

AGENDA

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, TO BE HELD JANUARY 7, 2014, AT 6:00 PM., AT THE COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER -- THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION.
- V. PRESENTATIONS

CHECK TO THE "HOMES FOR OUR TROOPS" FROM PROCEEDS RAISED FROM THE COTTONWOOD FALL CLASSIC DISC GOLF TOURNAMENT.

ARIZONA HANG GLIDING & PARAGLIDING ASSOCIATION.
- VI. CALL TO THE PUBLIC--This portion of the agenda is set aside for the public to address the Council regarding an item that is not listed on the agenda for discussion. However, the Council cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02(H).) Comments are limited to a 5 minute time period.
- VII. APPROVAL OF MINUTES

Regular Meeting of December 17, 2013

Comments regarding items listed on the agenda are limited to a 5 minute time period per speaker.
- VIII. CONSENT AGENDA--The following items are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Council Member or a citizen so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.
 1. ACCEPTANCE OF AN EASEMENT FROM COTTONWOOD DEVELOPMENT GROUP, LLC.
 2. RATIFICATION OF THE PURCHASE OF IN-CAR CAMERA SYSTEMS FOR THE COTTONWOOD POLICE DEPARTMENT.

- IX. NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.
1. RESOLUTION NUMBERS 2729, 2730, & 2731 APPOINTING MEMBERS TO THE CITY'S PLANNING AND ZONING COMMISSION.
 2. RESOLUTION NUMBERS 2732, 2733, 2734 AND 2735-- APPOINTING MEMBERS TO THE CITY'S HISTORIC PRESERVATION COMMISSION.
 3. APPROVAL OF A LEASE AGREEMENT WITH THE VERDE VALLEY YOUTH COMMISSION FOR USE OF THE OLD FIRE STATION LOCATED AT 345 EAST MINGUS AVENUE FOR A TEEN CENTER, AND WAIVER OF THE BUILDING PERMIT FEE FOR UPGRADES REQUIRED FOR THE BUILDING.
 4. ORDINANCE NUMBER 603--REVISING SECTION 19.H OF THE CITY'S EMPLOYEE MANUAL WITH RESPECT TO CONDUCTING FINGERPRINT/BACKGROUND CHECKS ON NEWLY HIRED CITY EMPLOYEES AND CERTAIN VOLUNTEERS; FIRST READING.
 5. APPROVAL OF A GUARANTEED MAXIMUM PRICE AMENDMENT TO THE CONTRACT WITH CONSTRUCTION-MANAGER-AT-RISK D.L. WITHERS FOR CONSTRUCTION OF THE CITY'S NEW EMERGENCY COMMUNICATIONS CENTER.
 6. APPROVAL TO PROCEED WITH THE 12TH STREET RECONSTRUCTION PROJECT IN TWO PHASES.
 7. APPROVAL OF LEASE PURCHASE FINANCING BID FOR EQUIPMENT FOR THE NEW EMERGENCY COMMUNICATIONS CENTER TO US BANCORP GOVERNMENT LEASING AND FINANCE, INC.
 8. SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY LANA TOLLESON, APPLICANT FOR THE COTTONWOOD CHAMBER OF COMMERCE, FOR THE ANNUAL CHAMBER BANQUET SCHEDULED FOR JANUARY 31, 2014, AT THE COTTONWOOD RECREATION CENTER.
 9. CITY COUNCIL 2014 STRATEGIC PLANNING RETREAT.
- X. CLAIMS AND ADJUSTMENTS
- XI. ADJOURNMENT

Pursuant to A.R.S. 38-431.03.(A) the Council may vote to go into executive session on any agenda item pursuant to A.R.S. 38-431.03.(A)(3) Discussion or consultation for legal advice with the attorney or attorneys of the public body.

The Cottonwood Council Chambers is accessible to the disabled in accordance with

Federal "504" and "ADA" laws. Those with needs for special typeface print or hearing devices may request these from the City Clerk (TDD 634-5526.) All requests must be made 24 hours prior to the meeting.

Members of the City Council will attend either in person or by telephone conference call.

Notice is hereby given that pursuant to A.R.S. 1-602.A.9 , subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. 1-602.A.9 have been waived.

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date: January 7, 2014

Subject: Acceptance of an Easement from Cottonwood Development group LLC for Sidewalk Maintenance and Improvement, Traffic Signage, and Fire Hydrant Clearance at the Site of the New Tractor Supply Store.

Department: Development Services

From: David Hausaman, Development Services

REQUESTED ACTION

Acceptance of an easement for sidewalk maintenance and improvement, traffic signage and fire hydrant clearance at the site of the new Tractor Supply store.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to accept the easement from Cottonwood Development Group, LLC and authorize the Mayor to execute the easement agreement."

BACKGROUND

Staff has determined that the City requires an easement on the west side of the property on which the new Tractor Supply store is being constructed to construct and maintain the required 5-foot wide sidewalks; to provide clearance around an existing fire hydrant that will be relocated one foot behind the proposed sidewalk for any repairs that might be necessary in the future; and to allow for the installation and maintenance of traffic control signage such as right turn only, stop, speed limit and other related traffic control devices/signs.

JUSTIFICATION/BENEFITS/ISSUES

This easement will serve a number of important public purposes, and is being provided to the

City free of charge.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

Name:	Description:	Type:
☐ <u>easement.pdf</u>	TSC easement	Cover Memo
☐ <u>Aerial TSC.JPG</u>	Aerial View	Cover Memo
☐ <u>Sheet 5 TCS 2013-12-11.pdf</u>	Civil plan	Cover Memo

EASEMENT

For consideration of \$1.00, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **Cottonwood Development Group, LLC, a North Carolina limited liability company** ("Grantor"), as owner of that certain real property located in Yavapai County, Arizona, designated as follows:

- **APN 406-51-028A**, and as more particularly described in **Book 4986, Page 5** of the Official Records of Yavapai County,
- **APN 406-51-029**, and as more particularly described in **Book 4986, Page 5** of the Official Records of Yavapai County,
- **APN 406-51-030**, and as more particularly described in **Book 4986, Page 5** of the Official Records of Yavapai County,
- **APN 406-51-031A**, and as more particularly described in **Book 4986, Page 5** of the Official Records of Yavapai County,
- **APN 406-51-032A**, and as more particularly described in **Book 4986, Page 3** of the Official Records of Yavapai County,
- **APN 406-51-032B**, and as more particularly described in **Book 4986, Page 1** of the Official Records of Yavapai County,

and as described in **Exhibit A** attached hereto (hereinafter referred to as "Grantor's Property"), does hereby grant and convey to the CITY OF COTTONWOOD, an Arizona municipal corporation, its successors and assigns, as Grantee, the following easement(s) across, over and upon said portion of Grantor's Property:

1. A perpetual use easement for the maintenance, repair and replacement of a public sidewalk, directional or traffic control signage (such as "right turn only", "stop", "turn lane", "speed limit" or similar type signs) and clearance for a fire hydrant over, upon, through and across that portion of Grantor's Property more particularly described as **SUBJECT EASEMENT** in **Exhibit B** hereto and as shown as **SUBJECT EASEMENT 1,064.32 S.F.+/-** on **Exhibit C** hereto ("Easement Area").

Following any installation, excavation, maintenance, repair or other work by Grantee, Grantee shall, at its sole cost and expense, restore Grantor's Property (to include the Easement Area) to as close to original condition as is reasonably practicable under the circumstances.

Grantor reserves the right use/occupy Grantor's Property (including the Easement Area) in any manner and for any and all such other lawful purposes as will not impede any of Grantee's rights as set forth herein. Grantee agrees that its rights shall be limited exclusively to the maintenance, repair and replacement of the public sidewalk, fire hydrant and any directional or traffic control signage.

Grantee agrees that its rights to use the Easement Area as provided for herein shall be exercised under due care and in such a manner as not to cause damage or destruction to or interruption of the use of the Easement Area or Grantor's Property.

Grantee shall provide advance notice to the operator/occupant located at the Grantor's Property (and to Tractor Supply Company for as long as Tractor Supply Company has a fee or leasehold interest in the Property) of the performance of any non-emergency maintenance and/or repairs within the Easement Area.

The covenants and agreements set forth herein shall extend and insure in favor and to the benefit of, and shall be binding on the heirs, administrators, executors, successors, assigns and lessees of both Grantors and Grantee.

Effective this 13 day of December, 2013.

GRANTOR:

Cottonwood Development Group, LLC, a North Carolina limited liability company

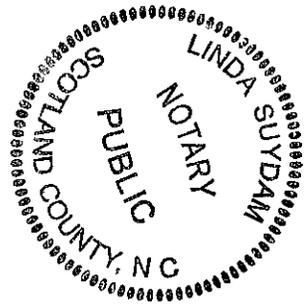
By: William C Swatter

Its: MANAGER

On this 13 day of December, 2013, the undersigned duly authorized representative of Cottonwood Development Group, LLC, did personally appear before me and executed the forgoing instrument for the purposes herein contained. In witness whereof, I hereby set my hand and official seal.

4-26-2015

My commission expires



Linda Suidam
Notary Public

ACCEPTANCE BY GRANTEE:

Hon. Diane Joens, Mayor

ATTEST:

Marianne Jimenez, City Clerk

Exhibit A
Grantor's Property

The land referred to herein below is comprised of contiguous parcels and is situated in the City of Cottonwood, County of Yavapai, State of Arizona, and is described as follows:

That parcel described in Book 3377, Page 409, Yavapai County Official Records, being a portion of Lot 28 of the Mingus Industrial Park as detailed in Book 24 of Maps and Plats Page 42, Yavapai County Official Records, Lot 29, Lot 30, Lot 31, and Lot 32 of the Mingus Industrial Park as detailed in Book 24 of Maps and Plats Page 42, Yavapai County Official Records all in the south half of Section 33, Township 16 North, Range 3 East, Gila and Salt River Meridian, Yavapai County, Arizona, being more particularly described as follows:

Beginning at the northwest corner of Lot 32 of the Mingus Industrial Park as detailed in Book 24 of Maps and Plats Page 42, Yavapai County Official Records, said point monumented by a ½" rebar and cap RLS 16116, located on the southeasterly right of way of Mingus Avenue as described in Book 281, Page 376, Yavapai County Official Records, and is the TRUE POINT OF BEGINNING:

Thence along said right of way, N.63°16'01"E., a distance of 150.21 feet to the point of curve of a non-tangent curve to the left, of which the radius point lies N.26°31'55"W., a radial distance of 795.16 feet;

Thence northeasterly along the arc of said right of way, through a central angle of 13°49'55", a distance of 191.96 feet to a point of intersection with the southwesterly right of way of West State Route 89;

Thence along said right of way, S.85°28'15"E., a distance of 12.93 feet to an angle point in said right of way;

Thence continue along said right of way, S.40°33'59"E., a distance of 351.71 feet to a point of curve to the right having a radius of 25.06 feet and a central angle of 108°36'36";

Thence southerly along the arc of the right of way for Justin Drive as created on the plat of the Mingus Industrial Park as detailed in Book 24 of Maps and Plats Page 42, Yavapai County Official Records a distance of 47.51 feet;

Thence continue along said right of way, S.68°05'29"W., a distance of 118.33 feet to ½" rebar and the point of curve to the left having a radius of 445.00 feet and a central angle of 27°19'13";

Thence southwesterly along the arc of said right of way a distance of 212.19 feet;

Thence continue along said right of way, S.40°46'16"W., a distance of 44.98 feet to a ½" rebar;

Thence leaving said right of way, and along the southwesterly line of that parcel described in Book 3377, Page 409, Yavapai County Official Records, being a portion of Lot 28 of the Mingus Industrial Park as detailed in Book 24 of Maps and Plats Page 42, Yavapai County Official Records, N.42°43'04"W., a distance of 186.11 feet to a PK nail in concrete marking the southwest corner of Lot 32 of the Mingus Industrial Park as detailed in Book 24 of Maps and Plats Page 42, Yavapai County Official Records;

Thence along the west line of said lot 32, N.24°17'04"W., a distance of 217.62 feet to the TRUE POINT OF BEGINNING.

Containing 143,807.72 square feet or 3.30 acres, more or less.

Exhibit B Subject Easement

The land referred to herein below is comprised of contiguous parcels and is situated in the City of Cottonwood, County of Yavapai, State of Arizona, and is described as follows:

That portion of that parcel described in Book 3377, Page 409, Yavapai County Official Records, being a portion of Lot 28 of the Mingus Industrial Park as detailed in Book 24 of Maps and Plats Page 42, Yavapai County Official Records, that portion of Lot 29, Lot 30, Lot 31, and Lot 32 of the Mingus Industrial Park as detailed in Book 24 of Maps and Plats Page 42, Yavapai County Official Records all in the south half of Section 33, Township 16 North, Range 3 East, Gila and Salt River Meridian, Yavapai County, Arizona, being more particularly described as follows:

Beginning at the northwest corner of Lot 32 of the Mingus Industrial Park as detailed in Book 24 of Maps and Plats Page 42, Yavapai County Official Records, said point monumented by a ½" rebar and cap RLS 16116, located on the southeasterly right of way of Mingus Avenue as described in Book 281, Page 376, Yavapai County Official Records, and is the TRUE POINT OF BEGINNING:

Thence along said right of way, N.63°16'01"E., a distance of 150.21 feet to the point of curve of a non-tangent curve to the left, of which the radius point lies N.26°31'55"W., a radial distance of 795.16 feet;

Thence northeasterly along the arc of said right of way, through a central angle of 13°49'55", a distance of 191.96 feet to a point of intersection with the southwesterly right of way of West State Route 89;

Thence along said right of way, S.85°28'15"E., a distance of 4.24 feet to the point of curve of a non-tangent curve to the right, of which the radius point lies N.40°34'47"W., a radial distance of 798.16 feet;

Thence leaving said right of way and southwesterly along the arc, through a central angle of 04°51'30", a distance of 67.68 feet;

Thence S.36°24'15"E., a distance of 3.94 feet;

Thence S.53°35'45"W., a distance of 8.00 feet;

Thence N.36°24'15"W., a distance of 4.08 feet to the point of curve of a non-tangent curve to the right, of which the radius point lies N.35°08'48"W., a radial distance of 798.16 feet;

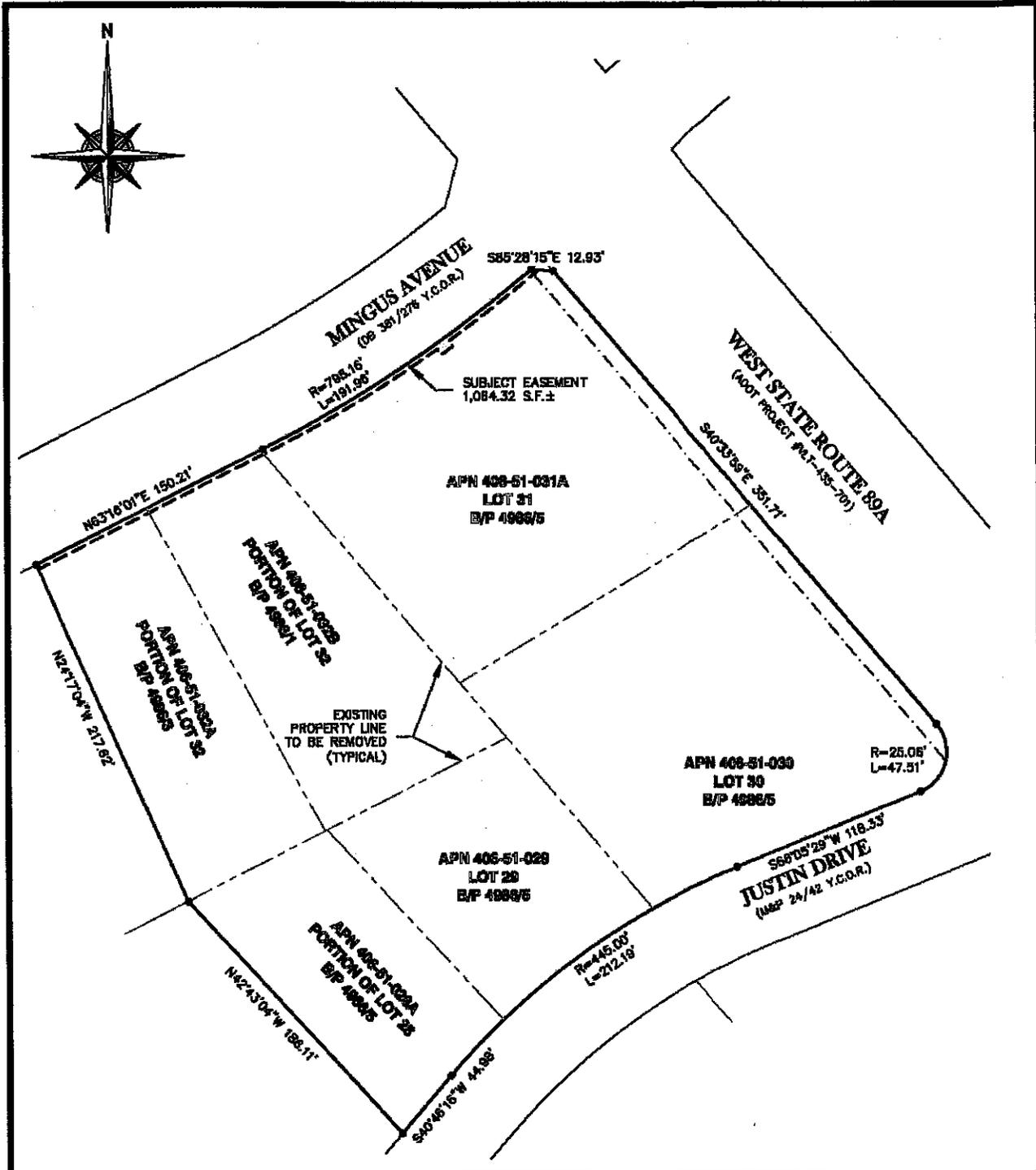
Thence southwesterly along the arc, through a central angle of 08°36'53", a distance of 120.01 feet;

Thence S.63°16'01"W., a distance of 150.33 feet;

Thence N.24°17'04"W., a distance of 3.00 feet to the TRUE POINT OF BEGINNING.

Containing 1,062.49 square feet more or less.

**Exhibit C
Subject Easement**



1321 Commerce Center Circle
Suite B Prescott, Arizona 86301
928.717.0171
928.717.0181 FAX

**A PORTION OF LOT 28 AND ALL OF LOT 29, 30, 31, & 32
OF MINGUS INDUSTRIAL PARK
BOOK 24 OF MAPS & PLATS, PAGE 42 Y.C.O.R.
EASEMENT AREA
EXHIBIT 'C'**

COTTONWOOD DEVELOPMENT
GROUP, LLC
155 WEST NEW YORK AVENUE
SUITE 200
SOUTHERN PINES, N.C. 28387

G3E JOB # 13013

DRAWN BY: TL

DATE: DEC 2013

NOT TO SCALE



W Mingus Ave

89A

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date:	January 7, 2014
Subject:	Ratification of a Purchase for Police Department In-Car Camera Systems.
Department:	Administrative Services
From:	Jesus R Rodriguez, Administrative Services General Manager

REQUESTED ACTION

Ratification of the purchase of the in-car camera systems from WatchGuard Digital In-Car Video in the amount of \$84,068.16

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

I move to ratify the purchase of the in-car camera systems from WatchGuard Digital In-Car Video in the amount of \$84,068.16.

