alter, damage, delete, retrieve or record information about the Program or its users; or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Program.

6. INTERNET ACCESS

6.1 If Customer uses open Internet connectivity or Customer-supplied VPN Internet connections to access the Program, Customer acknowledges that the performance and throughput of the Internet connection cannot be guaranteed by Kronos, and variable connection performance may result in application response variations.

6.2 Customer hereby acknowledges that the Internet is not owned, operated, managed by, or in any way affiliated with Kronos, its Suppliers or any of its affiliates, and that it is a separate network of computers independent of Kronos. Access to the Internet is dependent on numerous factors, technologies and systems, many of which are beyond Kronos' authority and control. Customer acknowledges that Kronos cannot guarantee that the Internet access services chosen by Customer will meet the level of up-time or the level of response time that Customer may need. Customer agrees that its use of the Internet access services and the Internet is solely at its own risk, except as specifically provided in this Section C.1, and is subject to all applicable local, state, national and International laws and regulations.

7. Fees and payment terms

7.1 In consideration of the delivery of the Program, Customer shall pay Kronos the Monthly Services Fee as defined in the applicable Order Form. The Monthly Services Fee shall begin to accrue on the Services Commencement Date, and shall be invoiced monthly in advance. In addition, Customer shall be billed the Startup Fees and any additional Cloud Hosting startup fees set forth in the applicable Order Form. Customer acknowledges that the billing commencement date does not coincide with implementation completion, final configuration, or go-live.

7.2 All fees payable hereunder shall be paid in United States Dollars and sent to the attention of Kronos as specified on the invoice. Payment terms shall be net 30 days following receipt of invoice. All overdue payments shall bear interest at the lesser of one and one-half percent (1.5%) per month or the maximum rate allowed under applicable law. Customer is responsible for all federal, state or local taxes, duties and customs fees relating to the Program, excluding taxes based on Kronos' income or business privilege.

7.3 SLA Credits, if any, which are due and owing to a Customer under an SLA for a particular month of the Program shall be included in the Monthly Service Fee invoice issued by Kronos for the month following the month in which the SLA Credits were earned.

8. SERVICE LEVEL AGREEMENT

CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE, INTERRUPTION OR DEFICIENCY OF SERVICE(S) OR FAILURE BY KRONOS TO MEET THE TERMS OF AN APPLICABLE SLA, SHALL BE THE REMEDIES PROVIDED IN THE SLA; PROVIDED THAT ANY REMEDIES OR CREDITS CONTAINED IN THE SLA ARE NOT AVAILABLE FOR OUTAGES, INTERRUPTIONS OR DEFICIENCIES OCCURRING DURING ANY PERIOD IN WHICH CUSTOMER IS IN BREACH OF THIS SECTION C.1 OR SECTION B. KRONOS DISCLAIMS ANY AND ALL OTHER LIABILITIES OR REMEDIES FOR SUCH OUTAGES, INTERRUPTIONS OR DEFICIENCIES OF SERVICES.

9. Limitation of liability

IN ADDITION TO THE LIMITATIONS SET FORTH IN THE LICENSE AGREEMENT, EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY AND SERVICE CREDITS, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF SECURITY OR DISCLOSURE, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR

APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT OR SOFTWARE OR SYSTEMS, OR MACHINE ERROR.

10. DATA SECURITY

10.1 As part of the Program, Kronos shall provide those Kronos security-related services described in the Cloud Services SOW. Customer acknowledges that the security-related services endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular security-related service as just one tool to be used as part of an overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties.

10.2 All Personally Identifiable Data contained in any Software, Equipment or systems supplied by Kronos, or to which Kronos has access to under this Section C.1, as between Kronos and Customer, is Customer's Confidential Information and will remain the property of Customer. Customer hereby consents to the use, processing and/or disclosure of Personally Identifiable Data only for the purposes described herein and to the extent such use or processing is necessary for Kronos to carry out its duties and responsibilities under this Section C.1 or as required by law.

10.3 Prior to initiation of the Program and on an ongoing basis thereafter, Customer agrees to provide notice to Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer and which could be imposed on Kronos as a result of provision of the Program. Customer will ensure that: (a) the transfer and storage of any Personally Identifiable Data to Kronos and managed by Kronos' or Supplier's data center is legitimate under applicable data protection laws and regulations; and (b) Customer will obtain consent from individuals for such transfer and storage to the extent required under applicable laws and regulations.

10.4 At no cost to Customer, Kronos shall upon (i) request by Customer at any time and (ii) the cessation of the Program, promptly return to Customer, in the format and on the media in use as of the date of the request, all Personally Identifiable Data.

11. term and termination

11.1 At the expiration of the Initial Term, the applicable Programs shall automatically renew for successive one year periods unless either party provides notice of its intent not to renew at least sixty (60) days prior to the expiration of the then-current term. Kronos may suspend or terminate the Program upon notice in the event of any breach by Customer of this Section C.1. No Program interruption shall be deemed to have occurred during, and no Program credits shall be owed for, any authorized suspension of the Program.

11.2 Customer may terminate the Program by written notice at any time during the term of this Section if Kronos materially breaches any provision of this Section, and such default is not cured within thirty (30) days after receipt of written notice from Customer. In the event of such termination by Customer, Customer shall pay Kronos within thirty (30) days all fees then due and owing for the Program prior to the date of termination.

11.3 Customer may terminate the Program for convenience on no less than ninety (90) days prior written notice to Kronos.

11.4 In the event of termination of the Program by Customer for convenience or by Kronos for cause during the Initial Term, Customer will pay to Kronos any out of pocket expenses incurred by Kronos in terminating the Program plus an early termination fee based on the following calculation: one (1) month of the then-current Monthly Services Fees for every twelve (12) month period (or portion thereof) remaining in the Initial Term. By way of example only, if Customer terminates the Program for convenience with fifteen (15) months remaining in the Initial Term, Customer will be responsible to pay Kronos two (2) months of the then-current Monthly Services Fees.

**EXHIBIT A.1
TO SECTION C.1
SERVICE LEVEL AGREEMENT (SLA)**

Service Level Types: SLAs are only applicable to Production Environments. The Program, in a Production Environment, as described in the Service Description is provided with the following service level:

99.50% Application Availability

Service Levels/Credit Calculation: An Outage will be deemed to commence when Customer opens a case with Kronos Global Support, or Kronos Cloud Services receives an application availability alert. The Outage will be deemed to end when Kronos has restored availability of the Program. Failure to meet the above service levels will entitle Customer to credits as follows.

99.50% Application Availability SLA – Production Environment	
Uptime percentage (as measured in a calendar month)	Affected Service Credit
The amount of the Credit will be determined as follows:	
<99.50% to 98.75%	15%
<98.75% to 98.25%	20%
<98.25% to 97.75%	35%
<97.75 to 96.75%	50%
<96.75	75%

Application Availability SLA% = ((MM-TM)*100) / (MM)

Definitions

“Affected Service” means the monthly fees paid for the hosting of the Program.

“Excluded Event” means any event that adversely impacts the Program that is caused by (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos or Supplier; (c) Force Majeure events; (d) scheduled or emergency maintenance, alteration or implementation; (e) any suspension of the Program in accordance with the terms of this Section or License Agreement; (f) the unavailability of required Customer personnel, including as a result of failure to provide Supplier with accurate, current contact information; (g) using the Application in a manner inconsistent with the product documentation; or (h) any other exclusionary circumstance specified in the applicable Cloud Services SOW.

“Monthly Minutes (MM)” means total minutes in which service was scheduled to be available.

“Outage” means the accumulated time during which Customer is unable to establish an active communications connection, measured from beginning to end, between Customer and the Program for reasons other than (a) failures caused by Customer Data; or (b) any Excluded Events.

“Scheduled Maintenance (SM)” means scheduled maintenance periods established by Kronos to provide ample time to maintain and update the applications, when necessary. During these maintenance periods, the applications are available to Kronos to perform periodic services, which include vital software updates. Systems will generally continue to be available to Customer; however, some changes will require planned downtime. Kronos will provide notice for planned downtime via an email notice to our primary Customer contact at least one day in advance of such shutdown/restart so planning can be facilitated by Customer.

When application maintenance is required, current Scheduled Maintenance periods for the applications are:

Monday through Friday	4am – 6am
Saturday and Sunday	12am - 6am

- All times listed are U.S. Eastern Time.
- Kronos’ utilization of the above maintenance windows shall not trigger SLA Credits to Customer.

“Total Minutes Not Available” (TM) means the total number of minutes during the calendar month that the Program is unavailable outside of scheduled maintenance windows.

Limitations: Kronos will apply any credits to the Customer account. Credits will not be provided if: (a) Customer is in breach or default under this Section or the Program at the time the Outage occurred and such breach is the cause of the Outage; or (b) it results from an Excluded Event.

In no event will the credits accrued in any calendar month exceed, in the aggregate across all service levels and events, one hundred (100%) of the Invoice amount for the Affected Service.

The Service Level Agreements in this Exhibit, and the related credits listed, apply on a per Program basis. For the avoidance of doubt, Outages, delays, failures, etc. in one Program may not be added to Outages, delays, failures, etc. in any other Program for purposes of calculating SLA credits.

SECTION D
KRONOS WORKFORCE CENTRAL - SOFTWARE AS A SERVICE (SAAS) TERMS AND CONDITIONS

Customer and Kronos agree that the terms and conditions set forth in this Section D shall apply to the Kronos supply of the commercially available version of the Workforce Central SaaS Applications and related services and materials (including applicable documentation) and Equipment (if any) specified on an Order Form. The Applications described on the Order Form shall be delivered by means of Customer's permitted access to the password protected customer area of a Kronos website.

1. DEFINITIONS

"Application(s)" or "SaaS Application(s)" means those Kronos software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Section D.

"Cloud Services" means those services related to Customer's hosting environment such as hosting infrastructure, equipment, bandwidth, server monitoring, backup services, storage area network (SAN) services, security services, system administration, connectivity services, performance tuning, update installation and maintenance services related thereto. Unless otherwise set forth in a Statement of Work, Cloud Services are described as set forth at: <http://www.kronos.com/products/smb-solutions/workforce-central-saas/implementation-guidlines.aspx>

"Customer Content" means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Services.

"Documentation" means technical publications published by Kronos relating to the use of the Services or Applications.

"Equipment" means the Kronos equipment specified on an Order Form.

"Implementation Services" means those services provided by Kronos to set up the hosting environment and configure the Services, including educational services and training. Unless otherwise set forth in a Statement of Work, Kronos' and Customer's implementation responsibilities are described in the Services Implementation Guideline set forth at: <http://www.kronos.com/products/smb-solutions/workforce-central-saas/implementation-guidlines.aspx> Implementation Services may be provided as forth in Section B

"Initial Term" means the initial term of the Services as indicated on the Order Form.

"KnowledgePass Content"/"KnowledgePass Education Subscription" have the meanings ascribed in Section 7.5.

"Minimum Contract Value" means the total of all Monthly Service Fees to be invoiced during the Initial Term.

"Monthly Service Fee(s)" means the monthly fees described in an Order Form. Monthly Service Fees include fees for usage of Applications and the Services, Cloud Services as applicable, and Equipment rental, if any. Billing of the Monthly Service Fee(s) commences on the Start Date.

"Order Form" means an order form mutually agreed upon by Kronos and Customer setting forth the items ordered by Customer and to be provided by Kronos, including without limitation the Applications and the prices and fees to be paid by Customer.

"Personally Identifiable Data" means information concerning individually identifiable employees of Customer that is protected against disclosure under applicable law or regulation.

"Services" means (i) accessibility to the commercially available version of the Applications by means of access to the password protected customer area of a Kronos website, (ii) the Equipment purchased or rented hereunder, (iii) the Implementation Services and Cloud Services, and (iv) such other services, items and offerings set forth on an Order Form.

"Start Date" means the date billing commences for the Services (excluding the implementation Services) as indicated on the applicable Order Form. For any Services ordered by Customer after the date of this Section D which are incremental to Customer's then-existing Services, the Start Date shall be the date the applicable Order Form is executed by Kronos and Customer.

"Statement of Work", "SOW", "Services Scope Statement" and "SSS" are interchangeable terms referring to a written description of the Implementation Services and Cloud Services as mutually agreed upon by Kronos and Customer. An SOW supersedes any implementation guidelines or descriptions on a web page referenced in this Section D.

"Supplier" means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Program.

"Term" means the initial Term and any monthly renewals thereafter, as further set forth in Section 2.1.

"Training Points" has the meaning ascribed to it in Section 7.6 below.

2. TERM

2.1 The Services shall commence on the Start Date, and shall continue for the Initial Term or until terminated in accordance with the provisions hereof. At the expiration of the Initial Term, the Term shall automatically renew on a month-to-month basis until terminated in accordance with the provisions hereof. Customer acknowledges that execution of separate third party agreements may be required in order for Customer to use certain add-on features or functionality, including without limitation tax filing services.

2.2 At any time after the Initial Term: (i) Customer may terminate the Services for convenience upon thirty (30) days prior written notice, and (ii) Kronos may terminate the Services for convenience upon ninety (90) days prior written notice.

2.3 Either party may suspend or terminate the Services upon a material breach of this Section D by the other party if such breach is not cured within fifteen (15) days after receipt of written notice. Notwithstanding the foregoing, Kronos may suspend or terminate the Services immediately upon notice in the event of any Customer breach of Sections 3 (Right to Use), 4 (Acceptable Use), or 14 (Confidential Information).

2.4 In the event that either party becomes insolvent, makes a general assignment for the benefit of creditors, is adjudicated a bankrupt or insolvent, commences a case under applicable bankruptcy laws, or files a petition seeking reorganization, the other party may request adequate assurances of future performance. Failure to provide adequate assurances, in the requesting party's reasonable discretion, within ten (10) days of delivery of the request shall entitle the requesting party to terminate the Services immediately upon written notice to the other party.

2.5 If the Services are terminated for any reason:

- (a) Customer shall pay Kronos within thirty (30) days of such termination, all fees accrued for the Services prior to the date of termination, provided that if Customer terminates for material breach of this Section D by Kronos, Kronos shall be responsible to refund to Customer unused pre-paid Implementation Service fees, if any;
- (b) Customer's right to access and use the Services shall be revoked and be of no further force or effect;
- (c) No more than fifteen (15) days after termination or upon Customer's written request at any time during the Term, Kronos will provide to Customer, at no charge to Customer, the Customer Content. After such time period, Kronos shall have no further obligation to store or make available the Customer Content and may delete any or all Customer Content without liability.
- (d) Customer agrees to timely return all Kronos-provided materials related to the Services to Kronos at Customer's expense or, alternatively, destroy such materials and provide Kronos with an officer's certification of the destruction thereof; and
- (e) all provisions in this Section D, which by their nature are intended to survive termination, shall so survive.

3. FEES AND PAYMENT

3.1 In consideration of the delivery of the Services, Customer shall pay Kronos the Monthly Service Fees, the fees for the Implementation Services and any additional one time or recurring fees for Equipment, Training Points, KnowledgePass Education Subscription and such other Kronos offerings, all as set forth on the Order Form. If Customer and Kronos have signed a Statement of Work for the Implementation Services, Implementation Services such services will be provided and payable in accordance with Section B. All fees payable for the Services shall be sent to the attention of Kronos as specified on the Invoice. Unless otherwise indicated on an Order Form, payment for all items shall be due 30 days following date of invoice. Except as expressly set forth in this Section D, all amounts paid to Kronos are non-refundable. Customer acknowledges that fees may be charged to Customer by third parties for add-on features or functionality provided by such third parties.

3.2 If any amount owing under this or any other agreement for Services is thirty (30) or more days overdue, Kronos may, without limiting Kronos' rights or remedies, suspend Services until such amounts are paid in full. Kronos will provide at least seven (7) days' prior written notice that Customer's account is overdue before suspending Services.

3.3 Deleted Intentionally.

3.4 Customer agrees that except if Customer terminates for material breach of this Section D by Kronos, if Customer has not paid the Minimum Contract Value to Kronos at the conclusion of the Initial Term or the earlier termination of the Services, whichever is earlier, Kronos shall bill, and Customer shall pay within thirty (30) days of the date of such invoice, the difference between the total Monthly Service Fees then paid by Customer and the Minimum Contract Value, less SLA Credits, if any, that have been earned previously by Customer but not yet credited.

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of the Agreement, Kronos hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-assignable right to use during the Term and for Internal business purposes only: a) the Application(s) and related services, including the Documentation; b) training materials and KnowledgePass Content; and, c) any embedded third party software, libraries, or other components, which are included in the Services, excluding such Third Party software, libraries or other components as are licensed directly from such Third Parties. The Services contain proprietary trade secret technology of Kronos and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Customer shall not reverse compile, disassemble or otherwise convert the applications into uncompiled or unassembled code. Customer shall not use any of the third party software programs (or the data models therein) included in the Services except solely as part of and in connection with the Services.

4.2 Customer acknowledges and agrees that the right to use the Applications is limited based upon the amount of the Monthly Service Fees paid by Customer. Customer agrees to use only the modules and/or features for the number of employees and users as described on the Order Form. Customer agrees not to use any other modules or features nor increase the number of employees and users unless Customer pays for such additional modules, features, employees or users, as the case may be. Customer may not license, relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any third party. Customer may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Kronos' licensors or Suppliers, is granted hereunder.

4.3 Customer may authorize its third party contractors and consultants to access the Services on an as needed basis, provided Customer: a) abides by its obligations to protect Confidential Information as set forth in this Agreement; b) remains responsible for all such third party usage and compliance with the Agreement; and c) does not provide such access to a competitor of Kronos who provides workforce management services.

4.4 Customer acknowledges and agrees that, as between Customer and Kronos, Kronos retains ownership of all right, title and interest in the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein and under any other agreement in writing with Customer, Customer shall not obtain or claim any rights in or ownership interest in the Services or Applications or any associated intellectual property rights in any of the foregoing. Customer agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Customer through the Services.

4.5 When using and applying the information generated by the Services, Customer is responsible for ensuring that Customer complies with the applicable requirements of federal and state law. If the Services include the Workforce Payroll Applications or Workforce Absence Management Applications: (i) Customer is solely responsible for the content and accuracy of all reports and documents prepared in whole or in part by using these Applications, (ii) using these Applications does not release Customer of any professional obligation concerning the preparation and review of any reports and documents, (iii) Customer does not rely upon Kronos, Best Software, Inc. or these Applications for any advice or guidance regarding compliance with federal and state laws or the appropriate tax treatment of items reflected on such reports or documents, and (iv) Customer will review any calculations made by using these Applications and satisfy itself that those calculations are correct.

5. ACCEPTABLE USE

5.1 Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Section D.

5.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose the Customer Content in the Services. Customer represents and warrants to Kronos that the Customer Content does not: (a) infringe or violate any third-party right, including but not limited to intellectual property, privacy, or publicity rights, (b) be abusive, profane, or offensive to a reasonable person, or, (c) be hateful or threatening.

5.3 Customer will not (a) use, or allow the use of, the Services in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (d) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

6. CONNECTIVITY AND ACCESS

Customer acknowledges that Customer shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); and (b) provide Kronos and Kronos' representatives with such physical or remote access to Customer's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under this Section D. Customer will make all necessary arrangements as may be required to provide access to Customer's computer and network environment if necessary for Kronos to perform its obligations under this Section D. Customer agrees that Kronos may audit Customer's use of the Services.

7. IMPLEMENTATION AND SUPPORT

7.1 Implementation Services. Kronos will provide the Implementation Services to Customer. Implementation Services described in an SSS are provided on a time and materials basis, billed monthly as delivered. Implementation Services described in the Services Implementation Guideline are provided on a fixed fee basis. If Customer requests additional Implementation Services beyond those described in the SSS, Kronos will create a change order for Customer's review and approval and any additional Implementation Services to be provided by Kronos in accordance with Section B. Kronos' configuration of the Applications will be based on information and work flows that Kronos obtains from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met.

7.2 Additional Services. Customer may engage Kronos to provide other services which may be fixed by activity or provided on a time and materials basis as indicated on the applicable Order Form.

7.3 Support. Kronos will provide 24x7 support for the hosting infrastructure, the availability to the hosting environment, and telephone support for the logging of functional problems and user problems. Customer may log questions online via the Kronos Customer Portal. As part of such support, Kronos will make updates to the Services available to Customer at no charge as such updates are released generally to Kronos' customers. Customer agrees that Kronos may install such updates automatically as part of the Services.

7.4 Support Services for Equipment. Provided Customer has purchased support services for the Equipment, the following terms shall apply (support services for rented Equipment are included in the rental fees for such Equipment):

(a) Upon the failure of installed Equipment, Customer shall notify Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Equipment related shall be dispatched to a Kronos Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Equipment if Customer is to return the failed Equipment to Kronos, as reasonably determined by Kronos. Customer must return the failed Equipment with the supplied RMA number.

(b) Kronos will provide a replacement for the failed Equipment at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Equipment will be shipped the same day, for delivery to Customer's location as further described in the Support Policies. REPLACEMENT EQUIPMENT MAY BE NEW OR RECONDITIONED. Customer shall specify the address to which the Equipment is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Customer, upon receipt of the replacement Equipment from Kronos, shall package the defective Equipment in the materials provided by Kronos, with the RMA supplied and promptly return failed Equipment directly to Kronos.

(c) Customer shall be entitled to receive service packs for the Equipment (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos' customer portal. Service packs for the Equipment are not installed by Kronos.

(d) Kronos warrants that all service packs and firmware updates provided under this Section D shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Customer's exclusive remedy shall be Kronos' repair or replacement of the deficient service pack(s) or firmware update(s).

(e) Customer agrees that it shall return failed Equipment promptly as the failures occur and that it shall not hold failed Equipment and send failed Equipment to Kronos in "batches" which shall result in a longer turnaround time to Customer. In addition, in all circumstances, Customer agrees to:

(i) Maintain the Equipment in an environment conforming to the Documentation for such Equipment;

(ii) Not perform self-repairs on the Equipment (i.e., replacing components) without prior written authorization from Kronos;

(iii) De-install all failed Equipment and install all replacement Equipment in accordance with Kronos' written installation guidelines;

(iv) Ensure that the Equipment is returned to Kronos properly packaged; and

(v) Obtain an RMA before returning any Equipment to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Customer may only return the specific Equipment authorized by Kronos when issuing the RMA.

7.5 KnowledgePass Education Subscription. When KnowledgePass Education Subscription is listed on an Order Form, Kronos will provide Customer with the KnowledgePass Education Subscription. The KnowledgePass Education Subscription provides access to certain educational offerings provided by Kronos (the "KnowledgePass Content"). Customer recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Customer is permitted to make copies of the KnowledgePass Content provided in pdf form solely for Customer's internal use. Customer may not disclose such KnowledgePass Content to any third party other than Customer's employees. Customer may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Customer may download and modify contents of training kits solely for Customer's internal use.

7.6 Training Points. "Training Points" which are purchased by Customer may be redeemed for an equivalent value of instructor-led training sessions

offered by Kronos. Training Points may be redeemed only during the Term at any time no more than twelve (12) months after the date of the applicable Order Form, after which time such Training Points shall expire and be of no value. Training Points may not be exchanged for other Kronos products or services.

7.7 Training Courses. When Implementation Services are described in the Services Implementation Guideline rather than an SSS, as part of the Services, for each SaaS application module included in the Services purchased by Customer, Customer's employees shall be entitled to attend, in the quantity indicated, the corresponding training courses set forth at: <http://www.kronos.com/products/smb-solutions/workforce-central-saas/training-guidelines.aspx>

Participation in such training courses is limited to the number of seats indicated for the courses corresponding to the modules forming a part of the Services purchased by Customer.

8. CUSTOMER CONTENT

Customer shall own all Customer Content and posts or other inputs into the Services by Customer or others acting on behalf of or through Customer. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Notwithstanding the foregoing, Customer grants Kronos permission to combine Customer's business data with that of other customers in a manner that does not identify the Customer or any individual in order to evaluate and improve the services Kronos offers to customers and to disclose such aggregated information for its customers generally. In addition, Kronos may, but shall have no obligation to, monitor Customer Content from time to time to ensure compliance with this Section D and applicable law.

9. EQUIPMENT

If Customer purchases or rents Equipment from Kronos, a description of such Equipment (model and quantity), the applicable pricing, and delivery terms shall be listed on the Order Form.

9.1 The following terms apply only to Equipment Customer rents from Kronos:

- a) **Rental Term and Warranty Period.** The term of the Equipment rental and the "Warranty Period" for such Equipment shall run coterminously with the Term of the other Services provided under this Section D.
- b) **Insurance.** Customer shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the Equipment to Customer shall relieve Customer from Customer's obligations under this Section D.
- c) **Location/Replacement.** Customer shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall have the right to enter Customer's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Customer, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.
- d) **Ownership.** All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding such Equipment's attachment to other equipment or real property. Customer shall not sell or otherwise encumber the Equipment. Customer shall furnish any assurances, written or otherwise, reasonably requested by Kronos to give full effect to the intent of terms of this paragraph (d).
- e) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described in Section 7.
- f) **Return of Equipment.** Upon termination of the Services, Customer agrees that Customer shall return the Equipment to Kronos within thirty (30) days at Customer's expense. Equipment will be returned to Kronos in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, upon receiving an invoice from Kronos, Customer shall pay Kronos the then list price of the unreturned Equipment.

9.2 The following terms apply only to Equipment Customer purchases from Kronos:

- a) **Ownership and Warranty Period.** Title to the Equipment shall pass to Customer upon delivery to the carrier. The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery (unless otherwise required by law).
- b) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described herein if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services shall commence upon expiration of the Warranty Period.

10. SERVICE LEVEL AGREEMENT

Kronos shall provide the service levels and associated credits, when applicable, in accordance with the Service Level Agreement attached hereto as Exhibit A and which is hereby incorporated herein by reference. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE OR INTERRUPTION OF THE SERVICES OR FAILURE BY KRONOS TO MEET THE TERMS OF THE APPLICABLE service level agreement, SHALL BE THE REMEDIES PROVIDED IN exhibit A.

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

11.1 Kronos represents and warrants to Customer that the Applications, under normal operation as specified in the documentation and when used as authorized herein, will perform substantially in accordance with such documentation during the Term.

11.2 Kronos' sole obligation and Customer's sole and exclusive remedy for any breach of the foregoing warranty is limited to Kronos' reasonable commercial efforts to correct the non-conforming Services at no additional charge to Customer. In the event that Kronos is unable to correct material deficiencies in the Services arising during the Warranty Period, after using Kronos' commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining Term of the Services for cause in accordance with Section 2 above as Customer's sole and exclusive remedy. Kronos' obligations hereunder for breach of warranty are conditioned upon Customer notifying Kronos of the material breach in writing, and providing Kronos with sufficient evidence of such non-conformity to enable Kronos to reproduce or verify the same.

11.3 Kronos warrants to Customer that each item of Equipment shall be free from defects in materials and workmanship during the Warranty Period. In the event of a breach of this warranty, Customer's sole and exclusive remedy shall be Kronos' repair or replacement of the deficient Equipment, at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the documentation for such Equipment. This warranty is extended to Customer only and shall not apply to any Equipment (or parts thereof) in the event of:

- a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including without limitation modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- b) failure of Customer to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or

- c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS SECTION 11, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D OF THIS AGREEMENT, KRONOS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF THE SERVICES, THE SAAS APPLICATIONS OR THE EQUIPMENT NOR ANY RESULTS TO BE ACHIEVED THEREFROM.

12.0 DATA SECURITY

12.1 As part of the Services, Kronos shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data as described at: <http://www.kronos.com/products/smb-solutions/workforce-central-saas/security-description.aspx>

Customer acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular Kronos supplied security-related safeguard as just one tool to be used as part of Customer's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under this Section D.

12.2 As between Customer and Kronos, all Personally Identifiable Data is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of Customer's knowledge such Personally Identifiable Data supplied to Kronos is accurate. Customer hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Kronos to carry out Kronos' duties and responsibilities under this Section D or as required by law.

12.3 Prior to initiation of the Services and on an ongoing basis thereafter, Customer agrees to provide notice to Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer's industry and which could be imposed on Kronos as a result of provision of the Services. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or Kronos' Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Customer will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

13. INDEMNIFICATION

13.1 Kronos shall defend Customer and its respective directors, officers, and employees (collectively, the "Customer Indemnified Parties"), from and against any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a third party (each a "Claim") alleging that the permitted uses of the Services infringe or misappropriate any United States or Canadian copyright or patent and will indemnify and hold harmless the Customer Indemnified Parties against any liabilities, obligations, costs or expenses (including without limitation reasonable attorneys' fees) actually awarded to a third party as a result of such Claim by a court of applicable jurisdiction or as a result of Kronos' settlement of such a Claim. In the event that a final injunction is obtained against Customer's use of the Services by reason of infringement or misappropriation of such copyright or patent, or if in Kronos' opinion, the Services are likely to become the subject of a successful claim of such infringement or misappropriation, Kronos, at Kronos' option and expense, will use commercially reasonable efforts to (a) procure for Customer the right to continue using the Services as provided in this Section D, (b) replace or modify the Services so that the Services become non-infringing but remain substantively similar to the affected Services, and if neither (a) or (b) is commercially feasible, to (c) terminate the Services and the rights granted hereunder after provision of a refund to Customer of the Monthly Service Fees paid by Customer for the infringing elements of the Services covering the period of their unavailability.

13.2 Kronos shall have no liability to indemnify or defend Customer to the extent the alleged infringement is based on: (a) a modification of the Services by anyone other than Kronos; (b) use of the Services other than in accordance with Kronos' documentation for such Service or as authorized by this Section D; (c) use of the Services in conjunction with any data, equipment, service or software not provided by Kronos, where the Services would not otherwise itself be infringing or the subject of the claim; or (d) use of the Services by Customer other than in accordance with the terms of this Section D. Notwithstanding the foregoing, with regard to infringement claims based upon software created or provided by a licensor to Kronos or Suppliers, Kronos' maximum liability will be to assign to Customer Kronos' or Supplier's recovery rights with respect to such infringement claims, provided that Kronos or Kronos' Supplier shall use commercially reasonable efforts at Customer's cost to assist Customer in seeking such recovery from such licensor.

13.3 Customer shall be responsible and liable for all damages and cost of Kronos, its suppliers and their officers, directors and employees for all Claims resulting from: (a) employment-related claims arising out of Customer's configuration of the Services; (b) Customer's modification or combination of the Services with other services, software or equipment not furnished by Kronos, provided that such Customer modification or combination is the cause of such infringement and was not authorized by Kronos; or, (c) a claim that the Customer Content infringes in any manner any intellectual property right of any third party, or any of the Customer Content contains any material or information that is obscene, defamatory, libelous, or slanderous violates any person's right of publicity, privacy or personality, or has otherwise caused or resulted in any tort, injury, damage or harm to any other person.

13.4 The Indemnified Party(ies) shall provide written notice to the indemnifying party promptly after receiving notice of such Claim. If the defense of such Claim is materially prejudiced by a delay in providing such notice, the purported indemnifying party shall be relieved from providing such indemnity to the extent of the delay's impact on the defense. The indemnifying party shall have sole control of the defense of any indemnified Claim and all negotiations for its settlement or compromise, provided that such indemnifying party shall not enter into any settlement which imposes any obligations or restrictions on the applicable Indemnified Parties without the prior written consent of the other party. The Indemnified Parties shall cooperate fully, at the indemnifying party's request and expense, with the indemnifying party in the defense, settlement or compromise of any such action. The Indemnified party may retain its own counsel at its own expense, subject to the indemnifying party's rights above.

14. LIMITATION OF LIABILITY

14.1 Except as specifically provided in this Section D, Kronos and its suppliers will not be liable for any damages or injuries caused by the use of the services or by any errors, delays, interruptions in transmission, or failures of the services.

14.2 Except for Kronos' indemnification obligations set forth in section 13 above, the total aggregate liability of Kronos or Kronos' suppliers to

customer and/or any third party in connection with this Section D shall be limited to direct damages proven by customer, such direct damages not to exceed an amount equal to the total net payments received by Kronos for the services in the twelve (12) month period immediately preceding the date in which such claim arises.

14.3 Except for Kronos' indemnification obligations set forth in section 13 above, in no event shall Kronos or Kronos' suppliers, their respective affiliates, service providers, or agents be liable to customer or any third party for any incidental, special, punitive, consequential or other indirect damages or for any lost or imputed profits or revenues, lost data or cost of procurement of substitute services resulting from delays, nondeliveries, misdeliveries or services interruption, however caused, arising from or related to the Services, regardless of the legal theory under which such liability is asserted, whether breach of warranty, indemnification, negligence, strict liability or otherwise, and whether liability is asserted in contract, tort or otherwise, and regardless of whether Kronos or supplier has been advised of the possibility of any such liability, loss or damage.

14.4 Except with respect to liability arising from Kronos' gross negligence or willful misconduct, Kronos disclaims any and all liability, including without limitation liability related to a breach of data security and confidentiality obligations, resulting from any externally introduced harmful program (including without limitation viruses, trojan horses, and worms), Customer's content or applications, third party unauthorized access of equipment, SAAS applications or systems, or machine error.