BACKGROUND

The Financial Operations Guide, Procurement Policy requires that all new capital purchases over the \$50,000.00 threshold follow a formal solicitation process and be approved by the City Council. In this case, when the Police Department originally started working on this purchase, it was estimated to be under the \$50,000.00 benchmark. As more funding became available, the project's scope was expanded but the adjustment to remain compliant with the Procurement Policy requirements was not made. Three (3) quotes were obtained by the Police Department, but neither a formal solicitation process nor a cooperative purchasing contract were used.

Staff is fully aware of the error and has discussed the matter with everyone involved to minimize the possibility of another occurrence.

JUSTIFICATION/BENEFITS/ISSUES

The purchase has already been completed. Nevertheless, Staff determined that Council should be advised of the purchase, and asked to ratify it.

COST/FUNDING SOURCE

The purchase was paid out of the Police Department's budget in the General Fund.

ATTACHMENTS:

Name:

Description:

Type:

No Attachments Available

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date:	January 7, 2014
Subject:	Planning and Zoning Commission Appointments
Department:	Development Services
From:	Berrin Nejad, Community Development Manager

REQUESTED ACTION

Approval of three resolutions appointing members to the City's Planning and Zoning Commission.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

“I move to approve Resolution Number 2729 appointing _____ to the Planning and Zoning Commission for a three-year term that expires January 8, 2017.”

“I move to approve Resolution Number 2730 appointing _____ to the Planning and Zoning Commission for a three-year term that expires January 8, 2017.”

“I move to approve Resolution Number 2731 appointing _____ to the Planning and Zoning Commission for a three-year term that expires January 8, 2017.”

BACKGROUND

The terms of two members on the Planning and Zoning Commission expired on December 31, 2013, and the term of a third member expired on January 5, 2014. One of the expired positions was filled by Phillip Rosen who was appointed on April 2, 2013 to complete the remaining term for Commissioner Don Speer who passed away in February 2013.

Appointments

The P&Z Commission seats are currently held by:

- | | |
|------------------------------|-------------------------------|
| 1. Ed Kiyler (Chair) | Term Expired: 12-31-13 |
| 2. Diane Lovett (Vice-Chair) | Term Expires: 12-31-15 |
| 3. Judd Wasden | Term Expired: 1-5-14 |
| 4. Jean Wilder | Term Expires: 12-31-15 |
| 5. Raymond Cox | Term Expires: 12-31-14 |
| 6. Robert Williams | Term Expires: 12-31-15 |
| 7. Phillip Rosen | Term Expired: 12-31-13 |

The City received four applications for the three vacancies. Three of the applications are from the Commissioners whose terms just expired and one is a new application. The Council has the option to make the appointments or to continue seeking applicants. Candidates for the seats include the following:

Leonard Filner

Edmund Kiyler

Judd Wasden

Phillip Rosen

JUSTIFICATION/BENEFITS/ISSUES

The Planning and Zoning Commission is comprised of seven members, each of whom shall be a resident of the City of Cottonwood, to be appointed by the City Council, at least two of whom shall be qualified by design-related background, training or experience, including architecture, landscape architecture, interior design, planning, fine arts or other design-related background. Commission members serve for terms of three years.

Prospective members should have demonstrated significant interest in and commitment to the field of Planning and Zoning, and City of Cottonwood's development.

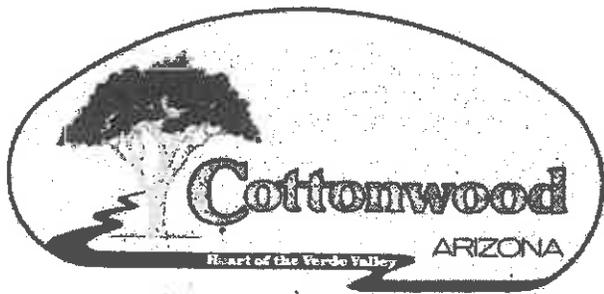
There are four applicants for three open seats, three of which are from current Commissioners. There have been no issues with attendance of the current Commissioners.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

Name:	Description:	Type:
P_Z_apps.pdf	applications	Cover Memo
Rosen.pdf	application	Cover Memo
res2729.doc	Resolution 2729	Backup Material
res2730.doc	Resolution 2730	Backup Material
res2731.doc	Resolution 2731	Cover Memo



02-12-13 4:17 PM RCVD

CITY OF COTTONWOOD
816 NORTH MAIN STREET
COTTONWOOD, AZ 86326
Phone (928) 340-2713
Fax (928) 634-3727
Revised January 11, 2010

APPLICATION FOR PLANNING COMMISSION AND ZONING
(BOARD/COMMISSION/COMMITTEE)

NAME FILNER LEONARD ALLEN
(Last) (First) (Middle)

MAILING ADDRESS 1628 G. BIRCH ST #1 COTTONWOOD, AZ 86326
(Route or Box) (City) (State) (Zip)

STREET ADDRESS SAME
(Number & Street) (City) (State) (Zip)

HOME PHONE 928 649-9456 WORK/MESSAGE PHONE CELL (714) 337-7706

EMAIL ADDRESS: JETHROSIX@GMAIL.COM

PLEASE TYPE OR PRINT CLEARLY IN INK ONLY.

Professional Memberships, Registrations, Licenses, Etc. LICENSED AS A LANDSCAPE ARCHITECT STATE OF CALIFORNIA FROM 1983 TO 2007 (EXPIRED)

Education BACHELORS OF LANDSCAPE ARCHITECTURE FROM PENNSYLVANIA STATE UNIVERSITY 1978

Work Experience 30 PLUS YEARS WORKING ON COMMERCIAL INDUSTRIAL AND RESIDENTIAL PROJECTS MOSTLY IN THE PRIVATE SECTOR. INVOLVED FROM DESIGN CONCEPTION THROUGH CONSTRUCTION DOCUMENTS WORKING WITH VARIOUS MUNICIPALITIES AND ASSOCIATIONS. SERVED AS A MEMBER OF THE DESIGN REVIEW COMMITTEE FOR THE CITY OF ORANGE (CA) - 4 YRS.
(Please continue on reverse side)

Please describe your qualifications for serving on Board/Commission/Committee: I HAVE EXPERIENCE SERVING ON A DESIGN REVIEW BODY AND USE MY VAST LANDSCAPE & BUILDING CONSTRUCTION KNOWLEDGE ABILITIES TO READ CONSTRUCTION DOCUMENTS AND OBJECTIVELY INTERPRET CONFORMITY TO CURRENT GOVERNING CODES AND REGULATIONS.

List any community service organizations or projects you have been involved with (include a brief description of activities):

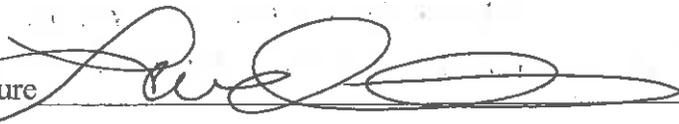
NO PROJECTS AT THIS TIME, BUT I HAVE BEEN INVOLVED WITH HABITAT FOR HUMANITY (VERDE VALLEY) ON CONSTRUCTION OF HOUSES FOR A NEEDY FAMILY. ALSO, INVOLVED WITH VERDE VALLEY CAREGIVERS COALITION PROVIDING VOLUNTEER SERVICES FOR COTTONWOOD AND SURROUNDING COMMUNITIES.

Have you ever been convicted of, or pled "no contest" to any crime, including any convictions that were later set aside or expunged? YES X NO

Does the City of Cottonwood employ any relative of yours? YES X NO

Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City?

26 MONTHS

Signature 

Date 11-25-13

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.

Leonard A. Filner
Cottonwood, Arizona 86326
(714) 337-7706
jethrosix@gmail.com

LANDSCAPE ARCHITECTURAL DESIGNER and CAREGIVER

LANDSCAPE ARCHITECTURAL OBJECTIVE: Find a position with a landscape architectural firm that works on large scale developments for both the private and public sectors. To challenge and utilize my vast experience in the field to serve the people to aid in bringing their dreams to reality.

SUMMARY OF QUALIFICATIONS

- Many years experience in producing a complete and detail oriented set of construction documents and specifications from conception to installation.
- Strong communication, planning and organizational skills with the ability to direct business affairs with office personnel and Client.
- Reliability with abilities to multi-task and problem solve.
- Proficient in AutoCADD, Microsoft Word and Office, and Adobe.

CAREGIVER OBJECTIVE: To challenge and utilize my strong desire to serve those in need and to improve the quality of life for seniors and those with physical limitations.

SUMMARY OF QUALIFICATIONS

- Completion of the Certified Companions Aid Program (CCA).
- The desire to provide better care giving services by taking on-going continuing education classes for hospice care, Alzheimers, dementia and more.

EXPERIENCE

Volunteer Coordinator, Verde Valley Habitat for Humanity,
Cottonwood, AZ

08/2012-11/2012

To develop and monitor the volunteer coordination of Verde Valley Habitat for Humanity. To recruit, train, schedule, motivate and supervise volunteers in all facets of VVHFH operations to ensure these vital resources remain engaged.

Caregiver, Tender Hearts Senior Care, Inc., Prescott, AZ

11/2011-present

Provide in-home non-medical senior care to the elderly and others in need. Services include aid in personal hygiene, meals preparation and housekeeping duties. Company is Christian based and directed.

Project Manager, Site Development Studios, Inc., Costa Mesa, CA 2/2007-6/2009

Prepared mechanical plans for pools, fountains and lake water features for commercial and residential developments. Worked closely with the model department to ensure aesthetic integrity and design and team members responsible for purchasing of materials. Managed construction scheduling with site superintendent and met directly with Client.

Landscape Architect, Hourian Assoc., Dana Point, CA 10/2003-2/2007

Responsible for project management of work prepared by office. Managed office personnel on a day to day basis to meet work deadlines. Responsible for direct Client contact to ensure project success relative to budgets and satisfaction of work.

Project Manager, David Rolfe & Assoc., Irvine, CA 1/2003-10/2003

Responsible for complete project management of commercial and residential developments. Managed office personnel on a day to day basis to meet work deadlines. Developed a manual with architectural and planting guidelines for the builder and prospective homeowners for a large scale single family development.

Landscape Architect/Project Manager, SITESCAPES, Inc., Irvine, CA 7/2002-12/2002

Responsible for project management of work prepared by office. Managed office personnel on a day to day basis to meet work deadlines. Responsible for direct Client contact to ensure project success relative to budgets and satisfaction of work.

Landscape Architect/Project Manager, Wilson Assoc., Riverside, CA 9/1999-12/2002

Responsible for project management of work prepared by office. Managed office personnel on a day to day basis to meet work deadlines. Responsible for direct Client contact to ensure project success relative to budgets and satisfaction of work.

Project Manager/CADD Operator, Cathcart/Begin Assoc., Orange, CA 7/1997-9/1999

Responsible for project management of work prepared by office. Managed office personnel on a day to day basis to meet work deadlines. Responsible for direct Client contact to ensure project success relative to budgets and satisfaction of work. Developed office computer standards and methods of operation for office personnel.

EDUCATION AND CERTIFICATES

Bachelors of Landscape Architecture, Pennsylvania State University, University Park, PA
Certificate courses, University of California at Los Angeles, Westwood, CA
Proclamation, Community Development Dept. Design Review Committee, Orange, CA

VOLUNTEERISM

Donor and volunteer, American Red Cross, Pomona, CA
Donor, United Blood Services, Arizona
Volunteer, Verde Valley Habitat for Humanity, Cottonwood, AZ
Volunteer and Care Transitions Program Participant, Verde Valley Caregivers Coalition,
Sedona, AZ



CITY OF COTTONWOOD
816 NORTH MAIN STREET
COTTONWOOD, AZ 86326
Phone (928) 634-0060 x217
Fax (928) 634-3727
Revised January 11, 2010

APPLICATION FOR PLANNING & Zoning Comm.
(BOARD/COMMISSION/COMMITTEE)

NAME KiYLER Edmund EUGENE
(Last) (First) (Middle)

MAILING ADDRESS SEE BELOW
(Route or Box) (City) (State) (Zip)

STREET ADDRESS 1924 W. TRAIL BLAZER COTTONWOOD AZ. 86326
(Number & Street) (City) (State) (Zip)

HOME PHONE 928-649-3994 CELL
WORK/MESSAGE PHONE 928-274-4385

EMAIL ADDRESS: CRUISER@WILDAPACHE.NET

PLEASE TYPE OR PRINT CLEARLY IN INK ONLY.

Professional Memberships, Registrations, Licenses, Etc. N/A AT PRESENT TIME

Education PHOENIX UNION HIGH SCHOOL
ARIZ. STATE UNIV. (NO DEGREE)

Work Experience POLICE OFFICER City OF PHX AZ. 20 YRS
ARIZONA STATE LOTTERY VARIOUS ASSIG 20 YRS

Application for (Board/Commission/Committee)
Page 2

Please describe your qualifications for serving on Board/Commission/Committee: _____

A MEMBER THE COTTONWOOD P&Z FOR 11 YRS
CURRENTLY CHAIRPERSON

List any community service organizations or projects you have been involved with (include a brief description of activities):

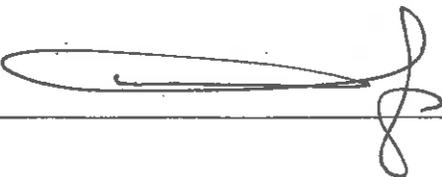
ON THE COMMITTEE FOR REVIEW OF WATER RATES
ON THE COMMITTEE WHEN SEARCHING FOR POLICE CHIEF
MEMBER OF THE PERSONNEL BOARD 12 YRS, CURRENTLY
CHAIRPERSON

Have you ever been convicted of, or pled "no contest" to any crime, including any convictions that were later set aside or expunged? _____ YES NO

Does the City of Cottonwood employ any relative of yours? _____ YES NO

Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City?

YES - 14 YEARS

Signature 

Date 11-11-13

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.



12-12-07

CITY OF COTTONWOOD
816 NORTH MAIN STREET
COTTONWOOD, AZ 86326
Phone (928) 634-0060 x217
Fax (928) 634-3727
Revised January 11, 2010

APPLICATION FOR PLANNING / ZONING
(BOARD/COMMISSION/COMMITTEE)

NAME WASDEN JUDD
(Last) (First) (Middle)

MAILING ADDRESS 105 N. WILLARD RD. COTTONWOOD, AZ 86326
(Route or Box) (City) (State) (Zip)

STREET ADDRESS (SAME AS ABOVE)
(Number & Street) (City) (State) (Zip)

HOME PHONE 649-1808 WORK/MESSAGE PHONE 720-530-1128

EMAIL ADDRESS: JUDD-WASDEN@HOTMAIL.COM

PLEASE TYPE OR PRINT CLEARLY IN INK ONLY.

Professional Memberships, Registrations, Licenses, Etc. _____

Education BACHELOR OF ARTS - POLITICAL SCIENCE / BRIGIAM YOUNG UNIV.
MBA - ARIZONA STATE UNIV.
MIM (MASTERS OF INTERNATIONAL MANAGEMENT) - THUNDERBIRD

Work Experience 15 YEARS IN VARIOUS POSITIONS OF BUSINESS MANAGEMENT,
10 OF WHICH INCLUDE LEAD BUSINESS CONSULTANT IN THE
MANUFACTURING FIELD, 8 WITH JONES MANVILLE A LEADING
CONSTRUCTION MATERIAL COMPANY. LOCAL BUSINESS OWNER.

(Please continue on reverse side)

Application for (Board/Commission/Committee)
Page 2

Please describe your qualifications for serving on Board/Commission/Committee: PROFESSIONAL
EXPERIENCE IN THE FIELD w/ PAST EMPLOYERS. JUST COMPLETED
FIRST FULL TERM AS P&Z COMMISSIONER, WAS MEMBER OF
FORMER DESIGN & REVIEW BOARD. LOCAL BUSINESS OWNER WHO
VALUES THE GREAT COMMUNITY WE LIVE IN.

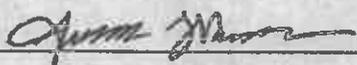
List any community service organizations or projects you have been involved with (include a brief description of activities):

YES THE PRC - BOARD MEMBER
CURRENT P&Z COMMISSIONER
ACTIVE PARTICIPANT IN COMMUNITY

Have you ever been convicted of, or pled "no contest" to any crime, including any convictions that were later set aside or expunged? YES NO

Does the City of Cottonwood employ any relative of yours? YES NO

Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City?
OVER 8 YEARS

Signature 

Date 29 NOV 2013

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

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816 NORTH MAIN STREET
COTTONWOOD, AZ 86326
Phone (928) 634-0060 x217
Fax (928) 634-3727
Revised January 11, 2010

APPLICATION FOR PLANNING AND ZONING COMMISSION
(BOARD/COMMISSION/COMMITTEE)

NAME ROSEN PHILIP ISAAC
(Last) (First) (Middle)

MAILING ADDRESS _____
(Route or Box) (City) (State) (Zip)

STREET ADDRESS 235 S. DESPERADO DR., COTTONWOOD, AZ, 86326
(Number & Street) (City) (State) (Zip)

HOME PHONE 928-852-0298 WORK/MESSAGE PHONE 717-379-8965

EMAIL ADDRESS: PHILIPROSEN@CABLEONE.NET

PLEASE TYPE OR PRINT CLEARLY IN INK ONLY.

Professional Memberships, Registrations, Licenses, Etc. _____

Please refer to attached resume.

Education _____

Work Experience _____

(Please continue on reverse side)

Application for (Board/Commission/Committee)

Page 2

Please describe your qualifications for serving on Board/Commission/Committee: _____

List any community service organizations or projects you have been involved with (include a brief description of activities):

Have you ever been convicted of, or pled "no contest" to any crime, including any convictions that were later set aside or expunged? _____ YES NO

Does the City of Cottonwood employ any relative of yours? _____ YES NO

Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City?

yes. I have lived in Cottonwood since 9/2007.

Signature

Philipp L. Paveser

Date

12/3/13

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.

PHILIP I. ROSEN

235 S. Desperado Drive
Cottonwood, AZ 86326
(928) 852-0298, (717) 379-8965 (cell)
philiprosen@cableone.net

Objective: Help to create a work environment where customers become "Raving Fans" and sales and profits grow faster than projected.

Relevant Experience:

Tire Pro Automotive - Sedona, AZ - Cottonwood, AZ

Service Advisor-Tire Sales, 01/11 – 06/11

- ✓ Provided outstanding customer service at counter and via telephone for a wide range of current and prospective customers
- ✓ Scheduled workflow to accommodate customer and enterprise needs
- ✓ Expedited all daily tasks to meet customer deadlines and expectations

United Rentals, Inc. - Cottonwood, AZ

Inside Sales Representative-Safety Officer, 10/07 – 01/11

- ✓ Provided world class customer service at counter and via telephone sales for all customers.
- ✓ Made appropriate recommendations to customers as to equipment size and type.
- ✓ Served as dispatcher for delivery and pickup of all equipment.
- ✓ Fulfilled all duties of Branch Safety Officer including site inspections and monthly safety meetings.
- ✓ Small truck delivery driver for equipment up to 10,000#.
- ✓ Assisted Branch Manager in all aspects of administration and record keeping.