EXHIBIT A

SERVICE LEVEL AGREEMENT (SLA)

Service Level Agreement: The Services, in a production environment and as described in the Statement of Work (aka Services Scope Statement), are provided with the service levels described in this Exhibit A. SLAs are only applicable to production environments. SLAs will be available upon Customer's signature of Kronos' Go Live Acceptance Form for Customer's production environment.

99.75% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100) and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Customer in Customer's production environment hosted by Kronos and end when Kronos has restored availability of the Services. Failure to meet the 99.75% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Customer to a credit as follows:

Actual Application Availability % (as measured in a calendar month)	Service Credit to be applied to Customer's monthly invoice for the affected month
<99.75% to 98.75%	10%
<98.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75 to 96.75%	35%
<96.75	50%

"Outage" means the accumulated time, measured in minutes, during which Customer is unable to access the Applications for reasons other than an Excluded Event.

"Excluded Event" means any event that results in an Outage and is caused by (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos, including without limitation Customer Content, failures or malfunctions resulting from circuits provided by Customer, any inconsistencies or changes in Customer's source environment, including either intentional or accidental connections or disconnections to the environment; (c) Force Majeure events; (d) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined below; (e) any suspension of the Services in accordance with the terms of the Agreement to which this Exhibit A is attached; (f) the unavailability of required Customer personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (g) using an Application in a manner inconsistent with the product documentation for such Application.

"Maintenance Period" means scheduled maintenance periods established by Kronos to maintain and update the Services, when necessary. During these Maintenance Periods, the Services are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Services available to Customer; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Customer contact at least one day in advance of any known downtime so planning can be facilitated by Customer.

Currently scheduled Maintenance Periods for the Services are:

- Monday through Friday 04:00 am – 06:00 am (U.S. eastern time)
- Saturday and Sunday 12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Customer and Kronos.

"Monthly Minutes (MM)" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

"Total Minutes Not Available (TM)" means the total number of minutes during the calendar month that the Services are unavailable as the result of an Outage.

Limitations: Service Credits will not be provided if: (a) Customer is in breach or default under the Agreement at the time the Outage occurred; or (b) the Outage results from an Excluded Event. If Kronos does not provide the appropriate Service Credit as due hereunder, Customer must request the Service Credit within sixty (60) calendar days of the conclusion of the month in which the Service Credit accrues. Customer waives any right to Service Credits not requested within this time period. All performance calculations and applicable Service Credits are based on Kronos records and data unless Customer can provide Kronos with clear and convincing evidence to the contrary.

The Service Level Agreements in this Exhibit, and the related Service Credits, apply on a per production environment basis. For the avoidance of doubt, Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating Service Credits.

Customer acknowledges that Kronos manages its network traffic in part on the basis of Customer's utilization of the Services and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Customer significantly changes its utilization of the Services than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the parties agree to co-operate, in good faith, to resolve the issue.

SECTION E

KRONOS WORKFORCE READY® - SOFTWARE AS A SERVICE (SAAS) TERMS AND CONDITIONS

Customer and Kronos agree that the terms and conditions set forth in this Section E shall apply to the Kronos software application programs and related services and materials (including applicable documentation) and equipment (if any) specified on an Order Form for Workforce Ready (collectively, the "Services"). The Services described on an Order Form shall be delivered by means of Customer's permitted access to the password protected customer area of a Kronos website.

1. TERM

1.1 The Services shall be deemed to start on the earlier of: a) ninety (90) days from Kronos' receipt of the relevant Order Form; or, b) the date Customer is authorized to "go live" with the Services for production purposes, (the "Start Date"), and shall continue indefinitely on a month-to-month basis until terminated in accordance with the provisions hereof (the "Term"). Customer acknowledges that execution of separate third party agreements may be required in order for Customer to "go live" with certain add-on features or functionality, including tax filing services ("Add-on Features"), as identified by Kronos on the Order Form.

1.2 Customer may terminate the Services or the Agreement for convenience upon thirty (30) days prior written notice.

1.3 Either party may suspend or terminate the Services or the Agreement upon a material breach of the Agreement by the other party if such breach is not cured within fifteen (15) days after receipt of written notice. Notwithstanding the foregoing, Kronos may suspend or terminate the Services or the Agreement immediately upon notice in the event of any Customer breach of Sections 3 (License to Use), 4 (Acceptable Use), or Section A.4 (Confidential Information), below.

1.4 In the event that either party becomes insolvent, makes a general assignment for the benefit of creditors, is adjudicated a bankrupt or insolvent, commences a case under applicable bankruptcy laws, files a petition seeking reorganization, the other party may request adequate assurances of future performance. Failure to comply with such request within ten (10) days of delivery of the request shall entitle the requesting party to terminate the Agreement immediately upon written notice to the other.

1.5 If the Agreement is terminated for any reason:

(a) Customer shall pay Kronos within thirty (30) days all fees accrued for the Services prior to the date of termination, provided that if Customer terminates Kronos for material breach of the Agreement, Kronos shall be responsible to refund to Customer unused pre-paid service fees, if any;

(b) Customer's right to access and use the Services shall be revoked and be of no further force or effect;

(c) Within fifteen (15) days of termination Customer will retrieve Customer's historical data in accordance with previously established system access procedures and applicable state and federal laws. After such time period, Kronos shall have no further obligation to store and/or make available Customer's historical data and may delete same. If Customer requires additional data conversion services from Kronos, these services may be contracted from Kronos at Kronos' then published rates.

(d) Customer agrees to timely return all Kronos-provided materials related to the Services to Kronos at Customer's expense or, alternatively, upon prior written approval of Kronos, provide Kronos with an officer's certification of the destruction thereof; and

(e) all provisions in the Agreement, which by their nature are intended to survive termination, shall so survive.

2. FEES AND PAYMENT

2.1 In consideration of the delivery of the Services, Customer shall pay Kronos the Setup Fees, the Monthly Service Fees and any additional one time, set-up or recurring fees, all as defined on the Order Form. All fees payable for the Services shall be sent to the address specified on the Kronos invoice. Unless otherwise indicated on an Order Form, payment terms for all items except the Setup Fees shall be net upon receipt of invoice. Except as expressly set forth in this Section E, all amounts paid to Kronos are non-refundable.

2.2 The Setup Fees shall be invoiced upon execution of the Order and shall be due net 30 days following date of invoice. Customer acknowledges that setup fees may be charged to Customer by third parties for Add-on Features. Monthly Service fees shall be based on monthly periods that begin on the Start Date. Monthly Service Fees shall include fees for Equipment rental, if any, as described in Section 8 below. Monthly Service Fees for Services added on or before the 15th day of a given month will be charged for that full monthly period and each monthly period of the Term thereafter; Monthly Service Fees for Services added after the 15th day of a given month will begin to accrue as of the 1st day of the following month and will be charged for each monthly period of the Term thereafter. Monthly Service Fees shall be invoiced promptly following the end of the calendar month in which the Monthly Service Fees were accrued. Kronos will monitor Customer's "Usage" of the Services (as defined below) in order to calculate the Usage portion of the Monthly Service Fees to be charged. Usage of the Services, depending on applicable features, components, or services, shall be priced as identified on the Order Form either on a: (a) per month basis; (b) per active employee (herein "Active Employee") per month usage basis; or, (c) per transaction basis (e.g.: pay statement). For purposes of the Agreement, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; (vi) human resource reporting has been performed for or on such employee; or, (vii) such employee has been marked as an "Active" status during the period.

2.3 Customer agrees that except in those circumstances in which Customer is entitled to invoke the termination for cause provision set forth in Section 1.3 above, in consideration of Kronos' delivery of the Services on a variable fee basis, Customer agrees to pay Kronos each month during the Term in which charges accrue no less than the minimum monthly fees ("Minimum Monthly Fees") as identified on the Order Form. The Minimum Monthly Fees shall be calculated by Kronos based on Customer's anticipated monthly Usage of the Services plus Equipment rental fees, if any. In the event that Customer does not reach the anticipated Usage upon which the Minimum Monthly Fees was based for any given month during the Term, Customer shall remain responsible for paying the Minimum Monthly Fees for that month. If an Order Form or the Agreement is suspended by Kronos for non-payment or otherwise terminated by Kronos for cause, Customer shall remain liable to pay the applicable Minimum Monthly Fees up to and including the last day of the month in which the effective date of termination occurs.

2.4 If any amount owing under this or any other agreement for Services is 30 or more days overdue, Kronos may, without limiting its other rights and remedies, accelerate unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Services until such amounts are paid in full. Kronos will provide at least 7 days' prior notice that Customer's account is overdue before suspending Services.

2.5 Deleted Intentionally.

3. LICENSE TO USE

3.1 Subject to the terms and conditions of this Section E, Kronos hereby grants Customer during the Term a limited, revocable, non-exclusive, non-transferable, non-assignable license to use for internal business purposes only: a) the Kronos application(s) and related services, including applicable Services description documentation and training materials (the "Documentation"); and, b) any embedded third party software, libraries, or other components, which collectively comprise the Services. The Services contain proprietary trade secret technology of Kronos. Unauthorized use and/or copying of such Services are prohibited by law, including United States and foreign copyright law. Customer may use the software included in the Services in object code form only, and shall not reverse compile, disassemble or otherwise convert such software into uncompiled or unassembled code. Customer acknowledges and agrees that the license to use the Services is limited based upon authorized Usage and the amount of the Monthly Service Fees to be paid by Customer. Customer agrees to use only the modules and/or features described on the Order Form. Customer agrees not to use any other modules or features unless Customer has licensed such additional modules or features. Customer may not relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any third party. Customer may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Kronos' licensors or third party suppliers ("Suppliers"), is granted hereunder.

3.2 Customer may authorize its third party contractors and consultants to access the Services on an as needed basis, provided Customer: a) abides by its obligations to protect confidential information; b) remains responsible for all such third party usage and compliance with this Section E of this Attachment; and c) does not provide such access to a competitor of Kronos who provides workforce management services.

3.3 Customer agrees and acknowledges that Kronos retains ownership of all right, title and interest to the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express licenses granted herein, Customer shall not obtain or claim any rights in or ownership interest to the Services or any associated intellectual property rights therein. Customer agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Customer through the Services.

3.4 Kronos will make updates and upgrades to the Services (tools, utilities, improvements, third party applications, general enhancements) available to Customer at no charge as they are released generally to its customers. Customer agrees to receive those updates automatically as part of the Services. Kronos also may offer new products and/or services to Customer at an additional charge. Customer shall have the option of purchasing such new products and/or services under a separate Order Form.

3.5 Kronos reserves the right to change or discontinue the Services, in whole or in part, including but not limited to, the Internet based services, technical support options, and other Services-related policies. Customer's continued use of the Services after Kronos posts or otherwise notifies Customer of any changes indicates Customer's agreement to those changes.

4. ACCEPTABLE USE

4.1 Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Section E.

4.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose Customer's data and other content ("Customer Content") in connection with the Services. Customer represents and warrants to Kronos that the Customer Content will not: (a) infringe or violate any third-party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or, (c) be hateful or threatening.

4.3 Customer will not (a) use, or allow the use of, the Services or Customer Content in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (d) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

5. CONNECTIVITY AND ACCESS

5.1 Customer acknowledges that it shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); (b) provide Kronos and its representatives with such physical or remote access to Customer's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under this Section E of this Agreement. Kronos is hereby (i) granted access to such Customer data to perform its obligations under this Section E of this Agreement and (ii) authorized to audit the number of Active Employee counts or other transactions that have occurred to measure Usage; (iii) make all necessary arrangements as may be required to provide such physical access to Customer's computer and network environment if necessary for Kronos to perform its obligations under this Section E of this Attachment.

5.2 Customer shall be fully responsible for all access requirements imposed by law, rule, regulation or contract in order for Kronos to deliver the Services pursuant to the terms of this Section E of this Agreement. Customer shall provide 30 calendar days advance written notice to Kronos in any change, modification, or reconfiguration of components or elements of the Customer's computer and network environment which may, in any manner, affect Customer's access to the Services.

6. SUPPORT

- a) Implementation. Kronos will configure the Services utilizing scheduled remote resources. Software module configuration will be based on information and work flows obtained from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met. Kronos and Customer's implementation responsibilities are described more specifically in the Services Implementation Guideline set forth at: <http://www.kronos.com/products/workforce-ready/implementation-guidelines.aspx>. In the event of inconsistencies between the Services Implementation Guideline and this Agreement, the Agreement shall prevail.

- b) Depot Exchange Services for Equipment. As needed, Kronos will send a replacement for Equipment rented (in accordance with Section 8 below) on an advance exchange basis by next-business-day delivery, when available. When Customer receives replacement Equipment, Customer shall return the defective unit to Kronos for repair. Equipment support also includes Customer access to Equipment service packs via the Kronos Customer Portal.
- c) Standard Support. Kronos will provide telephone support 8:00 a.m. to 5:00 p.m., local time, Monday – Friday. Customers also shall be provided the capability to log questions online via the Kronos Customer Portal.
- d) Educational Materials and Content. Customer will have access to certain educational materials and content (the "Educational Content") within the Services. Customer recognizes and agrees that the Educational Content is copyrighted by Kronos. Customer is permitted to make copies of the Educational Content provided in ".pdf" form solely for Customer's internal training purposes and may not disclose such Educational Content to any third party other than Customer's employees. Customer may not edit, modify, revise, amend, change, alter, customize or vary the Educational Content without the written consent of Kronos, provided that Customer may download and modify contents of Training Kits solely for Customer's internal use.

7. CUSTOMER CONTENT

Customer shall own all Customer Content and posts or other inputs into the Services by Customer or others acting on behalf of or through Customer, including but not limited to information, data (such as payroll data, vacation time, and hours worked), logos, text, multimedia images (e.g. graphics, audio and video files), compilations or any other content shared or processed through the Services. Kronos acknowledges that all such Customer Content is deemed to be Confidential Information of Customer. Notwithstanding the foregoing, Customer grants Kronos permission to combine Customer's business data with that of other Customers in a manner that does not identify the Customer or any individual in order to evaluate and improve the services Kronos offers to customers. In addition, Kronos may, but shall have no obligation to, monitor Customer content from time to time to ensure compliance with this Section E and applicable law.

8. EQUIPMENT RENTAL

If Customer purchases or rents time clocks or other equipment from Kronos, a description of such Equipment (model and quantity) and the applicable pricing shall be listed on the Order Form (the "Equipment"). Delivery terms for the Equipment are FOB shipping point, prepay and add. Customer shall bear all risk of loss or damage while the Equipment is in transit to Customer.

8.1 The following additional terms apply only if Customer rents Equipment from Kronos:

- a) Rental Term and Warranty Period. The term of the Equipment rental and the "Warranty Period" for such Equipment shall run coterminously with the Term of the other Services.
- b) Insurance. Customer shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the Equipment to Customer shall relieve Customer from its obligations under this Section E.
- c) Location/Replacement. Customer shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall have the right to enter Customer's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Customer, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.
- d) Ownership. All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding their attachment to other equipment or real property. Customer shall not sell or otherwise encumber the Equipment. Customer shall furnish any assurances, written or otherwise, reasonably requested by Kronos to give full effect to the intent of terms of this paragraph (d).
- e) Equipment Support. Kronos shall provide to Customer the Equipment support services described in Section 6 above. The cost of such support service shall be included in the Monthly Services Fees.

Return Of Equipment. Upon termination of the Agreement or the applicable Order Form, Customer agrees that Customer shall disconnect, crate and return the Equipment to Kronos within thirty (30) days at Customer's expense. Equipment will be returned to Kronos in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, Kronos shall invoice Customer for the then list price of the Equipment. Return Of Equipment. Upon termination of the Order Form, Customer agrees that Customer shall disconnect, crate and return the Equipment to Kronos within thirty (30) days at Customer's expense. Equipment will be returned to Kronos in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, Kronos shall invoice Customer for the then list price of the Equipment.

8.2 The following additional terms apply only if Customer purchases Equipment from Kronos:

- a) Ownership and Warranty Period. Title to the Equipment shall pass to Customer upon delivery to the carrier (FOB – Shipping Point, Prepay and Add). The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery.
- b) Equipment Support. Kronos shall provide to Customer the Equipment support services described in Section 6 above if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services shall commence upon expiration of the Warranty Period.

9. SERVICE LEVEL AGREEMENT

Kronos shall: (a) provide basic support for the services at no additional charge, (b) use commercially reasonable efforts to make the services available 24 hours a day, 7 days a week, except for: (i) planned downtime (when it shall give at least 8 hours notice via the services and shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Friday to 3:00 a.m. Monday, eastern time), or (ii) any unavailability caused by circumstances beyond Kronos' reasonable control, including without limitation, acts of god, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Kronos employees), Internet service provider failures or delays, or denial of service attacks, and (iii) provide services in accordance with applicable laws and government regulations.

10. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

10.1 Kronos represents and warrants that the Services, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with the Documentation during the Term.

10.2 Kronos' obligation and Customer's remedy for any breach of the above warranty is limited to Kronos' reasonable commercial efforts to correct the non-conforming Services at no additional charge to Customer. In the event that Kronos is unable to correct deficiencies in the

Services, after using its commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining term of the Order Form for cause in accordance with Section 1 above as Customer's remedy. Kronos' obligations hereunder for breach of warranty are conditioned upon Customer notifying Kronos of the material breach in writing, and providing Kronos with sufficient evidence of such non-conformity to enable Kronos to reproduce and/or verify the same.

10.3 Kronos warrants that all equipment shall be free from defects in materials and workmanship during the warranty period as described in article 8 above. In the event of a breach of this warranty, customer's exclusive remedy shall be Kronos' repair or replacement of the deficient equipment, at Kronos' option, provided that customer's use, installation and maintenance thereof have conformed to the published specifications for such equipment. This warranty is extended to customer only and shall not apply to any equipment (or parts thereof) in the event of:

- a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- b) failure of Customer to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or
- c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS WARRANTED IN THIS SECTION 10, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS AND IMPLIED, ORAL OR IN WRITING, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, KRONOS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF SOFTWARE OR EQUIPMENT OR ANY RESULTS TO BE ACHIEVED THEREFROM. KRONOS PROVIDES NO WARRANTY FOR SUPPLIER HARDWARE OR SOFTWARE EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED ON AN ORDER FORM.

11.0 DATA SECURITY

11.1 As part of the Services, Kronos shall provide administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data. Customer acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular Kronos supplied security-related safeguard as just one tool to be used as part of Customer's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under this Section E.

11.2 As between Customer and Kronos, all personally identifiable data contained in any applications or systems supplied by Kronos, or to which Kronos has access to under this Section E ("Personally Identifiable Data") is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of its knowledge such Personally Identifiable Data supplied to Kronos is accurate. Customer hereby consents to the use, processing and/or disclosure of Personally Identifiable Data by Kronos and its Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Kronos to carry out its duties and responsibilities under this Section E or as required by law.

11.3 Prior to initiation of the Services and on an ongoing basis thereafter, Customer agrees to provide notice to Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer's industry and which could be imposed on Kronos as a result of provision of the Services. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or its Supplier's data center, is permitted under applicable data protection laws and regulations; and, (b) Customer will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

11.4 Upon the cessation of the Services, Customer shall be afforded the opportunity to retrieve all Personally Identifiable Data in accordance with Section 1.5 above.

12. RESPONSIBILITY OF CUSTOMER

12.1 If notified in writing of any action (and all prior related claims) brought against Customer based on a claim that the Services infringe or misappropriate any United States or Canadian copyright or patent, Kronos will indemnify and hold Customer harmless and defend such action at its sole cost and expense and pay all costs including reasonable attorney fees and damages resulting from such claim. Kronos will have sole control of the defense of any such action and all negotiations for its settlement or compromise. Customer will cooperate fully at Kronos' expense with Kronos in the defense, settlement or compromise of any such action. In the event that a final Injunction is obtained against Customer's use of the Services by reason of infringement or misappropriation of a United States or Canadian copyright or patent, or if in Kronos' opinion, the Services are likely to become the subject of a successful claim of such infringement or misappropriation, Kronos, at Kronos' option and expense, will use commercially reasonable efforts to (a) procure for Customer the right to continue using the Services as provided in the Agreement, (b) replace or modify the Services so that they become non-infringing but remains substantively similar to the affected Services, and if neither (a) or (b) is commercially feasible, to (c) terminate the Agreement and the rights granted hereunder after provision of a refund to Customer of the set-up fees and Monthly Service Fees paid by Customer for the infringing elements of the Services covering the period of their unavailability.

12.2 Kronos shall have no liability to indemnify or defend Customer to the extent the alleged infringement is based on: (a) a modification of the Services by anyone other than Kronos; (b) use of the Services other than in accordance with the Documentation or as authorized by the Agreement; (c) use of the Services in conjunction with any data, equipment, service or software not provided by Kronos, where the Services would not otherwise itself be infringing or the subject of the claim; or (d) use of the Services by Customer other than in accordance with the terms of the Agreement. Notwithstanding the foregoing, with regard to infringement claims based upon software created or provided by a licensor to Kronos or Suppliers, Kronos' maximum liability will be to assign to Customer Kronos' or Supplier's recovery rights with respect to such infringement claims, (provided that Kronos and/or its Supplier shall use commercially reasonable efforts at Customer's cost to assist Customer in seeking such recovery from such licensor).

12.3 Customer shall be responsible for all cost and expense and pay all costs, including reasonable attorney's fees and damages of Kronos or its

Suppliers, if the action is arising from or relating to: (a) employment-related claims arising out of Customer's configuration of the Services; (b) Customer's modification or combination of the Services with other services, software or equipment not furnished by Kronos, provided that such Customer modification and/or combination is the cause of such infringement and was not authorized by Kronos; or, (c) a claim that the Customer Content infringes in any manner any intellectual property right of any third party, or any of the Customer Content contains any material or information that is obscene, defamatory, libelous, or slanderous violates any person's right of publicity, privacy or personality, or has otherwise caused or resulted in any tort, injury, damage or harm to any other person. Customer will have sole control of the defense of any such action and all negotiations for its settlement or compromise. Kronos will cooperate fully at Customer's expense with Customer in the defense, settlement or compromise of any such action.

13. LIMITATION OF LIABILITY

13.1 EXCEPT AS SPECIFICALLY PROVIDED WITHIN THIS AGREEMENT, KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES.

13.2 EXCEPT FOR KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 12 ABOVE, THE TOTAL AGGREGATE LIABILITY OF KRONOS OR ITS SUPPLIERS TO CUSTOMER AND/OR ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY CUSTOMER, SUCH DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY KRONOS FOR THE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH THE CLAIM ARISES.

13.3 IN NO EVENT SHALL KRONOS OR ITS SUPPLIERS, THEIR AFFILIATES, SERVICE PROVIDERS, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICES OR THIS AGREEMENT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, WHETHER BREACH OF WARRANTY, INDEMNIFICATION, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND WHETHER LIABILITY IS ASSERTED IN CONTRACT, TORT OR OTHERWISE, AND REGARDLESS OF WHETHER KRONOS OR SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LIABILITY, LOSS OR DAMAGE.

13.4 EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF DATA SECURITY AND CONFIDENTIALITY OBLIGATIONS, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT, SOFTWARE OR SYSTEMS, OR MACHINE ERROR

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Charity Lee, Real Estate Manager
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE:

Consideration and Adoption of Ordinance No. 2016-36: An ordinance of the Flagstaff City Council authorizing the City of Flagstaff to accept specific deeds of real property and establishing an effective date.

RECOMMENDED ACTION:

- 1) Read Ordinance No. 2016-36 by title only for the final time
- 2) City Clerk reads Ordinance No. 2016-36 by title only (if approved above)
- 3) Adopt Ordinance No. 2016-36

Executive Summary:

Real property, whether in fee or in easement form is often acquired during the development review process through dedication or donation. These acquisitions may be for drainage, utilities, the urban trails system, slopes, rights of way or other public purposes. The City Charter, in Article VII Section 5, requires the City to acquire real property by ordinance. The approval of this ordinance will formally accept the real property donated or dedicated to the City.

Financial Impact:

Real property is considered a fixed asset in the City. Until City Council approves an ordinance accepting the acquisition that value is not recognized in an audit so while there is not an actual financial expenditure associated with these acquisitions, there is a fixed asset value the City receives through this action.

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

Has There Been Previous Council Decision on This:

An ordinance accepting previous dedications and donations was approved on May 19, 2015. No previous decisions have been made regarding the dedications and donations listed in Exhibit A of the ordinance.

Options and Alternatives:

- 1) Adopt Ordinance No. 2016-36 and accept the dedicated and donated real property into City of Flagstaff ownership. Pros: Formalizes the transfer of property rights to provide for community goals and benefits. Cons: No Cons.
- 2) Do not adopt Ordinance No. 2016-36 and do not accept the dedicated and donated property. The City would have to deed the real property back to the Grantor,. Pros: no pros known. Cons: This will remove protections for utilities, trails, drainage and other public purposes.

Background/History:

Real property is acquired by the City, as necessary, when developments come through the permitting and review process. These properties can be easements to allow for a specific purpose such as a utility line or a drainage area, or they can be actual property received through a deed for rights of way or the protection of open space, or land received in the land trust program. The policy for City acceptance of these dedications is governed both by the charter and by internal process.

Key Considerations:

Real property is acquired throughout the year by donation and dedication necessary to achieve the Council and Regional Plan goals and to ensure utilities, roads, and specialized area are properly protected. All real property must be acquired by ordinance per the City Charter. There is a due diligence process that each acquisition goes through to ensure it is donated or dedicated properly and that the City's interests are protected. These acquisitions are necessary for the provision of services as the community grows and the liability assumed is consistent with these same real property rights throughout the community.

Community Benefits and Considerations:

Community benefits of the acceptance of the parcels includes proper protection for rights determined necessary for utilities, urban trail systems, drainage, slopes, open spaces, rights of way and others.

Community Involvement:

Inform

Attachments: [Ord. 2016-36](#)

ORDINANCE NO. 2016-36

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING THE CITY OF FLAGSTAFF TO ACCEPT SPECIFIC DEEDS OF REAL PROPERTY AND EASEMENTS AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, The City of Flagstaff ("City") has obtained numerous deeds and easements for real property through grants and donations that have not been formally accepted by City Council; 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 specific grants and donations of interests in real property as more particularly described and depicted in Exhibit A, attached to this ordinance, are hereby authorized and ratified.

SECTION 2: That the City Manager, the City Attorney, the City Clerk, the Finance Director, the City Real Estate Manager, or other employees or agents as deemed necessary, 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: 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 18th day of October, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT A

Document #	Recordation Date	Rights	Grantor	Landmark or General Area
3758077	7/20/2016	Public Utility Easement, water and sewer	CCC-Flagstaff, LLC	555 W. Forest Meadows Street
3755279	6/20/2016	Right of Way	CCC-Flagstaff, LLC	555 W. Forest Meadows Street
3744741	2/22/2016	Public Utility Easement	FAE Holding 461578R LLC	300 S. Babbitt Drive
3741782	1/8/2016	Urban Trails Easement	Station 1 @ Rt. 66, LLC	Lot 1 of the Final Plat of the Trax, Phase I as recorded in doc # 3725884
3739327	12/7/2015	Sewer Utility Easement	Fourth Street Flagstaff Partners, LLC	1701 N. Fourth Street
3739326	12/7/2015	Sidewalk Easement	Fourth Street Flagstaff Partners, LLC	1701 N. Fourth Street
3739325	12/7/2015	Water Utility Easement	Fourth Street Flagstaff Partners, LLC	1701 N. Fourth Street
3739324	12/7/2015	Drainage Easement	Fourth Street Flagstaff Partners, LLC	1701 N. Fourth Street
3739323	12/7/2015	Urban Trails Easement	Fourth Street Flagstaff Partners, LLC	1701 N. Fourth Street
3732960	9/24/2015	Public Utility Easement	Pine Knoll Apartments, LLC	Tracts A and E, Woods at Clear Creek, Case 8, Map 25
3732961	9/24/2015	Public FUTS, Drainage and Slope, Utility Easement	Consolidated Investment Co. Inc.	Tract E, Woods at Clear Creek, Case 8, map 25
3727564	7/23/2015	Water Utility Easement	Flagstaff Motor Company	Lot 1, the Marketplace/Flagstaff Auto Park Final Plat APN 11382001, portion of Tract A Final Plat of the Market Place/Flagstaff Auto Park APN 113-82-015B
3723146	6/8/2015	Streets, Improvements and Public Utility Easements	Alliance Bank of Arizona	Lot 118 Amended Plat Aspen Place at the Sawmill
3763779	9/19/2016	Urban Trails Easement	Evergreen-Trax, LLC	Track A according to the Final Plat of The Trax, Phase I, recorded in Inst. No. 3725884
3763716	9/19/2016	Sidewalk Easement	CCC-Flagstaff, LLC	555 W. Forest Meadows Street
3763691	9/19/2016	Public Utility Easement	Mountainside MAR LLC	Lot 29 A Woodlands Village Unit 3, Case 4 Map 131
Land Acquisitions, Housing Land Trust Program				
3756501	6/30/2016	Fee simple ownership	Thaylia Yazzie	104-17-100, 1472 E. Russ Way
3745362	2/29/2016	Fee simple ownership	Frank Deirdre	104-17-033, 1363 E. Hatcher Drive

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Charity Lee, Real Estate Manager
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE:

Consideration and Approval of a Consent, Assignment and Assumption of Obligations of Ground Lease: No. 130132 - City property located at 4 South San Francisco Street. ***(Assignment from Thomas William Moffitt III Revocable Trust to Thomas William Moffitt IV Revocable Trust)***

RECOMMENDED ACTION:

Consent to the assignment of the leasehold interest to Thomas William Moffitt IV Revocable Trust.

Executive Summary:

Thomas William Moffitt III Revocable Trust entered into the lease agreement with The Atchison, Topeka and Santa Fe Railway Company in 1983, contract number 130132 for a ground lease located at 4 South San Francisco St. Thomas William Moffitt III Revocable Trust owned the improvements on the land, recently the improvements have transferred ownership to Thomas William Moffitt IV Revocable Trust. Recommend approving the assignment of the lease to Thomas William Moffitt IV Revocable Trust.

Financial Impact:

The City currently receives \$18,357.38 annual for the ground lease. The lease is adjusted annually based on the Consumer Price Index. The lease terms are not being amended at this time. The assignment is the only change to the lease.

Connection to Council Goal and/or Regional Plan:

None

Has There Been Previous Council Decision on This:

No

Options and Alternatives:

Option 1: Approve the assignment of the lease to Thomas Moffitt IV Revocable Trust. The improvements on the land are currently vested in Thomas Moffitt IV Revocable Trust.

Option 2: Deny the assignment of the lease and continue the lease "AS IS". This option is not preferable since the ownership interest of the improvements vests with Thomas Moffitt IV Revocable Trust. The current lessee Thomas Moffitt III Trust no longer has ownership interest in the buildings.

Background/History:

The original lease was dated May 20th 1968 between The Atchison, Topeka and Santa Fe Railway Company a Kansas corporation and Lee Hutchison and Edith Crozier. Contract No. 130132. August 29, 1983 Thomas William Moffitt III purchased the leasehold interest and improvements from Lee Hutchison and Edith Crozier and the ground lease was assigned to Thomas William Moffitt III Trustee of the Thomas William Moffitt III Revocable Trust. The City of Flagstaff purchased the land located at 4 S. San Francisco St. in 2001 for the Rio De Flag Flood Control Project. In 2015 the ownership interest of the improvements transferred from Thomas William Moffitt III Revocable Trust to Thomas William Moffitt IV Revocable Trust. The assignment transfers the leasehold interest to Thomas William Moffitt IV Revocable Trust, the vested owner of the improvements on the land.

Community Involvement:

Inform

Attachments: [Lease Assignment](#)

Lease Contract No. 130132

Consent, Assignment and Assumption of Obligations

THIS CONSENT, ASSIGNMENT AND ASSUMPTION OF OBLIGATIONS, is made as of the 18th day of October, 2016, among the City of Flagstaff, an Arizona municipal corporation (hereinafter called "City"), Thomas William Moffitt III, Trustee of the Thomas William Moffitt III Revocable Trust (hereinafter called "Assignor") and Thomas William Moffitt IV and Marilee Jo Eveleth, Trustees of the Thomas William Moffitt IV Revocable Trust dated July 19, 2005 (hereinafter called "Assignee")

RECITALS:

The City and Assignor are currently parties to a contract dated May 20, 1968, Contract No. 130132, relating to lease of site for a warehouse located at 4 South San Francisco Street, Flagstaff, Arizona 86001 in Coconino County. Said contract, together with any and all modifications, supplements and amendments thereto, whether or not referred to above, being hereinafter called "Original Contract".

The parties have now agreed to the assignment to Assignee of all of the interest of the Assignor in the Original Contract, upon the terms and conditions hereinafter set forth.

AGREEMENT:

Assignment. Assignor hereby assigns to Assignee all of Assignor's interest, rights and obligations in the Original Contract.

Assumption of Obligations. In consideration of such assignment and the consent thereto of the City of Flagstaff herein contained, Assignee hereby accepts said assignment and assumes and agrees to observe and discharge all of the conditions and obligations in the Original Contract which are by the terms thereof to be observed and kept by Assignor, and Assignee further agrees not to assign the Original Contract or any right or interest therein, nor sublet the property or any part thereof embraced in the Original Contract, without the written consent of the City of Flagstaff in each instance.