American Welding and Tank, Harsco Corp. - Mechanicsburg, PA

Sales Coordinator, 04/03 - 8/07

- ✓ Coordinated all order and fulfillment functions for outside sales team and customer direct orders for remote manufacturing facility.
- ✓ Managed logistics of product truckloads to expedite shipment and delivery.
- ✓ Trained company drivers in customer service processes and procedures in four locations nationwide.
- ✓ Interfaced with outside sales and plant personnel to insure successful delivery on customer orders.

J & J Haimes - Mt. Joy, PA 07/2000 - 03/2003

Project Manager, 06/02 - 03/03

- ✓ Successfully managed programs for major clients from design through implementation.
- ✓ Managed staff of three employees engaged in direct sales and problem solving for the dental industry.
- ✓ Managed several client's sales and market research projects simultaneously as needed.

Inside Sales/Customer Service, 07/00 - 06/02

- ✓ Increased sales for industrial distribution client by 300% in fewer than twelve months.
- ✓ Strengthened relationships with clients to improve the quality of their sales programs.
- ✓ Conducted training seminars at client locations in telephone sales techniques and personal development.
- ✓ Conducted market research surveys to measure market penetration and client image in the marketplace.

Sysco Central PA - Harrisburg, PA 10/1989 - 05/2000

Director of Training and Development, 12/99 - 05/00

- ✓ Developed and implemented comprehensive in house sales training program for all sales new hires.
- ✓ Designed and implemented field training program for salespeople with varying degrees of experience and education.

Director of Marketing, 06/95 - 11/99

- ✓ Consistently achieved year over year sales growth by improving marketing strategies, sales promotions, and sales incentives.

District Sales Manager, 01/92 - 06/95

- ✓ Grew district sales and profits by over 20% annually by consistent field training and market penetration.
- ✓ Managed team of twelve direct reports, independently overseeing their book of business activity, handling voluntary and involuntary turnover, and training of new employees.

Marketing Associate, 10/89 - 01/92

- ✓ Created and managed a 3MM per year territory.

Education: Bachelor of Arts, Franklin and Marshall College, Lancaster, PA

Community Involvement-

Cottonwood Ranch Homeowner's Association

- ✓ Board President 11/2010 – Present
- ✓ Director, 10/2007 – Present
- ✓ Board Liaison to Architectural Committee 10/2007 – 11/2010

Verde Valley Habitat for Humanity

- ✓ Director, 8/2010 – 10/2011
- ✓ Volunteer Coordinator, 8/2010 – 8/2011

Verde Valley Alano Club

- ✓ Board Chairman 3/2010 – Present
- ✓ Director, 3/2010 – Present

Verde Valley Voices

- ✓ Member 9/2009—Present

Harmony on The Rocks-Sedona

- ✓ Member 7/13—Present

Verde Valley Senior Center

- ✓ Volunteer 5/13—Present

City of Cottonwood Planning and Zoning Commission

- ✓ Commissioner 3/2013—Present

RESOLUTION NUMBER 2729

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, APPOINTING _____ A MEMBER OF THE PLANNING AND ZONING COMMISSION AND ESTABLISHING ___ TERM OF OFFICE.

WHEREAS, the term of Edmund Kiyler as a member of the Planning and Zoning Commission expired January 5, 2014, and;

WHEREAS, it therefore is necessary to appoint a new member to said Planning and Zoning Commission to maintain the requisite number of seven members.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA:

THAT, _____, a resident of the City of Cottonwood is hereby appointed a member of the Planning and Zoning Commission of the City of Cottonwood for a three-year term expiring January 8, 2017.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 7TH DAY OF JANUARY 2014.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

Steven B. Horton, Esq., City Attorney

RESOLUTION NUMBER 2730

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, APPOINTING _____ A MEMBER OF THE PLANNING AND ZONING COMMISSION AND ESTABLISHING ___ TERM OF OFFICE.

WHEREAS, the term of Judd Wasden as a member of the Planning and Zoning Commission expired January 5, 2014, and;

WHEREAS, it therefore is necessary to appoint a new member to said Planning and Zoning Commission to maintain the requisite number of seven members.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA:

THAT, _____, a resident of the City of Cottonwood is hereby appointed a member of the Planning and Zoning Commission of the City of Cottonwood for a three-year term expiring January 8, 2017.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 7TH DAY OF JANUARY 2017.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

Steven B. Horton, Esq., City Attorney

RESOLUTION NUMBER 2731

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, APPOINTING _____ A MEMBER OF THE PLANNING AND ZONING COMMISSION AND ESTABLISHING ___ TERM OF OFFICE.

WHEREAS, the term of Philip Rosen as a member of the Planning and Zoning Commission expired December 31, 2013; and

WHEREAS, it therefore is necessary to appoint a new member to said Planning and Zoning Commission to maintain the requisite number of seven members.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA:

THAT, _____, a resident of the City of Cottonwood is hereby appointed a member of the Planning and Zoning Commission of the City of Cottonwood for a three year term expiring January 8, 2017.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 7TH DAY OF JANUARY 2014.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

Steven B. Horton, Esq., City Attorney

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date:	January 7, 2014
Subject:	Historic Preservation Commission Appointments
Department:	Development Services
From:	Berrin Nejad, Community Development Manager

REQUESTED ACTION

Approval of resolutions to fill four vacancies on the City's Historic Preservation Commission.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

“I move to approve Resolution Number 2732 appointing _____ to the Historic Preservation Commission for a three-year term that expires January 8, 2017.”

“I move to approve Resolution Number 2733 appointing _____ to the Historic Preservation Commission for a three-year term that expires January 8, 2017.”

“I move to approve Resolution Number 2734 appointing _____ to the Historic Preservation Commission for a three-year term that expires January 8, 2017.”

“I move to approve Resolution Number 2735 appointing _____ to the Historic Preservation Commission for the remainder of a three-year term that expires November 3, 2014.”

BACKGROUND

The terms of three (3) members of the City's Historic Preservation Commission expired in November of 2013. The Historic Preservation Commission has been meeting for several years and is involved with various activities that promote awareness of historic preservation in Cottonwood.

The anticipated work program for the next year will include the continued effort to establish the technical documents necessary to implement the City's historic preservation program, including design review procedures for historic properties, a home tours program, a land-marking program, as well as continued efforts to promote education and awareness of the benefits of historic preservation.

Appointments

The HPC seats are currently held by:

Tim Elinski (Chair)	Term Expired:	11-3-13
Annabel Sclippa (Vice-Chair)	Term Expires:	11-3-16
Marie Palowoda	Term Expires:	11-3-16
Glenda Farley	Term Expired:	11-3-13
Karen Leff	Term Expired:	11-3-13
Ryan Bigelow	Term Expires:	11-3-14
Open Seat	Term Expires:	11-3-14

The open seat was held by Connie Fisher who resigned prior to the completion of her term. The City received four applications and the Council has the option to make the appointments or to continue seeking applicants. Applicants for the position include the following:

Tim Elinski

Glenda Farley

Karen Leff

Christian Vernosky

Mr. Vernosky is also a registered architect which means he would also fulfill the requirement of having an architect available to guide the Commission in matters regarding the historical significance of buildings within the district.

JUSTIFICATION/BENEFITS/ISSUES

The Historic Preservation Commission is comprised of seven members, at least five of whom shall be residents of the City, and two of whom need not be residents of the City, provided they have substantial ties to the City, such as owning real property, owning a business, being employed within the City limits, or based on other factors deemed relevant by the City Council. Commission members serve for terms of three years.

Prospective members should have demonstrated significant interest in and commitment to the field of historic preservation, evidenced either by involvement in a historic preservation organization, employment or volunteer activity in the field of historic preservation, professional experience in real estate or construction activities related to historic preservation, educational background in a related field, or other serious interest in the field. To the extent possible, it is desirable that at least two members have professional experience in the field of architecture, planning, history, archaeology, or construction.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

Name:	Description:	Type:
 Leff.pdf	Leff	Cover Memo
 2013-11_Tim_Elinski.pdf	Elinski	Cover Memo
 Farley-Lum.pdf	Farley	Cover Memo
 Vernosky.pdf	Vernosky	Cover Memo
 RES2732.doc	Resolution Number 2732	Cover Memo
 res2733.doc	Resolution Number 2733	Cover Memo
 res2734.doc	Resolution Number 2734	Cover Memo
 res2735.doc	Resolution Number 2735	Cover Memo



03-10-13F12:21

CITY OF COTTONWOOD
816 NORTH MAIN STREET
COTTONWOOD, AZ 86326
Phone (928) 634-0060 x217
Fax (928) 634-3727
Revised January 11, 2010

APPLICATION FOR Historic Preservation Commission
(BOARD/COMMISSION/COMMITTEE)

NAME LEFF KAREN J.
(Last) (First) (Middle)

MAILING ADDRESS 930 N. Main St., Cottonwood AZ 86326
(Route or Box) (City) (State) (Zip)

STREET ADDRESS 930 N. Main St., Cottonwood, AZ 86326
(Number & Street) (City) (State) (Zip)

HOME PHONE 928-634-9455 WORK/MESSAGE PHONE 634-9455

EMAIL ADDRESS: Karen@cottonwoodhotel.com

PLEASE TYPE OR PRINT CLEARLY IN INK ONLY.

Professional Memberships, Registrations, Licenses, Etc. Cottonwood business owner since 1993.

Chamber of Commerce, OTA, Historic Preservation

Education see attached resume

Work Experience see attached resume

(Please continue on reverse side)

Application for (Board/Commission/Committee)
Page 2

Please describe your qualifications for serving on Board/Commission/Committee: _____

Already served 3 yrs on City of Cottonwood
Historic Preservation Commission, perfect attendance,
additional info: see attached resume

List any community service organizations or projects you have been involved with (include a brief description of activities):

see attached resume

Have you ever been convicted of, or pled "no contest" to any crime, including any convictions that were later set aside or expunged? _____ YES _____ NO

Does the City of Cottonwood employ any relative of yours? _____ YES _____ NO

Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City?

YES - resident 24 yrs.

Signature Naren J. Leff

Date 10/1/13

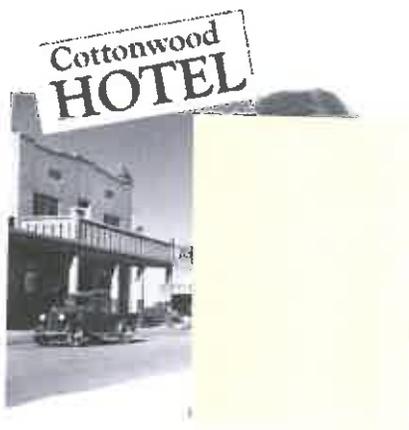
NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

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COTTONWOOD HOTEL CIRCA 1917

930 N. Main St., Cottonwood, AZ 86326
(928) 634-9455 office (928)202-2207 innkeeper



Karen J. Leff

Cottonwood Hotel
930 N. Main Street, Cottonwood, Arizona 86326
(928) 634-9455

KarenJLeff@cottonwoodhotel.com
www.cottonwoodhotel.com

HISTORIC 89A EXPLORATIONS

CUSTOM CULTURAL HERITAGE TOURS

930 N. Main St., Cottonwood, AZ 86326
1 (928) 634-9455 Cottonwood Hotel & Tours office
(928)202-2207 Innkeeper, Tour Guide & Storyteller
www.cottonwoodhotel.com/tours



Bootlegging
Home & Building
Taste of Old Town
Paranormal & more

Professional Experience & Education

2011-2013-present:

Online presence of social media facebook pages for historic educational purposes:

- 1) Historic Cottonwood Arizona: Focusing on the National Register Listings; Cottonwood Commercial Historic District, Old Town residential & other landmarks
- 2) Historic 89A Explorations: Focusing on Cultural Heritage & Tours
- 3) Things To Do In Old Town Cottonwood

2010-present: Appointed Commissioner for the City of Cottonwood Historic Preservation Commission

2008-present: Formed a small heritage group to continue research, help identify and document Cottonwood, Verde Valley history, along with property surveying. Group meets at least once a week. We have self-published Cottonwood, Verde Valley 'Bootlegging Scrap Book' and sell it at the Cottonwood Hotel. We periodically set up historical interpretative displays and exhibits for educating the community.

Since 1996-present:

- Owner/preservationist & innkeeper of the Cottonwood Hotel (circa 1917), former OK Hotel, 1916. (Listed as a contributing property on the National Register of Historic Places, in the Cottonwood Commercial Historic District)
- Preserving the hotels historic integrity, exterior and special features of its time
- rehabilitating its interior with upgrades and décor to meet today's life styles for cultural tourism travelers
- remodeling projects
- Owner/preservationist of the historic building, name: Lyson's Building (928 N. Main St., adjacent to the hotel)... (Listed as a contributing property on the National Register of Historic Places, in the Cottonwood Commercial Historic District) ... Aspirations are to turn this property into a museum, gift shop and visitor center to help promote Cottonwood's cultural tourism.
- Have created numerous Cottonwood guided and self-guided historical walking tours, lectures and brochures to educate and promote Cottonwood cultural heritage tourism.
- Personal accomplished tour guide, local historian, story-teller and ghost whisperer
- Website design with strong online presence with Cottonwood Hotel website and pages of the hotel and Cottonwood history
- Self taught SEO (*search engine optimization*). Recently awarded by google for top website placement.
- Set up ecommerce presence, online retailer and auctioneer, constant appraisal of product lines and market research.

Since 1993-present:

- Ongoing cultural and heritage self and group study, research and field-work of Cottonwood and Verde Valley history, buildings and people using archives, photos, writings and orals from those that actually lived it.
- Old Town Association Main Street and city of Cottonwood Chamber member

PAST

2011-2012:

- City of Cottonwood – Arizona Centennial Committee Member
- Provided historic documentation and photos to William L Cowan for his writing of the "Verde Valley" Arcadia book

2010-2011:

- City of Cottonwood 50th Anniversary Committee Member
- Provided historic walking tours, historical lectures & exhibits for 'Walking on Main', City of Cottonwood and Old Town events

2001: Old Town Association Main Street Program Ambassador. Personally took charge of completing a grant award that the OTA Main Street Program was about to lose. The Arizona State Land Department Urban & Community Forestry, Community Challenge Grants, awarded the grand opening of the 'Jail Trail', Cottonwood's River Walk to the Verde River Greenway Riparian. Facilitated this program in alliance with the city of Cottonwood and the Dead Horse Ranch State Park, coordinated community volunteer in-kind services and hours along with interpretive/ trail-head signs and numbered vegetation signs made by local artists. The Trails Coalition put the signs in place after clearing the path before the grand opening of the Jail Trail. Personally photographed the vegetation and designed the Riparian Gallery Forest Self-Guided Walking Tour Brochure which identifies the numbered trees, plants and shrubs of the rare riparian and presented it to APS, who awarded us the printing of the brochure.

Facilitated bringing in actors for the grand opening of the Jail Trail Grand Opening:

- Ermal Williamson, actor, and John Wayne look-alike in "John Wayne-America", who stayed at the Cottonwood Hotel in the John Wayne Suite, also where the "Duke" stayed.
- Bob Bradshaw, actor, photographer, film location scout shared his stories of the many movies filmed on his ranch between Cottonwood & Sedona.

1998: Helped document some of the Cottonwood Commercial Historic District properties information for the 1998 historic survey done by Pat Stein, for the City of Cottonwood & Main Street Program.

From 1993-2001:

- Involved in all activities of the Cottonwood Main Street Program, promotions, volunteer coordination, event coordinator, membership incentives, fundraising, board member
- Designed OTA Main Street Program website with complete 4 step program
- City of Cottonwood Chamber of Commerce board member, Tourism Committee member, & Ambassador
- freelance writer for Arizona Tourist News and Old Town promotions
- A guest speaker for radio talk-shows, local television and featured in AZ newspapers promoting Old Town Main Street Program
- Opened the Arizona Tourist News Visitor Center in the Cottonwood Hotel

1993: Opened Madame's Mercantile, a Clothier & Coffee Saloon, (blending the old with the new, a now and then kind of place), the clothing boutique carried quality resale, ethnic new, costumes and vintage. Ran the store for 3 years in one location on Main Street, then moved it after buying the hotel & the old Lyson's building. The store ended up being an online store from the years 1998-2009, so I could work on it in the evenings, while I was restoring, rehabilitating and operating the Cottonwood Hotel during the day.

1992-1993: CASA Program Court Appointed Special Advocate

- Was appointed 3 separate cases in this two year period

CASA TRAINING

- Court-appointed special advocate (CASA) training, skill development program and reviewed and hours of training annually
- Training provided to conform to the curriculum "Comprehensive Training for the CASA," from the National Court Appointed Special Advocate Association.
- The training utilized a variety of instructors, including CASA program staff, attorneys, judges, agency representatives and volunteers.
- Successfully completed at least 30 hours of pre-service training before being assigned to a case. This pre-service training included the following:
 - (1) The roles and responsibilities of a CASA volunteer.
 - (2) Court process, including dependency proceedings and involuntary termination of parental rights proceedings
 - (3) The dynamics of human behavior associated with child abuse and neglect.
 - (4) Relevant State and Federal laws.
 - (5) Confidentiality and recordkeeping practices.
 - (6) Child development.
 - (7) Child abuse and neglect.
 - (8) Permanency planning and resources.
 - (9) Community agencies and resources.
 - (10) Communication and information gathering, to include interviewing and report writing skill development.
 - (11) Advocacy.
 - (12) Special needs of the children served, including differences in cultural and socioeconomic norms, values and heritage.
 - (13) The identification of personal and institutional bias or discrimination as it relates to the children and families being served.
 - (14) The opportunity to visit and observe court proceedings conducted by judges and masters involving hearings, as well as proceedings involving the involuntary termination of parental rights.
 - (15) Ethics relating to the role of the CASA.
 - (16) Expectations regarding appearance and demeanor.

1987-1989:

- Tombstone, Arizona Vigilantes not-for-profit member of live history reenactment, educating aspects of Tombstone's historical events
- Tombstone Vigilette not-for-profit member, modeling weekly, for the towns tourist attraction street and event fashion shows, giving back to the community, and perpetuating Tombstone's fashions from 1880 to 1915.
- Opened '2nd Time Around' (small business)
- Dressmaker reconstructing historical patterns and reproduction clothing geared towards re-enactors
- Involved in historical arts and theater
- Historic lettering and sign painting on historic buildings and theater printed materials
- Independent studies of Tombstone's history and surrounding ghost towns, research and field trips

1987:

Associate traveling companion for Emmett Kelly, Jr. (*actor, entertainer, sad faced hobo clown*) Set up shows, handled promotions, worked directly with his manager, distributors, show locations in malls and military bases personnel and his fans. Also was his show photographer across the states.

1984-1986:

- Mail-Order
- Personal writing & traveling
- Children's Literature Correspondence Course
- Interior design and wallpapering for a reproduction Victorian home
- Supervised moving several homes
- caretaker

1973-1984:

- Paved the way for diversity, in 1973. Was hired nation-wide as the 1st woman UPS pre-loader and 3rd woman nation-wide as UPS delivery driver. While working up in the company, was the 1st person nation-wide to help develop UPS seasonal helper position. Supervised, managed and worked with team management in areas of improving productivity, time-study, customer service, loss prevention, shipping & receiving. Awarded numerous safe driving awards and productivity awards.
- Designed a 5500 sq ft home with an innovative octagonal free flowing floor plan
- Renovated 4 homes
- Paved the way for diversity, as a single young women, accepted for a home loan in the 1970's to buy a historic lake front home at the age of 26. After three banks, finally got the financing, renovated and turned the home and profited \$30,000.
- Complete restoration of a classic older wooden twin screw motor yacht (hull, deck, bridge cabin, interior)

Education

- **1970's:** Art History Curriculum, Basic Architectural Drawing Courses, Interior Design, calligraphy, computer science, psychology, fashion illustrating and clothing design, wood shop classes, correspondence silk-screening course and apprenticeship in antique furniture restoration.
- **1980's:** sporadic classes in photography, creative writing, still life, portrait and figure drawing, water color, psychology, sociology, computer science, real estate courses. Leadership training with creative team building exercises, innovative and challenging leadership development courses and motivational speaker training.

1967-1973:

- Learned the ground floor up in a dairy/creamery.
- Painted glass light signs and seasonal vintage paintings on storefront windows.
- Antique furniture restoration, refinishing, and repair apprenticeship
- Training in carpentry, drywall and painting
- 1972-73: Worked independently in two auto dealerships running a Pennzoil Warranty Program.

Other accomplishments not mentioned above:

- Built own dark room, developed own photos, collegiate entertainment reporter and writer, restored 2 classic autos with complete body work repair under apprentice (1960's), learned to sew on a commercial sewing machine at 10 years old, designing, reconstructing/recycling fabrics for clothing, built scale miniature historic homes with rooms and furniture out of recycled materials
- I have been a long-time multi-faceted, entrepreneurial business woman. As a young single pioneering woman, in the early 1970's I bought my 1st home at the age of 19, while putting self through college and holding down two jobs.
- Alternative health coach and biofeedback quantum physics. After being paralyzed on the left side for 3 years, living in a cervical collar, and not being able to lay down in a bed or even able to sit in a chair comfortably, rehabilitating health from restrictions, prescription-free, living with health conscious choices & life-style, by never going through surgery, using alternative therapies, mentally fusing cervical discs together, after following instructions from the nation's best neurosurgeon.

Favorite saying: "We can do it!"

Quoted by 'Rosie the Riveter', United States cultural icon who represents the American women who worked in factories during World War II. Many of whom produced munitions and war supplies.

10/2/2012



CITY OF COTTONWOOD
816 NORTH MAIN STREET
COTTONWOOD, AZ 86326
Phone (928) 634-0060 x217
Fax (928) 634-3727
Revised January 11, 2010

APPLICATION FOR HISTORIC PRESERVATION COMMISSION
(BOARD/COMMISSION/COMMITTEE)

NAME ELINSKI TIMOTHY ERIC
(Last) (First) (Middle)

MAILING ADDRESS 1038 N. CACTUS ST COTTONWOOD AZ 86326
(Route or Box) (City) (State) (Zip)

STREET ADDRESS SAME
(Number & Street) (City) (State) (Zip)

HOME PHONE 928 300 8148 WORK/MESSAGE PHONE ---

EMAIL ADDRESS: tim@verdebuilder.com

PLEASE TYPE OR PRINT CLEARLY IN INK ONLY.

Professional Memberships, Registrations, Licenses, Etc.
LICENSED GENERAL CONTRACTOR

Education HIGH SCHOOL / TRADE

Work Experience SELF EMPLOYED TRADESMAN 1999-PRESENT
MACHINIST 1998-1999
CHILD CARE (INFANT CARE) 1996-1998

Please describe your qualifications for serving on Board/Commission/Committee: _____

PROFESSIONAL CONTRACTOR SPECIALIZING IN HISTORIC PRESERVATION. PREVIOUSLY SERVED ON PLANNING & ZONING & CURRENTLY SERVE AS COUNCIL MEMBER FOR CITY OF COTTONWOOD

List any community service organizations or projects you have been involved with (include a brief description of activities): _____

Have you ever been convicted of, or pled "no contest" to any crime, including any convictions that were later set aside or expunged? _____ YES NO

Does the City of Cottonwood employ any relative of yours? _____ YES NO

Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City?

YES - 2001

Signature [Handwritten Signature]

Date Nov 20th 2013

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.



Iris Dobler

CITY OF COTTONWOOD
816 NORTH MAIN STREET
COTTONWOOD, AZ 86326
Phone (928) 634-0060 x217
Fax (928) 634-3727
Revised January 11, 2010

APPLICATION FOR THE HISTORIC PRESERVATION COMMISSION
(BOARD/COMMISSION/COMMITTEE)

NAME Farley - Lum Glenda Eileen
(Last) (First) (Middle)

MAILING ADDRESS P. O. Box 1123 Cottonwood AZ 86326
(Route or Box) (City) (State) (Zip)

STREET ADDRESS 1134 North Main Cottonwood AZ 86326
(Number & Street) (City) (State) (Zip)

HOME PHONE (928) 634-0236 WORK/MESSAGE PHONE _____

EMAIL ADDRESS: glendafarley@q.com (Q as in Qwest)

PLEASE TYPE OR PRINT CLEARLY IN INK ONLY.

Professional Memberships, Registrations, Licenses, Etc. _____

Education Flagstaff High School, Pacific Union College, Northern
Arizona University (Art Major)

Work Experience Self-employed Graphic Artist and Photographer / Lum
Publishing (1972-2004): Action Press, Aloha Printing, Mutual Pub.
Honolulu Zoo birdkeeper (1980-1981), Paradise Park department
manager for exhibits, shows, tours, etc. (1982-1985), Bookkeeper,
etc. Hilton Hawaiian Village wildlife exhibits

(Please continue on reverse side)

Application for (Board/Commission/Committee)

Page 2

Please describe your qualifications for serving on Board/Commission/Committee: Familiar with architectural styles, house and site plans (drew plans for 2 existing houses and many remodel jobs). Familiar with all local homesteads and research into land ownership at Yavapai County

Recorder's in Prescott; Sharlot Hall Museum records, etc. Interest in all things historical in Cottonwood due to family legacy.

List any community service organizations or projects you have been involved with (include a brief description of activities):

Project: Verde Independent; type historical articles (May 2012 on)

Attended the Cottonwood Historical Committee meetings and the 50th Anniversary meetings 2009-2010.

Historic Preservation Commission 2010-2013.

Have you ever been convicted of, or pled "no contest" to any crime, including any convictions that were later set aside or expunged? (back of page) x YES NO

Does the City of Cottonwood employ any relative of yours? YES 2 NO Councilman Randy Garriso is a cousin.

Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City? unknown

Born in Jerome; resident 1940's-1950's and since June 15, 2004; landowner since 1979 of house built in 1910.

Signature Glinda Farley Lum Date October 3, 2013

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.

Court Involvement:

- 1964 Traffic accident in Flagstaff; license suspended 3 days.
- 1990? Bird noise complaint pursued by Hawaii Humane Society in Court resulting in minimum fine.
- 2005- Intervenor in ongoing Superior Court V1300CV820050018 /
2010 PB820070113: Thelma Farley, etc. VS Will Degeraty, etc. involving the financial exploitation and abuse of a vulnerable adult by a pastor and his family, the Central Arizona Food Bank officers and volunteers, and the Seventh-day Adventist Church officers, employees and members. Due to death of victim, settlement pending.

RESUME FORM

City of Cottonwood Historic Preservation Commission

Background Information and Qualifications (Include all applicable information)

Commission Member Staff

Name: Glenda Farley

Date of Appointment: November 3, 2010 Date Term Expires: November 3, 2013

Occupation / Profession: (current) Graphic Artist, retired

Archives Volunteer; Jerome Historical Society; Supervised by Colleen Holt, Archivist

In addition to completing the form below for any commission member or staff who meets the requirements for professional experience, please attach a resume or include detailed summary of relevant background.

1. Area of Expertise. (indicate professional experience and describe below)

Certified Local Government certification requires local commissions to meet specific professional requirements. The commission shall include a minimum membership of five individuals with all members having demonstrated interest, competence, or knowledge in historic preservation. At least two Commission members are encouraged to be appointed from among professionals in the disciplines of history, architecture, architectural history, planning, pre-historic and historic archeology, folklore, cultural anthropology, conservation, and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography, to the extent that such professionals are available in the community. Commission membership may also include lay members who have demonstrated special interests, competence, experience, or knowledge in historic preservation.

History Architectural History Architecture Archaeology City Planning
Real Estate Historic Preservation Preservation Law

Other (Specify) Knowledge of local folklore and family traditions.

Collector of local historic photographs, letters, ledgers, books, newspapers, etc.

Interest in American, Arizona, and Verde Valley history and architecture.

2. Education and Training.

Mount Elden School, Flagstaff High School, Arizona State College,

Pacific Union College, Northern Arizona University; (Fine Art & Graphic Arts)

3. Related Work Experience.

Self-employed Graphic Artist and Photographer / Lum Publishing Manager; 1972-2004

(continued)

Familiar with architectural plans and illustrations:

- Complete house and garage design including plans and elevations for a 2-bedroom, 2-bath ranch house constructed in Cornville, 1970-1971.
- House plan modifications and elevations for a 3-bedroom, 2-bath house with enclosed patio/lanai built at Mountain View, Hawaii, 1979-1980.
- Plans and elevations for a 2-story, 4-bedroom, 2-bath beach house with open porches above garage, workshops built near Hawaii Kai, 1987-1988.
- Drew various plans and illustrations for small additions, kitchen and bath remodeling projects, including historic preservation and renovation, for property owners and independent contractors, 1975-2004.
- Hilton Hawaiian Village: Employed during a \$100 million architectural renewal, renovation and additions project creating a "Return to Paradise" theme, to include and introduce "exotic wildlife" into the complex, 1987-1988. Used overlays on existing architectural plans to redesign the areas to include water, drains, lighting, landscaping details, etc. to meet the requirements of various avian species, then illustrated the proposed habitat or display. Created open areas for flamingoes, swans, ducks pheasants, penguins, etc., and included cages for display of finches, parrots, etc.

Research Experience:

- Land ownership and use, surveys, maps, charts, newspaper articles, etc. Familiar with the General Land Office Records; collected surveys, homestead and mine claim data, etc. Yavapai County Recorder's Office; collected copies of older property records and recorded documents at the Prescott office, and current data from their website. Collecting lease and construction information from newspapers.
- Familiar with local archives and collections; Have collected material and photographs from and/or donated to the museums and historical societies in Clemenceau, Camp Verde, Jerome, Sedona, Clarkdale, Flagstaff, and Prescott.
- Familiar with internet sources of information about people and families including census, cemetery, birth, death, military, and ancestry data.

Owner of 2 historic residential buildings in Cottonwood; the 1910 house on Main Street is site-built; the 1930's house was moved in, then has 1950's additions.

Recent education and projects include:

- City of Cottonwood Historic Preservation Committee, worked on property survey and photos with Jon Rolf.
- City of Cottonwood 50th Anniversary Committee, 2010; member of Historical Sub-Committee project for displays in 2 buildings and Old Town posters.
- City of Cottonwood Centennial Committee, 2011-2012; member.
- "Cottonwood: Prohibition 1915-1933:" a booklet; collected information about stills and bootlegging and people involved to verify legends and rumors.
- "Verde Valley" an Arcadia book by William L. Cowan; provided a few photos, help, resources, and feedback throughout.
- The Verde Confluence Centennial Legacy Project, 2011; production of DVD's: "The Settlement" in 1865, "Reservations," and 2 about Cottonwood.
- 2012 Arizona Historic Preservation Conference, Prescott; attended Wed. - Sat.
- Research for an Arcadia book by Paul Handverger about Clarkdale.
- *The Verde Independent*: Verde Heritage Blog; a daily newspaper article from the past.



CITY OF COTTONWOOD
816 NORTH MAIN STREET
COTTONWOOD, AZ 86326
Phone (928) 340-2713
Fax (928) 634-3727
Revised November 25, 2013

APPLICATION FOR HISTORIC PRESERVATION COMMISSION
(BOARD/COMMISSION/COMMITTEE)

NAME VERNOJKY CHRISTIAN
(Last) (First) (Middle)

MAILING ADDRESS P.O. BOX 3366 COTTONWOOD, AZ, 86326
(Route or Box) (City) (State) (Zip)

STREET ADDRESS 411 S. 14TH. ST. COTTONWOOD, AZ 86326
(Number & Street) (City) (State) (Zip)

HOME PHONE (928) 273-0161 WORK/MESSAGE PHONE (928) 634-8318

EMAIL ADDRESS: C.VERNOJKY@YAHOO.COM

NOTE: Please check below which items of your personal information we may release to the public, if requested (we recommend at least one):

Mailing Address Street Address

Home Phone Work/Message Phone Email Address

PLEASE TYPE OR PRINT CLEARLY IN INK ONLY.

Professional Memberships, Registrations, Licenses, Etc. PROFESSIONAL ARCHITECT, ARIZONA LIC. 15965

Education MASTERS OF ARCHITECTURE
TULANE UNIVERSITY 1979

Work Experience I HAVE 30 YEARS OF EXPERIENCE
PROVIDING ARCHITECTURAL SERVICES IN THE
VERDE VALLEY.

Please describe your qualifications for serving on Board/Commission/Committee: _____

I HAVE 30 YEARS OF EXPERIENCE IN DESIGNING BUILDINGS
IN THE VERDE VALLEY. SOME OF THESE PROJECTS HAVE
INCLUDED RENOVATIONS OF HISTORIC BUILDINGS.

List any community service organizations or projects you have been involved with (include a brief description of activities):

- 1) CHAIRMAN OF THE CITY OF COTTONWOOD'S DESIGN REVIEW COMMITTEE 1993
- 2) CHAIRMAN OF THE BEAVER CREEK ADVISORY COMMITTEE, A YAVAPAI CO. PLANNING ADVISORY BOARD, 1991
- 3) PRESIDENT OF CLARKDALE-VERDE KIWANIS - 1987.

Have you ever been convicted of, or pled "no contest" to any crime, including any convictions that were later set aside or expunged?

YES NO

Does the City of Cottonwood employ any relative of yours?

YES NO

Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City?

NO. MY OFFICE HAS BEEN LOCATED IN THE CITY SINCE 1983.

Signature Charles Jewell

Date 12/5/13

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.

Christian J. Vernosky Architects, LLC.

P.O. Box 3366
Cottonwood, Arizona 86326

Phone: (928) 634-8318
Email: cvernosky@yahoo.com

EDUCATION

Masters of Architecture (1979), Tulane University, New Orleans, Louisiana

LICENSE AND REGISTRATION

Arizona State Registered Architect, Number 15965, September 1983

Maryland State Registered Architect, Number 9702. October 1993

Virginia State License, Number 008948, February 1994

EXPERIENCE

October 1983 to Present

Christian J. Vernosky, Architects, LLC
411 South 14th Street Suite 202A
Cottonwood, Arizona 86326

June 1979 to October 1983

Don Woods, Architect
P.O. Box 773
Sedona, Arizona 86336

December 1975 to June 1979

Pershall, Tennamen & Pelias Architects
New Orleans, Louisiana

COMMUNITY SERVICE ORGANIZATION MEMBERSHIPS

CHAIRMAN, City of Cottonwood Design Review Board, 1993. An appointed board to review all commercial projects within the city of Cottonwood for compatibility both in land use and aesthetically.

CHAIRMAN, Beaver Creek Advisory Committee, 1991. A citizen's committee appointed by the Yavapai County Board of Supervisors to develop a land use plan for a ten square mile rural community.

PRESIDENT, Lake Montezuma Home Owners Association, 1991.

PRESIDENT, Cottonwood Financial Center Home Owners Association, 1989.

PRESIDENT, Clarkdale-Verde Kiwanis, 1987.

References available upon request.

RESOLUTION NUMBER 2732

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING _____ A MEMBER THE CITY'S HISTORIC PRESERVATION COMMISSION AND ESTABLISHING ___ TERM OF OFFICE.

WHEREAS, the City Council created a Historic Preservation Commission for the City of Cottonwood for the identification, evaluation, protection, preservation, and enhancement of historic properties that have significance for the City of Cottonwood; and

WHEREAS, the term of Tim Elinski as a member of the Historic Preservation Commission expired November 3, 2013; and

WHEREAS, it therefore is necessary to appoint a member to the Historic Preservation Commission in order to maintain the requisite number of members on said board.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY ARIZONA:

THAT, _____ is hereby appointed a member of the Historic Preservation Commission for a three-year term which expires January 8, 2017.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 7TH DAY OF JANUARY 2014.

Diane Joens, Mayor

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

RESOLUTION NUMBER 2733

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING _____ A MEMBER THE CITY'S HISTORIC PRESERVATION COMMISSION AND ESTABLISHING ___ TERM OF OFFICE.

WHEREAS, the City Council created a Historic Preservation Commission for the City of Cottonwood for the identification, evaluation, protection, preservation, and enhancement of historic properties that have significance for the City of Cottonwood; and

WHEREAS, the term of Glenda Farley as a member of the Historic Preservation Commission expired November 3, 2013; and

WHEREAS, it therefore is necessary to appoint a member to the Historic Preservation Commission in order to maintain the requisite number of members on said board.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY ARIZONA:

THAT, _____ is hereby appointed a member of the Historic Preservation Commission for a three-year term which expires January 8, 2017.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 7TH DAY OF JANUARY 2014.

Diane Joens, Mayor

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

RESOLUTION NUMBER 2734

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING _____ A MEMBER THE CITY'S HISTORIC PRESERVATION COMMISSION AND ESTABLISHING ___ TERM OF OFFICE.

WHEREAS, the City Council created a Historic Preservation Commission for the City of Cottonwood for the identification, evaluation, protection, preservation, and enhancement of historic properties that have significance for the City of Cottonwood; and

WHEREAS, the term of Karen Leff as a member of the Historic Preservation Commission expired November 3, 2013; and

WHEREAS, it therefore is necessary to appoint a member to the Historic Preservation Commission in order to maintain the requisite number of members on said board.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY ARIZONA:

THAT, _____ is hereby appointed a member of the Historic Preservation Commission for a three-year term which expires January 8, 2017.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 7TH DAY OF JANUARY 2014.

Diane Joens, Mayor

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

RESOLUTION NUMBER 2735

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING _____ A MEMBER THE CITY'S HISTORIC PRESERVATION COMMISSION AND ESTABLISHING ___ TERM OF OFFICE.

WHEREAS, the City Council created a Historic Preservation Commission for the City of Cottonwood for the identification, evaluation, protection, preservation, and enhancement of historic properties that have significance for the City of Cottonwood; and

WHEREAS, Connie Fisher has resigned as a member of the Historic Preservation Commission; and

WHEREAS, it therefore is necessary to appoint a member to the Historic Preservation Commission in order to maintain the requisite number of members on said board.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY ARIZONA:

THAT, _____ is hereby appointed a member of the Historic Preservation Commission to complete the remainder of a three-year term which expires November 3, 2014.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 7TH DAY OF JANUARY 2014.