Consent. In consideration of the promises and of the covenants of Assignee herein contained, and the faithful performance of the same, the City consents to the assignment by Assignor to Assignee of all of Assignor's interest, rights and obligations in the Original Contract.

Joint and Several. It is mutually understood and agreed that in the event either Assignor or Assignee, or both, consist of two or more parties, all the covenants and agreements herein shall be the joint and several covenants and agreements of such parties.

Notices. Any notice to be given by the City to the Assignee under the Original Contract, as hereby assigned, shall be deemed to be properly served if the same be delivered to the Assignee, or if left with any of the agents, or employees of Assignee, or if deposited in the Post Office, postpaid, addressed to Assignee at:

5076 South Opal Road, Flagstaff, Arizona 86005

CITY OF FLAGSTAFF, an Arizona municipal corporation

By: _____

Gerald W. Nabours, Mayor

Date: _____

ATTEST:

City Clerk

Thomas William Moffitt III, Trustee of the
Thomas William Moffitt III Revocable Trust
(Assignor)

APPROVED AS TO FORM:

City Attorney's Office

Thomas William Moffitt IV, Trustee of the
Thomas William Moffitt IV Revocable Trust,
dated July 19, 2005 (Assignee)

Marilee Jo Eveleth,
Trustee of the Thomas William Moffitt IV
Revocable Trust dated July 19, 2005
(Assignee)

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Mark Wilson, Deputy Fire Chief
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE:

Consideration and Approval of Sole Source Contract: Purchase a Refurbished Engine and Re-Chassis our Rescue Unit from Fire Trucks Unlimited.

RECOMMENDED ACTION:

Approve the sole source purchase of a refurbished engine in the amount of \$305,000.00 and re-chassis the City's rescue unit in the amount of \$155,000.00.

Executive Summary:

The original approved funding in this year's budget of \$587,000 was to purchase a new Engine to add to the Fleet and decrease wear and tear on older units. While this would help, we feel it is not the best plan for use of limited funds and to address the FFD's aging fleet needs. By getting rid of our 24 year old Engine and purchasing a Refurbished unit through Fire Trucks Unlimited that matches our current fleet it will better serve both, the short and long term objectives at a lower cost. The re-chassis of the rescue is necessary due to it being undersized in the original build 9 years ago which has caused it to be out of service for almost 35% of the time due to constant repairs needed. Both of these purchases work into the attached Apparatus Replacement Budget Proposal (8 year Reboot-2025). This comprehensive plan provide a better plan for expenditures and is supported by both the Budget Team and the Fleet Committee. It also provides a plan addressing the Fire Department's aging fleet. At this time, the Fire Department has 28 of 35 units that meet the Fleet Committee recommended replacement schedule. By reallocating these funds we are able to purchase or repair five pieces of apparatus instead of purchasing one new engine.

Financial Impact:

The Fire Department recommends reallocating the \$587,000 that has already been approved in this year's budget to purchase a new Fire Engine. We are asking to reallocate that funding to better utilize the City's limited funding for FFD's aging fleet. The costs associated with purchasing a refurbished engine approximately \$305,000 and to re-chassis the poorly designed Rescue unit (which runs over 3000 calls a year) is at \$155,000. Total costs for both is \$460,000. The remaining \$127,000 will be used for one command staff vehicle, a vehicle for the new inspector position, and an overhaul / partial refurbishment of our current Reserve Engine.

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
- 10) Support and assist the most vulnerable
- 11) Ensure that we are as prepared as possible for extreme weather events

REGIONAL PLAN:

PF .3.1 - Maintain high-quality effectiveness and efficiency in law enforcement, fire and emergency services to the extent that is consistent with governmental operations, plans, public policies, population served and monies available.

Has There Been Previous Council Decision on This:

No

Options and Alternatives:

1.) Approve the recommended sole source purchase.

Pros-

- It is a better use of the limited funding and shows outside the box thinking to stretch these dollars more effectively.
- It allows for the replacement of our oldest engine (that our shop mechanics fully support due to motor type) with a re-furbished engine that is built from the frame up at half the cost of a new unit.
- It repairs our 9 year old Rescue (our most heavily used unit) at half the cost of a new one and puts it on the correct chassis needed.
- It gives a better replacement plan at half the current recommended replacement costs.
- It gives a look at the quality and longevity of refurbished units to identify other units eligible in FFD's current fleet
- The new replacement plan works well with all other departments by showing an annual projection of anticipated costs and working within the FLEET committees annual allotment to allow other departments additional apparatus funding each year.
- It provides money for the new Fire Inspector position vehicle that was unfunded in this year's budget
- It provides money to repair / refurbish our current reserve Engine to maintain its longevity as a reserve
- The overall plan has been approved by both, the FLEET committee and the Budget Team

2.) Not approve the recommended sole source purchase and direct staff to conduct a formal solicitation to see if there is another vendor that can provide a refurbished engine and re-chassis the rescue unit.

Con-

- There are currently no other known vendors that can provide a refurbished engine or re-chassis the rescue unit

3.) Not approve the recommended sole source purchase and forego purchasing the refurbished engine and re-chassis the rescue unit altogether.

Con-

- The FFD would not be able to add another engine to their fleet and would need to continue utilizing the existing older units, which would only add additional wear and tear on an aging fleet. The FFD would also be forced to continue utilizing the undersized chassis on a very limited basis along with constant repairs.

Background/History:

FFD Apparatus Replacement Budget Proposal (8 year Reboot-2025)

Current Apparatus Schedule vs Proposed

			Current Estimated	Proposed Estimated
Total Expenses			\$7,402,000.00	\$0.00
Type 1 (F2#)	Current (yr)	Proposed (year)		
1992 Lance (F2-14)	\$590,000 (2017)	\$305,000 (2017)		
1997 Quantum (F2-20)	\$590,000 (2018)	\$37,000 (2017)		
2002 Quantum (F2-15)	\$650,000 (2022)	\$350,000 (2020)		
2002 Quantum (F2-16)	\$650,000 (2022)	\$350,000 (2022)		
Total	\$2,480,000.00	\$1,050,000.00		
Quint (F2#)	Current (yr)	Proposed (yr)		
1998 75' Quint (F2-12)	\$850,000 (2019)	**\$100,000** (2018)		
Total	\$850,000.00	**\$100,000.00**		
Wildland Apparatus (F2#)	Current (yr)	Proposed (yr)		
1995 Type 6 Eng (F2-07)	\$275,000 (2017)	\$200,000 (2019)		
1996 Type 6 Eng (F2-23)	\$275,000 (2017)	\$275,000 (2021)		
1999 3000 gal WT (F2-31)	\$325,000 (2024)	0- After 2025		
1999 3000 gal WT (F2-32)	\$325,000 (2024)	0- After 2025		
2000 Type 3 Eng (F2-24)	\$365,000 (2024)	\$365,000 (2024)		
2000 Type 3 Eng (F2-24)	\$365,000 (2024)	\$365,000 (2025)		
2012 Type 6 Eng (F2-27)	\$275,000 (2025)	0- After 2025		
2012 Type 6 Eng (F2-27)	\$275,000 (2025)	0- After 2025		
Total	\$2,480,000.00	\$1,205,000.00		
Rescues (F2#)	Current (yr)	Proposed (yr)		
2009 Rescue-2 (F2-59)	Re-Chassis	\$155,000 (2017)		
2006 Rescue - 1 (F2-39)	\$175,000 (2021)	\$175,000 (2021)		
Total	\$175,000.00	\$325,000.00		
SUV's / Taurus (F2#)	Current (yr)	Proposed (yr)		
2000 Expedition (F2-10)	\$55,000 (2017)	\$55,000 (2017)		
2007 Expedition (F2-04)	\$55,000 (2017)	\$55,000 (2018)		
New- 2018 Explorer (Inspect)	\$35,000 (2018)	\$35,000 (2017)		
2007 Tahoe (F2-49)	\$55,000 (2018)	\$55,000 (2018)		
2006 4x4 Crew cab PU (F2-45)	\$50,000 (2021)	\$50,000 (2019)		
2006 4x4 Crew cab PU (F2-46)	\$50,000 (2021)	\$50,000 (2019)		
2006 4x4 Crew cab PU (F2-46)	\$50,000 (2021)	\$50,000 (2023)		
2006 4x4 Crew cab PU (F2-46)	\$50,000 (2021)	\$50,000 (2023)		
2006 2WD 3/4 PU (F2-62)	\$50,000 (2021)	\$50,000 (2023)		
2006 Taurus (F2-52)	\$35,000 (2023)	\$35,000 (2019)		
2007 Escape (F2-03)	\$35,000 (2022)	\$35,000 (2023)		
2008 Escape (F2-08)	\$35,000 (2023)	\$35,000 (2023)		
Total	\$555,000.00	\$555,000.00		
*** Impact Fees ***	Current (yr)	Proposed (yr)		
Rescue-3 CART/CIP/Equip	\$275,000.00	\$175,000 (2017)		
Total	\$275,000.00	\$175,000.00		
Year	Current (yr)	Proposed		
2017 (Additional Engine \$)	\$587,000.00	\$587,000 .00		
2017	\$1,250,000.00	\$0.00		
2018	\$680,000.00	***\$210,000.00		
2019	\$850,000.00	\$335,000.00		
2020	\$0.00	\$350,000.00		
2021	\$425,000.00	\$450,000.00		
2022	\$1,335,000.00	\$350,000.00		
2023	\$70,000.00	\$220,000.00		
2024	\$1,380,000.00	\$365,000.00		
2025	\$550,000.00	\$365,000.00		
Total	\$7,127,000.00	\$3,232,000.00		

Event Budget for [Event Name]

Income

	Estimated	Actual
Total income	\$1,936.00	\$1,831.00

Admissions						
Estimated No.	Actual No.	Type	Price	Estimated Income	Actual Income	
	300	278	Adults @	\$5.00	\$1,500.00	\$1,390.00
	197	195	Children @	\$2.00	\$394.00	\$390.00
	42	51	Other @	\$1.00	\$42.00	\$51.00
Total					\$1,936.00	\$1,831.00

Ads in program						
Estimated No.	Actual No.	Type	Price	Estimated Income	Actual Income	
		Covers @			\$0.00	\$0.00
		Half-pages @			\$0.00	\$0.00
		Quarter-pages @			\$0.00	\$0.00
Total					\$0.00	\$0.00

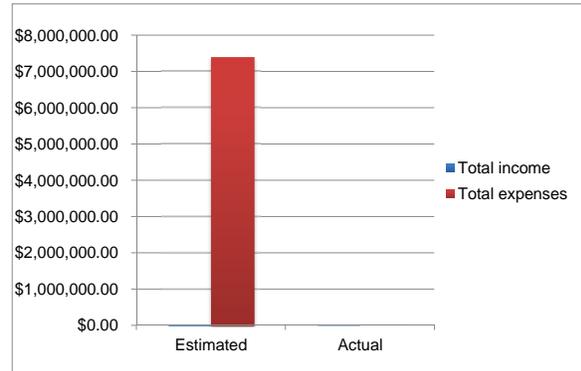
Exhibitors/vendors						
Estimated No.	Actual No.	Type	Price	Estimated Income	Actual Income	
		Large booths @			\$0.00	\$0.00
		Med. booths @			\$0.00	\$0.00
		Small booths @			\$0.00	\$0.00
Total					\$0.00	\$0.00

Sale of items						
Estimated No.	Actual No.	Type	Price	Estimated Income	Actual Income	
		Items @			\$0.00	\$0.00
		Items @			\$0.00	\$0.00
		Items @			\$0.00	\$0.00
		Items @			\$0.00	\$0.00
Total					\$0.00	\$0.00

Event Budget for [Event Name]

Profit - Loss Summary

	Estimated	Actual
Total income	\$1,936.00	\$1,831.00
Total expenses	\$7,402,000.00	\$0.00
Total profit (or loss)	(\$7,400,064.00)	\$1,831.00



Sole Source Justification Letter:

The use of Fire Trucks Unlimited is a sole source provider in that they currently own the used Engine (Pierce Quantum) that matches the City's specifications. In looking around the country there are no other Engines of this type/specification currently available for purchase on the market. The bid from Fire Trucks Unlimited is to take their current Pierce Quantum Engine, strip it to the frame and rebuild or replace all working parts, upgrade all emergency lighting and equipment to meet current new market specs. All other ancillary interior and exterior equipment will also be replaced or reconditioned. No other vendor has this option because they do not have the Engine. Our crews from FFD and City Shop have visited FTU on location in Henderson NV and have seen the quality of work and feel it is the highest standard in the industry.

The other piece of this puzzle is re-chassis of Rescue 2. Currently Fire Trucks Unlimited is able to provide the new chassis FFD needs at their shop along with pull the old box from the old chassis. They are then able to put the old box on the new chassis and add any additional components to make them work as one. The Old chassis is then being held at FTU as a possible repurpose (again by Fire Trucks Unlimited) for the City of Flagstaff Airport Crash Fire Rescue Dept, along with a special build spec they are working through. No other company can provide all of this in a one-stop shop setting. This will save the City valuable hours, money and keep all work in a central location for consistency with using them as the Sole Source provider.

Thank you,

Mark Wilson

Interim Deputy Chief

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Heidi Hansen, Economic Vitality Director
Co-Submitter: Trace Ward, CVB Director and Lori Pappas,
Marketing and Media Relations Manager CVB
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE:

Consideration and Approval of Sole Source Contract: XplorIt agreement is for a virtual video tour of Flagstaff.

RECOMMENDED ACTION:

Approve the agreement with XplorIt for a total cost of \$45,000 for three filming and production shoots, \$4,000 for videographer travel, and \$3,375 for web hosting services.

Executive Summary:

XplorIt, will provide the following to the City of Flagstaff, Arizona (Convention and Visitors Bureau) a virtual image film production, proprietary technical processing, final post-production, and delivery of new interactive experiences of the greater Flagstaff area (locations have been agreed upon). CVB will have the right to use said tour on its own website and to allow its participating members (area attractions) to be included in the XplorIt virtual community.

Financial Impact:

These funds have been requested through our City of Flagstaff Budget Team and will be available from our contingency resource of our BBB Tourism Fund. Film and production costs for three seasonal shoots: \$45,000, Videographer Travel (includes all 3 shoots): \$4,000, and Web Hosting \$3,375. This is an unbudgeted request that will be funded with operational cost reductions and use of the Tourism reserve account. The Tourism fund has adequate fund balance for this request.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

9) Improve the economic quality of life for Flagstaff through economic diversification, and by fostering jobs and programs that grow wages and revenues.

REGIONAL PLAN:

Goal ED.6: Tourism will continue to provide a year-round revenue source for the community, while expanding specialized tourist resources and activities.

Has There Been Previous Council Decision on This:

No

Options and Alternatives:

- 1.) Approve the contract as is will allow us to get the first video shoot for Fall underway in October.
- 2.) Amend the contract would require a negotiation with the vendor and we would delay Fall footage.
- 3.) Reject the contract and we would not offer the new marketing feature to our stakeholders.

Background/History:

The emerging field of virtual technologies is a relatively new genre in multimedia communications. While there are a number of providers that provide spherical imaging, no other virtual technology provider has developed a multimedia player with supporting technologies capable of delivering every form of digital media into one immersive platform like XplorIt. Developed specifically for destination marketing organizations, the XplorIt platform is the only virtual technology provider in the world to provide a first-person "virtual travel experience" that allows the consumer to literally see themselves traveling from one destination to another via walking, skiing, driving or flying.

The XplorIt video concept is up and coming in our tourism industry. Currently, there are no other Arizona destination marketing organizations that have this component for marketing. We would be the first city in Arizona with this program and it would not only help raise the awareness of our city even more but it would allow us to offer co-op pricing to our stakeholders as well. We have a detailed shot list already determined and it involves Fall, Winter and Spring shots. We have also included the Grand Canyon, our other national monuments, local attractions and Northern Arizona University into the program.

XplorIt Virtual Technologies Sole Source Provider Information

The emerging field of virtual technologies is a relatively new genre in multimedia communications. While there are a number of providers that provide spherical imaging, no other virtual technology provider has developed a multimedia player with supporting technologies capable of delivering every form of digital media into one immersive platform like XplorIt. Developed specifically for destination marketing organizations, the XplorIt platform is the only virtual technology provider in the world to provide a first-person "virtual travel experience" that allows the consumer to literally see themselves traveling from one destination to another via walking, skiing, driving or flying.

XplorIt is the only virtual technology provider to seamlessly aggregate all of the new mediums (spherical, 360 video, hyper-lapse, geo-coded, drone, 3-D animation) and existing mediums into a single comprehensive virtual and multimedia experience that can be delivered on desktop, tablet mobile and 3D immersive headsets.

XplorIt is the only virtual technology provider to develop a proprietary programmatic content delivery system (specifically for DMOs) that automatically delivers location-specific content based on the user's selection. Exclusive technical capabilities within the programmatic content delivery system automatically deliver specialized navigation functionality as well as location-specific audio and video, live cams, PDF's, integrated still imaging, meeting room specifications and written text.

While video and audio are powerful mediums, they're linear and can't be interacted with, yet the web and mobile are interactive environs. Through the exclusive use of XplorIt proprietary hyperlapse technology, spherical imaging, geo-coded media and mapping allows users to experience a destination as if they are walking the streets themselves.

Travel is experiential, yet when you look at most destination websites there is very little if any experiential content. Once you get past the big images or a revolving video clip on a destination's home page the experience typically deteriorates into a series of navigational links to pages and pages of lists. XplorIt's virtual platform delivers a first person experiential platform that enables a user to gain a real sense of place within an unknown geographic region. It visually enables a user to see where lodging, attractions, meeting space and dining is and how to travel from one destination to the next within a community or the surrounding destination. Each location is developed into a visual experience that encourages self-selected travel in a game like environment.

The engine that brings all of the uniqueness of XplorIt experiences to life is our proprietary back-end "composer." The composer is a database-driven system that is designed to manage an unlimited number of virtual experiences, in real time.

It allows for:

- Creation, modification, addition, aggregation and publishing of disparate content.
- Compounding of multiple individual experiences into one of many aggregate "meta" experiences.
- Capture and display of diverse analytic parameters.

To the best of our knowledge there is no other database-driven system on the web that can match the flexibility and scope of media aggregation and delivery the XplorIt platform offers.

Thank you,
Trace Ward
CVB Director

CONTRACT FOR PURCHASE OF MATERIALS/SERVICES

Contract No. _____

This Contract is entered into this ___19___ day of __October_____, 2016___ by and between the City of Flagstaff, a political subdivision of the State of Arizona ("City"), and _XplorIt_____, a Nevada limited liability company" ("Contractor").

WHEREAS, the City of Flagstaff desires to receive, and Contractor is able to provide materials and/or services;

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Scope of Work: Contractor shall provide the materials and/or services generally described as follows:

XplorIt will provide to the City:

- virtual image film production,
- proprietary technical processing,
- final post-production, and
- delivery of a new interactive experience of the greater Flagstaff area.

XplorIt will shoot and produce an immersive desktop, tablet, mobile and 3D virtual experience at the locations identified below. All multi-season content will be integrated into a master XplorIt virtual experience.

and as more specifically described in the scope of work attached hereto as Exhibit A.

2. Compensation: In consideration for the Contractor's satisfactory performance, City shall pay Contractor the compensation described in Exhibit A. Any price adjustment must be approved in writing and approved by the parties. The City Manager or his designee (the Purchasing Director) may approve an adjustment if the Contract price is less than \$50,000; otherwise City Council approval is required.
3. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as Exhibit B are hereby incorporated in this Contractor by reference and shall apply to performance of this Contract, except to the extent modified in Exhibit A.
4. Insurance: Contractor shall meet insurance requirements of the City, set forth in Exhibit C.
5. Contract Term: The Contract term is for a period of 24 months, commencing on execution of this Contract.
6. Renewal: This Contract may be renewed or extended for up to 2 additional 2 year terms by mutual written consent of the parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.
7. Notice. Any formal notice required under this Contract shall be in writing and sent by certified mail and email as follows:

To the City:

City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001
_____ @flagstaffaz.gov

To Contractor:

Xplorit
924 Incline Way
Incline Village, NV 89541
greg@xplorit.com

With a copy to:

8. 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.

CONTRACTOR

Print name: _____

Title: _____

CITY OF FLAGSTAFF

Print name: _____

Title: _____

Attest:

City Clerk

Approved as to form:

City Attorney's Office

Notice to Proceed issued: _____, 20__

EXHIBIT A SCOPE OF WORK

XplorIt, will provide to the City:

- virtual image film production,
- proprietary technical processing,
- final post-production, and
- delivery of a new interactive experience of the greater Flagstaff area.

The City will have the right to use the tour on its own web site and to allow its participating members to be included in the XplorIt virtual community. The City of Flagstaff and XplorIt will have shared rights to use of all video content shot by XplorIt. The rights to composited 360 and transitional images that require XplorIt's proprietary player technology shall remain exclusively XplorIt's.

XplorIt will shoot and produce an immersive desktop, tablet, mobile and 3D virtual experience at the locations identified below. All multi-season content will be integrated into a master XplorIt virtual experience.

XplorIt will be responsible for obtaining any necessary permits to film, however City of Flagstaff will use best efforts to assist with obtaining these permits.

XplorIt will begin production in October 2016 and will provide the finished product to the City in January 2017.

Shot List XplorIt will include in virtual tour:

Fall shots (Third week in October 2016):

- 1) Snowbowl (4) – Summer chairlift up and down, upper lodge tour, hike at the top with views
- 2) Lowell (4) - Gift shop/visitor center, Clark Dome, Lampland Dome, views from the highest point
- 3) Historic Downtown (5) – 5 iconic shops and/or restaurants
- 4) More Shopping/Dining (4) – 4 iconic shops and/or restaurants on the east side
- 5) Flagstaff Airport
- 6) Visitor Center (2) – tour and trip around the train tracks
- 7) NAU (4) – 4 iconic locations on campus to include Riordan Mansion and Sky Dome
- 8) Rt. 66 (2) - Museum Club and Bowling Alley
- 9) Grand Canyon National Park (3) – 3 iconic sites/buildings
- 10) Walnut Crater Volcano National Monument (2) – gift shop, hike
- 11) Sunset Crater Volcano National Monument (2) – gift shop, hike
- 12) Wupatki National Monument (2) – gift shop, hike
- 13) Meteor Crater (2) – gift shop, hike
- 14) Sunflowers or other flowers/plants blooming at time of shoot

Winter shots (December 30, 2016 – Jan 1, 2017):

- 1) Snowbowl (7) – to include two main chairlifts up and down, both lodges, one ski run with a snowboarder
- 2) Nordic Center
- 3) Ft. Tuthill
- 4) North Pole Express
- 5) New Year's Eve Pinecone Drop

Spring shots (Late May 2017):

- 1) Arboretum
- 2) Grand Falls
- 3) Bearizona
- 4) Museum of Northern Arizona
- 5) Pioneer Museum
- 6) Flagstaff Extreme
- 7) Theatrikos
- 8) Willow Bend Environmental Center
- 9) Sedona area red rocks
- 10) Navajo and Hopi Nations (3) – Petrified Forest, Monument Valley, Museum

Payment Schedule: This is a 3 part fixed contract totaling \$45,000 base amount for all filming and production expenses, including filming, post production, hosting, network participation, software-licensing, multi-screen delivery platform and tour maintenance for the first year. Payment on this base amount will be as follows:

- \$23,300 due at signing
- \$10,500 due December 15, 2016
- \$11,200 due May 1, 2017

In addition, travel expenses will be reimbursed upon approval by the City, however the total travel expense budget for the entirety of this Agreement will not exceed \$4,000. No additional expense reimbursement will be allowed.

Hosting Fees: XplorIt network subscription, software licensing, multi-screen & 3D delivery system, player maintenance, and hosting are included in our Platform as a Service (Paas) annual fee. Annual hosting and service fees are included in the first year of this contract, starting the date the project goes live in January 2017 and continuing until January 2018. Network subscription, software licensing, player maintenance, and annual hosting fees on XplorIt servers are 7.5% based on the size of tour hosted. The Flagstaff virtual experience will be hosted on dedicated / secure XplorIt servers with redundant server capabilities via contracted Host for Web. Annual hosting fees, beginning the second year from the original date the project goes live (January 2018), are projected at \$ 3,375.00. This rate is subject to change based on client additions or changes to the amount of content hosted.

Client Responsibilities: The City agrees to provide the following to XplorIt:

1. Assistance with any and all permits including film (including assistance with requesting fee waivers if available)
2. Key Point contact information for each location in advance of shooting
3. Accurate facility maps, view book, applications for tour execution.
4. Each location will be required to submit a written detailed description (1000 characters or less including spaces) for each 360 hub.
5. 360 Hub names as the City would like them to appear in the tour

EXHIBIT B
STANDARD TERMS AND CONDITIONS

[ATTACH: City of Flagstaff Standard Terms and Conditions]

**EXHIBIT C
INSURANCE**

[ATTACH: City insurance requirements]

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: David McIntire, Community Investment Director
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE:

REMOVED FROM THE AGENDA BY THE CITY MANAGER

RECOMMENDED ACTION:

Executive Summary:

Financial Impact:

Connection to Council Goal and/or Regional Plan:

Has There Been Previous Council Decision on This:

Options and Alternatives:

Attachments:

No file(s) attached.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Sara Dechter, AICP, Comprehensive Planning Manager
Date: 10/11/2016
Meeting Date: 10/18/2016



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.



Minor Amendments to the Flagstaff Regional Plan, *Chapter 3: How This Plan Works*

September 20, 2016

Sara Dechter, AICP

Comprehensive Planning
Manager



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Introduction

- Chapter 3 is the nuts and bolts chapter of the Plan.
- Staff has proposed this amendment to clarify amendment categories, roles, & processes.
- Staff desires LESS discretion and need to make interpretations.



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Proposed Amendment

1. Changes to Major Plan Amendment Criteria
2. Clarifications regarding Minor Amendments
3. Clear and legally accurate description of Specific Plans
4. Clarification about roles and development processes
5. Non-substantive changes



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Amendment Criteria We covered last time

1a. No Change

- UGB
- Urban to Rural

1b. Minor to Major

- Goals and Policies/Amendment Criteria
- Special Districts
- Employment
- Parks/Open Space



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Summary of Issues (so far)



- Categories that fit the definition of major plan amendment but are currently not listed
- Minimize Bait and Switch and U-turns
- Close Special District and Parks/Open Space loopholes



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Amendment Criteria

We will cover tonight

1b. Minor to Major

- Activity Centers

1c. Uncertain

- Urban/Suburban Changes

1d. Major to Minor

- Rural/Suburban Changes
- Corridors and Great Streets

Footnote about Major Amendments
Exceptions for Specific Plans

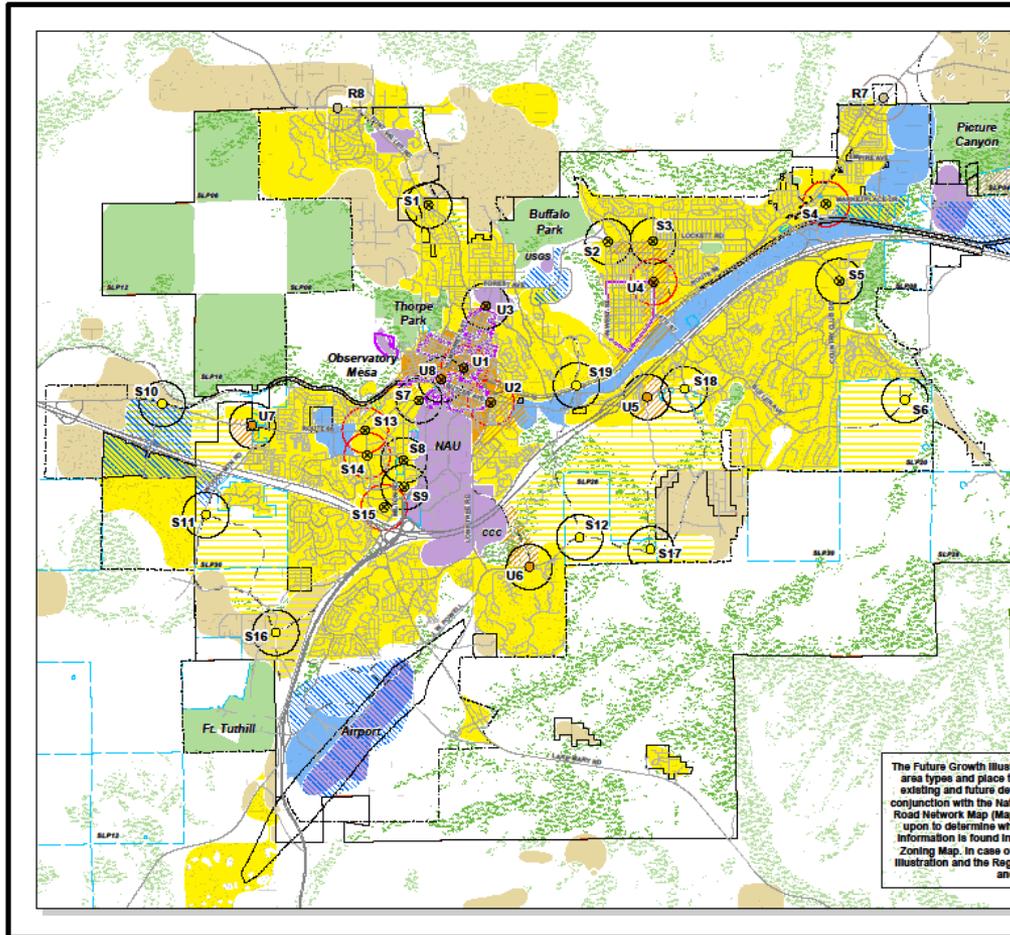


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Regional Plan Area and Place Types



AREA TYPES

Employment – BLUE

Urban – ORANGE

Suburban – YELLOW

Rural – TAN

Special District – PURPLE

Parks/Open Space – GREEN

PLACE TYPES

Activity Center – CIRCLE AND DOT

Corridor or Great Street – MAPS 25 and 12

Neighborhoods – ALL OTHER Urban, Suburban, Rural



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1b. Major Amendments Activity Centers

CURRENT

- Addition of a new activity center 

PROPOSED

- Addition or deletion of an activity center
- Moving the center of an activity center more than ½ mile from its original location.
- Reduction in the category of an activity center (urban to suburban, suburban to rural, or regional to neighborhood) without creating a proportional increase in the scale of an activity center elsewhere in the Flagstaff region.



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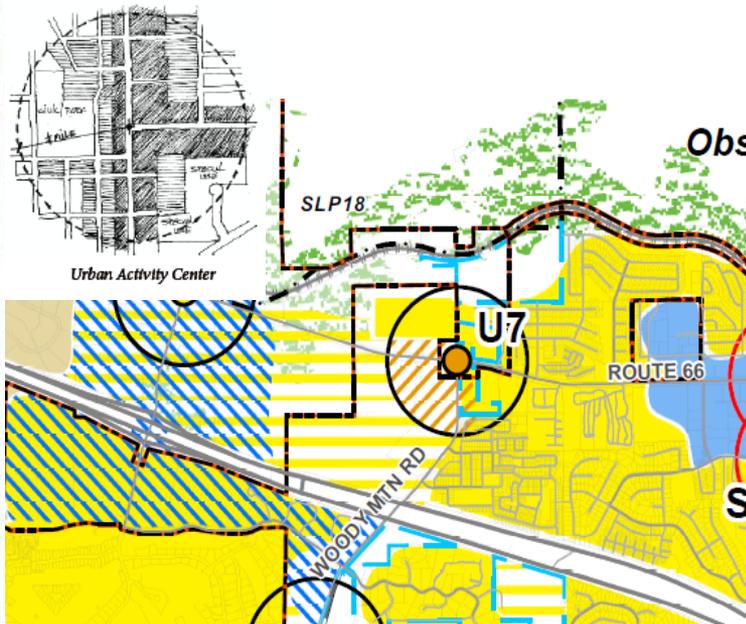
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1b. Major Amendments Activity Centers

Example 1: Deleting or Reducing the scale of an Activity Center



PROPOSED CRITERIA

- Addition or deletion of an activity center
- Reduction in the category of an activity center...

MAJOR AMENDMENT



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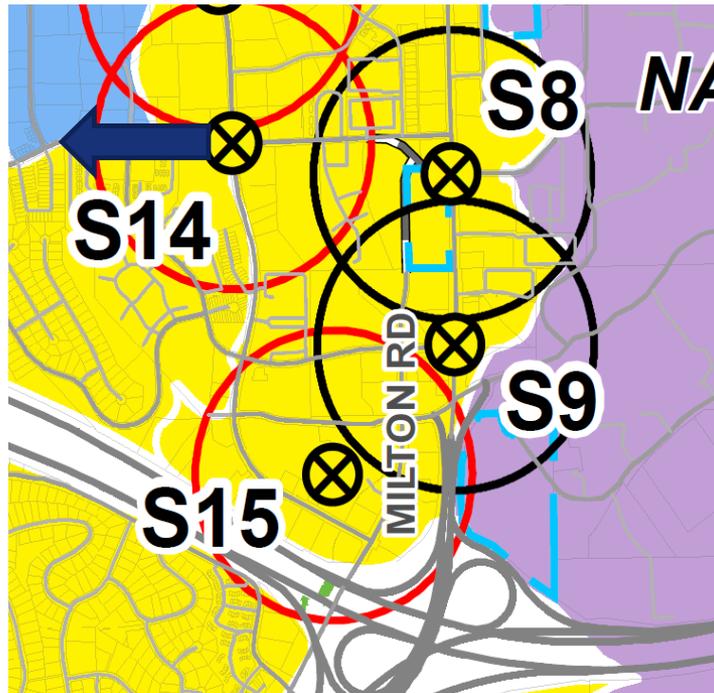
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1b. Major Amendments Activity Centers

Example 2: Moving an Activity Center



PROPOSED CRITERIA

Moving the center of an activity center more than ½ mile from its original location.