Diane Joens, Mayor

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date:	January 7, 2014
Subject:	Lease Agreement with the Verde Valley Youth Commission for the old fire station building and waiver of building permit fees.
Department:	Attorney
From:	Steve Horton, City Attorney

REQUESTED ACTION

Approval of a lease agreement with the Verde Valley Youth Commission for the old fire station building and waiver of the building permit fees for building upgrades required by the City.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

I move to approve the lease agreement with the Verde Valley Youth Commission and waive the building permit fee in the amount of \$319.06.

BACKGROUND

The Verde Valley Youth Commission (VVYC) has been working towards creating a teen center in Cottonwood to serve the youth of the Verde Valley with a focus on at-risk youth. A teen center will provide a safe environment for local teens to visit with friends and the opportunity to receive mentoring, tutoring, and learn life skills. Fundraising efforts have been underway under the umbrella of the Moose Lodge for the teen center.

At a special meeting held on August 13, 2013, the Council unanimously approved allowing the Verde Valley Youth Commission to use the City's old fire station building located on Mingus Avenue for a teen center. VVYC submitted an upgrade/remodel plan to the Community Development Department on December 23, which was approved during code review. The building permit fee for the improvements to the building required by the City is \$319.06, and VVYC is requesting waiver of that fee.

The VVYC is in the process of incorporating with the state. The lease will be executed only after that process has been completed, and construction of the improvements won't begin until after the City has received the required insurance certificates and endorsements.

JUSTIFICATION/BENEFITS/ISSUES

The Council has previously expressed its unanimous support for the establishment of a teen center, and the proposed lease agreement and requested fee waiver further that goal.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

Name:	Description:	Type:
☐ <u>Agreements 2014 - Leases - Verde Valley Youth Commission - sbh edits - 01-03-14.docx</u>	TEEN CENTER LEASE	Backup Material

LEASE AGREEMENT

SECTION I. PARTIES

This lease is made and entered into by and between the CITY OF COTTONWOOD, an Arizona municipality ("LANDLORD"), and the VERDE VALLEY YOUTH COMMISSION, an Arizona nonprofit corporation ("TENANT"). This lease shall be effective as of _____. TENANT covenants as a material part of the consideration for this lease to keep and perform each and all of these terms, covenants and conditions hereof. Conditioned on this performance, LANDLORD hereby leases to TENANT, and TENTANT hereby leases from LANDLORD the Premises for the Term, as those terms are hereinafter defined.

SECION II. PREMISES

- A) Premises Defined. LANDLORD hereby leases to TENANT, and TENANT hereby leases from LANDLORD, for the Term, and in accordance with the provisions set forth herein, the "Premises" or "Property", which is that portion of the land and improvements located at 401 E. Mingus Avenue, Cottonwood Arizona, and more particularly described in Exhibit A hereto. In addition to the Premises, Tenant shall have the right to use any tables, desks, chairs, kitchen equipment and other similar items of personal property currently located at the Premises.

- B) Condition. TENANT has examined the physical condition of the Premises, is familiar with it and takes it "as is." Except as otherwise set forth herein, LANDLORD makes no express or implied warranties as to the physical condition of the Premises.

SECTION III. TERM

The Term of this lease is twenty-five (25) years (the "Term"), unless sooner terminated as provided herein, provided however, that this Lease shall immediately terminate if the Premises shall cease to be used by Tenant as a Teen Center.

SECTION IV. LEASE RATE

Lease Rate. The lease rate (the "Lease Rate") for the Premises is one dollar (\$1.00) per year.

SECTION V. TAXES AND ASSESSMENTS

LANDLORD shall pay and discharge when due, all real and personal property taxes, state, municipal and local taxes, general and special assessments, and other

charges of every description levied or assessed on or against the Premises (“taxes”) during the term of this lease.

SECTION VI. USE OF THE PREMISES

- A) Uses. TENANT shall use the Premises solely as a Teen Center. All other uses of the Premises are prohibited unless specifically consented to by LANDLORD in writing.
- B) Utilities. The Parties shall each bear a proportional
- C) Compliance With Applicable Laws, Ordinances, and Regulations. TENANT shall at all times maintain the Premises in a clean and safe condition, and shall at all times abide by all applicable federal, state and local laws, ordinances, regulations and reasonable requests and requirements of the LANDLORD in its use of the Premises.
- D) Nuisance. TENANT shall not conduct or permit to be conducted any public or private nuisance on the Premises, nor commit or permit to be committed any waste thereon. TENANT shall not cut or waste or allow to be cut or wasted, any timber or standing tress on the Property without written consent of the LANDLORD. TENANT shall report to the LANDLORD and appropriate law enforcement authorities any material trespass or waste committed on the Property of which the TENANT has actual knowledge.
- E) Minerals. LANDLORD excepts and reserves out of the Property all oils, gases, geothermal resources, coal, ores, limestone, minerals, fossils and fertilizers of every name and description that may be found on the Property.
- F) Surrender. TENANT shall surrender peaceable possession of the Property upon the expiration of this lease.

SECTION VII. MAINTENANCE; REPAIRS

TENANT shall, throughout the TERM, at TENANT’s sole cost and expense, maintain the premises and all improvements in clean and safe condition of maintenance and repair, and in conformity with the requirements of any applicable law or regulation. LANDLORD shall be under no obligation to maintain, repair, rebuild or replace any improvements on the Premises except that LANDLORD shall be responsible for maintenance of the roof and structural components of the Premises and of the major mechanical equipment contained therein consisting of the heating and cooling system.

The LANDLORD shall also be responsible for any damage to the premises due to sewage spills that may occur from the sewage lift station located adjacent to the premises. The LANDLORD will practice due diligence to avoid such spills.

SECTION VII. WORK AND IMPROVEMENTS; LIENS

- A) TENANT shall be responsible for payment of all costs and charges for any work done by or for it on the Property or in connection with TENANT's occupancy thereof. TENANT shall keep the Property free and clear of all mechanic's liens and other liens and encumbrances on account of work done for or authorized by TENANT or persons or entities claiming under it. In no event shall any such lien attach to fee title to the Property. TENANT expressly agrees to and shall indemnify and hold LANDLORD harmless against liability, damages, costs attorney's fees and all other expenses or loss on account of claims of lien or other encumbrances of laborers or material men or others for work performed or materials or supplies furnished for or authorized by TENANT or persons or entities claiming under it. Further, any contracts between TENANT and any contractors or subcontractors shall expressly hold LANDLORD harmless against any liability arising from such contracts, as described above.
- B) Should any claims or lien or other encumbrances be filed against fee title to the Property or any action purporting to affect fee title to the Property be commenced, the party receiving notice of such lien or action shall immediately give the other party written notice thereof.

IX. OWNERSHIP OF IMPROVEMENTS

- A. During Term of Lease. All improvements constructed on the premises by or on behalf of the TENANT as permitted by this lease shall be owned by the TENANT until expiration of the term or sooner termination of this lease unless earlier dedicated to LANDLORD.
- B. Expiration of Lease. All improvements on the Premises at the final expiration of the Term, other than trade fixtures, shall, without compensation to TENANT, become LANDLORD's property free and clear of all claims to or against them by TENANT or any third party. At the final expiration of the term and renewals or extension, the premises shall be free and clear of all mortgages and liens.

X. INDEMNIFICATION

- A) Losses. TENANT shall hold harmless and indemnify LANDLORD from and against all liabilities, fees, costs, damages and penalties, including attorneys' fees,

court costs and other legal expenses arising out of TENANT's use of Premises. TENANT agrees to indemnify LANDLORD for any such losses except such matters caused by or resulting from the intentional misconduct or gross negligence of LANDLORD or its agents, employees or contractors.

- B) Defense. In case an action or proceeding is brought against LANDLORD by reason of any occurrence related to the Premises and/or TENANT'S occupancy thereof, TENANT, upon LANDLORD's request and at TENANT's expense, will resist and defend such action or proceeding, or cause the same to be resisted and defended either by legal counsel designated by TENANT or, where such occurrence is covered by liability insurance, by legal counsel designated by the insurer if so required by such insurer.
- C) Environmental Damage. TENANT shall indemnify and hold LANDLORD harmless from and against any and all liability, obligations, losses, damages, penalties, claims, environmental response and cleanup costs, fines and actions, suits, costs, taxes, charges, expenses and disbursements, including legal fees and expenses of every kind or nature (collectively, "claims" or "damages") imposed on, or incurred by LANDLORD as a result of the release of any "Regulated Substance," on, under or from the Property occurring after the effective date of this lease ("Commencement Date"). For purposes of this Section, "cleanup costs" include any claims or damages in any way related to or arising out of removal, treatment, storage, disposition, mitigation, clean up or remedying of Regulated Substances on, under or upon the Property. TENANT shall not indemnify LANDLORD for any claims or damages resulting from any Regulated Substances present on, under or upon the property before the Commencement Date.

For the purposes of this lease, the term, "Regulated Substances" shall include but not be limited to substances defined as regulated substances, hazardous waste, hazardous materials, toxic substances, pollutants, toxic pollutants, herbicides, fungicides, rodenticides, insecticides, contaminants, or pesticides in the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Toxic Substance Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Clean Water Act; the Safe Drinking Water Act; the Arizona Environmental Quality Act; the Arizona Hazardous Waste Management Act and the Arizona Underground Storage Tanks Regulations Act; and any other relevant federal, local or state environmental or pollution laws and the regulations, rules and ordinances adopted or promulgated pursuant thereto.

This indemnification shall include, without limitation, claims or damages arising

out of any violations of applicable local, state or federal environmental laws, regulations or ordinances, or provisions thereof, regardless of any real or alleged fault, negligence, willful misconduct, gross negligence, breach of warranty or strict liability on the part of any of the indemnitees. This environmental indemnification shall survive the expiration or termination of this lease and/or any transfer of all or any portion of the property.

In the event any such action or claim is brought or asserted against LANDLORD, LANDLORD shall give immediate notice thereof to TENANT, provide TENANT with such reports, tests, studies, analysis, or other information the LANDLORD may have with respect thereto and the TENANT shall have the right: (i) to participate in the conduct of any further required cleanup, removal or remediation and/or negotiation and defense of any claim covered under this environmental indemnity provision, having reasonable regard to the continuing conduct of the operations/businesses located on the property; and (ii) to participate in negotiating and finalizing any agreement or settlement with respect to any such claim or cleanup.

XI. INSURANCE

- A) Liability. TENANT shall provide, pay for and maintain during the Term of this lease, commercial general liability insurance that insures TENANT and LANDLORD against liability for injury to persons and property and death of any person or persons occurring in, on or about the Premises, or arising out of TENANT's development, construction, maintenance, use or occupancy thereof, the policy or policies for which shall name LANDLORD as an additional insured. Further, the policy(ies) shall provide that its/their coverage is primary over any other insurance coverage available to the LANDLORD, its servants, agents and employees. Further, TENANT shall procure an endorsement on this coverage requiring the insurance carrier to give LANDLORD at least forty-five (45) days written notice prior to alteration, amendment, cancellation or any other action affecting the coverage. Prior to issuance of a building permit, TENANT shall furnish LANDLORD with certificates of insurance or other evidence that such insurance coverage will be in effect prior to beginning any construction activity.
- B) Amounts. The insurance shall afford protection of not less than \$1,000,000.00 with respect to injury to or death of one person, \$1,000,000.00 with respect to any one occurrence, and \$500,000.00 with respect to property damage; provided, however, that the minimum amount coverage for the above shall be adjusted upward on LANDLORD's reasonable request. If at any time TENANT shall fail, neglect or refuse to cause such insurance to be provided

or maintained, then LANDLORD may, at its election, procure or renew such insurance, provided that LANDLORD has given TENANT notice of such failure and such failure continues for fifteen (15) days after such notice is given, and any amounts paid therefore by LANDLORD shall be added to the Lease Rate due on or before the next payment of such premium until repaid by TENANT. TENANT shall provide proof of renewal of insurance policies fifteen (15) days prior to the expiration of prior policies.

- C) Insurer. The insurance provided for pursuant to this Section shall be effected under a valid and enforceable policy or policies issued by insurers of recognized responsibility authorized to do business in the State of Arizona and may be maintained pursuant to blanket or umbrella policies of insurance maintained by TENANT so long as the coverage afforded is no less than that required under this Section.
- D) Copies. Copies of all the executed policies of insurance including endorsements or certificates thereof shall be delivered to LANDLORD prior to TENANT's use or occupancy of the Property.

XII. DAMAGE

If the Premises or any portion thereof are damaged or destroyed during the term of this lease, TENANT may (but shall be under no obligation to) arrange, at its expense, for the repair, restoration and construction of the same substantially to its former condition. In any event, such damage or destruction shall not terminate this lease or relieve TENANT from its duties and liabilities hereunder.

XII. TRADE FIXTURES AND PERSONAL PROPERTY

Except as otherwise provided in this lease or as provided in separate agreements, any moveable trade fixtures, signs, equipment and other personal property installed in or on the Premises by TENANT so long as their removal will not result in structure damage, shall remain the property of TENANT. TENANT shall have the right, provided it is not then in Default (as hereinafter defined) at any time to remove or permit removal of any and all of the same. TENANT shall be considered to have abandoned same if not removed within fifteen (15) days of the termination of this Lease.

XIV. ASSIGNMENTS AND SUBLEASES

- A) Assignments and Subleases. TENANT may not under any circumstances assign this lease or sublet any portion of the Premises.

- B) Financing. TENANT shall not have the right to assign or otherwise encumber by way of mortgages, deeds of trust or other documents or instruments, all or any part of its right, title and interest in and to this Lease.

XV. NOTICE OF DEFAULT

- A) Events. Default shall be deemed to have occurred in the following situations:

1. If TENANT fails to perform or comply with any material term of this lease and such failure continues for forty-five (45) days after the receipt of notice of Default from LANDLORD; provided, however, that with respect to any such failure which is of such nature that although curable, it cannot, with due diligence and adequate resources, be cured with forty-five (45) days, a Default shall not be deemed to exist if TENANT commences curing such failure within forty-five (45) days and thereafter proceeds with reasonable diligence and action to complete curing such failure.
2. To the extent then allowed by law, if TENANT files a voluntary petition in bankruptcy which is not dismissed within ninety (90) days after the filing thereof; is adjudicated bankrupt or insolvent; files any petitions or answers seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other statute, law or regulation; seeks, consents to or acquiesces in the appointment of any trustee, receiver or liquidator of TENANT or of all or any substantial part of its respective property or of the pertinent portion of the Premises; makes any general assignments for the benefit of creditors; or admits in writing its inability to pay its debts generally as they come due.
3. To the extent then allowed by law, if a petition is filed against the TENANT seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or other similar relief under any present or future, federal, state or other statute, law or regulation, which remains un-dismissed or un-stayed for an aggregate of ninety (90) days (whether or not consecutive), or if a trustee, receiver, or liquidator of TENANT, or of all or any substantial part of the Premises is appointed without the consent or acquiescence of LANDLORD any such appointment remains un-vacated or un-stayed for an aggregate of ninety (90) days (whether or not consecutive).

4. If TENANT shall fail to use the Premises as and for a meeting place and activity center for teens for a period of 90 consecutive days, once such use has commenced.

B. Remedies. Subject to the notice and cure provisions set forth herein, if Default exists, LANDLORD may exercise, in addition to its rights at law or in equity, any of those remedies set forth below:

1. LANDLORD may terminate this lease and declare all rights of TENANT ended.
2. LANDLORD may enter upon the Premises as the agent of TENANT by force or otherwise, without being liable in any way therefor, and sublease or assign portions of the Premises as the agent of the TENANT at such price, upon such terms and for the duration of time as LANDLORD may determine, and receive the lease payments or payments thereunder, in which event LANDLORD agrees to use its best efforts to sublease or rent the pertinent portions of the Premises.

C. Waiver. No waiver or breach of any term of this release shall be construed as a waiver of any succeeding breach of the same or any other term.

XVII. INSPECTION

TENANT acknowledges and agrees that LANDLORD and its authorized representatives shall have the right to enter the Premises and any portion thereof at all reasonable times following reasonable notice (minimum of 24 hours) to inspect for compliance with the terms of this lease, and may take all such action as may be necessary or appropriate for such purposes. Furthermore, TENANT acknowledges and agrees that, at any time within one year prior to the expiration of the Term and upon reasonable notice, LANDLORD may enter the Premises, or any portion thereof, for the purpose of showing the same to prospective tenants, purchases, and mortgagees and, with the prior approval of TENANT, may display on the Premises advertisements for sale or lease. No entry pursuant to this Section shall constitute an eviction.

XVII. HOLDING OVER

TENANT is not entitled, upon the expiration, termination or cancellation of this lease, to hold over for any reason.

XVIII. MISCELLANEOUS

- A) Grant. This lease grants TENANT only those rights expressly granted herein. TENANT shall also be entitled to all rights available to it under any applicable laws, ordinances or rules.
- B) Successors. Each provision of the lease shall extend to, be binding on and inure to the benefit of LANDLORD and TENANT only, and not to their respective successors in interest or assigns.
- C) Transfer of Ownership. After the expiration or termination of this lease, TENANT shall execute, acknowledge and deliver to LANDLORD within fifteen (15) days after written demand from LANDLORD to TENANT, any document reasonably requested by LANDLORD transferring the ownership, right, title or interest in the leasehold and to the improvements to LANDLORD or other document required by any reputable title company to resolve the cloud of this lease from the Premises.
- D) Severability. If any provision of this lease or any application thereof shall be invalid or unenforceable, the lease shall remain in full force and effect if such provision was not a material inducement of the benefitted party and the remaining provisions permit the parties to achieve the practical benefits of the arrangements contemplated hereby.
- E) Amendments. LANDLORD and TENANT expressly agree that this lease may be amended from time to time, by mutual consent in writing.
- F) Memorandum. If and when requested by LANDLORD, the parties shall execute and cause to be recorded, a memorandum of this lease suitable for recording purposes, in the Official Records of Yavapai County, Arizona.
- G) Construction. The parties acknowledge that they have both had the opportunity to consult with legal counsel in negotiating and drafting this lease. They therefore agree that, notwithstanding anything contained herein to the contrary, this lease and all of its terms, provisions and conditions shall be construed fairly and not against either LANDLORD or TENANT.
- H) Notices. Any notice, application, request, demand, approval, or consent which may be given or is required to be given under this Lease, or any other document to be delivered by one party to the other shall be in writing sent by Federal Express or its equivalent, or sent by United States Mail, postage prepaid, certified or registered mail, return receipt requested, and addressed as follows:

To LANDLORD: City Manager
City of Cottonwood
827 N Main Street
Cottonwood AZ 86326

To TENANT:

or to such other addresses as any party may from time to time designate in writing and deliver in a like manner to the other party.

- I) Attorney's Fees. If either party resorts to legal action to enforce any Lease term or to recover damages for the breach thereof, the prevailing party is entitled to recover reasonable attorneys' fees in addition to the amount of judgment costs and other expenses as determined by the court and not a jury. In the event LANDLORD is represented by a salaried City Attorney, LANDLORD's reasonable attorney's fees shall be calculated based upon a rate equal to the reasonable hourly rate for comparable work and attorney experience in the private sector in Yavapai County, Arizona.
- J) Fee Interest. No provision of this lease shall create any right in TENANT to a fee interest in the property.
- K) Disputes/Governing Law. This lease shall be governed by, construed and enforced in accordance with the laws of the State of Arizona. The parties agree that any legal proceeding arising out of this Lease shall be brought in the Superior Court of Arizona, Yavapai County, and the parties consent to the jurisdiction thereof.
- L) Headings. The titles and any subtitles to the sections and paragraphs of this lease are not a part of this lease and shall have no effect upon the construction or interpretation of any part hereof.
- M) Integration. This lease, together with any exhibits appended hereto, embodies the whole agreement of the parties. There are no other agreements or terms, oral or written. This document supersedes all previous communications, representations and agreements, oral or written, between the parties.
- N) The individual executing this lease agreement on behalf of TENANT swears/affirms under penalty of perjury that she/he is authorized to take such action.

O) This agreement is subject to cancellation pursuant to the provisions of A.R.S. §38-511, which are hereby incorporated into this lease as if fully set forth herein.

DATED this ____ day of _____, 2014.

LANDLORD: City of Cottonwood

By:

Diane Joens, Mayor

Attest:

Approved as to Form:

Marianne Jiménez, City Clerk

Steven B. Horton, City Attorney

TENANT: Verde Valley Youth Commission

By:

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date:	January 7, 2014
Subject:	Revision to Section 19.H of the Cottonwood Employee Manual regarding background/criminal history checks on prospective/newly hired employees and certain volunteers.
Department:	HR
From:	Iris Dobler, Human Resources Manager

REQUESTED ACTION

First reading of Ordinance 603, which would revise Section 19.H of the Cottonwood Employee Manual regarding background/criminal history checks on prospective/newly hired employees and certain volunteers.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

N/A - First Reading

BACKGROUND

The City's current policy is to run criminal history checks (which are performed by the Arizona Department of Public Safety) only on full-time employees. However, we also have many part-time employees and volunteers - especially at the Recreation Center and the Library - and for the same reasons that we run checks on newly hired full-time employees, we should run them on part-time employees as well; along with any volunteers who will or may have unsupervised contact with children or vulnerable adults.

JUSTIFICATION/BENEFITS/ISSUES

Conducting background/criminal history checks on all newly hired employees, as well as any volunteers who will or may have unsupervised contact with children or vulnerable adults, helps to ensure that we know for sure whether prospective employees and volunteers have a criminal

history, and whether they have been candid in their application. (Having a criminal record does not necessarily disqualify an applicant from City employment or volunteer service - although failure to disclose that fact on the application could be.) In any case, the Department of Public Safety has indicated that our policies need to identify which categories of employees/applicants will be subject to criminal history checks - and this Ordinance accomplishes that.

COST/FUNDING SOURCE

Costs of background checks have been included in the Human Resources FY 2013-2014 budget.

ATTACHMENTS:

Name:	Description:	Type:
📎 <u>Ordinances 2013 - Ordinance 603 - Amending Employee Manual Re Fingerprinting and Background Checks - sbh - 12-12-13 - FINAL-2.doc</u>	Ordinance 603 - Final - v.2	Cover Memo

ORDINANCE NUMBER 603

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING SECTION 19.H OF THE CITY'S EMPLOYEE MANUAL, AND REPEALING ORDINANCE NUMBER 406.

WHEREAS, the City desires to update its policies regarding conducting reference, background, and criminal history checks of prospective employees and certain volunteers;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That Section 19.H of the City of Cottonwood Employee Manual is hereby amended to read as follows:

H. Background/Reference/Criminal History Investigations

1. All applicants for City employment will be required to execute a release authorizing the release of documents and information by current or prior employers, educational institutions, and any other references provided by the applicant; and authorizing the City to search and examine any and all publicly available information about the applicant.
2. After an applicant has been selected for employment, but prior to the employment of the applicant, the Human Resources Department may verify (or confirm that the hiring department has verified) the applicant's prior work history and educational background as represented on the applicant's application, as well as any other pertinent information furnished by the applicant. The Human Resources Department may also conduct any additional investigations and inquiries it deems reasonable and appropriate to ascertain the applicant's qualifications and suitability for employment by the City, and for the specific position the applicant would be occupying.
3. Any applicant who has attained the age of 18 and who has been selected for employment shall be required to submit to a fingerprint/criminal background check conducted by the Arizona Department of Public Safety in accordance with A.R.S. Section 41-1750 and Public Law 92-544 as a condition of any final offer of employment. Provided, however, that the Human Resources Manager may waive

this process for any applicant who already holds a valid card.

ORDINANCE NUMBER 603

Page 2

4. The above procedures will also apply to any prospective volunteer who will or may have unsupervised contact with children or vulnerable adults as defined by A.R.S. Section 13-3623.F.6, including but not limited to recreation program and library volunteers.
5. Records obtained pursuant to this subsection will be maintained and disclosed in accordance with the Arizona Public Records Law and the applicable records retention schedule(s) published by the Records Management Division of the Arizona State Library, Archives and Public Records.

Section 2: That Ordinance 406 and any other prior conflicting ordinances, resolutions, code provisions, policies and/or procedures are hereby repealed, provided, however, that a duly adopted policy or procedure that is either mandated by statute and/or more stringent than the procedures set forth in Section 1 above shall not be considered to be in conflict with the provisions thereof.

Section 3: That if any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remainder hereof.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, ARIZONA, THIS ____ DAY OF JANUARY, 2014.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

Steve Horton, City Attorney

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date:	January 7, 2014
Subject:	Emergency Communications Center – Construction Manager At Risk Contract (CMAR) / Guaranteed Maximum Price (GMP) Approval
Department:	Development Services
From:	Scott Mangarpan, Development Services

REQUESTED ACTION

Council approval for staff to proceed with the Emergency Communications Center CM@R contract with D. L. Withers for a Guaranteed Maximum Price (GMP) of \$2,410,011, subject to final approval of a contract amendment by the City Attorney.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

“I move to accept the proposed Guaranteed Maximum Price (GMP) of \$2,410,011.00 for the Emergency Communications Center project, and authorize the Mayor to execute an amendment to the CMAR contract with D. L. Withers, subject to final approval of the amendment by the City Attorney.”

BACKGROUND

Last year the City completed both a feasibility study and a business case for a consolidated Emergency Communications Center. The City is interested in building a center to support emergency communications for the City’s police, fire and EMS services with the potential to add subscribing agencies in the future. The new facility will support dispatching for approximately 20,000 police incidents and 3,200 Fire/EMS runs per year. The business case study recommended that the City plan for 4 CAD dispatch positions (with potential growth to 8 positions) and the required support facilities. The City has selected a City owned 2.7 acre parcel adjacent to the Cottonwood Public Safety Building for the location of this new City facility.

City staff went through the selection process for an architectural firm to design the new Emergency Communications Center. On March 11, 2013 the Council directed staff to proceed with a design contract with Arrington Watkins Architects.

City staff also went through the selection process for a Construction Manager At Risk (CMAR)

firm to provide design phase services (constructability reviews and construction estimates) in support of the design process, as well as construction services upon the successful negotiation of a Guaranteed Maximum Price ("GMP") for the project. On June 18th the Council approved the selection of D. L. Withers Construction as the CMAR for the Emergency Communications Center.

On September 10th Staff provided Council an in-progress update on the design of the new facility. The construction drawings were completed by Arrington Watkins on November 5th, 2013.

D. L. Withers then started developing its GMP proposal for the project. This included advertising for sub-contractor bids in local newspapers and local plan rooms. D.L. Withers held a pre-bid information session on November 14th in the Recreation Center for local sub-contractors to be able to pick up copies of the bid packages and meet with the CMAR to discuss any questions they might have.

Sub-contractor bids were due December 5th. The bids did come in a little over budget, requiring staff and the Architect to work with D. L. Withers to explore items that could be changed to bring the project within budget. Enough cost savings were identified that the proposed GMP is now again just under budget.

JUSTIFICATION/BENEFITS/ISSUES

This is a long-needed project to construct a new Emergency Communications Center. Currently the 911 dispatchers are located in a ten-year-old space within the Public Safety Building that is cramped and inadequate for the City's current needs. This project will include improved facilities for the 911 dispatch operators, upgraded dispatch and communication systems as well as additional capabilities to allow for the dispatching of Cottonwood Fire/EMS services, a function that is currently handled by the Sedona Fire District at significant cost to the City. The facility will also include the capability to expand to meet the dispatching needs of the City as well as other subscribing agencies in the future.

COST/FUNDING SOURCE

Bond funds

ATTACHMENTS:

Name:	Description:	Type:
ECC Project Costs.pdf	ECC Project Costs	Backup Material
ECC GMP Breakdown - D. L. Withers.pdf	GMP Breakdown from D.L. Withers	Backup Material
Sample CMAR GMP Contract.pdf	Sample CMAR GMP Contract	Backup Material

Emergency Communications Center - Project Costs

Building (GMP)	\$2,410,011	D. L. Withers
Design	\$197,125	Arrington Watkins Architects
Construction Admin	\$80,000	Estimate: Arrington Watkins Architects
Pre-Construction CMAR	\$22,500	D. L. Withers
Building Permits	\$7,504	City of Cottonwood
Development Fees	\$29,218	City of Cottonwood
Technology/FF&E	\$850,000	Various Vendors
Utility Fees	\$0	APS
	\$0	Unisource
	\$0	CentryLink (incl in Tech budget)
Special Inspections	\$6,500	Western Technologies
Project Total	<u>\$3,602,858</u>	
Budget	\$3,606,959	
Under Budget	\$4,101	



PROJECT: COTTONWOOD EMERGENCY COMM CENTER
LOCATION: 650 E ASPEN ST, COTTONWOOD 86326
BLDG. AREA: 6,375SF
BUDGET: \$2,411,961

PREP BY: FOGED
 BID DATE: 12/05/13
 BID TIME: 3:00PM
 CURR DATE: 12/23/13
 CURR TIME: 10:09 AM

ARCHITECT: ARRINGTON
 BR CODE: 5
 DURATION: 9.5 MONS
 COMPLETION: 11/15/2014
 PROJECT TYPE: CMAR

COST CODE	S L S T	DESCRIPTION	BASE BID
		PROJECT TOTAL	2,410,011
		"MF"	
03-300		TERMITE TREATMENT	775
02-610		FENCE	4,387
02-800		KNOX BOX	656
07-500		ROOF ACCESSORIES	3,240
08-100		HM DOORS AND FRAMES	E/C
08-170		WOOD DOORS	E/C
08-190		DOOR HARDWARE	27,500
08-240		INSTALL DOORS	2,925
08-200		UNLOAD AND DISTRIBUTE	0
10-160		TOILET ACCESSORIES	3,291
		FRP	250
10-300		WALL & DOOR PROTECT	700
10-400		FIRE EXTINGUISHERS	1,200
		METAL SHELVING	1,720
		METAL LOCKERS	4,400
11-640		MARK & TACK BOARDS	0
11-300		APPLIANCES	5,480
10-110		ROLLER SHADES	9,495
10-200		SIGNAGE	3,500
		SPLASH BLOCKS	200
		CENTRAL VACUUM	3,000
		"CH"	
09-200		DRYWALL	61,710
09-900		PAINTING	25,450
09-500		ACOUSTICAL CEILING	13,693
07-400		INSULATION	11,847
07-550		FIRE CAULKING	970
		SEALANTS	2,073
07-300		WATERPROOFING	8,500
09-300		CERAMIC TILE	10,355
09-650		RESILIENT FLOORING	15,943
		SEALED CONCRETE	435
		VAPOR REDUCT'N COAT'G	E/C
		ACCESS FLOOR	24,500
06-300		CASEWORK	19,338
08-300		GLASS AND GLAZING	84,006
		"SS"	
05-100		STRUCTURAL STEEL	82,245
06-100		ROUGH CARPENTRY	2,720
07-100		ROOFING	54,695
		METAL ROOFING	13,689
		SUN SHADES - ALT	0

City of Cottonwood, Arizona

**CITY OF COTTONWOOD
EMERGENCY COMMUNICATIONS CENTER
CONSTRUCTION MANAGER AT RISK
CONSTRUCTION SERVICES**

GMP NO.1

PROJECT NO.

CONTRACT NO.

DRAFT



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CITY OF COTTONWOOD, ARIZONA

CITY OF COTTONWOOD
EMERGENCY COMMUNICATIONS CENTER
CONSTRUCTION MANAGER AT RISK
CONSTRUCTION SERVICES

PROJECT NO. _____, CONTRACT NO. _____

THIS AGREEMENT, made and entered by and between the City of Cottonwood, hereinafter designated the "City" and D.L. Withers Construction, hereinafter designated the "Construction Manager at Risk" or "CM@R."

RECITALS

- A. The Mayor of the City is authorized and empowered by action of the City Council, hereinafter "Council," in open public meeting, to execute this contract for professional services and related construction services.
- B. The City intends to construct the Emergency Communications Center, hereinafter referred to as the "Project," as more fully described in Exhibit A attached. The full street or physical address of the Project is: 650 E. Aspen Street, Cottonwood, Arizona 86326. The full street or physical address of the Project shall be included in each subcontract of CM@R and/or each subcontractor at any level.
- C. To undertake the construction administration of said project the City has entered into a contract with Arrington Watkins Architects hereinafter referred to as the "Design Professional."
- D. The CM@R has represented to the City the ability to provide construction management services and to construct the Project and based on this representation the City engages the CM@R to provide these services and construct the Project.
- E. An Agreement has been executed previously between the City and CM@R to perform design phase services relative to this Project. That Agreement and the services identified therein shall continue during the duration of this contract.

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between the City and the CM@R as follows:

Article 1 - Definitions

"Agreement ("Contract") This written document signed by the City and CM@R covering the construction phase of the Project, and including other documents itemized and referenced in or attached to and made part of this Contract.

"Change Directive" A written order prepared and signed by the City, directing a change in the Work prior to agreement on an adjustment in the Contract Price and the Contract Time.

PROJECT NO. _____, CONTRACT NO. _____
EMERGENCY COMMUNICATIONS CENTER

"Change Order" A type of contract amendment issued after execution of this Agreement or future GMP Amendments signed by City, CM@R and other parties as may be required or appropriate, agreeing to changes to a GMP. The Change Order will state the following: the addition, deletion or revision in the scope of Work; the amount of the adjustment to the Contract Price; and the extent of the adjustment to the Contract Times or other modifications to Contract terms.

"Construction Documents" The plans, specifications and drawings prepared by the Design Professional after correcting for permit review requirements.

"Construction Fee" The CM@R's administrative costs, home office overhead, and profit as applicable to this project whether at the CM@R's principal or branch offices.

"CM@R" The firm selected by the City to provide construction services as detailed in this Agreement.

"CM@R's Contingency" A fund to cover cost growth during the project used at the discretion of the CM@R usually for costs that result from project circumstances. The amount of the CM@R's Contingency will be negotiated as a separate line item in each GMP package. Use and management of the CM@R's Contingency is described in Subdivision 5.1.2.3.

"CM@R's Representative" The person designated in Subdivision 8.3.2.

"Contract Documents" The following items and documents in descending order of precedence executed by the City and the CM@R: (i) all written modifications, amendments and Change Orders; (ii) this Agreement, including all exhibits and attachments; (iii) Construction Documents; (iv) GMP Plans and Specifications; (v) the CM@R Design Phase Services Agreement; (vi) Request for Qualifications issued by the City relative to the Project.

"Contract Price" The amount or amounts set forth in Article 5.

"Contract Time" The Days as set forth in Article 4 the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

"Cost of the Work" The direct costs necessarily incurred by the CM@R in the proper performance of the Work. The Cost of the Work shall include direct labor costs, subcontract costs, costs of materials and equipment incorporated in the completed construction, costs of other materials and equipment, temporary facilities, permit and license fees, materials testing, and related items. The Cost of the Work shall not include the CM@R's Construction Fee, General Conditions Costs, and taxes.

"Critical Path" The sequence of activities from the start of the Work to the Substantial Completion of the Project. Any delay in the completion of these activities will delay achieving Substantial Completion.

"Day(s)" Calendar day(s) unless otherwise specifically noted in the Contract Documents.

"Design Phase Contract" The agreement between the City and CM@R for Services provided by the CM@R during the design phase and as may be subsequently needed which may include, but is not limited to, the following: design recommendations, project scheduling, constructability reviews, alternate systems evaluation, cost estimate, MBE/WBE/SBE utilization, subcontractor bid phase services and GMP preparation and other services set forth in the agreement or reasonably inferable therefrom.

"Design Professional" The qualified, licensed design professional who furnishes design and/or construction administration services required for the Project.

"Differing Site Conditions" Concealed or latent physical conditions or subsurface conditions at the Site that, (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work.

"City ("Owner" or "OWNER")" The City of Cottonwood, an Arizona Municipality, with whom CM@R has entered into this Contract and for whom the services are to be provided pursuant to said Contract.

"City's Representative" The person designated in Subdivision 8.3.1.

"Final Acceptance/Completion" Means 100% completion of all construction Work noted in or reasonably inferred from the Contract Documents, including but not limited to all Punch Lists work, all record and close-out documents specified in Owner's Project specifications and Owner training/start up activities. See Section 4.2.

"Float" The number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Substantial Completion date.

"General Conditions Costs" includes, but is not limited to the following types of costs for the CM@R during the construction phase: (i) payroll costs for project manager or CM@R for managerial work conducted at the site, (ii) payroll costs for the superintendent and full-time general foremen, (iii) payroll costs for other management personnel resident and working at the site, (iv) workers not included as direct labor costs engaged in support (e.g. loading/unloading, clean-up, etc.), (v) costs of offices and temporary facilities including office materials, office supplies, office equipment and minor expenses, (vi) cost of utilities, fuel, sanitary facilities and telephone services at the site, (vii) costs of liability insurance premiums not included in labor burdens for direct labor costs, (viii) costs of bond premiums, (ix) costs of consultants not in the direct employ of the CM@R or Subcontractors.

"Guaranteed Maximum Price" or "GMP" The sum of the maximum Cost of the Work; the Construction Fee; General Conditions Costs, taxes, and CM@R's Contingency.

"GMP No. 1" means the first GMP.

"GMP Plans and Specifications" The plans and specifications upon which the Guaranteed Maximum Price proposal is based.

"Legal Requirements" All applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

"Notice to Proceed" or "NTP" The directive issued by the City, authorizing the CM@R to start Work.

"Owner's Contingency" A fund to cover cost growth during the project used at the discretion of the Owner usually for costs that result from Owner directed changes or unforeseen site conditions. The amount of the Owner's contingency will be set solely by the Owner and will be in addition to the project costs included in the CM@R's GMP packages. Use and management of the Owner's contingency is described in Division 5.1.3.

"Performance Period" The period of time allotted in the Contract Documents to complete the Work comprised within a GMP. The Performance Period shall be stated with each GMP and shown on the Project Schedule.

"Payment Request" Requests by the CM@R for progress or final payments for Work which must be submitted in accordance with Article 7 on City approved forms with supporting documentation as required by the Contract Documents and/or City.

“Product Data” Illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the CM@R to illustrate materials or equipment for some portion of the Work.

“Project” The Work to be completed in the execution of this Agreement as amended and as described in the Recitals above and in Exhibit A attached.