MINOR AMENDMENT



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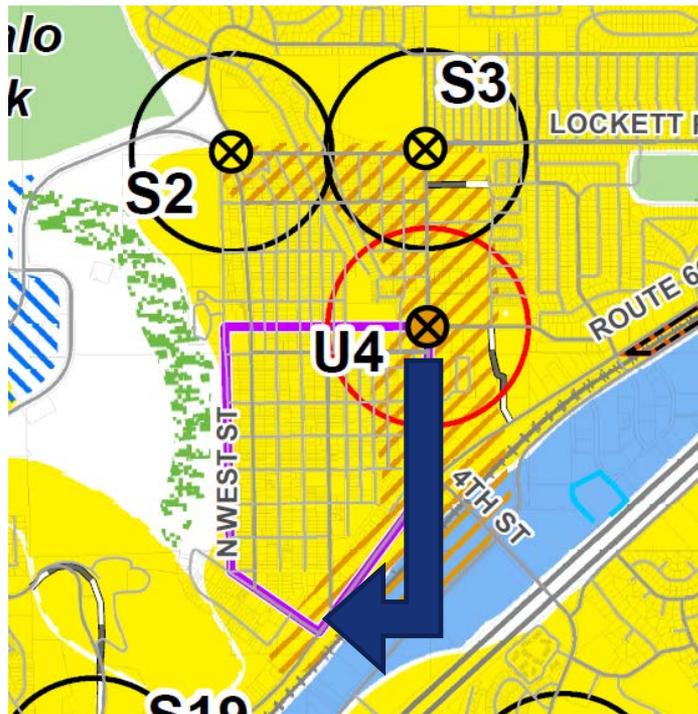
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1b. Major Amendments Activity Centers

Example 3: Moving an Activity Center



PROPOSED CRITERIA

Moving the center of an activity center more than ½ mile from its original location.

MAJOR AMENDMENT



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QUESTIONS?



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1c. Changes to Categories that would have Varied or Uncertain Outcomes



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1c. Major Amendments Urban/Suburban/Rural



Proposed Change to Area Types		
Protect employment areas	Any change to the boundaries of employment areas to urban, suburban, or rural area types	Any change from urban, suburban, or rural area types to employment area type
Expanding or changing the boundaries of one area type to another area type within the specified acreage thresholds	Urban to suburban greater than 10 acres	Urban to suburban less than or equal to 10 acres
	Urban to rural of any size	
	Suburban to urban greater than 10 acres	Suburban to urban less than or equal to 10 acres
	Missing Category	Suburban to rural less than or equal to 5 acres
	Rural to suburban greater than 20 acres	Rural to suburban less than or equal to 20 acres
	Rural to urban of any size	

In RLUTP, acre thresholds were 40, 60 and 80 acres.



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1c. Major Amendments Urban/Suburban/Rural

Most significant change proposed to these categories

Why?

- Missing category
- Acre thresholds are arbitrary
- Acre thresholds are difficult to apply when the map is not parcel specific
- Area and Place types work together to determine the appropriate scale and context



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1c. Major Amendments Urban/Suburban/Rural

CURRENT

- Urban to suburban greater than 10 acres
- Suburban to urban greater than 10 acres

Rural to suburban greater than 20 acres
Will address under 1d: Major to Minor



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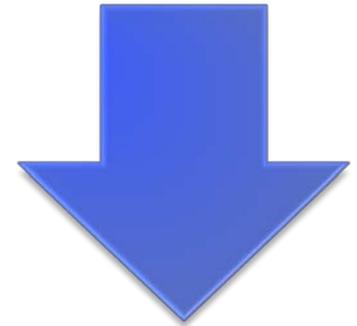




1c. Major Amendments Urban/Suburban/Rural

PROPOSED

- In activity centers, changes to area types that reduce the range of intensity, density and mix of uses, except where done to protect natural or cultural resources.



- In neighborhoods and along commercial corridors, more than ¼ mile from an activity center, changes from suburban to urban area types.



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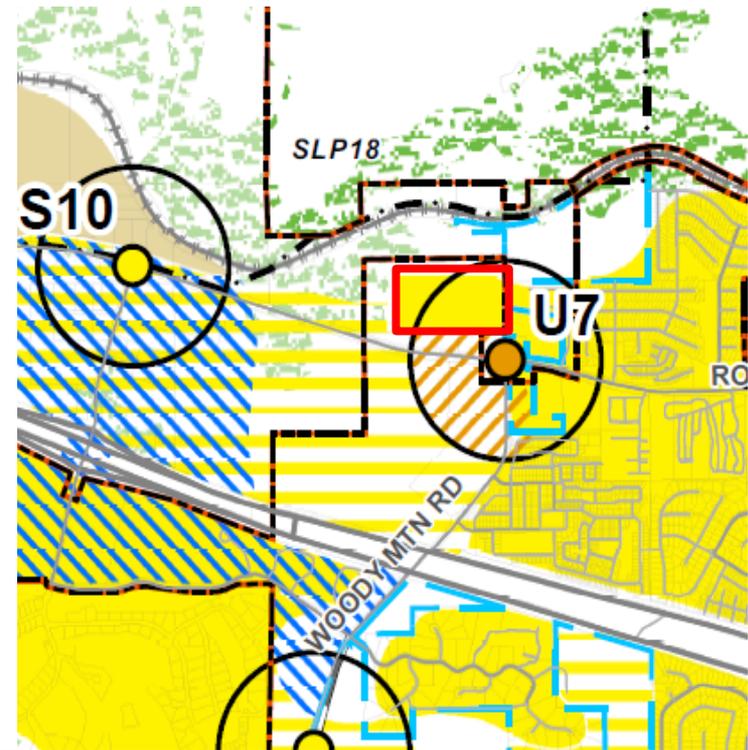
1c. Major Amendments Urban/Suburban

Example 1: Core Services Yard - Urban to Suburban in an Activity Center

Proposed Criteria

In activity centers, changes to area types that reduce the range of intensity, density and mix of uses, except where done to protect natural or cultural resources.

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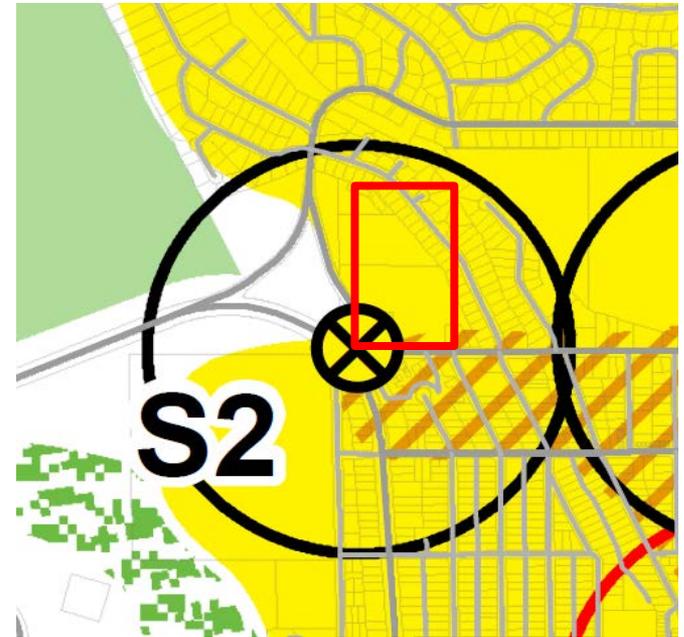
1c. Major Amendments Urban/Suburban

Example 2: Cedar and West St.
Suburban to Urban in an Activity Center

Proposed Criteria

In activity centers, changes to area types that reduce the range of intensity, density and mix of uses, except where done to protect natural or cultural resources.

MINOR AMENDMENT



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1c. Major Amendments Urban/Suburban

Urban Neighborhood Area-Place Type

URBAN NEIGHBORHOOD CHARACTERISTICS

Urban areas have a higher density of people, residences, jobs and activities; buildings are taller and close to the street; streets and sidewalks are in a grid pattern of relatively small blocks; the area is walkable and a variety of services and goods are available; served by public transportation and with various forms of shared parking (lots, garages, etc.) and street parking.

Existing Urban Area
*Symbol from Map 22



Future Urban Area
*Symbol from Map 22

Desired Pattern	Minimum 2 stories within a commercial core and on urban corridors
Block Size	300 X 300 to 300 x 600
Density Range	Minimum 8 units per acre. Increased density within the ¼ mile pedestrian shed; exception for established Historic Districts.
Intensity	(FARs) of 0.5 +. Higher range of intensity within the commercial core of activity centers and corridors; exception for established Historic Districts.
Air Quality	Consider long-term impacts to air quality by proposed development. <i>Refer to Air Quality Goal E&C.1.</i>
Solar Access	Consider solar access for all development, allowing passive/active solar collection.



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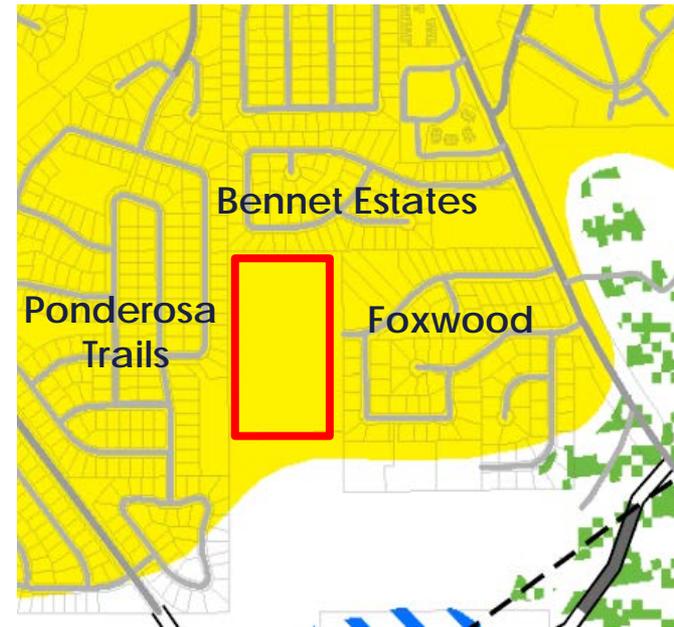
1c. Major Amendments Urban/Suburban

Example 3: Suburban to Urban in Neighborhood

Proposed Criteria

In neighborhoods and along commercial corridors, more than ¼ mile from an activity center, changes from suburban to urban area types.

MAJOR AMENDMENT



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QUESTIONS?



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1d. Current Major Amendment Categories proposed as Minor



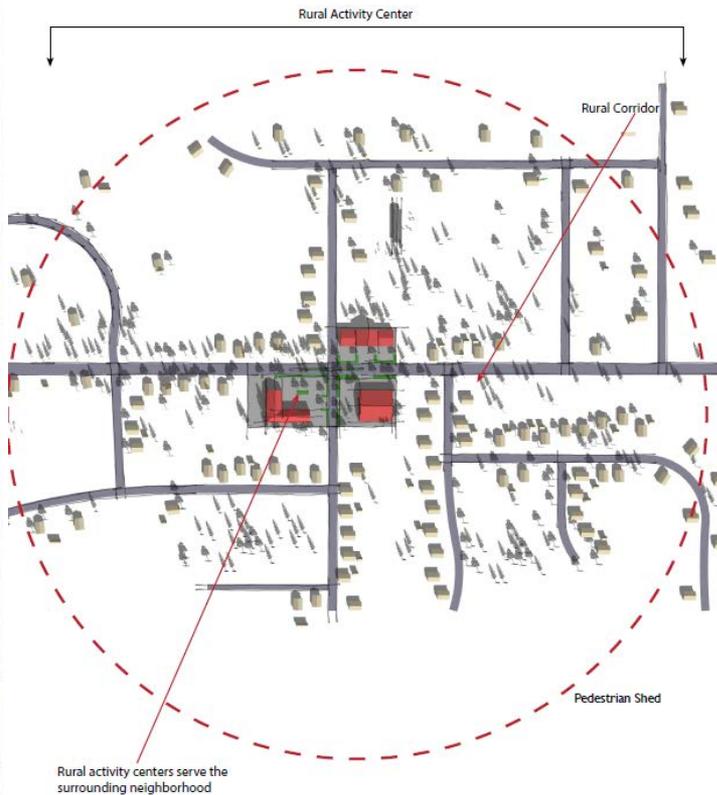
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1d. Major Amendments Rural to Suburban



CURRENT CRITERIA

Any change from Rural to Suburban more than 20 acres

MAJOR AMENDMENT

PROPOSED CRITERIA

In neighborhoods and along commercial corridors, more than ¼ mile from an activity center, changes from suburban to urban area types.

MINOR AMENDMENT



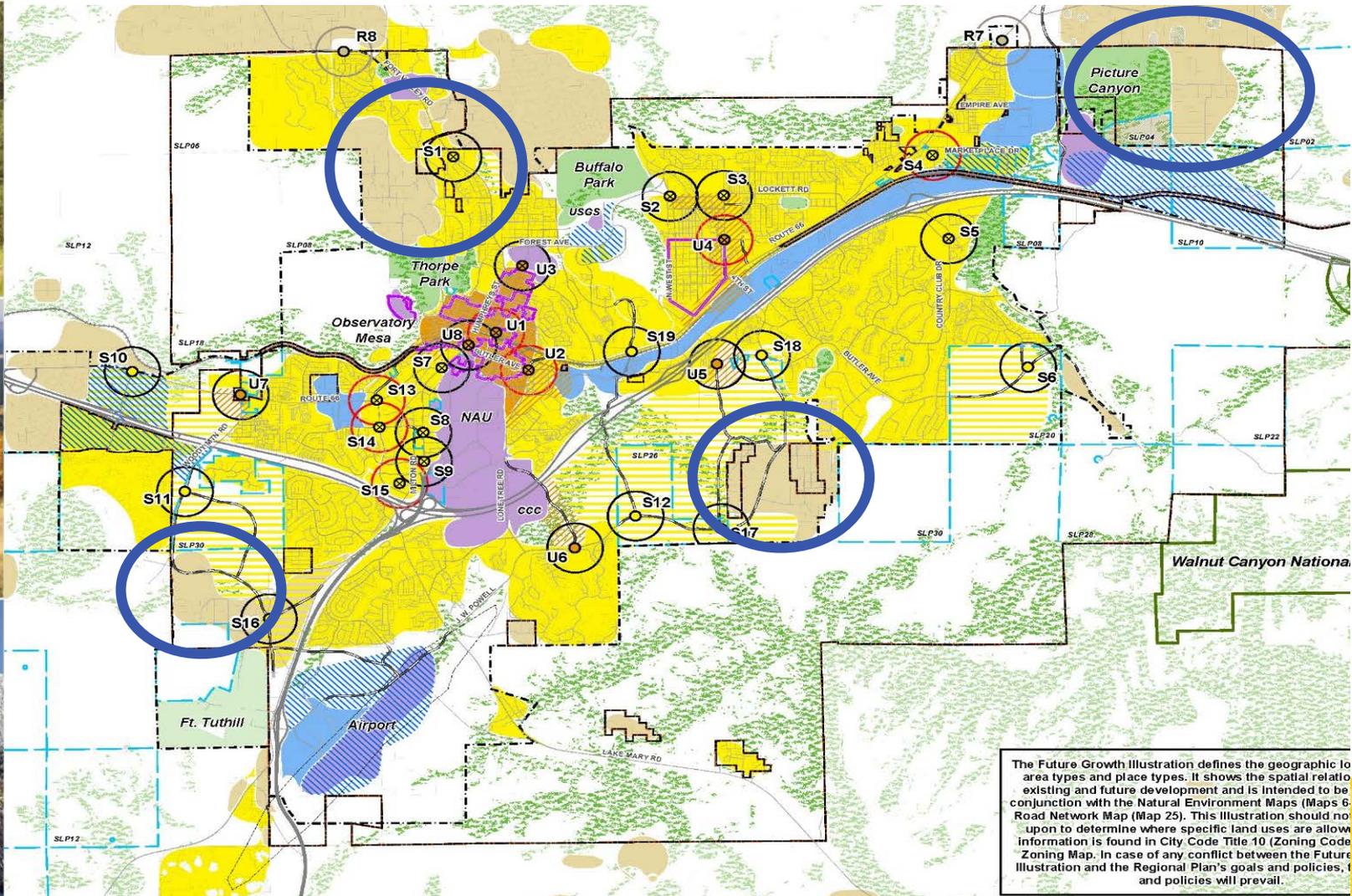
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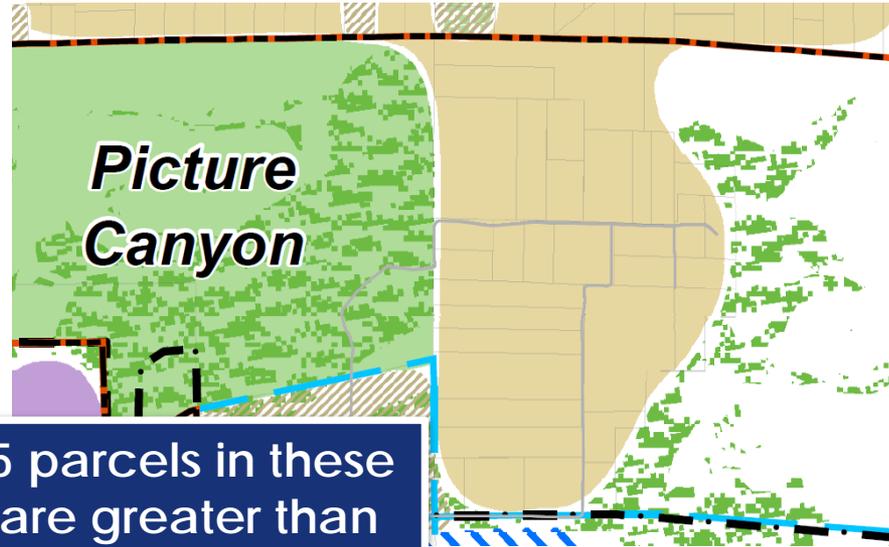




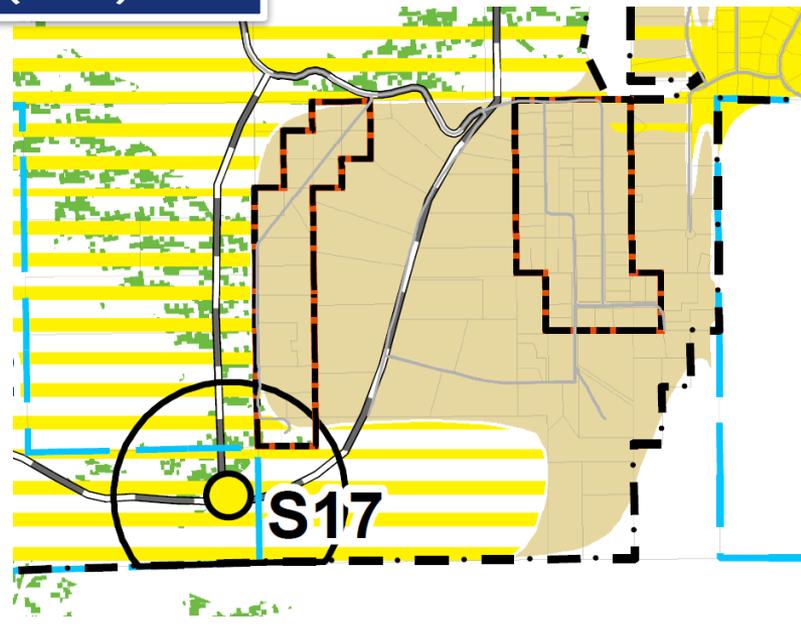
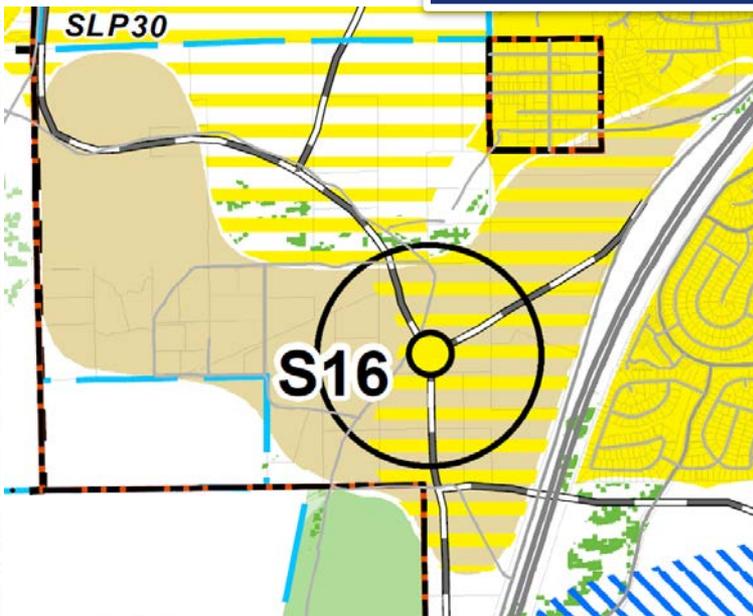
1d. Major Amendments Rural to Suburban



The Future Growth Illustration defines the geographic location of area types and place types. It shows the spatial relationship between existing and future development and is intended to be used in conjunction with the Natural Environment Maps (Maps 6 and 7), the Road Network Map (Map 25), and the Future Growth Illustration. This Illustration should not be used to determine where specific land uses are allowed. For more information is found in City Code Title 10 (Zoning Code) and the Zoning Map. In case of any conflict between the Future Growth Illustration and the Regional Plan's goals and policies, the Regional Plan's goals and policies will prevail.



Only 15 parcels in these areas are greater than 20 acres. (~7%)



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1d. Major Amendments Rural to Suburban

Why did staff propose to make Rural to Suburban a Minor Amendment?

- As written, 93% of applications would be minor unless parcels are combined.
- Desired density for Suburban and Rural Neighborhoods have caps:
 - 0.2 to 1 units/acre in Rural
 - 2 to 10 units/acre in Suburban
 - 8+ units/acre in Urban
- Site Plan availability



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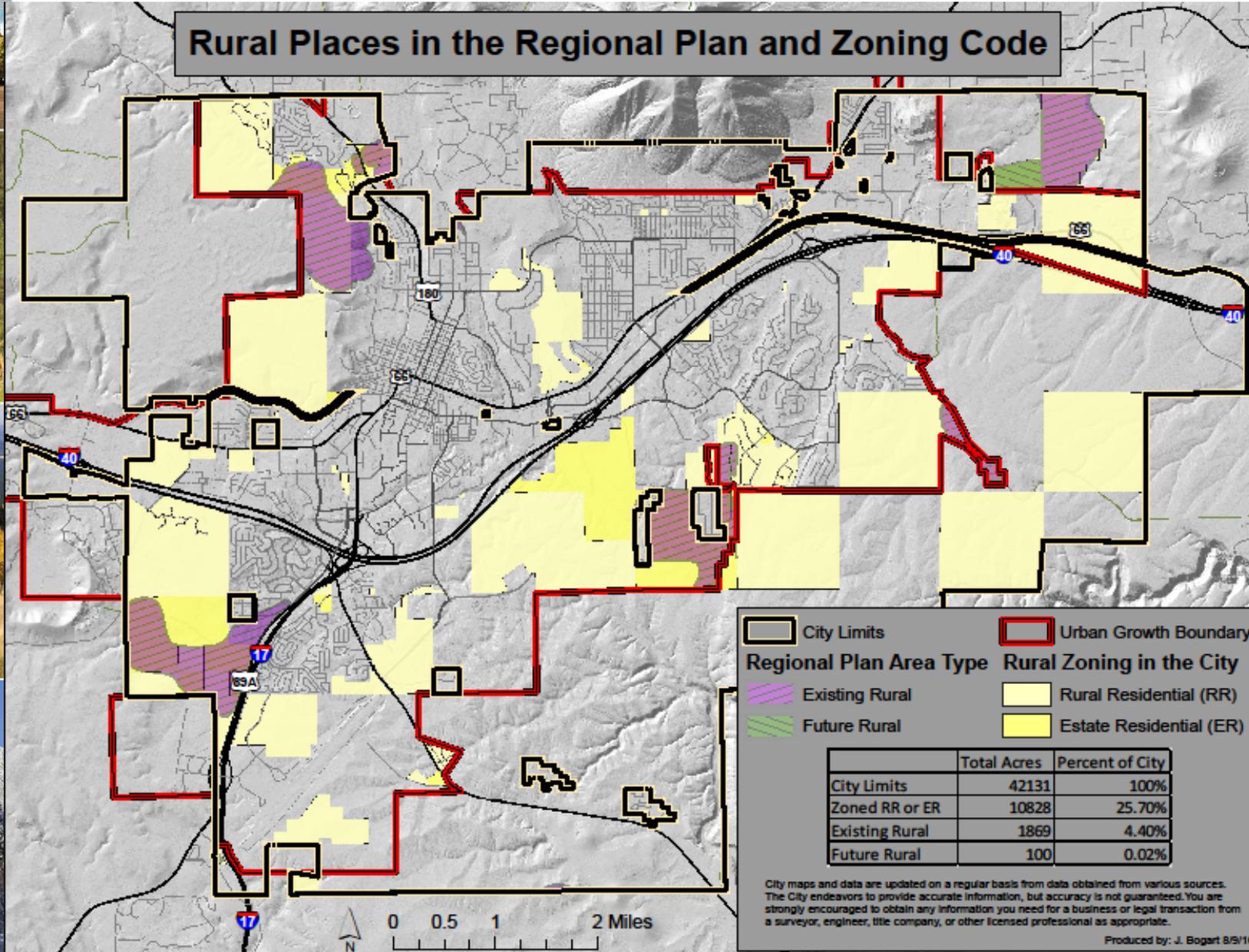
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Rural Zoning & Area Type



Rural Places in the Regional Plan and Zoning Code



- City Limits
- Urban Growth Boundary
- Regional Plan Area Type**
- Existing Rural
- Future Rural
- Rural Residential (RR)
- 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.



1d. Major Amendments Rural to Suburban

- **Option A:** Treat all changes from Rural to Suburban as minor amendments (original proposal)
- **Option B:** Keep current category.
- **Option C:** Only require a major amendment for Rural area types more than ¼ mile from an activity center



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1d. Major Amendments Rural to Suburban

OPTION B

Keep Current Criteria
for Major Category

- In activity centers, changes to area types that reduce the of intensity, density, and mix of uses³ except where done to protect natural or cultural resources.
- In neighborhoods and along commercial corridors more than 1/4 mile from an activity center, changes from suburban to urban area types.
- Rural to suburban greater than 20 acres

- Addition or deletion of an activity center

OPTION C

Integrate into Major Category
for Urban/Suburban/Rural

- In activity centers, changes to area types that reduce the of intensity, density, and mix of uses³ except where done to protect natural or cultural resources.
- In neighborhoods and along commercial corridors more than 1/4 mile from an activity center, changes from from rural to suburban or suburban to urban area types.

- Addition or deletion of an activity center

Staff recommends Options A or C



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1d. Major Amendments Rural to Suburban

OPTION A

Minor Amendments

- Conditions of Approval for Zoning
- More detailed plans
- Fewer public meetings/ shorter timeline

OPTION C

Major Amendments

- More public comment opportunities
- No Conditions of Approval
- Possibility of Bait-and-Switch

Staff recommends Options A or C



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QUESTIONS?



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1d. Major Amendments Corridors and Great Streets

CURRENT



- Any commercial activities proposed outside of the activity center and along a corridor that is not contiguous to the activity center.

- This category does not trigger a change to any map or text in the Flagstaff Regional Plan. It is essentially amending nothing.
- Can't ask applicants to pay for an amendment that doesn't amend the plan

BOTTOM LINE: Unenforceable



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1d. Major Amendments Corridors and Great Streets

CURRENT

- Addition of a corridor or great street; Specific Plan needed.
- Extension of a corridor or great street more than a 1/4 mile in length.



- Adding roads is an essential part of subdivisions and implementing the Regional Plan.
- Future areas and corridors to not represent complete street system that would meet our policies and Engineering Standards.
- Not every decision about new roads or extensions is made by a development application



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What's the Difference?

Major Amendment

- Big Picture
- Concept-level information about development of the site. No dedications or final routes for infrastructure.

Minor Amendment

- Details
- Specific information about traffic, infrastructure, land uses, natural environment, community character. Can be accompanied by dedications and a development agreement that addresses costs.

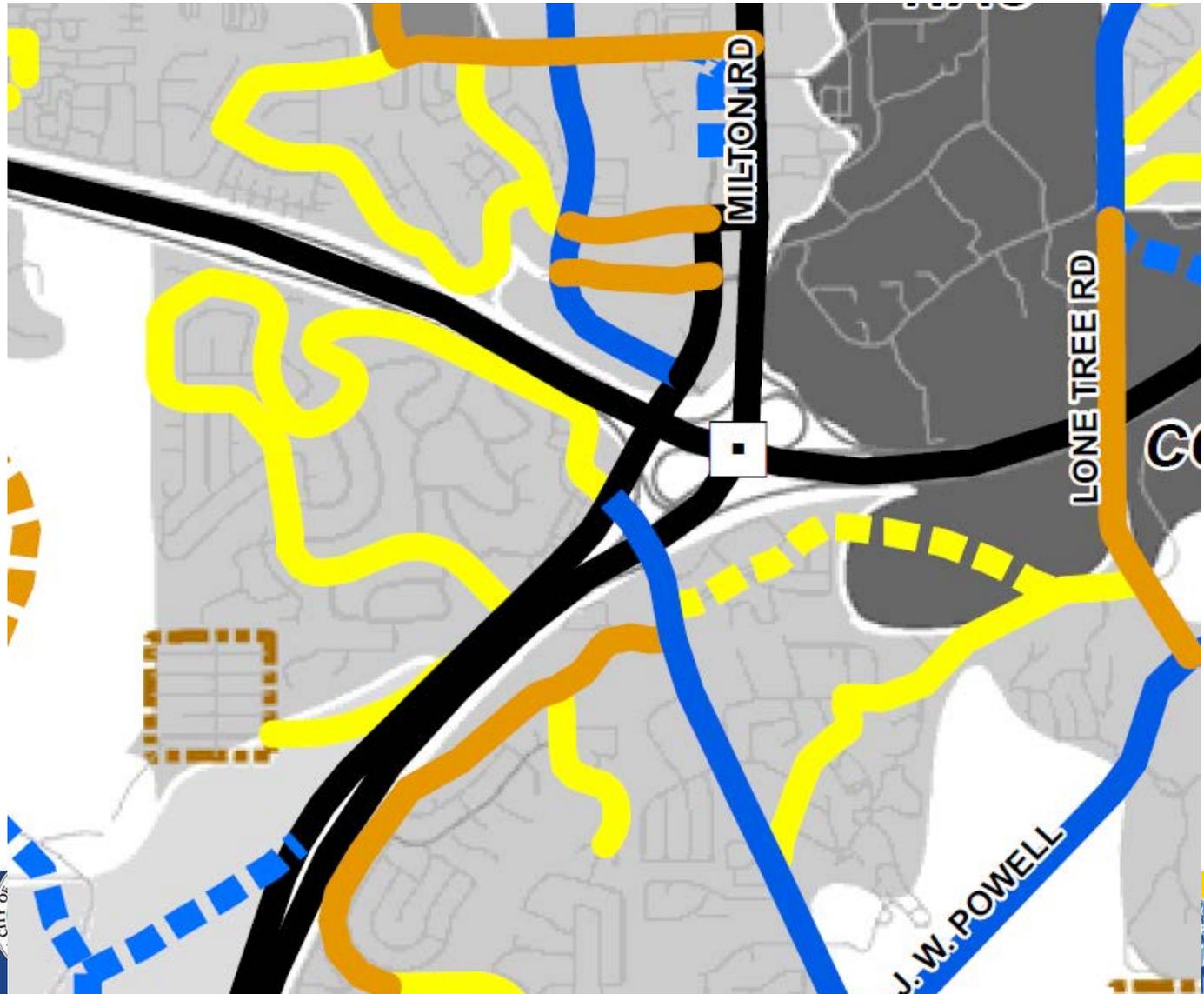


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1d. Major Amendments Corridors and Great Streets



CITY OF



1d. Major Amendments Corridors and Great Streets





1d. Major Amendments Corridors and Great Streets

Issues with current categories

1. Only addition/ no deletion category
2. New roads are common and necessary in newly subdivided areas
3. Land use and transportation were integrated at a Citywide scale through scenario planning models.
4. The need for a road may not be identified until later in the subdivision process or through a process outside of development review.



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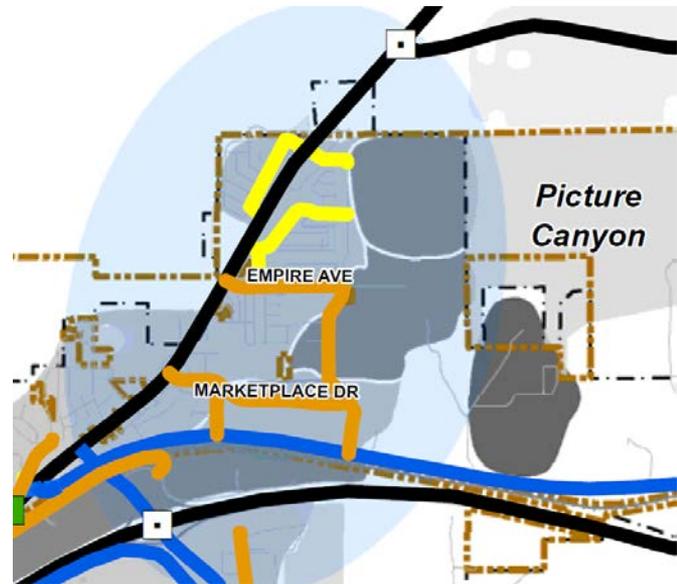


1d. Major Amendments Corridors and Great Streets

Issues with current categories

5. Commercial Activities category is an amendment with nothing to amend. No map or text would change in this scenario. It is a conformity issue.

6. The blue bubble areas show the need for roads but adding future road will require an amendment.



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1d. Major Amendments Corridors and Great Streets

PROPOSED

No major amendment categories specific to Corridors or Great Streets.

All amendments would be processed as minor amendments either with an application or part of the annual Regional Plan update.



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QUESTIONS?



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1. Major Amendments Exceptions for Specific Plans

1. This category excludes changes that are the result of a Specific Plan from the major amendment timeline

- Urban Growth Boundary
- Urban/Suburban/Rural Area Types
- Activity Centers
- Goals and Policies



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1. Major Amendments Exceptions for Specific Plans

ONLY EXEMPTED FROM ANNUAL TIMELINE

Even though Specific Plans are minor amendments,

- Title 11 required the Same Process for Public Notice and hearings as a Major
- Specific Plans usually have a longer and more involved timeline
- Still require a 2/3rds majority
- Specific Plans are comprehensive and have more analysis requirements.



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QUESTIONS?



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Summary of Issues

- Address categories that fit the definition of major plan amendment but are currently not listed
- Minimize Bait and Switch and U-turns
- Close Special District and Parks/Open Space loopholes
- Complete categories for activity centers



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Summary of Issues



- Address missing categories and arbitrary acre thresholds
- Make sure categories can be tied to plan content and are decisions that will be made by development applications
- Duplicative processes for Major Amendments and Specific Plans



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Next time....

2. Clarifications regarding Minor Amendments
3. Clear and legally accurate description of Specific Plans
4. Clarification about roles and development processes
5. Non-substantive changes



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Conclusions

- As a whole, the amendments proposed would increase the number of situations that require a major plan amendment.
- The amendments will resolve inconsistencies between other laws and the Regional Plan.
- Categories being made minor have localized impacts and ensure decisions made by any process are treated the same.



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QUESTIONS?



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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 6th 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.

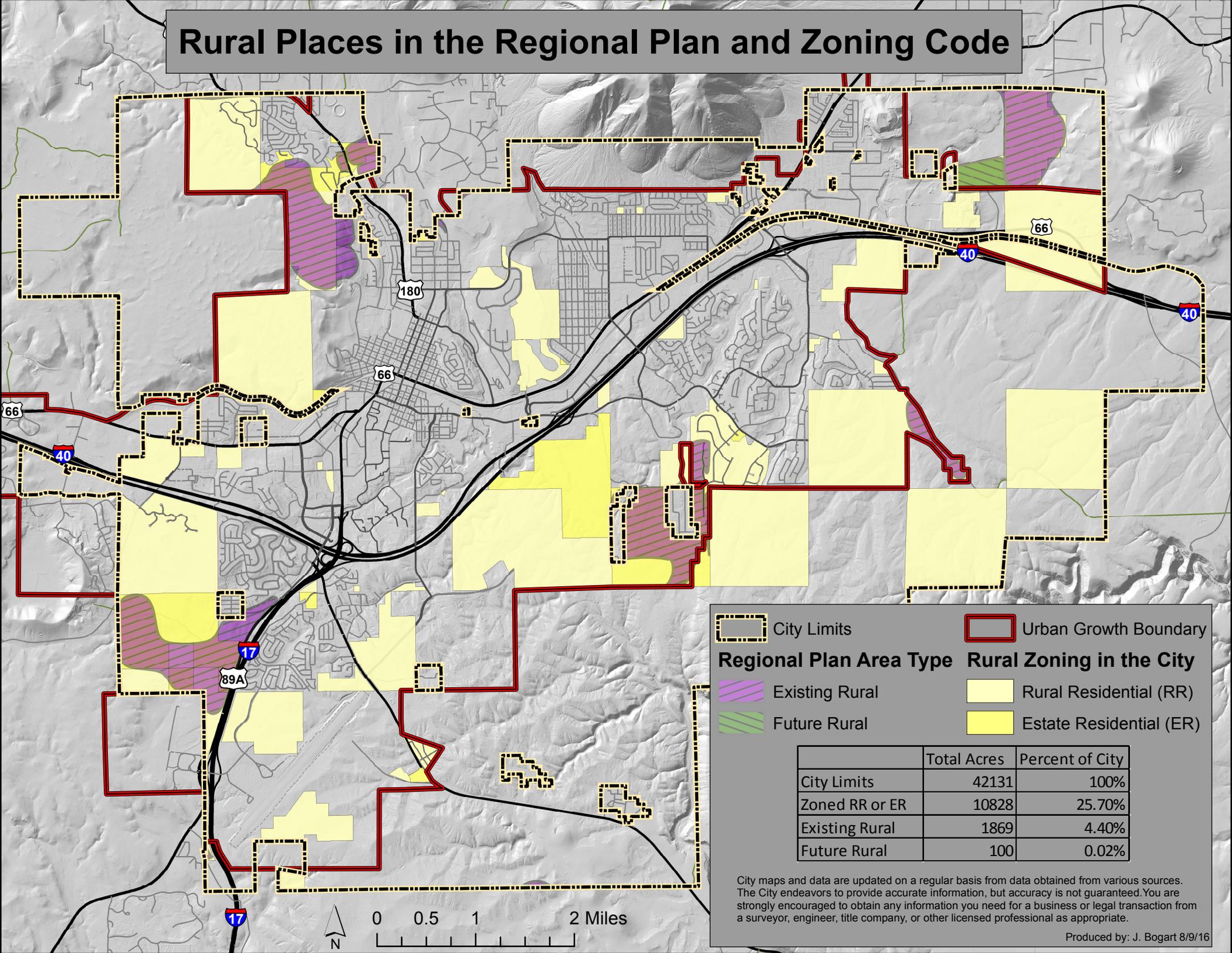
If we were to retain the current category for Rural to Suburban Area Types, it would be the only category with an acre limit. Under Option B, amendments with 19 acres would still be large enough to impact rural character but would not be treated the same as a 20 acres proposal. Option B would create 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.

CHAPTER 3 AMENDMENT - PUBLIC PARTICIPATION PLAN

March 24, 2016

PURPOSE

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

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

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

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

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

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 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 or (928) 213-2631.

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
General	<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>	
General	<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>
Neighborhood preservation	<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>
Neighborhood preservation	<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>
Page III-11	<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
<p>Page III-8 Specific Plans</p>	<p>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.</p>	<p>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.</p>
<p>Page III-8 Specific Plans</p>	<p>New specific plans may 'clarify' but also must meet the goals and policies. That cannot be restated enough.</p>	<p>Language was removed</p>
<p>Page III-8 Specific Plans</p>	<p>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.</p>	<p>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.</p>
<p>Page III-8 Specific Plans</p>	<p>...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</p>	<p>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.</p>

Comments from Chapter 3 Minor Plan Amendment - 30 day review

Topic	Comment	Response
Page III-8 Specific Plans	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.
Page III-8 Specific Plans	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.
Page III-8 Specific Plans	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
<p>Page III-8 Specific Plans</p>	<p>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</p>	<p>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.</p>
<p>Overall direction</p>	<p>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.</p>	<p>Not relevant to the proposal</p>
<p>Page III-10</p>	<p>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.</p>	<p>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.</p>

Topic	Comment	Response
Page III-10	<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>
Page III-10 and 12 Future v. existing area types	<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
Page III-11	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
Page III-11	#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.
Page III-11	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.
Page III-11 & 12	#3 The relevant example on page III-12 is not clear.	Clarified
Page III-12	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
Page III-5	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.
Page III-5	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.
Page III-5	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.
Page III-6	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.
Page III-8 Specific Plans	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
Page III-9	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.
Prop 207	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.
Staff priorities	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.
Timing and Process	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.
Timing and Process	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
Timing and Process	<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 26th. 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 7th 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>
Timing and Process	<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?

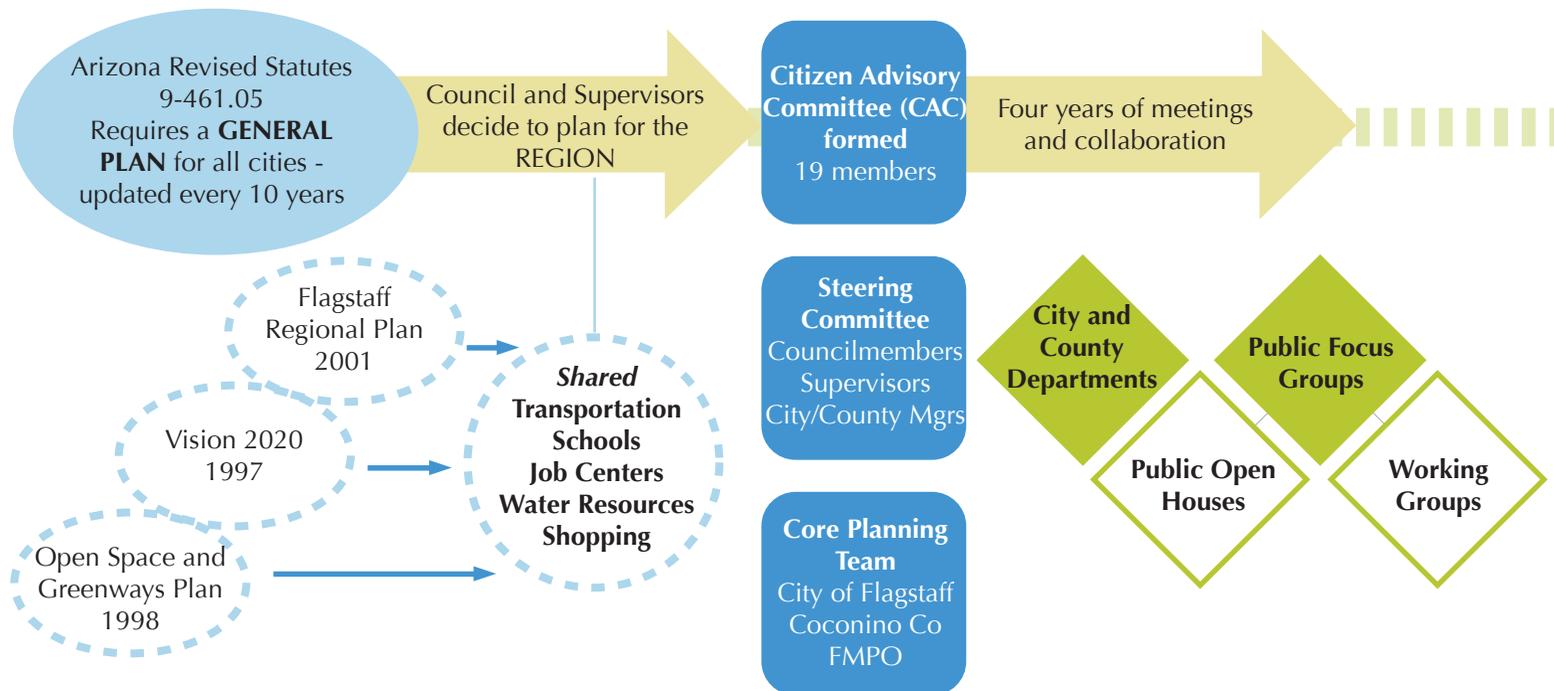
The Growing Smarter Statutes adopted by the State Legislature in 1998 and 2000 require that all municipalities and counties adopt general or comprehensive plans, and that these plans be updated every 10 years. However, the principal reason to have a plan is to make informed choices about our future. 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

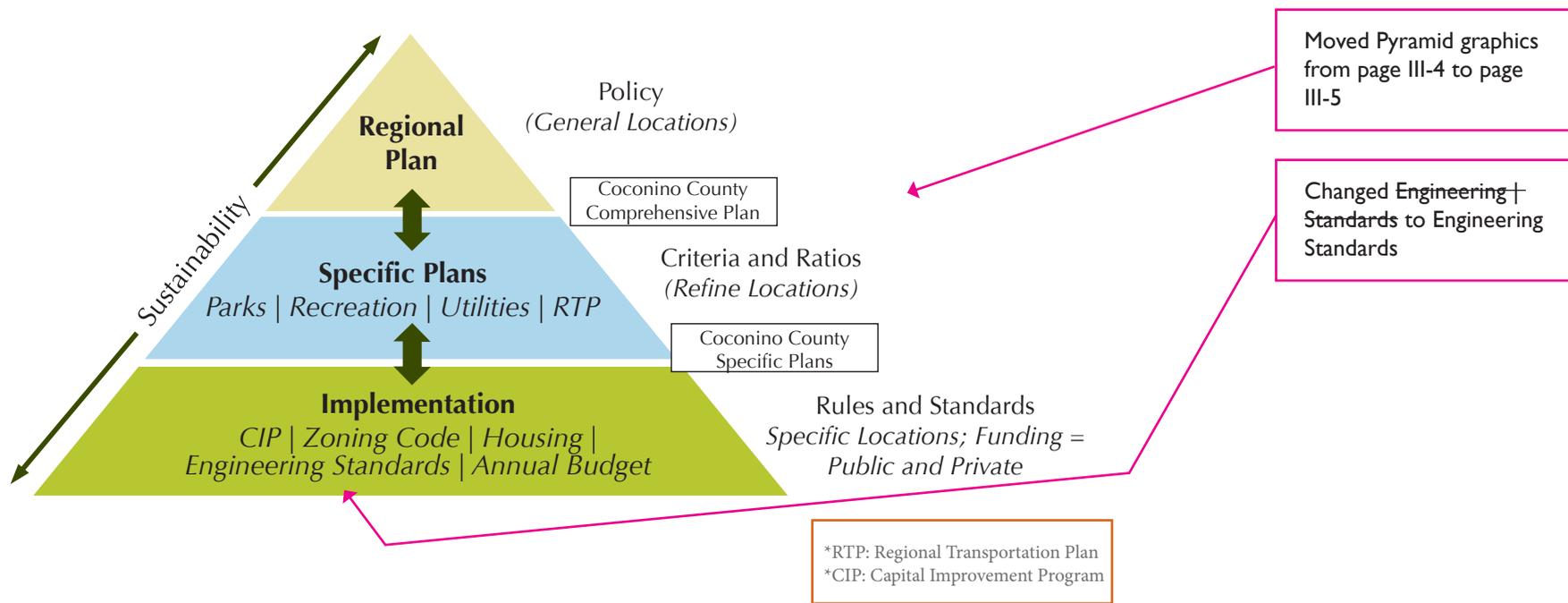
The relationship between the *Flagstaff Regional Plan* and such implementation tools as master plans, the Zoning Code, and other regulations is illustrated below; the *Flagstaff Regional Plan* establishes the vision for the future growth and development of Flagstaff and its surrounding area through goals 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

Corrected confusing/
inaccurate language

Updated per public
comments



Photo by: Tom Bean

[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 ¹	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. ²	
6 Area Types – Urban/Suburban/Rural ¹	<ul style="list-style-type: none"> - In activity centers, changes to area types that reduce the anticipated range of intensity, density, and mix of uses³ except where done to protect natural or cultural resources. without creating a proportional increase in intensity, density and mix of uses within the activity center. - In neighborhoods and along commercial corridors more than ¼ mile from an activity center, changes from suburban to urban area types. 	<ul style="list-style-type: none"> ← Removed condition to simplify ← New criteria
7 Place Type – Activity Centers ¹	<ul style="list-style-type: none"> - Addition or deletion of an activity center - Moving the center of an activity center more than ½ mile from its original location. - 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. 	
8 Goals and Policies ^{1,4}	Add or delete a goal or policy in any chapter of the Plan.	← Per public comment

¹ This category excludes changes that are the result of a Specific Plan. Such changes will be processed as minor amendments.

² 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.

³ 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..

⁴ Deletion or addition, of goals and policies to the Regional Plan can only be proposed by the City of Flagstaff.

← correction



1b. Major Amendments Activity Centers

CURRENT

- Addition of a new activity center 

PROPOSED

- Addition or deletion of an activity center
- Moving the center of an activity center more than $\frac{1}{2}$ mile from its original location.
- Reduction in the category of an activity center (urban to suburban, suburban to rural, or regional to neighborhood) without creating a proportional increase in the scale of an activity center elsewhere in the Flagstaff region.



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1b. Major Amendments Activity Centers

- Option A: Proposed Criteria
- Option B: Moving Existing AC would be Major and Future AC would be Minor
- Option C: All Moves of the Activity Center would be Major
- Option D: Moving a Regional Scale AC would be Major and Neighborhood-scale would be Minor



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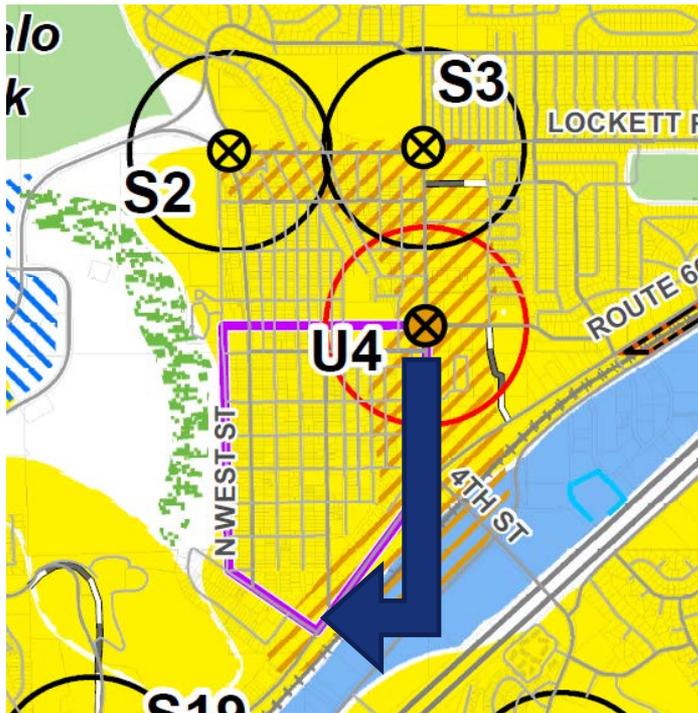
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1b. Major Amendments Activity Centers

Option A: Moving an Activity Center



PROPOSED CRITERIA

Moving the center of an activity center more than 1/2 mile from its original location.

MAJOR AMENDMENT



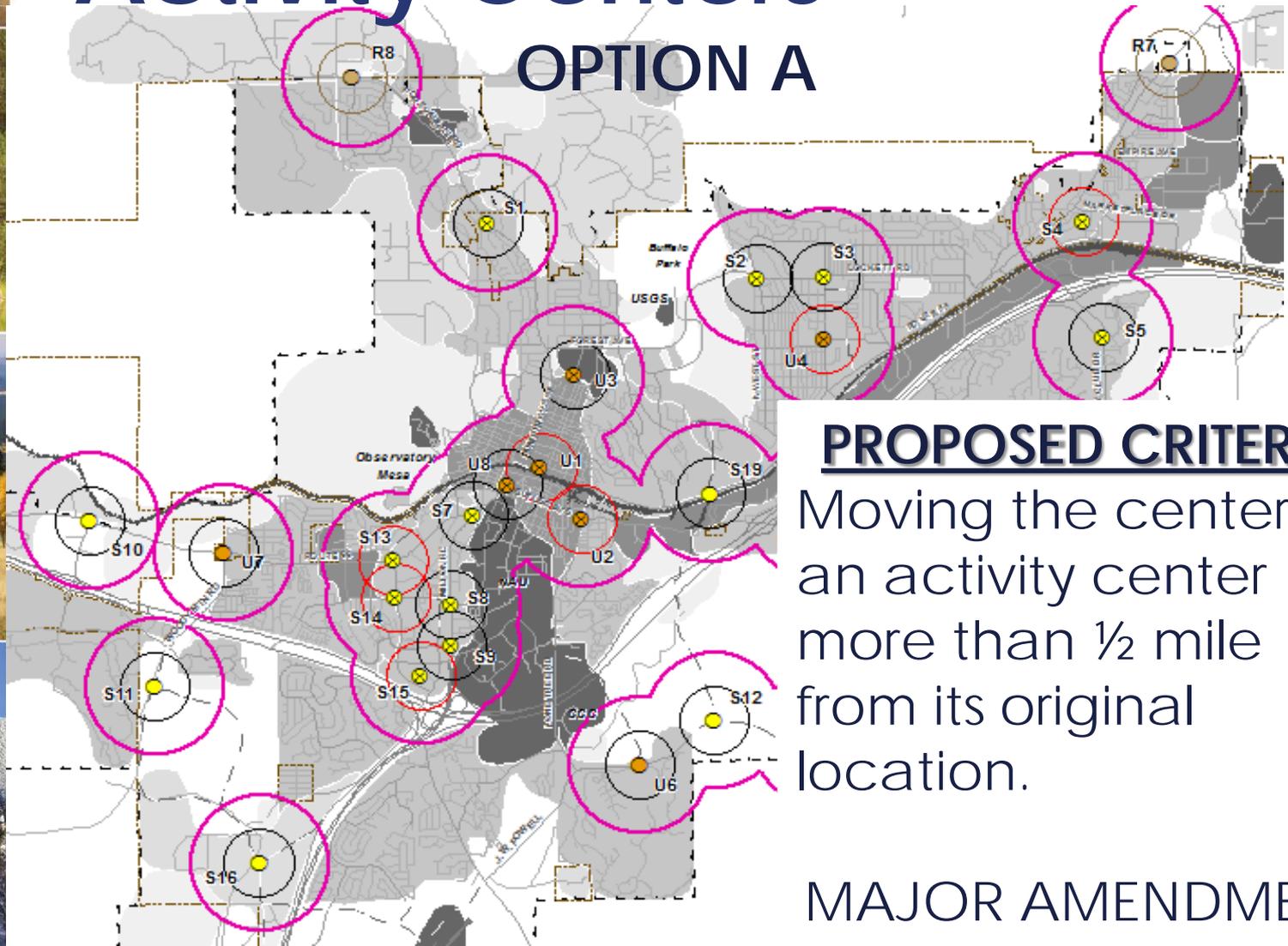
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1b. Major Amendments Activity Centers



OPTION A

PROPOSED CRITERIA

Moving the center of an activity center more than 1/2 mile from its original location.

MAJOR AMENDMENT



1b. Major Amendments Activity Centers

OPTION A

Pros

- Treats all activity centers the same regardless of scale or type

Cons

- Sets distance measure for major v. minor



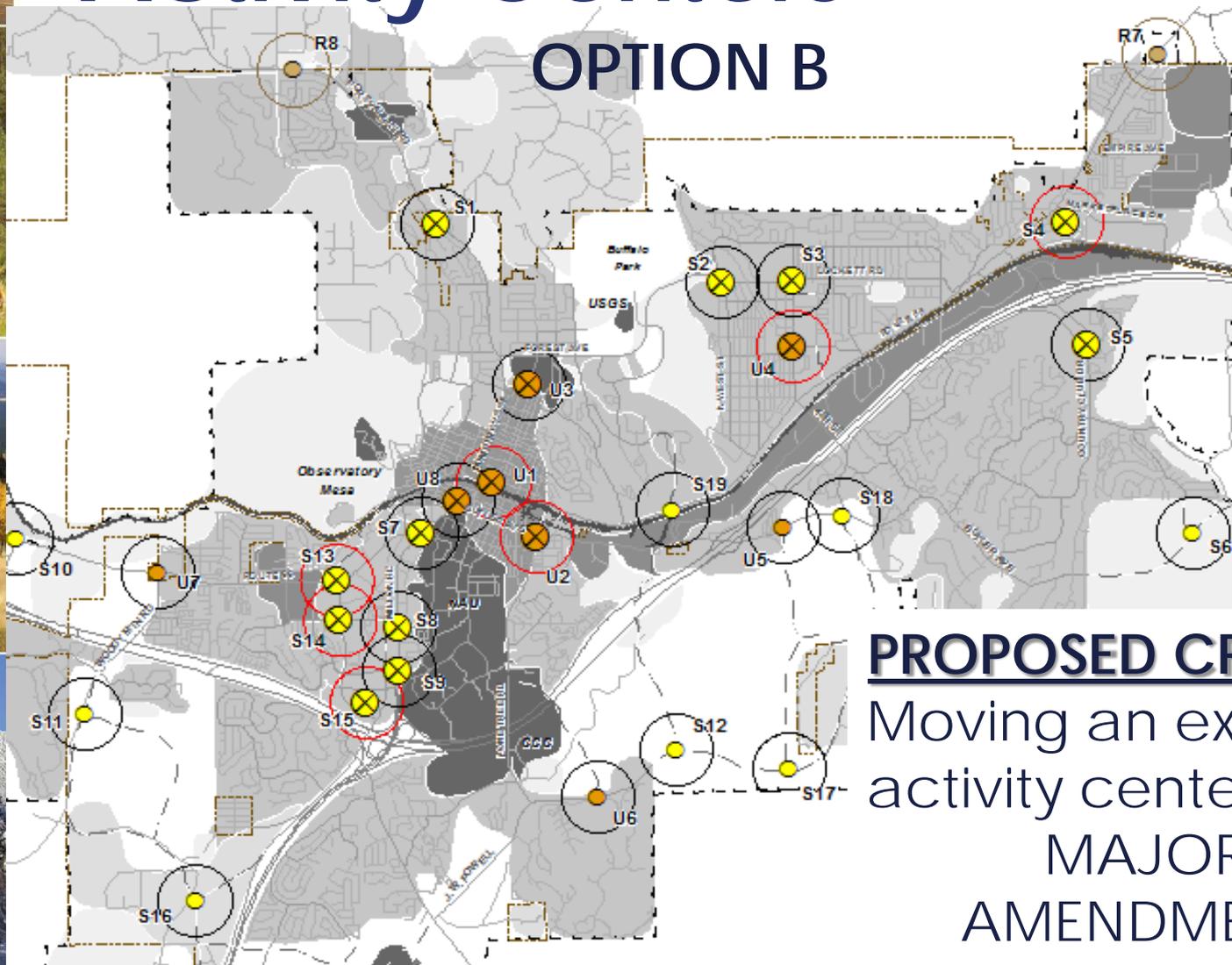
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1b. Major Amendments Activity Centers



PROPOSED CRITERIA

Moving an existing
activity center
**MAJOR
AMENDMENT**



1b. Major Amendments Activity Centers

OPTION B

Makes changes to 15 out of 28
ACs major amendments

Pros

- Simple and keeps with the intent
- Could also tie the major/minor threshold for "Reduction in the category of an activity center"



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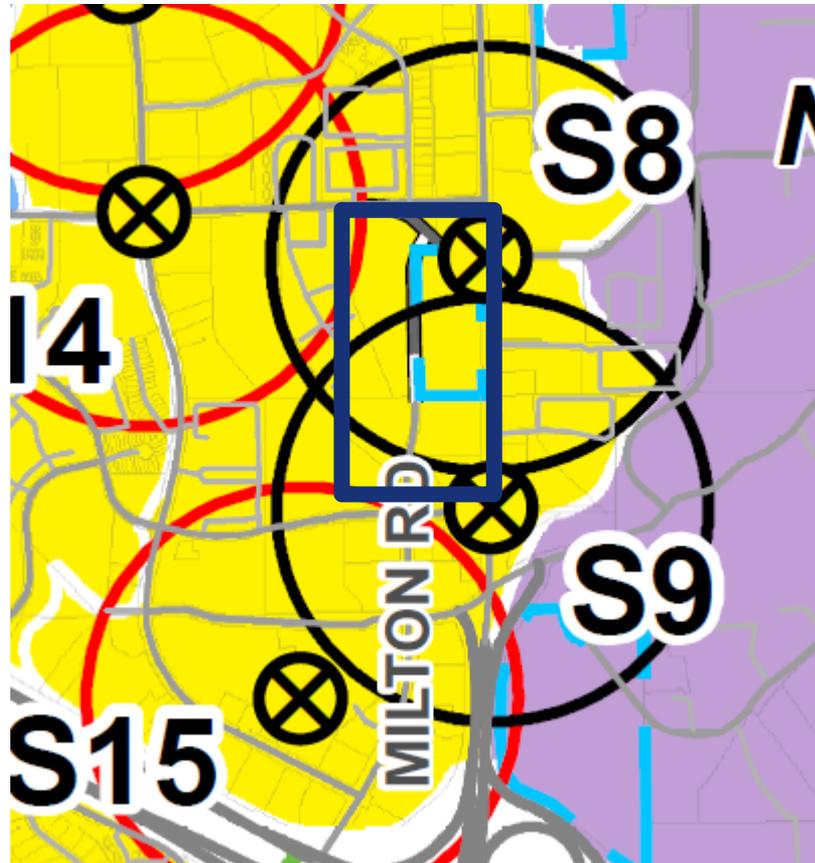
1b. Major Amendments Activity Centers

OPTION B

Current application under review as a minor amendment that would have been major under this criteria.

Changes

Neighborhood to Regional scale & moving the Activity Center to Beulah and University.