“Project Record Documents” The documents created pursuant to Section 2.11.

“Samples” Physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be evaluated.

“Shop Drawings” Drawings, diagrams, schedules and other data specially prepared for the Work by the CM@R or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

“Site” The land or premises on which the Project is located.

“Specifications” The part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

“Subcontractor” An individual or firm having a direct contract with the CM@R or any other individual or firm having a contract with the aforesaid contractors at any tier, who undertakes to perform a part of the construction phase Work for which the CM@R is responsible.

“Substantial Completion” When the Work, or an agreed upon portion of the Work, is sufficiently complete so that City can occupy and use the Project or a portion thereof for its intended purposes. This may include, but is not limited to: (i) approval by City Fire Marshall and local authorities (Certificate of Occupancy); (ii) Elevator Permit; (iii) all systems in place, functional, and displayed to the City or its representative; (iv) all materials and equipment installed; (v) all systems reviewed and accepted by the City; (vi) draft O&M manuals and record documents reviewed and accepted by the City; (vii) City operation and maintenance training complete; (viii) HVAC test and balance completed (Provide minimum 30 days prior to projected substantial completion); (ix) landscaping and site work completed; and (x) final cleaning. The conditions of Substantial Completion that do not apply to a specific GMP will be listed in the Notice to Proceed Letter pursuant to Section 2.5.3.

“Supplier” A manufacturer, fabricator, supplier, distributor, material man or vendor having a direct contract with CM@R or any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by CM@R or any Subcontractor.

“Work” The entire completed construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials, resources and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

Article 2 - CM@R's Services and Responsibilities

- 2.0 The CM@R shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all Work for the construction of the Project, and to completely and totally construct the same and install the material therein for the City. All Work will be performed in a good and workmanlike and substantial manner and within the care and skill of a qualified CM@R in Arizona, in the city, town or county where the Work is to be constructed. The Work shall be to the satisfaction of the City and strictly pursuant to and in conformity with the Project's Contract Documents as modified. It is not required that the services be performed in the sequence in which they are described.
- 2.1 Subcontractor and Major Supplier selections shall be made in conformance with Article 2.8 of the Parties' related Design Phase Services contract which is adopted by reference as if wholly rewritten herein and A.R.S § 41-2578 as amended. The CM@R shall obtain a minimum of three bids for all areas of construction, unless otherwise approved by the City representative in writing.
- 2.2 CM@R's Representative shall be reasonably available to City and shall have the necessary expertise and experience required to supervise the Work. CM@R's Representative shall communicate regularly with City but not less than once a week and shall be vested with the authority to act on behalf of CM@R. CM@R's Representative may be replaced only with the written consent of City.
- 2.3 The CM@R shall make best efforts to use MBE, WBE, SBE and/or LOCAL contractors and suppliers.
- 2.4 Government Approvals and Permits**
- 2.4.1 Unless otherwise provided, CM@R shall obtain or assist the City to obtain all necessary permits, approvals and licenses required for the prosecution of the Work from any government or quasi-government entity having jurisdiction over the Project. **The CM@R is specifically reminded of the need to obtain the necessary environmental permits or file the necessary environmental notices.**
- 2.4.2 Copies of these permits and notices must be provided to the City's Representative prior to starting the permitted activity. In the case of Fire Department permits, a copy of the application for permit shall also be provided to the City's Representative. This provision does not constitute an assumption by the City of an obligation of any kind for violation of said permit or notice requirements.
- 2.4.3 City shall be responsible for permit(s) and fees for building and demolition permits. City will also pay review fees for grading and drainage, water, sewer, and landscaping. City shall also pay for utility design fees for permanent services.
- 2.4.4 CM@R shall be responsible for all other permits and review fees not specifically listed in Section 2.4.3 above.
- 2.4.5 CM@R is responsible for all water bills on the project meters until Substantial Completion of the Project. Arrangements for construction water are the CM@R's responsibility.
- 2.5 Pre-construction Conference**
- 2.5.1 Prior to the commencement of any Work, the City's Representative will schedule a Pre-construction conference.
- 2.5.2 The purpose of this conference is to establish a working relationship between the CM@R, utility firms, various City agencies and other entities as may be appropriate or beneficial. The agenda will include critical elements of the work schedule, submittal schedule, cost breakdown of major lump sum items, Payment Requests and processing, coordination with the involved utility firms, the level of Record

Project Documents required and emergency telephone numbers for all representatives involved in the course of construction.

2.5.3 The Notice to Proceed date will be concurred to by the parties or set by the City. At or after the meeting and upon receipt of a signed contract and delivery of the required bonds and insurance in a City approved format or at such other time as the City may elect, a Notice to Proceed letter will be issued confirming the construction start date, Performance Period and if applicable, the Substantial Completion date. If a Substantial Completion date is established the conditions of the Substantial Completion will be listed and/or as set forth in Article 1 herein. Failure by the CM@R to provide the properly executed bond and insurance forms in a timely manner may delay the construction start date; however, it will not alter the proposed Substantial Completion date nor be a basis for any time extension request or other claims.

2.5.4 [Section left intentionally blank.]

2.5.5 The CM@R shall provide a schedule of values based on the categories used in the buy out of the Work but not greater than the approved GMP and which shall identify the CM@R's Contingency. The schedule of values will subdivide the Work into all items comprising the Work.

2.5.6 Minimum attendance at the Preconstruction conference held by the CM@R shall be the CM@R's Representative, who is authorized to execute and sign documents on behalf of the firm, the job superintendent, the CM@R's safety officer and the City.

2.6 Control of the Work

2.6.1 Unless otherwise provided in the Contract Documents to be the responsibility of City or a separate contractor, CM@R shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit CM@R to complete the Work consistent with the Contract Documents.

2.6.2 CM@R shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. CM@R shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.6.3 CM@R or the CM@R's Superintendent shall be present at the Site at all times that construction activities are taking place.

2.6.3.1 All elements of the Work shall be under the direct supervision of a foreman or his designated representative on the Site who shall have the authority to take actions required to properly carry out that particular element of the work.

2.6.3.2 In the event of noncompliance with this Division, the City may require the CM@R to stop or suspend the Work in whole or in part.

2.6.4 Where the Contract Documents require that a particular product be installed and/or applied by an applicator approved by the manufacturer, it is the CM@R's responsibility to ensure the Subcontractor employed for such work is approved by the manufacturer.

2.6.5 Before ordering materials or doing work, the CM@R and each Subcontractor shall verify measurements at the Site and shall be responsible for the correctness of such measurements. No extra charge or compensation will be allowed because of differences between actual dimensions and the dimensions indicated on the drawings; differences, which may be found, shall be submitted to the City for resolution before proceeding with the work.

2.6.6 The CM@R shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the CM@R with the Contract

Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the City immediately.

- 2.6.7 The CM@R shall establish and maintain all building and construction grades, lines, levels, and bench marks, and shall be responsible for accuracy and protection of same. This Work shall be performed or supervised by a civil engineer or surveyor licensed as such in the State of Arizona.
- 2.6.8 Any person employed by the CM@R or any Subcontractor who, in the opinion of the City, does not perform his work in a proper, skillful and safe manner or is intemperate or disorderly or is otherwise found to be inappropriate due to the educational setting of the worksite, shall, at the written request of the City, be removed from the Work by CM@R or Subcontractor employing such person, and shall not be employed again in any portion of Work without the written approval of the City. The CM@R or Subcontractor shall keep the City harmless from damages or claims which may occur in the enforcement of this Section.
- 2.6.9 CM@R assumes responsibility to City for the proper performance of the work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between City and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.
- 2.6.10 CM@R shall coordinate the activities of all Subcontractors. If City performs other work on the Project or at the Site with separate contractors under City's control, CM@R agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.7 Control of the Work Site

- 2.7.1 Throughout all phases of construction, including suspension of Work, CM@R shall keep the Site reasonably free from debris, trash and construction wastes to permit CM@R to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, CM@R shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit City to occupy the Project or a portion of the Project for its intended use.
- 2.7.2 CM@R shall take whatever steps, procedures or means necessary to prevent any dust nuisance due to construction operations. The dust control measures shall be maintained at all times to the satisfaction of the City and in accordance with the requirements of any applicable Rules and Regulations or such other specifications as the parties may agree in writing.
- 2.7.3 CM@R shall maintain ADA and ANSI accessibility requirements during construction activities in an occupied building or facility. ADA and ANSI accessibility requirements shall include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. CM@R shall be responsible for the coordination of all work to minimize disruption to building occupants and facilities.
- 2.7.4 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Site by the CM@R. When equipment is no longer required for the Work, it shall be removed promptly from the Site.
- 2.7.5 Protection of the Work, the construction site, and construction materials and equipment stored at the Site from weather, theft, damage and all other adversity is solely the responsibility of the CM@R.

2.8 Shop Drawings, Product Data and Samples

- 2.8.1** Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the CM@R proposes to conform to the information given and the design concept expressed in the Contract Documents.
- 2.8.2** The CM@R shall review, approve, verify, and submit to the Design Professional five copies of each Shop Drawing, Product Data, Sample, and similar submittal required by the Contract Documents in accordance with the approved GMP schedule as shown in Exhibit B as to cause no delay in the Work or in the activities of the City or of separate contractors. Submittals made by the CM@R, which are not required by the Contract Documents, may be returned without action.
- 2.8.3** The CM@R shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Design Professional. Such Work shall be in accordance with approved submittals.
- 2.8.4** By approving, verifying and submitting Shop Drawings, Product Data, Samples and similar submittals, the CM@R represents that the CM@R has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- 2.8.5** The CM@R shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Design Professional's approval of Shop Drawings, Product Data, Samples or similar submittals unless the CM@R has specifically informed the Design Professional in writing of such deviation at the time of submittal and the Design Professional has given written approval to the specific deviation. The CM@R shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Design Professional's approval thereof.
- 2.8.6** The CM@R shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Design Professional on previous submittals.
- 2.8.7** Informational submittals upon which the Design Professional is not expected to take responsive action may be so identified in the Contract Documents.
- 2.8.8** When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Design Professional shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

2.9 Quality Control, Testing and Inspection

- 2.9.1** All materials used in the Work shall be new and unused, unless otherwise noted, and shall meet all quality requirements of the Contract Documents.
- 2.9.2** All construction materials to be used on the Work or incorporated into the Work, equipment, plant, tools, appliances or methods to be used in the Work may be subject to the inspection and approval or rejection by the City or Design Professional. Any material rejected by the City or Design Professional shall be removed immediately and replaced in an acceptable manner.
- 2.9.3** The procedures and methods used to sample and test material will be determined by the Design Professional. Unless otherwise specified, samples and tests shall be made in accordance with MAG 700 Series and the standard methods of AASHTO or ASTM as referenced in the MAG 700 Series.
- 2.9.4** The City will select a pre-qualified Independent Testing Laboratory and will pay for initial City Acceptance Testing.

- 2.9.4.1** When the first and subsequent tests indicate noncompliance with the Contract Documents, the cost associated with that noncompliance and retesting will be paid for by the CM@R. CM@R's Contingency cannot be utilized for the cost of re-testing.
- 2.9.4.2** When the first and subsequent tests indicate noncompliance with the Contract Documents, all retesting shall be performed by the same testing agency.
- 2.9.5** The CM@R will cooperate with the selected testing laboratory and all others responsible for testing and inspecting the work and shall provide them access to the Work at all times.
- 2.9.6** At the option of the City, materials may be approved at the source of supply before delivery is started.
- 2.9.7** Code compliance testing and inspections required by codes or ordinances, or by a plan approval authority, and which are made by a legally constituted authority, shall be the responsibility of and shall be paid by the CM@R, unless otherwise provided in the Contract Documents.
- 2.9.8** CM@R's convenience and quality control testing and inspections shall be the sole responsibility of the CM@R and paid by the CM@R.
- 2.10 Trade Names and Substitutions.**
- 2.10.1** Substitute or alternate items to Contract Document references to equipment, materials or patented processes by manufacturer, trade name, make or catalog number, may be permitted, unless indicated that no substitutions are permitted, substitute or alternate items may be permitted, subject to the following:
- 2.10.2** The substitution shall be submitted by CM@R in writing to the Design Professional.
- 2.10.3** The CM@R shall certify that the substitution will perform the functions and achieve the results called for by the general design, be similar and of equal substance, and be suited to the same use as that specified.
- 2.10.4** The submittal shall state any required changes in the Contract Documents to adapt the design to the proposed substitution.
- 2.10.5** The submittal shall contain an itemized estimate of all costs and credits that will result directly and indirectly from the acceptance of such substitution, including cost of design, license fees, royalties, and testing. Also, the submittal shall include any adjustment in the Contract Time created by the substitution.
- 2.10.6** The CM@R if requested by the Design Professional shall submit Samples or any additional information that may be necessary to evaluate the acceptability of the substitution.
- 2.10.7** The Design Professional will make the final decision and will notify the CM@R in writing as to whether the substitution has been accepted or rejected.
- 2.10.8** If the Design Professional does not respond in a timely manner, the CM@R shall continue to perform the Work in accordance with the Contract Documents and the substitution will be considered rejected.
- 2.11 Project Record Documents**
- 2.11.1** During the construction period, the CM@R shall maintain at the jobsite a set of redline, blueline or blackline prints of the Construction Document drawings and shop drawings for Project Record Document purposes. CM@R contractor will certify that these documents are up to date when they submit their monthly pay application. The CM@R shall also:

2.3.1.1.1 Mark these drawings to indicate the actual installation where the installation varies appreciably from the original Construction Documents and give particular attention to information regarding concealed elements, which would be difficult to identify or measure and record later. Items required to be marked include but are not limited to:

- Dimensional changes to the drawings.
- Revisions to details shown on Drawings
- Depths of foundations below first floor
- Locations and depths of underground utilities
- Revisions to routing of piping and conduits.
- Revisions to electrical circuitry.
- Actual equipment locations.
- Duct size and routing.
- Locations of concealed internal utilities.
- Changes made by Change Order, Change Order Directive, Field Order, Record of Field Change, ASI's and RFI's.
- Details not on original Contract Drawings.
- Similar deviations, variations and modifications.

2.11.1.2 Mark completely and accurately Project Record Drawing prints of Construction Documents or Shop Drawings, whichever is the most capable of indicating the actual physical condition. Where Shop Drawings are marked, show cross-reference on the Construction Documents location.

2.11.1.3 Mark Project Record Drawings sets with red erasable colored pencil.

2.11.1.4 Note RFI Numbers, ASI Numbers and Change Order numbers, etc., as required to identify the source of the change to the Construction Documents.

2.11.1.5 As a condition of Substantial Completion, submit Project Record Drawing prints and Shop Drawings to the City Representative for review and comment.

2.11.2. Upon receipt of the reviewed Project Record Drawings from the City, the CM@R shall correct any deficiencies and/or omissions to the drawings and prepare the following for submission to the City within 14 Days:

2.11.2.1 A complete set of electronic Project Record Drawings prepared in AutoCAD format compatible with City CADD technology. The Design Professional will provide files of the original Construction Documents to the CM@R for the use of preparing these final Project Record Drawings or the CM@R may contract with the Design Professional to revise and update the electronic drawing files. Each drawing shall be clearly marked with "As-Built Document."

2.11.2.2 [Section left intentionally blank]

2.11.2.3 The original copy of the Project Record Drawings (redline mark-ups).

2.12 Project Safety

2.12.1. CM@R recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto.

2.12.2. CM@R assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work.

2.12.3. CM@R shall, prior to commencing construction, designate a Safety Representative with the

necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, CM@R's Safety Representative shall be an individual stationed at the Site who may have other responsibilities on the Project in addition to safety.

- 2.12.4. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with CM@R's personnel, Subcontractors and others as applicable. CM@R shall provide the City copies of daily inspection reports and weekly safety meeting minutes, with the monthly payment applications.
- 2.12.5. CM@R and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any City-specific safety requirements set forth in the Contract Documents, provided that such City-specific requirements do not violate any applicable Legal Requirement.
- 2.12.6. CM@R will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to City's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.
- 2.12.7. CM@R's responsibility for safety under this Section is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

2.13 Warranty

- 2.13.1. CM@R warrants to City that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship.
- 2.13.2. CM@R's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work by persons other than CM@R or anyone for whose acts CM@R may be responsible and/or liable.
- 2.13.3. CM@R's warranty obligation shall be for two years, except for such greater period as may be required by the technical specifications.
- 2.13.4. Nothing in this warranty is intended to limit any manufacturer's warranty which provides City with greater warranty rights than set forth in this Section or the Contract Documents. CM@R will provide City with all manufacturers' warranties upon Substantial Completion.
- 2.13.5. Nothing in this warranty is intended to limit any other remedy at law that may be available to the City.

2.14 Correction of Defective Work

- 2.14.1. CM@R agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.13 above, within a period of two years from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by the Contract Documents or as may be allowed by law. A progress payment, or partial or entire use or occupancy of the Project by the City, shall not constitute acceptance of Work not in accordance with the Contract Documents.

2.14.2. [Section left intentionally blank]

- 2.14.3.** CM@R shall, take meaningful steps to commence correction of nonconforming Work subject to Section 2.13 above, within seven days of receipt of written notice from the City. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If CM@R fails to commence the necessary steps within such seven day period, the City, in addition to any other remedies provided under the Contract Documents or allowed by law, may provide CM@R with written notice that the City will commence correction of such nonconforming Work with its own forces.
- 2.14.4.** If the City does perform such corrective Work, CM@R shall be responsible for all reasonable costs incurred by the City in performing such correction.
- 2.14.5.** In the event nonconforming Work creates an emergency requiring an immediate response, the CM@R will respond and initiate corrections within twenty-four hours.
- 2.14.6.** The two year period referenced in Division 2.14.1 above applies only to CM@R's obligation to correct nonconforming Work as provided in this section and is not intended to constitute a period of limitations for any other rights or remedies the City may have regarding CM@R's obligations under the Contract Documents or as may be allowed by law.

Article 3 - City's Services and Responsibilities

3.1 Duty to Cooperate.

- 3.1.1 City shall, throughout the performance of the Work, cooperate with CM@R and perform its responsibilities, obligations and services in a timely manner to facilitate CM@R's timely and efficient performance of the Work and so as not to delay or interfere with CM@R's performance of its obligations under the Contract Documents.
- 3.1.2 City shall furnish at the CM@R's request, at no cost to the CM@R, a CADD file of the Construction Documents in AutoCAD format compatible with City Engineering and Architectural Services Department CADD technology.

3.2 City's Representative

- 3.2.1 City's Representative or designee shall be responsible for providing City-supplied information and approvals in a timely manner to permit CM@R to fulfill its obligations under the Contract Documents.
- 3.2.2 City's Representative or designee shall also provide CM@R with prompt notice if it observes any failure on the part of CM@R to fulfill its contractual obligations, including any noted default or defect in the project or non-conformance with the drawings and specifications.
- 3.2.3 The City may utilize field inspectors to assist the City's Representative during construction in observing performance of the CM@R.
 - 3.2.3.1 The inspector will be authorized to inspect all Work and materials furnished. Such inspection may extend to all or part of the Work and to the preparation, fabrication or manufacture of the materials to be used.
 - 3.2.3.2 The inspector will not be authorized to issue instructions contrary to the Construction Documents or to act as foremen for the CM@R.
 - 3.2.3.3 The inspector shall have the authority to reject work or materials until any questions at issue can be decided by the City's Representative.
 - 3.2.3.4 The furnishing of such services for the City shall not make the City responsible for or give the City control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs or responsibility for the CM@R's failure to perform the work in accordance with Contract Documents.