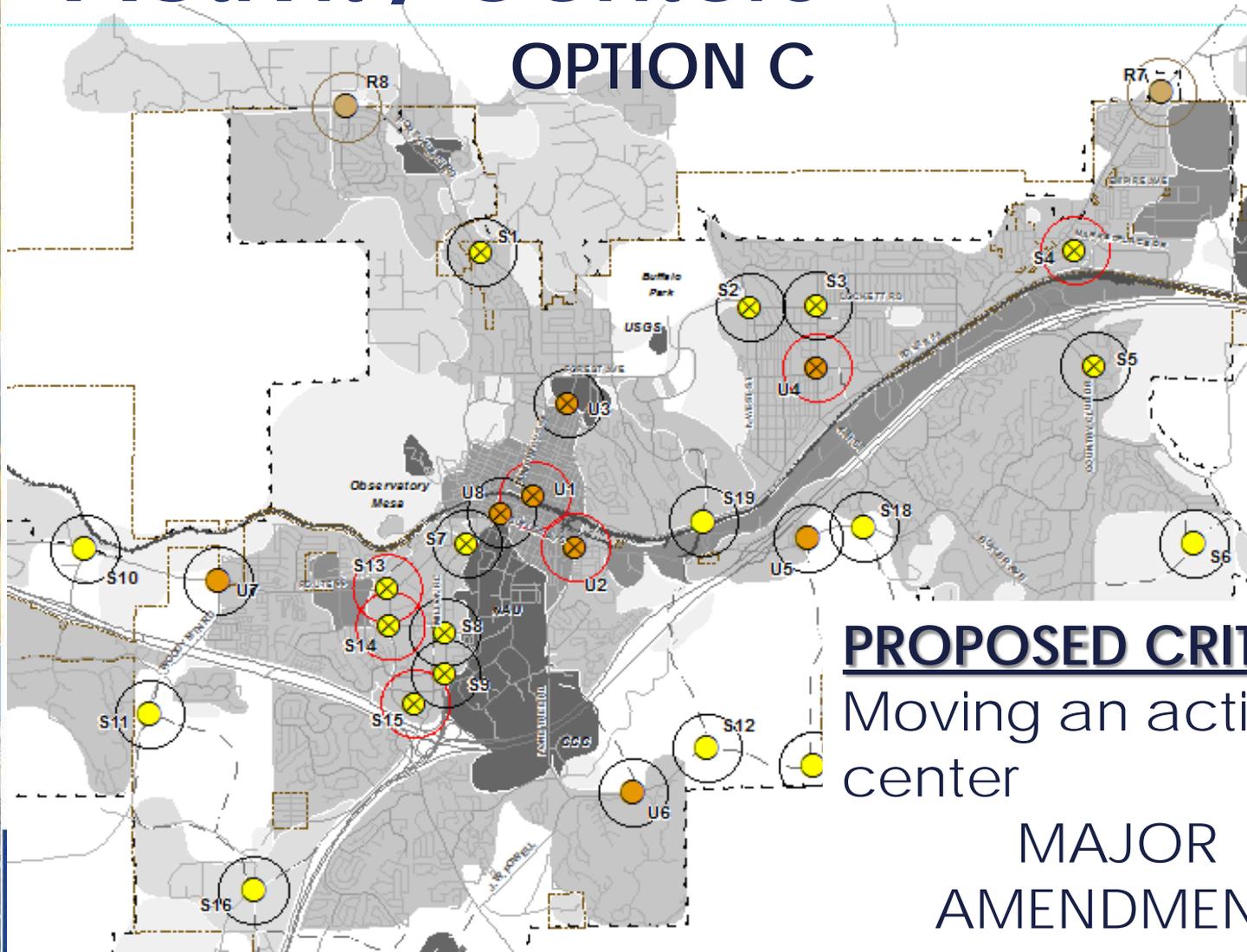
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1b. Major Amendments Activity Centers





1b. Major Amendments Activity Centers

OPTION C

Pros

- Treats all activity centers the same regardless of scale or type

Cons

- Very little flexibility
- Means changes to road alignments and activity center locations in large undeveloped areas would be difficult to do
- Staffs interpretation of the boundary and type of activity center would be important



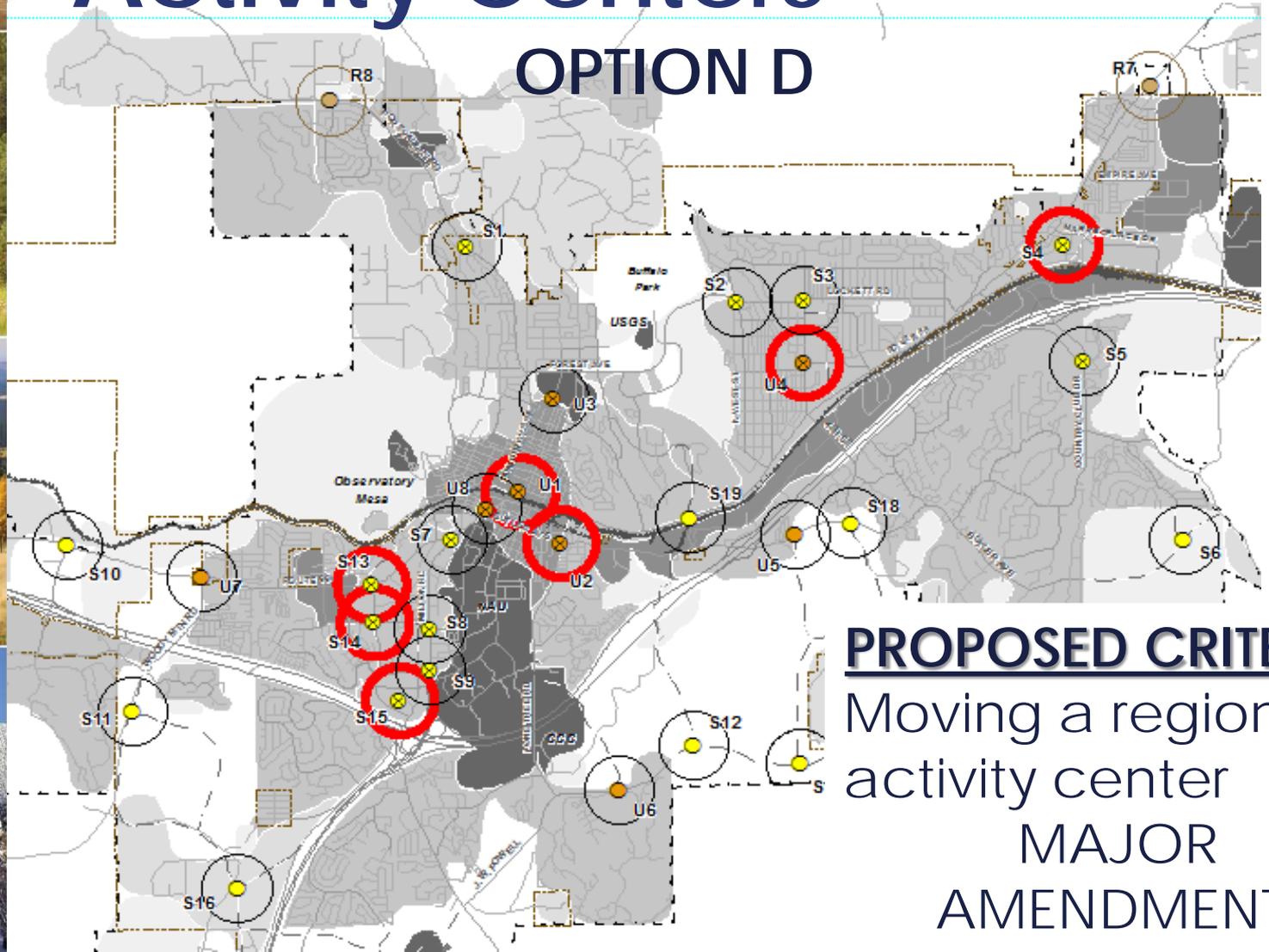
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1b. Major Amendments Activity Centers



OPTION D

PROPOSED CRITERIA

Moving a regional activity center
MAJOR AMENDMENT



1b. Major Amendments Activity Centers

OPTION D

7 of 28 ACs would require a major amendment

Pros

- Regional ACs would rarely move

Cons

- Not clear if changes to neighborhood scale ACs are that different



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CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Karl Eberhard, Comm Design & Redevelopment Mgr

Date: 10/11/2016

Meeting Date: 10/18/2016



TITLE:

Discussion: Implementation of Comprehensive Parking Management

DESIRED OUTCOME:

This presentation, which may be a series of presentations, is intended to:

- 1) Inform the City Council with regard to the final developments of the Comprehensive Parking Management Program, and
- 2) Prepare the City Council for a series of Action Items necessary in order to implement the program. Consideration of the Actions Items is tentatively scheduled for November 15, 2016.

EXECUTIVE SUMMARY:

In January of 2016, the City Council adopted a Comprehensive Parking Management Plan that has four major components:

- 1) Pay-to-park parking on the commercial streets and parking lots of north and south downtown,
- 2) Time-limited parking on adjacent south downtown streets,
- 3) An Employee Permit Parking Program, and
- 4) A Residential Permit Parking Program.

The plan was developed after extensive work with the community and was endorsed by eleven identified stakeholder groups representing the downtown, all of the surrounding neighborhoods, and the largest parking user groups including the City of Flagstaff, Coconino County, and Northern Arizona University. Upon adopting the plan, the City Council directed staff to develop the final regulations and details of the program as Administrative Guidelines, to develop the necessary code amendments for City Council consideration, to conduct procurement activities, and to take other steps necessary in order to implement the Comprehensive Parking Management Program.

Continuing with extensive community and stakeholder input, staff has accomplished more than one hundred tasks based on the City Council direction. Presented for your information and review are aspects of the original plan that have been modified and those that have been added as the Administrative Guidelines were developed. Also presented, and in anticipation of City Council's consideration in the near future, are certain action items necessary to implement the program.

While necessary, none of the programmatic developments of the Administrative Guidelines are fundamental or significant change to the adopted plan. All can be categorized as resolving minor conflicts and adding necessary detail. Similarly, none of the action items presented for consideration notably depart from expectations.

Finally, a stakeholder-proposed alternative implementation option proposed would implement the Residential Permit Parking Program in areas immediately adjacent to Northern Arizona University as an “opt-out” strategy instead of the plan’s “opt-in” strategy.

INFORMATION:

Background

For reference, please find attached the *Comprehensive Parking Management Plan*, dated November 2015 that was adopted in January of 2016. The plan addresses a two part strategy of managing our limited public parking supply in a fair and balanced way leading up to and enabling adding more spaces to the parking supply. As mentioned in the Executive Summary, the plan has four major components - Pay-to-park parking on the commercial streets and parking lots of north and south downtown, time-limited parking on adjacent south downtown streets, an Employee Permit Parking Program, and a Residential Permit Parking Program. In adopting the plan, the City Council also setup the program (branded ParkFlag) as an enterprise fund with accounting of income and expenses separate from the remainder of the City budget.

The issue of having a parking space shortage and spill-over parking in adjacent neighborhoods in Flagstaff is at least twenty-five years old. Over the last ten years, three broad solutions have been conceptualized. Until the current plan, each has failed as a result of not being perceived as “fair and balanced”, lack of stakeholder support, or other matters of community concern. The plan adopted by the City Council in January of 2016 was developed after extensive work with the community and was endorsed by eleven identified stakeholder groups representing the downtown, all of the surrounding neighborhoods, and the largest parking user groups including the City of Flagstaff, Coconino County, and Northern Arizona University.

Upon adopting the plan, the City Council directed staff to develop the final regulations and details of the program as *Administrative Guidelines*, to develop the necessary code amendments, to conduct procurement activities, and to take other steps necessary in order to implement the Comprehensive Parking Management Program. What is now presented to the City Council, is in part informational materials and is in part materials in advance of City Council consideration of future implementing action items. It is all the result of the City Council’s direction, notably prepared in the context of continued extensive community and stakeholder input as well as the contributions of most every Division of the City providing technical, strategic, and legal support and coordination of the enterprise.

Shortly after the City Council adopted the *Comprehensive Parking Management Plan*, a direct email address (ParkFlag@flagstaffaz.gov) and a Dropbox (<http://tinyurl.com/Park-Flag>) were established. Updated weekly, these communication links have been widely and regularly promoted to the public, stakeholders, and the steering committee, allowing ongoing access to the developing plan documents and providing an ongoing opportunity for questions and input. More recently, a Park Flag page was established on Facebook (<https://www.facebook.com/ParkFlag/>) to further this effort.

In addition to the development of the *Administrative Guidelines* and ongoing outreach efforts, some of the major milestones since the adoption of the plan have included incorporating the program into the City Budget which went into effect on July 1, 2016; on-the-ground surveying and mapping of the pay-to-park areas; extensive legal work; and various purchasing and financing matters.

Organization of the Presentation:

The following materials are presented in three parts including a review of the final draft *Administrative Guidelines*, a listing and discussion (preview) of the various action items necessary to implement the program, and the presentation of an alternate implementation strategy.

The *Administrative Guidelines* (attached) are in outline format and are thus not discussed at great length here for brevity. Instead, the *Administrative Guidelines* portion of the presentation generally follows the outline of the guidelines, highlighting only a few of the notable features, but importantly noting any changes or new program features. The program map is useful to see the overall plan. And, when reading the *Administrative Guidelines*, the image of the associated parking signs on each page (where occurs) is useful too.

Part 1 – Administrative Guidelines:

General Guidelines Section

The guidelines and the program accentuate that all existing parking regulations remain and are unchanged by this program except that ParkFlag will be enforcing all parking regulations within the area served by ParkFlag. This includes, but is not limited to, seasonal parking restrictions, accessible parking, and vehicle abandonment.

In the near future, the Parking Manager will schedule a meeting with private parking lot owners and staff from the Police Department to provide them with information about managing their parking. Shortly before the installation of signs and kiosks, a Marketing Campaign will be launched that features a website, mailers, print media, and other mechanisms to educate residents and visitors about the coming parking changes and how the system functions. Key features of this marketing that will carry forward are a parking map, a "parking tips" document, and a connection to the Northern Arizona Intergovernmental Transportation Authority (NAIPTA) route planning app.

It is planned that the program will start with a "soft start" or introductory period to further educate users and to allow some time for adjustment. During this period, the rate for parking will be ten cents per hour and only warnings would be issued in lieu of citations. As currently planned, the introductory period would conclude in May when the system goes fully live.

Please recall that the all of the parking permits are virtual. They are essentially a registry of license plates and what parking rights are afforded to the permittee. There is not a physical permit. In developing the guidelines, in the interest of customer service and user flexibility, it was determined that a permittee would be allowed to associate any number of license plates with their permit with the understanding that only one vehicle at a time is allowed to utilize the parking rights of the permit.

This plan has been developed under the guidance of a Parking Steering Committee comprised of representatives of all government agencies affected by the plan including both Flagstaff Downtown Business Improvement and Revitalization District (FDBIRD) and NAIPTA. As the plan is implemented, this team will continue to meet to serve the role of an appeal mechanism. Any customer or public concern that is not or cannot be satisfactorily resolved by ParkFlag will be brought to the Parking Steering Committee for discussion and potential resolution. These meetings will be regular and open to the public to allow informal input as well.

Demand Reduction Section

It was originally anticipated that ecoPASSes would be made available to downtown employees as a means to reduce parking demand and cost. The current intent is for ParkFlag to purchase one hundred ecoPASSes from NAIPTA and make these available at no cost to parking customers in lieu of their obtaining a Downtown Resident Parking Permit or an Employee Parking Permit. These passes will be provided on a first-come-first-served basis. This T Permit program is a pilot program for both NAIPTA and ParkFlag and the effectiveness and continued offering would be re-evaluated after a year of operations.

Streets, Parks, and ParkFlag are discussing the development of additional parking at Buffalo Park. This parking would be a great use during the large weekend events at the park and would serve as a

park-n-ride during the week. The targeted park-n-ride users would be the jurors of the Municipal and County Courts. It is believed that this opportunity combined with the already free bus passes for jurors and hopefully a closer interval bus service will provide for the discontinuance of the current system that uses street parking spaces for these users. The continued consideration of this idea will be separate from the implementation of the Comprehensive Parking Management Program.

Downtown Resident Permit Parking (D Permit) Section

This new program component was developed to address two types of downtown residents.

One group includes people who live in single family residences that happen to be on streets that will have pay-to-park installed. There is a very small number of such properties - approximately ten – most on streets with employee parking allowed. To afford them with similar rights as a property would have under the Resident Permit Parking Program, they would receive an E permit that would allow them to park in the employee parking areas without need of paying to park. These permits would be issued at no cost to the property owner.

The other group of downtown residents live in units above stores and other mixed use configurations, typically without any parking provided. They are challenged for parking during the seasonal parking restrictions. This new program would provide them with a D permit and the right to park overnight in the program parking lots (discussed further below) during the seasonal parking restriction period. These permits would cost \$60 per month.

Employee Permit Parking (E Permit) Section

Please recall that these permits would allow employees and business owners to park in designated areas that are otherwise metered. As there is and will be a shortage of spaces, these permits will be issued by annual lottery.

Originally envisioned to be issued to businesses for distribution to their employees, based on stakeholder desires, the current plan is to distribute them directly to employees.

The anticipated cost of these permits at \$65 per month has been reduced to \$45 per month.

The final plan makes these permits invalid on streets when used for the Armed Forces Day, Fourth of July, and Holiday Lights parades.

ParkFlag staff is working with several private property owners to secure private property to use as temporary employee parking lots. The best prospect, located in the northeast corner of downtown, was recently sold for development and is no longer available. Two other prospects are being pursued. The continued consideration of this idea will be separate from the implementation of the Comprehensive Parking Management Program.

Facility Specific Permit Parking (F Permit) Section

This new program component was developed to increase the supply of parking at this time. The general concept is that these lots would be managed by ParkFlag and restricted to the owner's use during the day, but importantly, available as public parking in the off-hours. This is especially important for north downtown workers who work until late night or early morning. It is intended that the pursuit of these kinds of opportunities, specifically including private properties, will be an ongoing effort of ParkFlag.

At present, the City properties involved in this program as F permit lots include City Hall and the Cherry Building (The Wheeler Park parking lot and the Downtown Library parking will also be managed by ParkFlag but not as F Permit lots). A separate Parking Management Plan for the City properties is attached. The County properties similarly involved in this program include four of their five downtown

lots. A separate Parking Management Plan for the County properties is also attached. For both City and County lots, the accessible spaces are available to the public without need of a permit.

A portion of the Lumberyard parking lot is currently public parking and a portion is under the control of the Lumberyard. The business owners have asked ParkFlag to manage their 22 spaces along with the 32 public parking spaces. At present these are the only spaces under private control that are included in ParkFlag management. And, because there are no compatible “off hours”, they will not be F permit spaces, but rather standard pay-to-park spaces.

This parking management would be provided at no cost to the property owner in exchange for the off-hours use by ParkFlag customers.

Residential Permit Parking (R Permits) Section

This program is virtually unchanged from the Comprehensive Parking Management Plan except that the final plan makes these permits invalid on streets when used for the Armed Forces Day, Fourth of July, and Holiday Lights parades.

Recall that implementation requires a simple petition from the block. The petition allows the blocks to select one of three configurations – all of which maintain public parking while reserving spaces for resident use. Eligibility for a permit is based solely on water meters - not land use, number of units, or number of tenants. These permits would be issued at no cost to the property owner.

In developing the plan, staff predetermined that all streets within three blocks of FDBIRD or NAU have impacts and the “occupancy test” portion of the process is eliminated.

Also, stakeholders (residents) expressed concern about all guest permits costing money so the final plan includes twelve “free” permits per year and all other, unlimited in number, cost the \$5 per 24 hours as was previously planned.

Pay-to-park Section

This program is also virtually unchanged from the Comprehensive Parking Management Plan. Recall that the multi-space pay-to-park kiosks (meters) do not accept cash or coins and that there is a mobile payment app.

The final list of public parking lots is:

- Phoenix Avenue
- Beaver Street
- Leroux Street
- Visitor Center
- Wheeler Park
- Lumberyard

Accessible parking spaces will be pay-to-park.

For simplicity, and knowing that we can change at a later date, the meter rate has been simplified to \$1 per hour – not using the dynamic pricing feature. The operating hours are 7:00 am to 7:00 pm on week days, starting at 9:00 am on Saturday, and ending at 10:00 pm on Fridays and Saturdays. Parking customers would no longer be limited to two-hours as the final guidelines provide that they can purchase as much parking time as they wish. And, moving cars every two-hours is also no longer necessary.

Staff seeks specific City Council consideration of this option: An aspect of this program that was not previously discussed is what to do relative to events and other parking space closures (such as contractor or dumpster use). The final draft plan includes a “Meter Exemption Permit”, sometimes called

a hooding fee, for Permitted Events at \$1 per half-day per space and all other space closures at \$5 per day. This permit would not be required for the Armed Forces Day, Fourth of July, and Holiday Lights parades. Note that we currently charge \$12.50 to close a street and closing the parking spaces for a day would add a cost of about \$30. On the other hand, the revenue loss to the City will be a little more than \$50 per day.

Time Limited Parking Section

Recycling of the two-hour parking signs from north downtown will not work. New signs that meet current standards will be purchased and installed.

Compliance and Collections Section

Recall that one ticket per year will be a warning (no cost) and that subsequent tickets will cost more for each one in a one year period. This escalating cost of citations has been clarified to include only the "Failure to pay Meters" citation.

The program now gives the Parking Manager the authority to void tickets under strictly defined conditions.

Ideally, collection of fines will be aided by connecting citations to the registration of vehicles. The continued consideration of this idea will be separate from the implementation of the Comprehensive Parking Management Program.

Staff envisioned that the ParkFlag Office could be at the Train Station – on the second floor. The space is not accessible for customers or employees and was determined to be unsuitable. Therefore, staff is evaluating options, one of which is leasing space in the downtown area.

The installation of the various signs necessary for implementation, approximately 750, requires removing not only the signs being replaced but also the current seasonal parking restriction signs so that the whole sign assembly meets current standards with the seasonal parking restriction signs being above the other parking signs. As long as the seasonal parking restriction signs have to be removed, they will also be replaced with new signs that meet current standards. Note that the restrictions will not be changed, only the signs will be changed,

The necessary new parking signs, poles, and hardware, the removal of existing signs, and the installation of the new signs and parking kiosks (meters) will be provided by Kinney Construction Services (KCS). Approximately 750 signs and 100 kiosks will be installed. KCS has been engaged under their Job Order Contract. The cost of the products and services being provided by KCS is approximately \$400,000.

ParkFlag will install temporary curbs (RR Ties or similar devices) in areas that lack curbing (primarily in the Southside) and where needed for proper enforcement. This work will either be engaged through the Job Order Contract process or the Streets Section may install these devices. Some have already been installed on Ellery Street by the Streets Section.

Part 2 – Preview Action Items

As currently planned, the actions items previewed below will be in front of the City Council for consideration on November 15, 2016. As a few items are being completed between now and then, some of the following text shows a place holder (like [Vendor] instead of a name). These should be ready by the November meeting with final information completed.

Consideration and Adoption of Ordinance No. 2016-XX: An ordinance amending the Flagstaff City Code Title 9, Traffic, Chapter 9-1, Traffic Code, for the purpose of amending certain citation, fine, and enforcement provisions to be consistent with the adopted Comprehensive Parking Management Plan and the Administrative Guidelines.

Consideration and Approval of Intergovernmental Agreement: An Intergovernmental Agreement between the City of Flagstaff and Coconino County pertaining to the management of certain County parking lots by the City of Flagstaff.

Consideration and Approval of a Lease Amendment: A Second Amendment to the lease between the City of Flagstaff and Beaver Street Brewing (Lumberyard) pertaining to the management of certain parking spaces by the City of Flagstaff.

Consideration and Approval of a Contract: With Parkeon, Inc. for the Purchase Multi-space Parking Kiosks (Meters), a Subscription for Meter Management Software, and Mobile Parking Payment System (Woosh! app).

Discussion: This procurement is through a National Purchasing Contract and thus a local competitive bid process was not used. When Flagstaff last issued a Request for Proposals for multi-space parking kiosks (meters), Parkeon, Inc. was the successful respondent. In addition to the mobile app, the Meter Management Software includes an on-line point-of-sale system for the kiosks and permits. And, other competitive vendor proposals were received (unsolicited) and considered. In addition to the 101 identified locations for the kiosks, provision for additional locations and spares is desired. Thus authorization for not-to-exceed \$600,000 is sought.

Consideration and Approval of a Contract: With NuPark, Inc. for the Purchase of Parking Enforcement Hardware and a Subscription for Parking Enforcement Software.

Discussion: This procurement is through a National Purchasing Contract and thus a local competitive bid process was not used. The subscription for the Parking Enforcement Software includes an on-line point-of-sale for the kiosks, permits, and citations as well as citation notification and appeal processes. Other competitive vendor proposals were received (unsolicited) and considered. The cost of the parking enforcement equipment is \$15,000. The cost of the subscription is based on the number of citations written. It will be \$30,000 per year initially and will increase as the number of citations increases.

Consideration and Approval of a Capital Financing Agreement: With [Vendor] for Capital Financing for the Purchase and Installation of Multi-space Parking Kiosks (Meters), Parking Enforcement Hardware, and Parking Signs.

Discussion: This procurement is through a local competitive Request for Proposals process. The lease is a ten-year lease with the equipment being owned by the City of Flagstaff. Recall that the pro forma business plan for ParkFlag includes a simultaneous annual allocation of funds to provide for the replacement of the meters (purchase) in ten years.

Consideration and Approval of a Lease Agreement: With [Vendor] for Office Space.

Discussion: Initially, ParkFlag needs office space for the Parking Manager and four Enforcement Staff. It is expected that soon thereafter space for two additional Enforcement Staff will be needed. The space needs to be accessible to customers and employees which prohibits the use of the Train Station second floor as was initially hoped. The City's inventory of office space does not include any suitable spaces and thus leasing of space is under consideration. This expense was not anticipated in the pro forma business plan for ParkFlag.

Future Action Items

Due to certain noticing requirements of state law, changes to the Citation Fee Schedule are not currently before the City Council. This will be brought forward separately in the near future.



City of Flagstaff

Comprehensive Parking Management Program

Karl Eberhard, Community Design & Redevelopment Manager

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November 2015

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BACKGROUND

Flagstaff desires a comprehensive public parking and parking management program that includes sufficient facilities, appropriate regulations, effective operational systems, necessary equipment, and a sustainable independent funding source. Facilities would include additional on-street parking, additional off-street parking, and a comprehensive way-finding signage program. In addition to parking facilities, multi-modal facilities such as park-n-ride lots and sufficient pedestrian, transit, and bicycle facilities are a part of the vision. Regulations would be in place to protect parking for residents and employees, to support turn-over in the commercial areas, and to promote multi-modal transportation options. At the same time, the regulations minimize negative impacts on patrons and visitors and do not discriminate against customers or types of customers, including students. The system would be operated and equipped to support the above goals in ways that are efficient and customer service oriented. This may include technological payment and enforcement tools, ambassadors, courtesy tickets, and possibly contract parking management. This comprehensive parking and management program is not subsidized.

Defining the Problem: The impetus of the current consideration of our parking system is spill-over parking in the Southside, notably in the residential areas. But in looking into this issue and talking with stakeholders, it becomes clear that the spill-over parking is also occurring in the Southside commercial areas, the Phoenix Avenue parking lot, and in certain areas north of the railroad tracks. Introducing parking management in the Southside would have a predictable impact of pushing the spill-over parking into other neighborhoods such as La Plaza Vieja, Townsite, and the North End. All of these potentially impacted areas are not currently managed by parking staff. The other area potentially impacted is the north Downtown, which besides (or perhaps because of) being short on parking spaces, already has a significant problem with parking turn-over. Notably, the extent of the potential new spill-over is unpredictable because it involves finding the geographic and programmatic extent of parking management that causes changes in parking and/or transportation behaviors.

Stakeholders and Customers: In defining the problem and then developing this recommended plan, outreach has included neighborhood groups such as the Southside Community Association and Good Neighbor Coalition, the North End Neighborhood, the La Plaza Vieja Neighborhood, the Townsite Neighborhood, the Flagstaff Downtown Business Improvement and Revitalization District (FDBIRD), and the Flagstaff Downtown Business Alliance (FDBA). Representatives of NAU, NAIPTA, and the Student Housing Working Groups also contributed. City Staff participation included representatives of the Economic Vitality Division, Police Division, Courts Division, Traffic Program, Streets Section, Legal Department, and the Planning and Development Services Section. This outreach, conducted via one-on-one meetings, presentations and discussions with organized groups, and open houses, identified residents, business patrons, visitors, employees, business and property owners, and students as customers of our parking system.

Core Tenets: In July of 2015, the City Council provided clear direction that the residents should not be required to pay for parking permits and that the system should be financially self-sufficient. From that starting point, a core parking planning group consisting of NAU, NAIPTA, and FDDBA representatives, City staff, and the City Manager's Office established some core tenets for the development of the plan:

1. Parking is a public resource.
2. Limited resources require management.
3. People park where it's advantageous.
4. All parking is paid for ... by someone.
5. No one should have an advantage over another.

Mission: Based on the problems identified, stakeholder input, customer understanding, and core tenets, the parking planning group developed a mission statement as follows:

"Create a fair and balanced parking system providing the most benefit for all."

Meeting Needs: Importantly, the group also recognized that while the needs of all stakeholders and customers can be considered and addressed in a comprehensive parking management plan, not all parking desires can be met – Inherently, some degree of inconvenience results from managing parking. Between the various categories of stakeholders, and even within the various stakeholder groups, perspectives on the necessary scope of parking management, the types of solutions, and potential implementation strategies, vary tremendously. The core planning group recognized that a plan guided by the mission, a balanced plan, would likely not meet all of the expectations of all individuals.

RECOMMENDED PROGRAM

The following graphic provides an at-a-glance overview of the recommended comprehensive parking management program:



Currently, the City of Flagstaff has several thousand parking spaces in the area north of the Northern Arizona University campus, and we currently manage about 400 spaces, only in north Downtown, about half of the time, and with one parking staff member. When this assessment was compared to the vision of sufficient facilities, appropriate regulations, effective operational systems, necessary equipment, and a sustainable independent funding source, the core planning group and stakeholders alike recognized that getting to the ultimate parking management program was going to require proceeding in steps, or phases. This becomes more apparent when the immediacy of addressing spill-over parking in the Southside is compared to the necessary actions to put the ultimate parking management program in place. As well, starting with a humble parking management system combined with the urgency of getting started, suggests that the first phases should be simple strategies that can be expanded and grown into the ultimate public parking management system.

The comprehensive plan thus has been divided into three basic phases. The following graphic provides an at-a-glance overview of the phases:

Comprehensive Parking Management	Phase 1	Phase 2	Future Phases
Facilities	Existing On-street Spaces Existing Parking Lots Add Signage / Markings Southside Temp. Curbs Private Lots (Wkd/Evg)	Temp. Employee Parking Way-finding Signage New On-street Spaces Southside Missing Curbs Stripe North End Spaces	New Parking Lots / Garages Ped/Bike/Transit Facilities Park-n-ride
Regulations	Residential Parking Permits Employee Parking Permits Time-limited Parking Pay-to-park Overnight Winter Parking	Adjust – Lessons Learned OOPS Tickets	Promote Alt. Modes Loading / Delivery
Operations	City Management Add Staff (2 FTE) Add Staff (1 per 300)	Parking Office or Explore Privatization	Add Maintenance Staff
Equipment	Pay-to-park Kiosks Hand-held Machines Boots	License Plate Readers	Support Vehicles
Funding	Seed Money - Start-up Permit Revenue Pay-to-park Kiosks		Residential Permit Revenue

PHASE 1

The first phase includes items that can be accomplished in the relative short-term and that lead into the following phases. It consists of four basic parts including a Residential Permit Parking Program, an Employee Permit Parking Program, additional Time-Limited Parking, and the installation of pay-to-park kiosks. Each of these parts is detailed (in outline format) in the following pages.

PHASE 1 - Part 1 - RESIDENTIAL PERMIT PARKING PROGRAM (On-street)

1. Areas Served – Citywide - On Block-by-block basis.
 - a. Property owner requested, by petition, 51% (Number of water meters)
 - b. Occupancy thresholds (need) required and tested by City
2. Program –
 - a. Property owner request specifies one of the following options:
 - i. Option 1 - Time limited parking in entire area served and permits exempt permit holder from time limit.
 - ii. Option 2 – Open parking ½ of each side of street, and resident only (permit required) on remainder of the street.
 - iii. Option 3 - Time limited parking ½ of each side of street, and resident only (permit required) on remainder of the street.
 - b. Permits:
 - i. One Free Property Owner Permit per water meter (Linked to vehicle)
 1. No residential / non-residential distinction
 2. No consideration of number of units
 3. No consideration of on-site parking
 - ii. Purchased Guest / Contractor Permit - Woosh! Service (Online and mobile payment)
 - c. Disabled Parking Provisions – Program to provide exempt parking where needed.
3. Capital Improvements –
 - a. Minor (Signage, Permits, and Curb Markings).
 - b. Southside – Install temporary curbs where curbs are missing to prevent parking in front yards and to define legal on-street parking (Note that installing permanent curbs is proposed as a part of Phase 2).
4. Compliance (Enforcement) - Add one civilian PD staff at this time and add one civilian PD staff per every 300 spaces added to the program.
5. Financial Implications -
 - a. Expenses
 - i. Start-up - \$155,000
 - ii. First Year Operating - \$60,000
 - iii. Ongoing - \$267,000
 - b. Revenues - \$69,000

PHASE 1 - Part 2 - EMPLOYEE PERMIT PARKING PROGRAM (Off-street)

1. Areas Served –
 - a. Citywide - Off-street Public Parking Facilities
 - b. Initially:
 - i. Phoenix Avenue Parking Lot Only
 - ii. Remote On-street Metered Spaces
2. Program -
 - a. Pay-to-park (See Part 4) in entire area served.
 - b. Permits exempt permit holder from time limit.
 - c. Permits – Purchased, first come, first serve
3. Capital Improvements – Minor (Signage, Permits, and Curb Markings)
4. Compliance (Enforcement) - Add one civilian PD staff per every 300 spaces added to the program.
5. Financial Implications -
 - a. Expenses
 - i. Start-up - \$23,000
 - ii. First Year Operating - \$6,400
 - iii. Ongoing - \$28,000
 - b. Revenues - \$56,000

A Note on Employee Parking

Employees currently park on the street, either in the commercial areas or the surrounding residential areas. The Phoenix Avenue Parking Lot was built to accommodate employees but is typically filled with spill-over parking similar to that experienced in the rest of Southside.

While this plan (If adopted) would make employee parking in the commercial areas expensive, other free on-street parking would remain available, albeit less convenient. Notably, the plan would restore the availability of the Phoenix Avenue Parking Lot to employees and accommodate some additional employee parking in metered on-street spaces. In a short time frame, the revenue from the pay-to-park system will provide for acquiring, leasing, additional employee parking. Additional employee parking opportunities may include park-n-ride solutions in cooperation with the County and/or NAIPTA. As well, FDBIRD is eligible for deeply discounted Eco-passes from NAITPA to serve employees.

PHASE 1 - Part 3 – ADDITIONAL TIME-LIMITED PARKING AREA (On-street / No Permits)

1. Areas Served – Side streets: Beaver and SF Streets
2. Program
 - a. Time limited parking in entire area served.
 - b. Per neighborhood needs (Weekdays/Weekend nights)
3. Capital Improvements – Minor (Signage and curb markings)
4. Compliance (Enforcement) - Add one civilian PD staff at this time and add one civilian PD staff per every 300 spaces added to the program.
5. Financial Implications -
 - a. Expenses
 - i. Start-up - \$26,500
 - ii. First Year Operating - \$12,500
 - iii. Ongoing - \$44,000
 - b. Revenues - \$0

PHASE 1 - Part 4 – PAY-TO-PARK KIOSKS

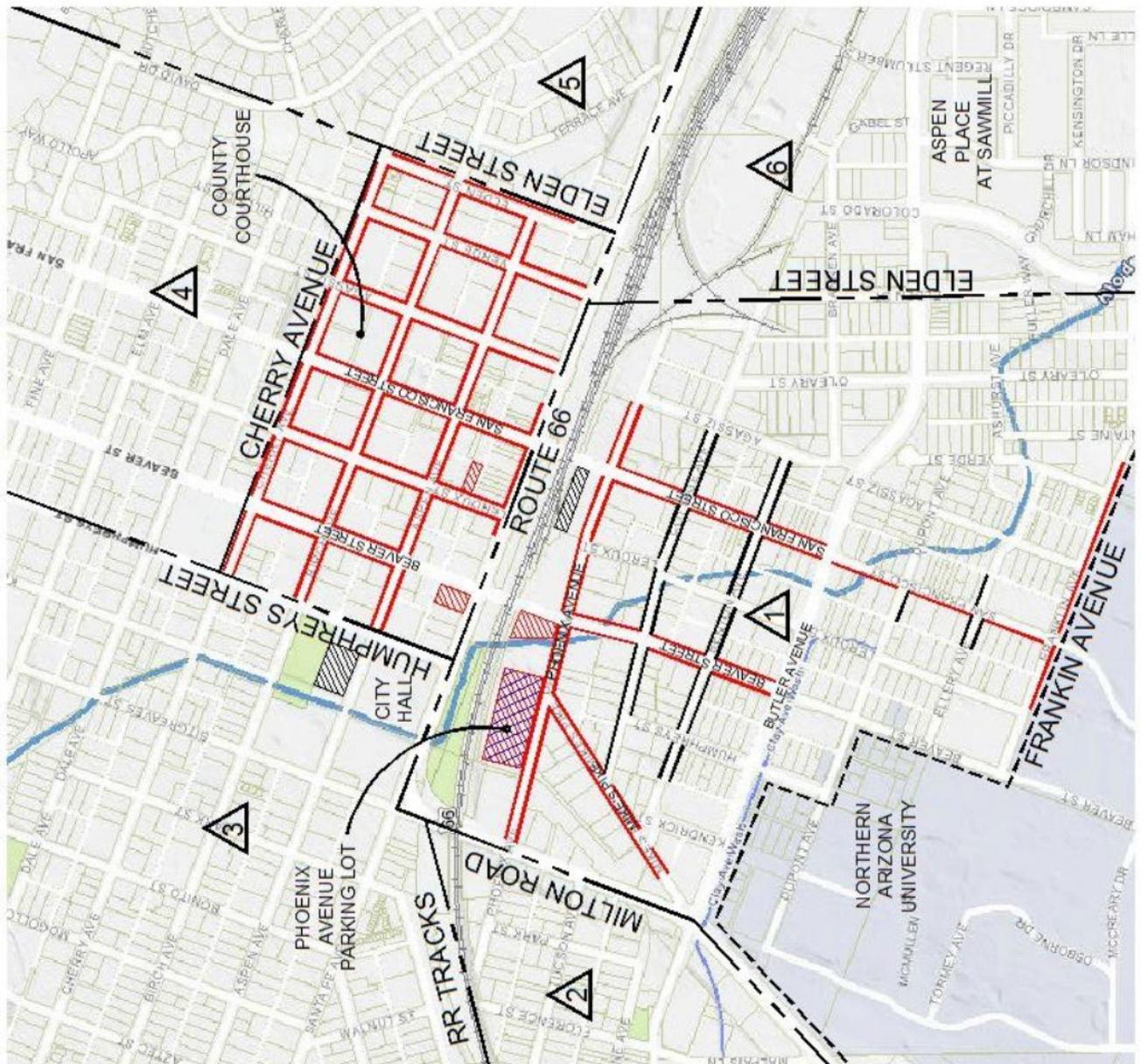
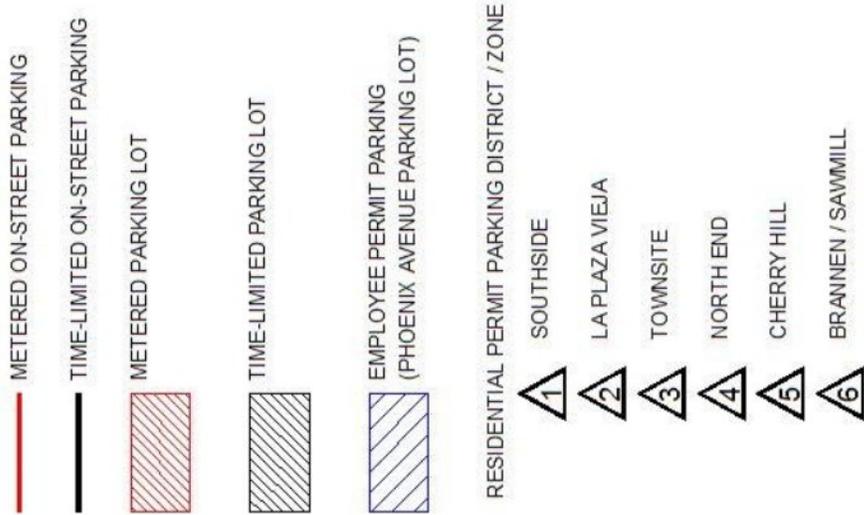
1. Areas Served –
 - a. FDBIRD (North Downtown)
 - b. Southside (Beaver and SF Streets, and Franklin Avenue)
 - c. Phoenix Avenue Lot

2. Program –
 - a. Cost of parking varied by location, time of day, day of week, and special events.
 - b. Woosh! Service (Online and mobile payment).

3. Capital Improvements –
 - a. Minor (Signage and curb markings)
 - b. Kiosk type meters
 - i. Small footprint, one per block face (two per block), solar/battery power
 - ii. Pay by Plate
 - iii. Payment
 1. Card, Online, Mobile, and Merchant Coupons
 2. Cashless – No bills, no coins
 3. Networked – Pay anywhere
 - iv. Messaging (Instructions, Events, Closures, etc.)
 - v. Multi-lingual
 - vi. System changes and expansions, including courtesy tickets
 - c. Internet Back-of-house - Collections

4. Compliance (Enforcement) – Existing and new (included above) staff

5. Financial Implications -
 - a. Expenses
 - i. Start-up - \$0 (Lease-to-own)
 - ii. First Year Operating - \$57,000
 - iii. Ongoing - \$252,000
 - b. Revenues - \$937,000



PHASE 1 – IMPLEMENTATION

Upon City Council direction to proceed, staff anticipates a three step implementation process with some portions being put in place in as little as three months and other portions taking as long as a year.

During this time, the public outreach process will continue. Outreach to date has included neighborhood and stakeholder groups and focused on overall concerns, ideas for solutions, and seeking general consensus on the concept plan described herein. Moving forward we will still continue to seek neighborhood and stakeholder group input on the details, but a major focus of this outreach will be customer oriented. Residents, business patrons, visitors, employees, business and property owners, and students will need to be informed of the coming implementation of the new parking policy and the details that they will need to know in order to effectively utilize the new parking opportunities.

The three anticipated implementation steps are as follows:

1. Final Details and Procedures. First, working with the various stakeholders, staff will document detailed and final regulations and procedures related to program and permit mechanics, petitions, cost of permits, and similar intricate matters. As previously presented, these will have an overall theme of simplicity and low-cost implementation. This work will be finalized in conjunction with the City Attorney's Office to determine the best format and mechanisms for implementation. Some items do not require ordinances while others require codification. In that case, appropriate ordinances would be brought back to the City Council for consideration.

Depending mostly on the codification needs, this step may take three to six months.

2. Permit Parking and Time-limited Parking. With the final details and procedures developed, implementing the Residential Permit Parking Program, the Employee Permit Parking Program, and the additional Time-Limited Parking areas will proceed quickly. Knowing that blocks will have to organize and complete petitions, and also anticipating an initial "rush" of requests for residential parking control, Residential Permit Parking Program may take three or more months. The Employee Permit Parking Program and additional Time-Limited Parking portions will take less than a month after documenting the program details.

And, once pay-to-park kiosks are installed, we should anticipate a shift in parking habits that are likely to expand spill-over parking into surrounding areas. We should therefore anticipate a second "rush" of requests for residential parking control.

3. Pay-to-park Kiosks. The process of installing pay-to-park kiosks will start immediately but will require more time to implement. It involves determining the exact installation locations of approximately ninety meters based on sidewalks space, the direction of travel of parkers, solar access and many other factors. The manufacturer will assist us with this work. The City can, with City Council support, lease these units based on a national purchasing agreement. While this will greatly speed up the procurement process, there are still various time-consuming needs associated with the purchase. And, the installation of meters, specifically the locations, requires City Council approval. We anticipate that this step will take six to twelve months.

Phase one, described above, implements parking policies and practices that can be readily achieved and at relatively lesser cost. The following phases would address items that have a higher cost and require the funding generated by implementing phase one. Phase two addresses follow-up items, lesser capital investments, and a re-evaluation of the management structure. Phase three addresses significant capital investments that will require years of saving the necessary funding.

PHASE 2

The first part of the second phase includes matters of follow up after implementing the first phase. Phase one includes some fundamental changes to our parking system and policies and that being the case, we anticipate that there may be lessons learned and a need of minor adjustments accordingly. These may be as minor as changing the permit design, adding staff, or adding cash acceptance to the pay-to-park kiosks. We may also find that accelerating items planned for later phases is appropriate. We believe that significant changes will not be necessary as the issues have been thoroughly considered, but such a need is not impossible.

The second part of this phase includes items of notable capital investment that require funding, budgeting, planning, and procurement. These include installing missing curbs and other features of the street in areas like the Southside where there are a number of streets that need this attention. This part would include the development and installation of a comprehensive way-finding signage program that instructs patrons and visitors as to where and how to park in the commercial areas. Less costly, there remain opportunities to add parking spaces by re-stripping streets, some of which have transportation impacts. In the second phase, the development of additional employee parking would be a priority.

We believe that phase one can be implemented using our existing management structure and staff. However, very soon the management of the parking will grow including such things as customer service associated with the pay-to-park kiosks, potentially extensive residential parking controls, and planning large capital projects such as parking facilities. And as the system grows, considering the creation of a separate "parking office" will be an appropriate discussion as a part of phase two. If the City Council so desires, we can also discuss out-sourcing the parking operations.

PHASE 3

The third phase is a future phase, or several phases, that include building larger capital investments such as parking lots and/or garages, designing and installing multi-modal facilities, and technological upgrades such as license plate readers.

THE ROLE OF THE PAY-TO-PARK STRATEGY

The pay-to-park strategy immediately serves at least four roles.

1. Changes Behavior. If parking controls are introduced only in the Southside, we anticipate that the spill-over parking occurring there will migrate to the surrounding areas. In that case, the problem is only relocated and changes to parking and/or transportation behaviors do not occur.
2. Pays for Itself. The income derived from the pay-to-park system can fund the start-up and operations of the program. This includes the costs of operating the pay-to-park system and the residential and employee permit parking programs. A key to the successful management of parking is enforcement and as described herein, this parking management plan, if implemented, would increase our enforcement efforts from one staff member covering roughly four hundred parking spaces to six staff members covering roughly seventeen hundred parking spaces.
3. Generates Revenue to Build Facilities. Solving the long-term parking issue requires the addition of new parking facilities. Although some needs are as simple, such as completing the installation of missing curbs in the Southside, others are ambitious, such as building new parking structures. The pay-to-park system as described herein produces revenue that is proposed to be used for that purpose (Phase 3).
4. Creates Capacity. In the short-term, charging for parking will create turn-over of parking spaces, thus increasing the availability of existing parking inventory. And, by passing some of those costs on to the direct beneficiary, such as we do when we charge passengers \$1.25 to ride the City bus, we are using quasi – market mechanisms to provide and manage public services. Reducing the parking subsidy¹ puts other modes such as bicycle, walking and transit on a more level and more honest playing field with the private automobile. This approach will also move people to other modes and further increase the availability of existing parking inventory.

Notably, all stakeholders seem to agree that it is important to formally dedicate the revenues to parking management (including operations), parking development, and alternative transportation and to prohibit their use for other purposes. A portion of the dedicated funds being further dedicated solely to the construction of parking in north Downtown is also desired.

¹ 1. As established, parking is not free: Parking has a cost and parking has a value. Someone pays for it and someone benefits from it.

OTHER STAKEHOLDER INPUT

This plan was developed with considerable public outreach and input from no less than eleven diverse stakeholder groups and with a variety of customers in mind. Most input received was incorporated into the plan and is not otherwise addressed in the plan document.

While they have been considered and conceptualized, for brevity and clarity, most procedural details have not been documented at this time. With City Council direction to proceed, the operational details will be further developed and finalized prior to implementation. Many of these details are important for success. For example, the northern part of Southside needs controls at different times of day and different days of the week than needed in the southern part. Also, consideration needs to be given to special circumstances such as the disabled or the elderly if resident parking occurs on only one side of street.

ATTACHMENT 1 - PRO FORMA

Basis Data:				Notes:
	Total (Est.)	Emp. Permits	Metered Spaces	
Inventory of Pay-to-park Spaces:				
On-street				
North Downtown	392	0	392	2009 Parking Study Data
Southside	223	0	223	2009 Parking Study Data
Off-street				
Leroux Parking Lot	8	0	8	2009 Parking Study Data
Beaver Street Parking Lot	22	10	12	2009 Parking Study Data
Phoenix Avenue Lot	148	70	78	2009 Parking Study Data
Total:	793	80	713	
Inventory of Time-limited Spaces:				
Southside	154			
Inventory of Resident Parking Spaces:				
	Total (Est.)	Control Sought Percent	Count	
Zone 1 - Southside	234	90%	211	Guess (Control Sought - Based on Expected Impacts) 2009 Parking Study Data - Less Above (Rough - 7.25 Spaces per Block Face) (Rough - 7.25 Spaces per Block Face) (Rough - 7.25 Spaces per Block Face) (Not a part, but Reserved) (Not a part, but Reserved)
Zone 2 - La Plaza Vieja	290	50%	145	
Zone 3 - Townsite	928	25%	232	
Zone 4 - North End	667	25%	167	
Zone 5 - Cherry Hill			0	
Zone 6 - Sawmill			0	
Total:	2119		754	
Total Spaces in Area:	3066			
Total Spaces under Management:			1701	

ATTACHMENT 1 - PRO FORMA

Income Projections:		Notes:
Guest Permit Income:		
Occupancy Rate:	5%	
Daily Cost:	\$5.00	Proposed
Annual Program Income:	\$68,834	
Employee Permit Income:		
Occupancy Rate:	90%	Guess (Based on Bldg Pro Forma)
Permit Cost:		
Daily	\$3.00	Proposed
Monthly	\$65	
Annually	\$780	
Annual Program Income:	\$56,160	
Meter Income:		
Occupancy Rate:	15%	2009 Parking Study Recommendation
Average Hourly Cost:	\$1.00	2009 Parking Study Recommendation
Annual Program Income:	\$936,882	
Total Annual Income:	\$1,061,876	

ATTACHMENT 1 - PRO FORMA

Start-up Expense Projections:				Notes:
	QTY	Unit Cost		
Capital Expenses:				
Residential Permit Parking Program:				
Signage:	104	\$1,250	\$130,060	per Block Face
Permits:	754	\$5	\$3,772	Each
Temporary Curbs:			\$20,000	
Total:			\$153,832	
Employee Permit Parking Program:				
Signage:	18	\$1,250	\$22,500	per Block Face
Permits:	80	\$5	\$400	Each
Total:			\$22,900	
Time-limited Parking				
Signage:	21	\$1,250	\$26,552	per Block Face
Total:			\$26,552	
Pay-to-park Kiosks				
Kiosks	88	\$9,000	Lease	per Block Face plus (3) for Parking Lot
Total:			\$0	
Compliance Equipment:				
Cell Phones, Printers, Uniforms, Etc.:	6	\$1,500	\$9,000	(1) per 300 Spaces
Total:			\$9,000	
Sub-total Capital Expenses:			\$212,284	
First Year Operating Expenses:				
Compliance Staff:				
On-street Staff:	3	\$45,000	\$135,000	Currently (1) Existing FTE
Total:			\$135,000	
Sub-total First Year Operating Expenses:			\$135,000	
Total Start-up Expenses:			\$347,284	

ATTACHMENT 1 - PRO FORMA

Ongoing Expense Projections:

Notes:

Annual Expenses:

Compliance Staff:

On-street Staff:	6	\$45,000	\$270,000
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Management Staff:	1	\$65,000	\$65,000
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Kiosk Purchase/Lease

Payment:	12	\$10,000	\$120,000
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Kiosk Internet Back-of-house	12	\$4,000	\$48,000
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Maintenance:		2.50%	\$19,761
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Program Capital Reserve:		10.00%	\$79,044.83
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Total:			\$601,806
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Available to Construct Parking:			\$460,070
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(1) per 300 Spaces
Currently (1) Existing FTE

ATTACHMENT 1 - PRO FORMA

Options:			Notes:
	Revised Numbers	Change	
1. Omit Southside Meters:			
Total Start-up Expenses:	\$347,284	\$0	
Annual Expenses:	\$533,372	-\$68,434	
Annual Income:	\$768,854	-\$293,022	
Available to Construct Parking:	\$235,483	-\$224,588	
2. Meters on One Side of Street Only:			
Total Start-up Expenses:	\$347,284	\$0	
Annual Expenses:	\$492,556	-\$109,250	
Annual Income:	\$1,061,876	\$0	
Available to Construct Parking:	\$569,320	\$109,250	
3. Both Option 1 and 2:			
Total Start-up Expenses:	\$347,284	\$0	
Annual Expenses:	\$458,186	-\$143,620	
Annual Income:	\$768,854	-\$293,022	
Available to Construct Parking:	\$310,669	-\$149,402	



COMMUNITY DEVELOPMENT

MEMORANDUM

Date: November 12, 2015

To: Karl Eberhard, Community Design and Redevelopment Manager
From: Sara Dechter, AICP, Comprehensive Planning Manager

Subject: Regional Plan Analysis of the Proposed Comprehensive
Parking Management Program

The Community Investment staff is proposing a Comprehensive Parking Management Program for the Southside and surrounding residential and commercial areas that has goals of sufficient facilities, appropriate regulations, effective operational systems, necessary equipment and a sustainable independent funding source. The Flagstaff Regional Plan 2030 (Regional Plan) calls for a downtown parking strategy in Policy 12.2 and a residential parking permit system in Policy 12.11. The proposed strategy attempts to balance and reconcile the needs of the community in achieving both of these policies.

Origins of parking policies in the Regional Plan: The availability of parking was a frequent topic in the discussions that led up to the Public Hearings for the Regional Plan. In the first public hearing draft only Policy LU.12.2, 12.3 and 12.6, and T.3.4 were included that directly related to parking. Then Vice-Mayor Evans noted the lack of policies related to parking issues impacting the urban residential areas and the item was added to the list of possible changes to be considered as part of the Council retreat about the Regional Plan. Policy LU.12.11 was created at that meeting and made available for public review on December 17, 2013. The policy was part of public comment at the adoption hearing, and the City Council added a phrase about “considering the needs of residents, public events and enterprises in and around the impacted areas” as a result.

Regional Plan Consistency Analysis: The Comprehensive Parking Management Program, as proposed, is consistent with the five main parking

policies of the Regional Plan (LU.12.2, 12.3, 12.6, and 12.11 and T.3.4). It addresses the elements of on and off-street parking, public lots and garages, shared parking lots for employees working downtown, and increases enforcement. Balancing all the needs of the residents, events and businesses in this area is not a task with a "right" answer. There are many ways the goals could be achieved that would be consistent with the regional plan. The task of determining consistency is based on the balance of interests between the general public (who absorbs some of the costs), the residents (who want to maintain their neighborhood character and quality of life), the businesses (that want to grow and provide employment), and the events (that generate tourism and support a vibrant downtown). In addition, the strategy of using public funding to initiate a self-sufficient funding mechanism is in line with the reinvestment goals (LU.1).

On-street parking is a part of Complete Streets design principles (T.1.2) because it creates a transition from the pedestrian environment and the road. It is an essential element of urban commercial districts and neighborhoods (T.1.3). An example of how this works is the parking on the north side of route 66. Without the row of on street parking, the speed and volume of traffic on route 66 would negatively impact the comfort of pedestrians and the foot traffic to businesses along that route. Parking is part of the public right of way that serves multiple community purposes. As a public facility, Goal PF.2 is an important consideration in the strategy's plan consistency. The phasing of the program and the period of adaptive management is intended to ensure that the system is working towards sustainable and equitable use of public facilities that are efficient and effective. It will also give staff a chance to evaluate how the system is serving all populations equitably. Some of the alternative strategies proposed but not carried forward failed this test of Plan consistency, because they disproportionately favored one interest group over others in allocation of a public resource.

Promoting multimodal transportation is about moving people rather than vehicles. It is about creating a balanced, multimodal, regional transportation system (T.1.1) that makes the best use of existing infrastructure (T.1.7), with convenient transfer from one mode to another (T.1.4), promotes environmental sensibility (T.3), safety (T.2), economic development, and enhances quality of life for all users (T.4). It isn't about the supply of parking but rather the way that the existing parking supply is managed. Parking is not free, the city or owning entity has to pay for parking to be built, maintained, and managed. One parking space in a parking garage averages \$30,000 – that's more than the cost of a fully built out bus shelter. A single bus shelter can serve dozens if not hundreds of patrons in a single day and a reserved parking space can only serve one. Allowing one group (be it the general public, residents, businesses, or events) an unlimited use of the public asset while prohibiting other groups from using that

same asset does not create an environment that supports multimodal transportation and it creates costs that limit funding for multimodal projects. Parking is not explicitly addressed as an element of the Neighborhood, Housing and Urban Conservation goals and policies. However, the proposed parking strategy supports the preservation of neighborhood character in that it increases enforcement, which can preserve the character of streets and neighborhoods. One of the problems currently seen in neighborhoods, especially streets without curb, gutter, and sidewalks, is cars parking beyond the right of way in ways that impact pedestrian and bicycle access and damage private property. A residential parking permit program would also allow residents the ability to have exceptions to the 2 hour parking limits. The strategy gives property owners a fair and public process to petition the City for involvement in the program but also the freedom to not participate. This empowers the neighborhood residents and property owners to determine needs in a manner consistent with their values and quality of life in a way that a threshold-based program could not.

In summary, I have found that the proposed Comprehensive Parking Management Program is consistent with the Flagstaff Regional Plan 2030 goals and policies. It is consistent with or helps to implement policies in the Growth and Land Use, Transportation and Public Facilities chapters and there are no policies with which it conflicts.

Regional Plan Goals and Policies Cited in this Memo

Goal LU.1. Invest in existing neighborhoods and activity centers for the purpose of developing complete, and connected places.

Goal LU.12. Accommodate pedestrians, bicyclists, transit riders, and private cars to supplement downtown's status as the best-served and most accessible location in the region.

Policy LU.12.2. Create a downtown parking strategy plan that continues to utilize and improve upon on-street parking, public parking lots and garages, and shared private parking spaces, with clear signage for wayfinding and to inform the public of all parking options.

Policy LU.12.3. Locate public and private parking facilities, lots, and garages carefully, screening parking from streets, squares, and plazas.

Policy LU.12.6. Revise parking regulations to encourage shared parking between various uses within existing structures.

Policy LU.12.11. Develop a residential parking program to address the impacts of on-street parking on public streets in the downtown and surrounding areas, while considering the needs of residents, public events, and enterprises in and around the impacted areas.

Policy T.1.1. Integrate a balanced, multimodal, regional transportation system.

Policy T.1.2. Apply Complete Street Guidelines to accommodate all appropriate modes of travel in transportation improvement projects.

Policy T.1.3. Transportation systems are consistent with the place type and needs of people.

Policy T.1.4. Provide a continuous transportation system with convenient transfer from one mode to another.

Policy T.1.7. Coordinate transportation and other public infrastructure investments efficiently to achieve land use and economic goals.

Goal T.2. Improve transportation safety and efficiency for all modes.

Goal T.3. Provide transportation infrastructure that is conducive to conservation, preservation, and development goals to avoid, minimize, or mitigate impacts on the natural and built environment.

Policy T.3.4. Actively manage parking, including cost and supply, to support land use, transportation, and economic development goals.

Goal T.4. Promote transportation infrastructure and services that enhance the quality of life of the communities within the region.

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



City of Flagstaff

Comprehensive
Parking Management Program

Administrative Guidelines

DRAFT - September 2016 No 2

<http://tinyurl.com/Park-Flag>

ParkFlag@flagstaffaz.gov

[\(928\) XXX-XXXX](tel:(928)XXX-XXXX)

Index:

Note: Index is hyperlinked to document sections.

1. [General Guidelines](#)
2. [Demand Reduction](#)
3. [Downtown Resident Permit Parking](#)
4. [Employee / Business Owner Permit Parking](#)
5. [Facility Specific Permit Parking](#)
6. [Residential Permit Parking](#)
7. [Pay-to-park](#)
8. [Time-limited Parking](#)
9. [Compliance and Collections](#)
10. [Assets](#)
11. [Purchasing](#)
12. [Financial](#)

[Appendix A – Map of Comprehensive Parking Management](#)

[Appendix B – Residential Permit Parking Petition](#)

[Appendix C – Standard Layout of Residential Parking Permits Areas](#)

[Appendix D – Meter Schedule](#)

[Appendix E - Fee Schedule](#)

[Appendix F – Standard Signage](#)

Part 1 – General Guidelines

I. General

- A. All other parking limits / rules apply, including but not limited to
 - 1. Seasonal parking restrictions
 - 2. Parking within the lines or markings
 - 3. Accessible parking restrictions
 - 4. Parking on sidewalks, loading zones, and similar regulations
 - 5. Vehicle abandonment
- B. ParkFlag will be enforcing all parking violations in the management area
- C. A parking permit does not guarantee a parking space is available
- D. On-duty marked Emergency Vehicles are exempt from all regulations.

II. Permits

- A. Virtual permits – License Plate is the permit
 - 1. Verification of Eligibility
- B. General Permit Rules
 - 1. Multiple License Plates allowed
 - a. Unlimited
 - b. One user at a time
 - 2. Permits limited to use (valid) in zone issued
 - 3. No pro-rated sales or refunds – “As-is” annual permits
 - 4. Misuse of permits = Void
 - 5. Annual = July 1 thru June 30
- C. Point of Sale
 - 1. Online
 - 2. Parking Office

III. Meters

- A. Non-functioning
 - 1. One non-functioning = Pay-to-park still applies
(Signs on kiosks note networked system)
 - 2. System non-functioning = Two-hour parking

IV. Program Roll-out

- A. Advance Outreach:
 - 1. Property Owners – Management of Private Parking
 - 2. Marketing side of Website
 - a. Parking Maps
 - b. “Parking Tips” Document

- c. NAIPTA Route Planning App
 - 3. Technical side of Web Site
 - a. Comprehensive Parking Management Plan
 - b. Administrative Guidelines
 - c. Regulatory Map
 - 4. Large Newspaper Advertisements
 - 5. Open Houses
- B. Introductory Period
 - 1. 30 days
 - 2. Courtesy "Failure to Pay Meter" Tickets (No Fine)
 - 3. All other parking tickets normal
- C. Parking Steering Committee
 - 1. Continues to meet monthly as needed
 - 2. Public is welcome
 - 3. Review ParkFlag implementation changes
 - 4. Serves to hear citizen requests for implementation changes

Part 2 - Demand Reduction

I. Transportation Choices

A. Bicycle

1. Coordinate parking and bicycle planning (ParkFlag and FMPO)
2. Include links to FUTS in ParkFlag website
3. Develop parking discount for regular bicycle commuters
4. Include bicycle commute supporting facilities in parking facilities
 - a. Short-term parking
 - b. Long-term Parking
 - c. Bike Share Facilities
 - d. Other facilities such as “stations”

B. Transit

1. Coordinate parking and transit planning (ParkFlag, FMPO, and NAIPTA)
2. Include links to Mountain Line in ParkFlag website
3. Develop parking discount for regular transit commuters
4. Encourage and support NAIPTA park-n-ride facilities
5. ecoPASS – Provided by ParkFlag to those eligible for D, E or F Permits
 - a. Free
 - b. In lieu of issuance of permit
 - c. Pilot program – starts with 100 being available (year one)
 - d. T Permit

C. Tele-commuting

1. Develop parking discount for regular tele-commuters

II. Parking Choices

A. Park-n-ride Program

1. Include in parking map: Transit, FUTS, and park-n-rides lots
2. Include links to MoveMeFLAG in ParkFlag website
3. Park-n-ride: Buffalo Park parking lot expansion
 - a. Jury Pools
 - b. Co-ordinated with Streets/Parks Section
4. Develop other park-n-ride lots

B. Carpool / Vanpool

1. E permit - Discount for carpool per Fee Schedule (Appendix E)

III. Incentives

- #### A. Educate Employers about Commuter Choice Tax Benefit

- B. Encourage employers paying for employee parking permits to have “cash out” option when not used
- C. Encourage NAPEBT to incentivize active transportation choices for wellness points

Part 3 – Downtown Resident Permit Parking (D Permits)

I. Program Overview:

- A. Single Family Residential Properties (that have no other uses on the property):
Permit holder allowed to park in any “Pay by Plate Parking - E Permit Exempt” space, and when so parked is exempt from posted pay-to-park and/or parking time-limit requirements.
 - 1. Annual
 - 2. Valid
 - a. In specific zone only.
 - b. 24/7
 - c. For three parades per year, permits will not be valid for certain streets and dates (determined annually by the Event Permit):
 - i. Armed Forces
 - ii. Fourth of July
 - iii. Holiday Lights
- B. All Other Residential Units: Permit holder allowed to park in any “Pay by Plate Parking - E Permit Exempt” space in a public parking lot, overnight, and when so parked is exempt from posted pay-to-park requirement and prohibition on overnight parking.
 - 1. Annual
 - 2. Valid 10 PM to 7 AM, November 1 through April 1
 - 3. Not valid for on-street spaces
- C. No Guest Permits

II. Areas Served (See Appendix A):

- A. EN or ES Zones
- B. Streets with meters

III. Eligibility:

- A. Residence Existed on July 1, 2016
- B. Resident of Downtown - One per water meter
 - 1. Number of units not considered
 - 2. Number of tenants not considered

IV. Permits:

- A. Required Linkages
 - 1. Proof of year residence established
 - 2. Vehicle License Plate
 - 3. Water Meter
- B. Cost per Fee Schedule (See Appendix E)



Part 4 – Employee / Business Owner Permit Parking (E Permits)

- I. Program Overview: Permit holder allowed to park in any “Pay by Plate Parking - E Permit Exempt” space, and when so parked is exempt from posted pay-to-park and/or parking time-limit requirements
 - A. Annual
 - B. Valid
 1. In specific zone only.
 2. 24/7

- II. Areas Served (See Appendix A):
 - A. EN or ES Zones
 - B. On-street Spaces and public parking lots

- III. Eligibility:
 - A. Employees / Business Owners with business located within the same zone
 - B. Employees / Business Owners within 600 feet of the zone may choose only one zone in which to get a permit

- IV. Permits:
 - A. Required Linkages
 1. Vehicle License Plate
 2. Employment / Business Verification
 3. Parking Zone
 - B. Cost per Fee Schedule (Appendix E)
 - C. Permit Sales: Sold by annual lottery until supply increased



Part 5 – Facility Specific Permit Parking (F Permits)

- I. Program Overview: Permit holder allowed to park in “Parking Permit Required – F Permit” parking lot space of a specific facility
 - A. Annual
 - B. Valid
 1. In specific zone only.
 2. 7AM to 5 PM
 - C. Subject to variations based on facility owner/operator and agreement
- II. Areas Served (See Appendix A):
 - A. Various zones (for individual facilities or for a group of facilities)
 - B. Public or private parking lots of specific facilities that are managed by ParkFlag
- III. Eligibility:
 - A. Establishing a Facility Specific Permit Parking Zone (and parking management by ParkFlag)
 1. Public or private parking lots of specific facilities
 2. Suitable lots:
 - a. Those for which the owners use is symbiotic with ParkFlag use of such lots in off-hours, specifically including for public parking
 - b. Have enough available spaces to warrant management by ParkFlag
 3. Management shall be per written agreement between ParkFlag and facility owner/operator
 - B. Issuance of Facility Specific Parking Permit: Per facility owner/operator and agreement
- IV. Permits:
 - A. Required Linkages
 1. Vehicle License Plate
 2. Employment or other verification documents necessary per facility owner/operator’s specification
 3. Parking Zone
 - B. Cost per facility owner/operator and agreement



Part 6 – Residential Permit Parking (R Permits and G Permits)

I. Program Overview:

- A. Resident Permits - Permit holder allowed to park in any “No Parking - R Parking Permit Exempt” space
 - 1. Annual
 - 2. Valid
 - a. In specific zone only.
 - b. 24/7
 - c. For three parades per year, permits will not be valid for certain streets and dates (determined annually by the Event Permit):
 - i. Armed Forces
 - ii. Fourth of July
 - iii. Holiday Lights
- B. Guest Permits – G Permit holder allowed to park in any “No Parking - R Parking Permit Exempt” space
 - 1. Valid for 24 hours

II. Area Served (See Appendix A):

- A. R1-6 Zones
- B. As requested, on block by block basis

III. Eligibility:

- A. Establishing a Residential Permit Parking Zone
 - 1. Circumstances Required for Implementation:
 - a. Complete and correct petition requesting parking management
 - b. Petition Affirmatively Signed by 51% of Property Owners
 - i. Property Owners Only
 - (1). Corner lots and other multiple frontage lots vote on the frontage of the address
 - ii. Each Water Meter entitles Property Owner to One Vote
 - (1). Multiple Water Meters = Multiple Votes
 - (2). Land Use (Res or Non-res) Not Considered
 - (3). Number of Units Not Considered
 - (4). Number of Tenants Not Considered
 - iii. Any response other than “Yes” is counted as a “No” vote
 - c. 75% Occupancy of On-street parking Spaces
 - i. Tested by City - Method and Form Determined by City
 - ii. Exemptions:
 - (1). Any block within three blocks of FDBIRD



- (2). Any block within three blocks of NAU
 - d. Each block must comply individually
- 2. Petitions:
 - a. Required Form (See Appendix D)
 - b. List all Property Owners / Water Meters
 - i. Both sides of block(s)
 - ii. Regardless of Vote
 - c. Includes Requested Configuration
- B. Issuance of Resident Parking Permits
 - 1. Resident of same Parking Zone - One per water meter
 - a. Land use (residential or non-residential) not considered
 - b. Number of units not considered
 - c. Number of tenants not considered
 - d. Off-street parking not considered
 - e. Vacant Lots not considered
- C. Issuance of Guest Parking Permits – (12) “Free”, Unlimited Paid

IV. Configuration: Resident Permit Parking Zones:

- A. Street segments by block of 100 house numbers
- B. One of three configuration options
 - 1. Option 1 - Time limited parking in entire area served and permits exempt permit holder from time limit, or
 - 2. Option 2 - Open parking ½ of each side of street, and resident parking only (permit required) on remainder of the street, or
 - 3. Option 3 - Time limited parking ½ of each side of street, and resident parking only (permit required) on remainder of the street.
- C. Other configurations not available
- D. Per Base Layout (See Appendix B)

V. Permits:

- A. Required Linkages
 - 1. Vehicle License Plate
 - 2. Water Meter
 - 3. Parking Zone
 - 4. Proof of ownership (If City record differs)
- B. Guest / Contractor Permits
 - 1. Required Linkages
 - a. Vehicle License Plate
 - b. Resident Permit (Water Meter / Parking Zone)
- C. Costs per Fee Schedule (See Appendix E)



Part 7 – Pay-to-park

I. Program Overview:

- A. Parkers required to pay for parking.
 - 1. Pay-by-plate
 - 2. Multi-space Kiosks
 - 3. Online and Mobile Payment
 - 4. Hours of Operation: Per schedule (See Appendix C)
- B. Meter Exemption Permit
 - 1. Special Events, construction, etc.
 - 2. Associated with Street Closure Permit
 - 3. For three parades per year, Meter Exemption Permit will not be required for certain streets and dates (determined annually by the Event Permit):
 - a. Armed Forces
 - b. Fourth of July
 - c. Holiday Lights

II. Areas Served (See Appendix A): On-street Spaces and public parking lots

III. Cost: per Fee Schedule (See Appendix E)



Part 8 – Time-limited Parking

I. Program Overview:

- A. 2-Hour Parking – 7am to 8pm – M-S

II. Areas Served (See Appendix A):

- A. Cottage Avenue – Mike’s Pike to Agassiz
- B. Benton Avenue - Mike’s Pike to Agassiz
- C. DuPont Avenue – Humphreys to Agassiz
- D. Ellery Avenue - Humphreys to Agassiz



Part 9 – Compliance and Collections

I. Staffing

A. Enforcement Staff:

1. Civilian Employees of PD
2. PD/EV Agreement: Day-to-day supervision within EV
3. With Meter Installation - Add (3) FTE for a total of (4)
4. Ongoing - Add (1) FTE per every 300 spaces added to program

B. Parking Manager:

1. Within EV
2. Interim – CD&R Manager
3. Permanent – Six months after full start of operations

II. Ticket Policies

A. Escalating “Failure to Pay Meter” Tickets

1. Forgive first per Year (“Warning” notice)
2. Increase if not paid in 15 days
3. Increase again if not paid in 30 days
4. Second and third tickets per year will be separate violations.

B. Collection Procedures

1. State of Arizona Assessments still due and payable.
2. Parking tickets paid at/to Park Flag office
 - a. Funds to State of Arizona and Parking fund
3. Contested tickets are referred to Municipal Court
 - a. See also “Dispute Resolution”
 - b. Funds to State of Arizona and General Fund

C. Dispute Resolution

1. Parking Manager’s authority to void tickets
 - a. Information on the citation is accurate or incomplete
 - b. Facts, events or circumstances unknown to the issuing officer
 - c. Ticket in error (compliance demonstrated)
 - d. Mitigating circumstances prevented compliance
2. Parking Manager may not void a ticket on the basis of:
 - a. The meter was broken
 - b. I was only in violation for a minute
 - c. I did not know that I could not park there
 - d. I think the fine is too high
 - e. I did not see the sign or curb markings
 - f. I cannot afford to pay the fine

- g. I have never had a ticket before
 - h. I am from out-of-town
 - i. I am local
 - j. I will never do it again
 - 3. Contested tickets are referred to Municipal Court
- D. Heavy Hitters = (3) tickets unpaid for more than 6 months
 - 1. Void Permits by Address
 - 2. Booting
 - 3. Towing
 - 4. Enable MVD program – Attach to Vehicle Registration
- E. Fines: per Schedule – Revise Schedule

III. Misc.

- A. Enforcement routes start at managed facilities parking lots

Part 10 – Assets

I. Parking Lots at Onset of Program

A. Public Parking

1. Phoenix Avenue
2. Beaver Street
3. Leroux Street
4. Visitor Center
5. Wheeler Park
6. Lumberyard
7. Wong
8. Boyer

B. Managed Facilities

1. City Hall
2. Cherry (APS) Building
3. Downtown Library
4. County Lots (per Map)

C. Additional Public or Managed Parking Lots may be added using standard City acquisition and approval processes.

II. Multi-space Meters (Kiosks):

A. Physical Equipment

1. Small footprint
2. Solar/battery power
3. Multi-lingual
4. Messaging (Instructions, Events, Closures, etc.)

B. Forms of Payment

1. *Cashless* – No bills, no coins
2. Card, Online, Mobile, and Merchant Coupons

C. Networked and Expandable

III. Back-of-house

A. Software

1. Real-time Usage, etc. Reporting
2. System changes (Dynamic Pricing)
3. Collections
4. Boot List

B. e-Permits – R1-6, D, EN-S, F1-X, and G type Permits

1. On-line POS

- 2. Verification required (of some)
- C. Enforcement Module
 - 1. Connect to handhelds (Tablets)
 - 2. Connect to PD/Courts LEEDS Software
- D. Payment of Tickets
- E. Monthly Service
 - 1. Back-of-house
 - 2. Enforcement Module

IV. Compliance Equipment

- A. Electronics
 - 1. Military Grade Tablets
 - 2. Blue Tooth Printer
 - 3. Cell Phone Accounts
- B. Boots

V. Parking Office

- A. Need – Lease space under consideration
 - 1. Accessible (Public and Employees)
 - 2. Payment Window
- B. Furniture
- C. Back-of-house Computer
- D. Point-of-sale system needed
- E. Hot Line (Telephone)

VI. Misc. Supplies & Equipment:

- A. Printer Paper, Envelopes, Pens, etc.
- B. Uniforms

VII. Maintenance

- A. Existing Assets (Parking Lots and Signs) from Existing Budgets
- B. New and Future Assets from ParkFlag Funds

Part 11 – Purchasing

I. Procurement

- A. Meters - National Purchasing Contract
- B. Back-of-house – National Purchasing Contract
- C. Regulatory Signs – (within installation JOC)
- D. Capital Financing – RFP

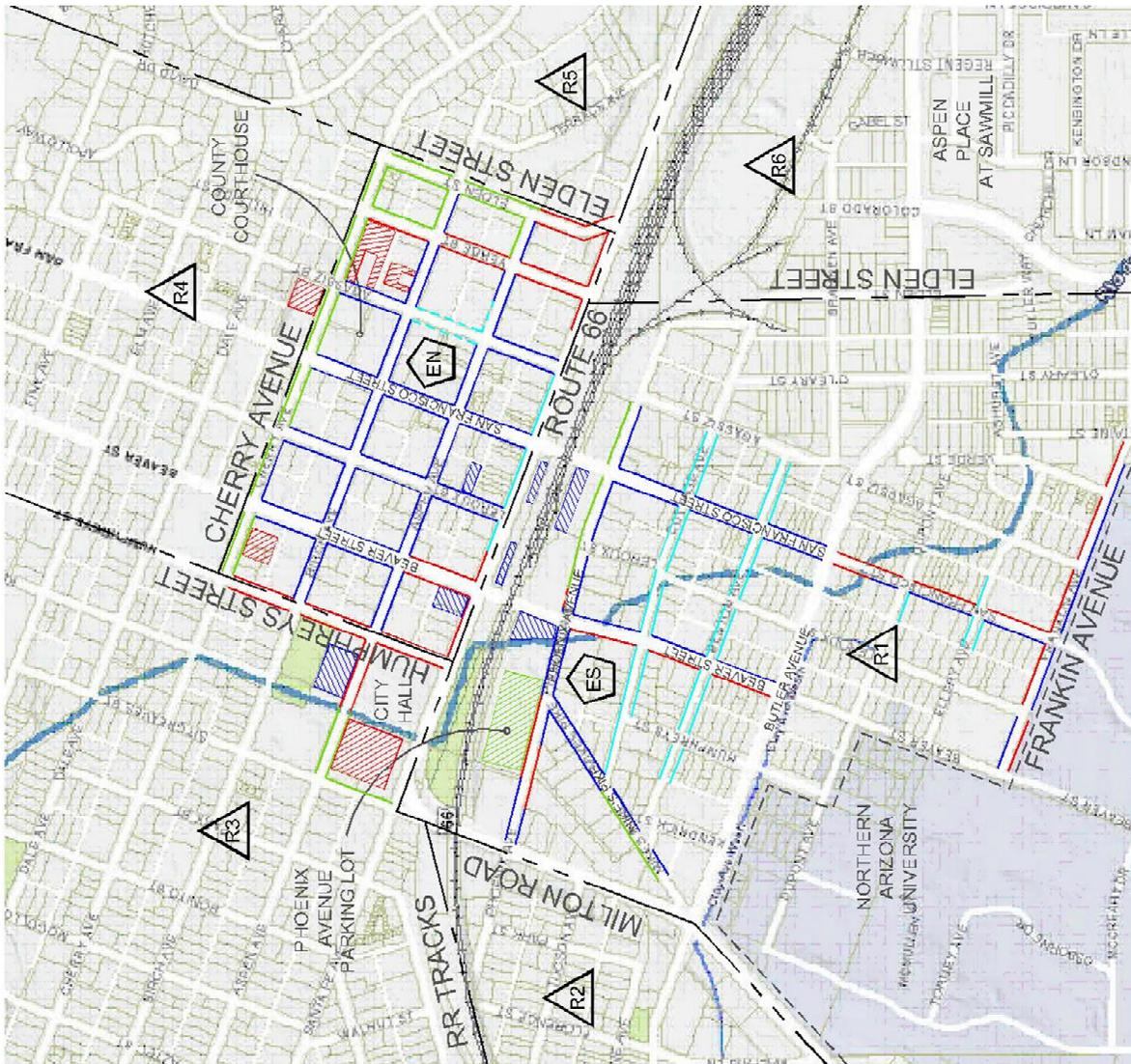
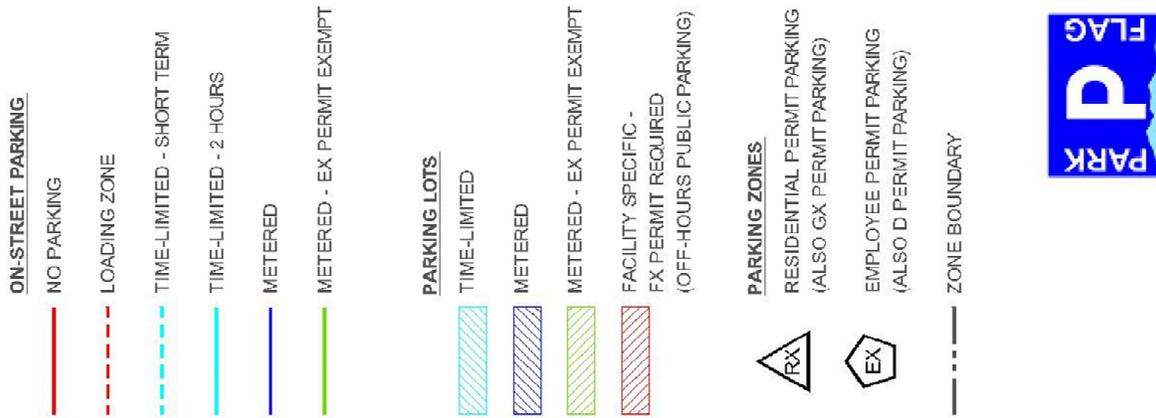
II. Installation – Job Order Contract

- A. Meters
- B. Signs
- C. Southside Temporary Curbs

Part 12 – Financial

- I. ParkFlag Fund: The City has by ordinance established a Special Revenue Fund for parking and parking management. The revenues and expenses of the parking system are accounted separately from other portions of the City budget. The uses of funds are restricted to parking and parking management. Changes to the ordinance requires special noticing.
- II. Start-up Costs: Funding for the initial capital improvements, equipment, other start-up expenses, and the first year of operations is being provided from the City General Fund. Parking revenues will be used for repayment of City in years two and three.
- III. Capital Reserve: By ordinance, each year, no less than twenty percent (20%) of the annual gross parking revenue will be held in reserve for the acquisition and construction of additional parking.
- IV. Operational Reserve: In determining if additional funds (more than twenty percent (20%) of the annual gross parking revenue) can be placed in the Capital Reserve account, no less than a ten percent (10%) operational fund balance (reserve) shall be carried forward from year to year.
- V. Equipment Capital Financing and Replacement: The Pro Forma is based on financing the pay-to-park equipment (meters) for ten to thirteen years. In the years after the City start-up funding is repaid, the Five-year Plan sets aside funds for the replacement of the equipment.
- VI. Revenues:
 - A. The Pro Forma is based on pay-to-park revenue being the primary revenue of the system.
 - B. Permit revenues and other fees per the fee schedule are relatively minor. The pay-to-park revenue subsidizes the other parking programs.
 - C. After the State portion of citation monies is provided to the State, monies from parking citations collected by the Park Flag office will be deposited in the ParkFlag Fund. Parking citation monies collected by the Municipal Court will be deposited into the General Fund.
- VII. All financial matters subject to the City's Annual Budget process and allocations.

Appendix A – Map of Comprehensive Parking Management



Appendix C – Meter Schedule

Daily Meter Schedule																									
	1a	2	3	4	5	6	7	8	9	10	11	12p	1	2	3	4	5	6	7	8	9	10	11	12a	
MONDAY - WEDNESDAY																									
THURSDAY - FRIDAY																									
SATURDAY																									
SUNDAYS & HOLIDAYS																									

Pricing: \$1.00 per hour

Notes:

1. No cap on number of hours purchased.
2. No escalation of hour cost.
3. No Seasonal Price Change

Appendix E – Fee Schedule

I. Permits:

- A. Downtown Resident Permit (D) – \$60 per Month
- B. Downtown Resident Permit (D - SFR) – Free
- C. Employee / Business Owner Permit (E)
 - 1. Single - \$45 per Month
 - 2. Carpool – Deduct \$5 for each E Permit eligible employee on one permit
- D. Facility Specific Permit (F) – Free
- E. Resident Permit (R) – Free
 - 1. Guest / Contractor Permit (G) – (12) per year free then \$5 per 24 hours
 - 2. Additional Resident Permit – 1st = \$250, 2nd = \$350, 3rd = \$450

II. Pay-to-park - Meter Rate Schedule Attached

III. Meter Exemption Permit (M)

- A. Events - \$1 per space per half day
- B. Other - \$5 per space per day

IV. Fine Schedule – Ticket Schedule Attached [\[Scan\]](#)

Appendix F – Standard Signage



TYPE: PPK



TYPE: CH2L



TYPE: PPP



TYPE: CK12



TYPE: PPE



TYPE: PE



TYPE: PR



TYPE: TH2



TYPE: PO

PARK FLAG - PUBLIC PARKING

Basic Program Signs

COUNTY VEHICLES EXEMPT
TYPE: EX3

CITY VEHICLES EXEMPT
TYPE: EX2

ACCESSIBLE SPACES EXEMPT
TYPE: EX1

30 MINUTE PARKING
COUNTY CUSTOMERS ONLY
7 AM - 5 PM
MON - FR
TYPE: C302

PARKING PERMIT REQUIRED
7 AM - 5 PM
MON - FR
F PERMIT
ZONE FX
TYPE: PF

PARKING PERMIT REQUIRED
ALL DAY
MON - FR
C PERMIT
TOW-AWAY ZONE
TYPE: PC

30 MINUTE PARKING
CITY HALL CUSTOMERS ONLY
7 AM - 5 PM
MON - FR
FREE
TYPE: C30

PARK FLAG - MANAGED LOTS

Signs for Managed Parking Lots



Replacement Signs for Streets Division



Park Flag

City Hall and Cherry Building
Parking Management Program

DRAFT - August 2016

West Parking Lot – Zone F1

Overall Regulation: Parking Permit Required (7am to 5pm) – F Permit

Accessible Spaces Exempt

Overnight Parking by Permit Only – No permits to be issued

F1 Permit

Issued to City Hall employees

No Charge

Notes

Reserved Spaces Unchanged (at this time)

During regulatory period

No customer/public parking

City Vehicles prohibited

Except those that go home with employees

(Which then get an F permit)

Free Public Parking outside of regulatory period

Wheeler Parking Lot

Overall Regulation: Pay-to-park

30 Minute Customer Parking Exempt

C Permit parking Spaces Exempt

Overnight Parking by Permit Only – No permits to be issued

Customer Parking: Seven spaces on the east side of the lot

Parking Permit Required (All Day) – C Permit

Seven Spaces on the west side of the lot

C Permits issued to City Council Members and Commissioners

(Intended to be used during meeting times of Council/commission)

Notes

Accessible spaces are pay-to-park

Free Public Parking outside of regulatory period

Cherry Building Lot – Zone F2

Overall Regulation: Parking Permit Required (7am to 5pm) – F Permit

Accessible Spaces Exempt

City Vehicles Exempt

Overnight Parking by Permit Only – No permits to be issued

F2 Permit

Issued to Cherry Building employees

No Charge

Notes

During regulatory period

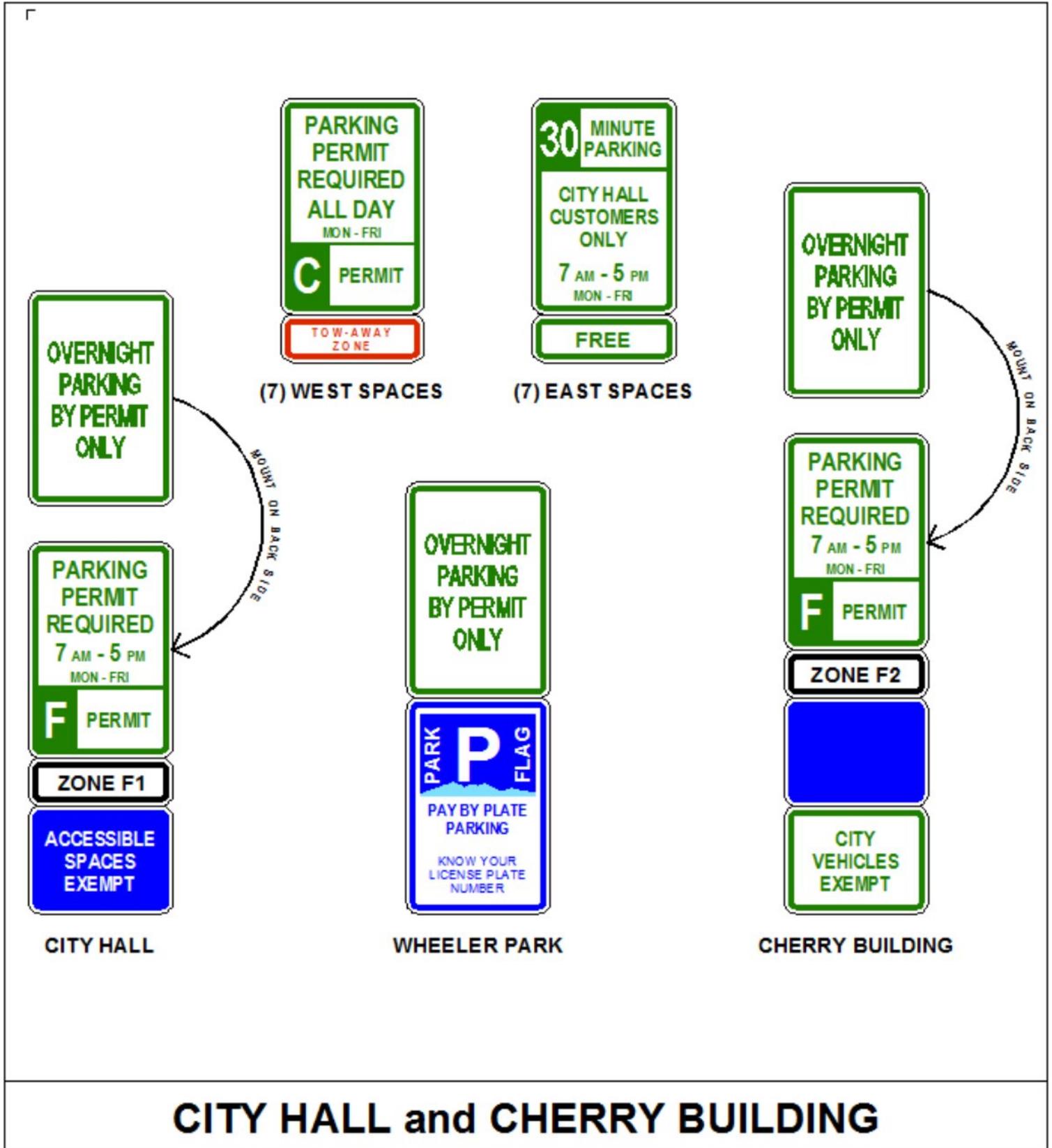
No customer/public parking

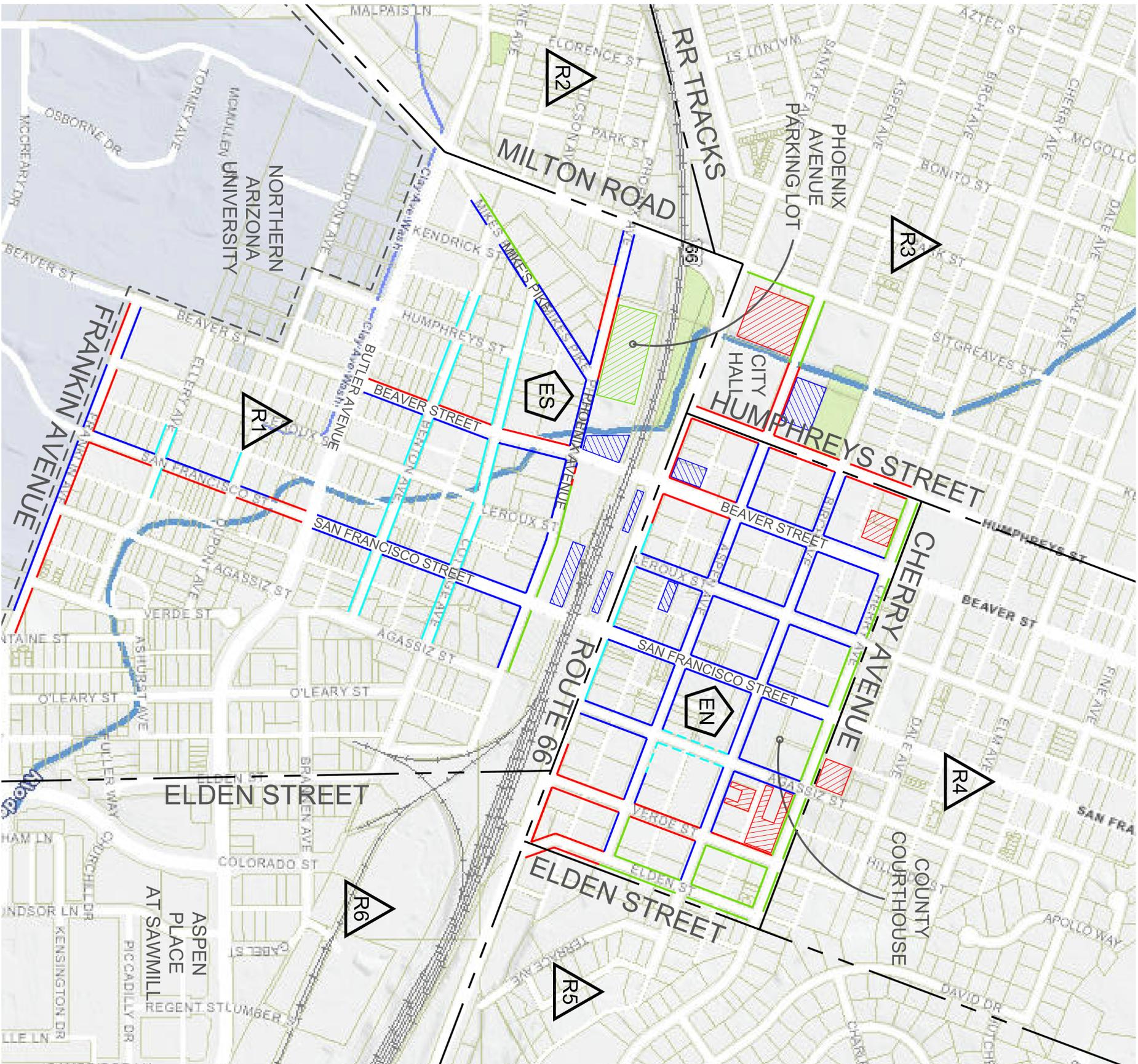
Free Public Parking outside of regulatory period

Downtown Library Lot

Overall Regulation: 2-Hour Parking – 7am to 8pm

Accessible Spaces Exempt





ON-STREET PARKING

NO PARKING

LOADING ZONE

TIME-LIMITED - SHORT TERM

TIME-LIMITED - 2 HOURS

METERED

METERED - EX PERMIT EXEMPT

PARKING LOTS

TIME-LIMITED

METERED

METERED - EX PERMIT EXEMPT

FACILITY SPECIFIC -
EX PERMIT REQUIRED
(OFF-HOURS PUBLIC PARKING)

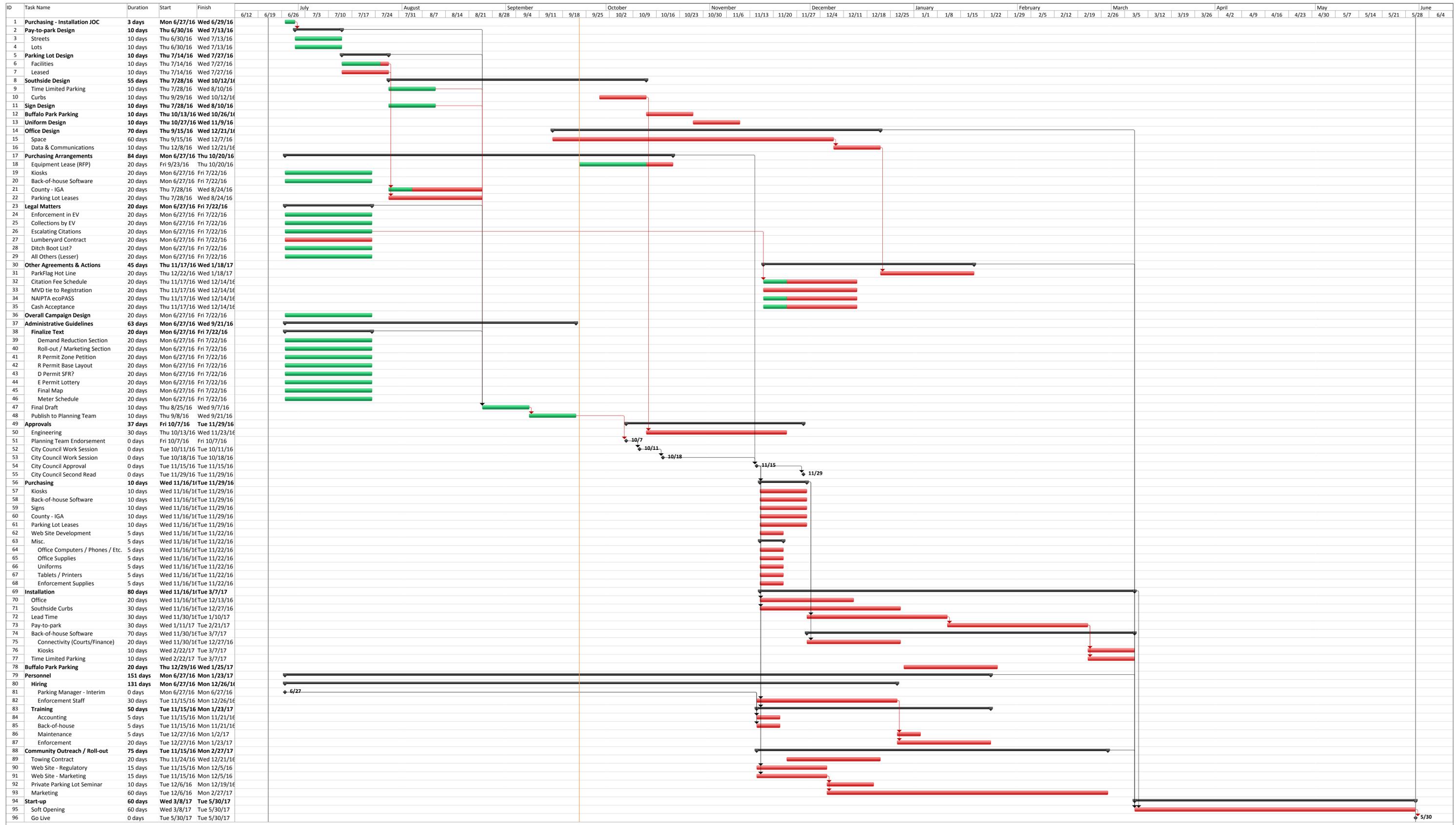
PARKING ZONES

RESIDENTIAL PERMIT PARKING
(ALSO GX PERMIT PARKING)

EMPLOYEE PERMIT PARKING
(ALSO D PERMIT PARKING)

ZONE BOUNDARY





Project: June 2016 Schedule V2
 Date: Fri 9/23/16

█ Task
█ Milestone
█ Summary
◆ Project Summary
◀▶ External Milestone
◆ Inactive Milestone
◀▶ External Tasks
◆ Inactive Task
◆ Inactive Summary
◀▶ Manual Task
◀▶ Manual Summary Rollup
◀▶ Manual Summary
◀▶ Duration-only
◀▶ Start-only
◀▶ Finish-only
◻ Deadline
◻ Progress
█

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE

Future Agenda Item Request (F.A.I.R.): A request by Mayor Nabours to place on a future agenda a discussion regarding a resolution joining in / supporting the Northern Arizona Military Advocacy Council.

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. Mayor Nabours 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:

The attached draft resolution was supplied by Mayor Nabours and has not been reviewed by the Legal Department.

Attachments: Draft Resolution

City of Flagstaff

Resolution

RE: Northern Arizona Military Advocacy Council

WHEREAS, the Flagstaff area has military installations such as Camp Navajo, the Naval Observatory, and the Navy Precision Optical Interferometer.

Such Installations are important to national defense, military training, and scientific advance.

Flagstaff takes pride in having such prestigious and important facilities

Flagstaff also recognizes the economic impact such facilities bring to this area.

Flagstaff area residents would benefit from knowing more about these installations

In the event the referenced military installations were being considered for substantial reductions or elimination it would be important to have citizens reviewing such plans and, if appropriate, advocating in favor of the installations.

Other entities, in addition to the City, share the same views regarding these installations and also would want to inform the public about the functions and review and comment on any plans to reduce the scope of these installations.

THEREFORE, the City of Flagstaff does hereby join with the following entities to form the Northern Arizona Military Advocacy Council for the purposes as stated above:

Coconino County
Lowell Observatory
Northern Arizona University
Northern Arizona Leadership Associates
Greater Flagstaff Chamber of Commerce
Economic Collaborative of Northern Arizona

Adopted by the City Council of Flagstaff Arizona November ____ 2016.

Gerald W. Nabours, Mayor

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 10/11/2016
Meeting Date: 10/18/2016



TITLE

Future Agenda Item Request (F.A.I.R.): A request by Councilmember Oravits to place on a future agenda a discussion regarding pedestrian and bike improvements at Foxglenn/Butler and safety enhancements from Continental/Butler to Sinagua/Knoles area.

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 Oravits 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

Attachments:

No file(s) attached.