3.3 Design Professional Services

- 3.3.1 The City may contract separately with one or more Design and/or other Construction Professionals (DCP) to provide construction administration of the project. The CM@R shall not have any right to limit or restrict any contract modifications that are mutually acceptable to the DCP.
- 3.3.2 The City may contract with the DCP to provide some or all of the following services during the performance of the Work.
 - 3.3.2.1 Provide oversight of the Work. The City and CM@R shall endeavor to communicate through the DCP. Communications by and with the DCP 's consultants shall be through the DCP.
 - 3.3.2.2 The DCP shall conduct site visits at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general

if the Work is being performed in accordance with the Contract Documents. The DCP will keep the City informed of progress of the Work, and will endeavor to guard the City against defects and deficiencies in the Work. The DCP may have authority to reject construction which does not conform to the Construction Documents and to require additional inspection or testing of the construction in accordance with Section 2.9.

- 3.3.2.3 The DCP shall review and recommend approval of Payment Requests.
- 3.3.2.4 The DCP shall review and approve or take other appropriate action upon the CM@R's submittals such as Shop Drawings, Product Data and Samples in accordance with Section 2.8.
- 3.3.2.5 The DCSP shall interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the City or CM@R. The Design Professional's response to such requests will be made with reasonable promptness and within any time limits agreed upon.
- 3.3.2.6 The DCP shall prepare Change Orders/Change Directive, and may authorize minor changes in the Work as provided in Article 6.
- 3.3.2.7 The DCP shall conduct inspections to determine Substantial Completion and Final Acceptance/Completion.
- 3.3.2.8 The DCP shall receive and forward to the City for the City's review and records written warranties and related documents required by the Contract Documents and assembled by the CM@R.
- 3.4 **City's Separate Contractors.** City is responsible for all work performed on the Project or at the Site by separate contractors under City's control. City shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, CM@R in order to enable CM@R to timely complete the Work consistent with the Contract Documents.
- 3.5 **Permit Review and Inspections.**
 - 3.5.1 If requested by the CM@R, the City's Representative will provide assistance and guidance in obtaining necessary reviews, permits and inspections.

Article 4 - Contract Time

4.0. Contract Time.

- 4.0.1. Contract Time shall start with the Notice to Proceed for GMP No. 1, include a date for Substantial Completion and end with Final Acceptance/Completion.
- 4.0.2. Each GMP will establish a separate NTP date, Substantial Completion date, Performance Period and Contract Time for that GMP. The Substantial Completion dates and/or Performance Periods may be sequential or may run concurrently. The Performance Period for GMP No. 1 shall be _____ Days starting with the NTP.
- 4.0.3. CM@R agrees that it will commence performance of the Work and achieve Substantial Completion, Final Acceptance/Completion, the Performance Periods and Contract Time on or before the dates set.
- 4.0.4. All of the times set forth in this Article 4 shall be subject to adjustment in accordance Article 6.
- 4.0.5. Time is of the essence, for times and related matters set forth in Article 4 and the rest of this agreement.

4.1. Substantial Completion

- 4.1.1. Substantial Completion shall be for the entire Project unless a partial Substantial Completion is identified in the approved GMP schedule and stated in the Notice to Proceed letter. Substantial Completion shall be in accordance with its definition in Article 1. and with the criteria set forth in the Notice to Proceed.
- 4.1.2. Prior to notifying the City in accordance to Division 4.1.3 below, the CM@R shall inspect the Work and prepare and submit to the City a comprehensive list of items to be completed or corrected. The CM@R shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the CM@R to complete all Work in accordance with the Contract Documents.
- 4.1.3. CM@R shall notify City when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete.
- 4.1.4. Within five (5) days of City's receipt of CM@R's notice, City and CM@R will jointly inspect such Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents.
- 4.1.5. If such Work is substantially complete, City shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed within thirty (30) calendar days of the Substantial Completion date and before Final Acceptance/Completion, (iii) provisions (to the extent not already provided in the Contract Documents) establishing City's and CM@R's responsibility for the Project's security, maintenance, utilities and insurance pending Final Acceptance/Completion, (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion, and (v) the date for Final Acceptance/Completion.
- 4.1.6. City, at its option, may use a portion of the Work which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Division 4.1.5 above, (ii) CM@R and City have obtained the consent of their sureties and insurers, and to the extent applicable, the

appropriate government authorities having jurisdiction over the Project, and (iii) City and CM@R agree that City's use or occupancy will not interfere with CM@R's completion of the remaining Work.

4.2. Final Acceptance/Completion. Upon receipt of written notice that the Work or identified portions of the Work is ready for final inspection and acceptance, City and CM@R will jointly inspect to verify that the remaining items of Work have been completed as set forth in Division 4.1.5. Upon the City's determination that Final Completion has been achieved, the City will issue a Final Acceptance/Completion Letter and payment pursuant to Section 7.5.

4.3. Liquidated Damages.

4.3.1. CM@R understands that if Substantial Completion is not attained within the Contract Time as adjusted, City will suffer damages which are difficult to determine and accurately specify. CM@R agrees that if Substantial Completion is not attained within the Contract Time as adjusted, CM@R shall pay the City (\$1,500.00) as liquidated damages for each calendar Day that Substantial Completion extends beyond the date determined by the Contract Time as adjusted and further agrees that such amount is reasonable under the circumstances.

4.3.2. CM@R understands that if Final Acceptance/Completion is not attained within the Contract Time as adjusted, City will suffer damages which are difficult to determine and accurately specify. CM@R agrees that if Final Acceptance/Completion is not attained within the Contract Time as adjusted, CM@R shall pay the City (\$1,000.00) as liquidated damages for each calendar Day that Final Completion extends beyond the date determined by the Contract Time as adjusted and further agrees that such amount is reasonable under the circumstances.

4.4. Incentive Bonuses.

4.4.1. There are no incentive bonuses for this project unless otherwise agreed in writing by the parties.

4.5. Project Schedule

4.5.1. The Project Schedule approved as part of a GMP shall be updated and maintained throughout the Work.

4.5.2. The Project Schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve CM@R of its obligations to complete the Work within the Contract Time, as such dates may be adjusted in accordance with the Contract Documents.

4.5.3. An updated Project Schedule shall be submitted monthly to the City as part of the Payment Request.

4.5.3.1. CM@R shall provide City with a monthly status report with each Project Schedule detailing the progress of the Work, including: (i) if the Work is proceeding according to schedule, (ii) any discrepancies, conflicts, or ambiguities found to exist in the Contract Documents that require resolution, and (iii) other items that require resolution so as not to jeopardize ability to complete the Work as presented in the GMP and within the Contract Time.

4.5.3.2. With each schedule submittal the CM@R shall include a transmittal letter including the following:

- Description of problem tasks (referenced to field instructions, requests for information (RFI's), as appropriate.
- Current and anticipated delays including:
 - Cause of the delay
 - Corrective action and schedule adjustments to correct the delay.

- Known or potential impact of the delay on other activities, milestones, and by the date of Substantial Completion.
- Changes in construction sequence
- Pending items and status thereof including but not limited to:
 - Time Extension requests
 - Other items
- Substantial Completion date status:
 - If ahead of schedule, the number of calendar days ahead.
 - If behind schedule, the number of calendar days behind.
- Other project or scheduling concerns

4.5.4. City's review of and response to the Project Schedule is only for general conformance with the scheduling requirements of the Contract Documents. The review shall not relieve the CM@R from compliance with the requirements of the Contract Documents or be construed as relieving the CM@R of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

4.5.5. The Project Schedule shall include a Critical Path Method (CPM) diagram schedule that shall show the sequence of activities, the interdependence of each activity and indicate the Critical Path.

4.5.5.1. The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities. The CPM diagram shall be presented in a time scaled graphical format for the Project as a whole.

4.5.5.2. The CPM diagram schedule shall indicate all relationships between activities.

4.5.5.3. The activities making up the schedule shall be in sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.

4.5.5.4. The CPM diagram schedule shall be based upon activities, which coincide with the schedule of values.

4.5.5.5. The CPM diagram schedule shall show all submittals associated with each work activity and the review time for each submittal.

4.5.5.6. The schedule shall show milestones, including milestones for Owner-furnished information, and shall include activities for Owner-furnished equipment and furniture when those activities are interrelated with the CM@R activities.

4.5.5.7. The schedule shall include a critical path activity that reflects anticipated rain and weather delay during the performance of the contract. The duration shall reflect the average climatic range and usual industrial conditions prevailing in the locality of the site. Weather data shall be based on information provided by the National Weather Services or other source approved in writing by the City.

4.5.6. The Project Schedule shall consider the City's occupancy requirements showing portions of the Project having occupancy priority, and Contract Time.

4.5.7. Float time shall be as prescribed below;

4.5.7.1. The total Float within the overall schedule, is not for the exclusive use of either the City or the CM@R, but is jointly owned by both and is a resource available to and shared by both parties as needed to meet contract milestones and the Project completion date.

- 4.5.7.2.** The CM@R shall not sequester shared Float through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing, etc. Since Float time within the schedule is jointly owned, no time extensions will be considered or granted nor delay damages considered or paid until a delay occurs which extends the Work beyond the Substantial Completion date.
- 4.5.7.3.** Since Float time within the schedule is jointly owned, it is acknowledged that City-caused delays on the Project may be offset by City-caused time savings (i.e., critical path submittals returned in less time than allowed by the contract, approval of substitution requests and credit changes which result in savings of time to the CM@R, etc.). In such an event, the CM@R shall not be entitled to have considered or receive a time extension or delay damages until all City-caused time savings are exceeded, and the Substantial Completion date is also exceeded.

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Article 5- Contract Price

- 5.0.** The CM@R agrees at his own proper cost and expense, to do all Work as aforesaid for the construction of said improvements and to completely construct the same and install the material therein, as called for by this Agreement free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified within the time, or times, stated in the approved Guaranteed Maximum Price.
- 5.1. Contract Price.**
- 5.1.1.** The Contract Price will be as approved in the Guaranteed Maximum Price proposal attached as Exhibit B.
- 5.1.2.** Guaranteed Maximum Price is composed of the following not-to-exceed cost reimbursable or lump sum amounts defined below. The CM@R is at risk to cover any additional Project costs. Any amounts in excess of the actual Cost of the Work and/or CM@R's Contingency shall revert to the City.
- 5.1.2.1** The Cost of the Work is actual costs and is a not-to-exceed reimbursable amount.
- 5.1.2.2** The General Conditions Costs and the Construction Fee are firm fixed lump sums.
- 5.1.2.3** CM@R's Contingency is an amount the CM@R may use under the following conditions: (1) at its discretion for increases in the Cost of the Work, or (2) with written approval of the City for increases in General Condition Costs. CM@R's Contingency is assumed to be a direct project cost and, therefore, shall and shall be assumed to have received all markups at the time of GMP submission.
- 5.1.2.3.1** When the CM@R utilizes CM@R's Contingency funds, the CM@R shall make the appropriate changes to the schedule of values with the next regular progress payment request. The CM@R shall deduct the amount of CM@R's Contingency funds used from the CM@R's Contingency line item and add the same amount to the line item on the schedule of values where the funds were used. If the CM@R's Contingency funds are used for a new line item that was not given with the original schedule of values, that will be so indicated.
- 5.1.2.4** Taxes are deemed to include all sales, use, consumer and other taxes which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective or merely scheduled to go into effect. Taxes are actual costs and is a not-to-exceed reimbursable amount.
- 5.1.3** Owner's Contingency are funds to be used at the discretion of the Owner to cover any increases in Project costs that result from Owner directed changes or unforeseen site conditions. Markups for Construction Fee and taxes will be applied by the CM@R at the time that Owner's Contingency is used.
- 5.1.4** The GMP is subject to adjustments made in accordance with Article 6 and by GMP amendments to this Agreement.
- 5.1.4.1** GMP amendments are accumulative except for contingency. The amount of contingency for each GMP amendment will be negotiated separately.
- 5.1.4.2** If the GMP requires an adjustment due to changes in the Work, the cost of such changes is determined subject to Article 6. The markups that shall be allowed on such changes shall be no greater than the markups delineated in the approved GMP.

5.1.5 The CM@R shall submit to the City, upon request, all payrolls, reports, estimates, records and any other data concerning the Work performed or to be performed or concerning materials supplied or to be supplied, as well as Subcontractor or Consultant payment applications or invoices and such Subcontractor's or Consultant progress payment checks. The requirements of this section shall be included in all contracts between the CM@R and its Subcontractors and Consultants. The City may exercise its rights under this section as often as reasonably necessary in the City's sole judgment to assure the City has a complete and accurate understanding of all Project costs.

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Article 6 - Changes to the Contract Price and Time

6.0. Delays to the Work

- 6.0.1.** If CM@R is delayed in the performance of the Work that will cause a change in the date of Substantial Completion due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom CM@R is responsible, the Contract Times for performance may be reasonably extended by Change Order.
- 6.0.2.** The CM@R shall request an increase in the Contract Time by written notice including an estimate of probable effect of delay on progress of the Work. In the case of a continuing delay only one request is necessary.
- 6.0.3.** By way of example, events that may entitle CM@R to an extension of the Contract Time include acts or omissions of City or anyone under City's sole control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, delays by regulating agencies, wars, floods, labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, adverse weather conditions not reasonably anticipated, and other acts of God.
- 6.0.4.** If adverse weather conditions are the basis for a request for additional Contract Time, such requests shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an actual, adverse effect on the scheduled Substantial Completion.
- 6.0.5.** It is understood, however, that permitting the CM@R to proceed to complete any Work, or any part of the Work, after the date to which the time of completion may have been extended, shall in no way act as a waiver on the part of the City of any of its legal rights herein.
- 6.0.6.** In addition to CM@R's right to request a time extension for those events set forth in this Section, CM@R may also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for those events set forth in this Section that are beyond the control of both CM@R and City, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

6.1. Differing Site Conditions

- 6.1.1.** If CM@R encounters a Differing Site Condition, CM@R may be entitled to an adjustment in the Contract Price and/or Contract Times to the extent CM@R's cost and/or time of performance are adversely impacted by the Differing Site Condition.
- 6.1.2.** Upon encountering a Differing Site Condition, CM@R shall provide prompt written notice to City of such condition, which notice shall not be later than five (5) days after such condition has been encountered. CM@R shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

6.2. Errors, Discrepancies and Omissions.

- 6.2.1.** If the CM@R observes errors, discrepancies or omissions in the Contract Documents, he shall promptly notify the Design Professional and request clarification.

- 6.2.2.** If the CM@R proceeds with the Work affected by such errors, discrepancies or omissions, without receiving such clarifications, he does so at his own risk. Adjustments involving such circumstances made by the CM@R prior to clarification by the Design Professional shall be at the CM@R's risk.
- 6.3. City Requested Change in Work.**
- 6.3.1.** The City reserves the right to make, at any time during the progress of the Work, such alterations to the Work as may be found necessary or in the City's best interest.
- 6.3.2.** Such alterations and changes shall not invalidate this Agreement nor release the surety and the CM@R agrees to perform the Work as altered, the same as if it has been a part of the original Contract Documents.
- 6.3.3.** The City will request a proposal for a change in Work from CM@R, and any adjustment in the Contract Price and/or Contract Times shall be made based on a mutually agreed upon cost and time.
- 6.4. Legal Requirements.**
- 6.4.1.** The Contract Price and/or Contract Times shall be adjusted to compensate CM@R for the effects of any changes in the Legal Requirements enacted after the date of the acceptance of the GMP, affecting the performance of the Work
- 6.5. Change Directives and Change Orders.**
- 6.5.1.** City and CM@R shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for a Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the adjustment.
- 6.5.2.** All changes in Work authorized by Change Orders shall be performed under the conditions of the Contract Documents
- 6.6. Minor Changes in the Work**
- 6.6.1.** The City has authority to order minor changes in Work that do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Such changes shall be affected by written order and shall be binding on the City and CM@R. The CM@R shall carry out such written orders promptly.
- 6.6.2.** CM@R may make minor changes in Work, provided, however that CM@R shall promptly inform City, in writing, of any such changes and record such changes, if appropriate, on the Project Record Documents maintained by CM@R.
- 6.6.3.** Minor changes in Work will not involve an adjustment in the Contract Price and/or Contract Times.
- 6.7. Contract Price Adjustments**
- 6.7.1.** The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:
- 6.7.1.1.** Unit prices set forth in the Agreement or as subsequently agreed to between the parties;
- 6.7.1.2.** A mutually accepted, lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by City; and

- 6.7.1.3.** Costs, fees and any other markups.
- 6.7.2.** The markups that shall be allowed on such changes shall be no greater than the markups delineated in the approved GMP as shown on Exhibit B.
- 6.7.3.** If an increase or decrease cannot be agreed to as set forth in items 6.7.1 through .3 above and City issues a Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement. CM@R shall maintain a documented, itemized accounting evidencing the expenses and savings associated with such changes.
- 6.7.4.** If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to City or CM@R because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.
- 6.7.5.** If City and CM@R disagree upon whether CM@R is entitled to be paid for any services required by City, or if there are any other disagreements over the scope of Work or proposed changes to the Work, City and CM@R shall resolve the disagreement pursuant to Article 8 hereof.
- 6.7.5.1.** As part of the negotiation process, CM@R shall furnish City with a good faith estimate of the costs to perform the disputed services in accordance with City's interpretations.
- 6.7.5.2.** If the parties are unable to agree and City expects the CM@R to perform the services in accordance with City's interpretations, CM@R shall proceed to perform the disputed services, conditioned upon City issuing a written order to CM@R (i) directing CM@R to proceed and (ii) specifying City's interpretation of the services that are to be performed.
- 6.7.6.** **Emergencies.** In any emergency affecting the safety of persons and/or property, CM@R shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time resulting from emergency work under this Division shall be determined as provided in this Article.

Article 7- Procedure for Payment

- 7.0.** For and in consideration of the faithful performance of the work herein embraced as set forth in the Contract Documents, which are a part hereof and in accordance with the directions of the City and to its satisfaction, the City agrees to pay the said CM@R the actual Cost of the Work and any applicable General Conditions Costs including, insurance and bonding, taxes and the CM@R's Construction Fee, but no more than the GMP as adjusted by any change orders. Payment for the specific work under this Agreement will be made in accordance with payment provisions detailed below and in compliance with ARS 34-609.
- 7.1. GMP Payment Request**
- 7.1.1.** At the pre-construction conference prescribed in Section 2.5, CM@R shall submit for City's review and approval a schedule of values. The schedule of values will serve as the basis for monthly progress payments made to CM@R throughout the Work.
- 7.1.2.** At least five (5) working days prior to the date established for a Payment Request, the CM@R shall submit an updated Project Schedule and meet with the City's Representative to review the progress of the Work as it will be reflected on the Payment Request.
- 7.1.3.** The Payment Request shall constitute CM@R's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Payment Request, and that all Work will pass to City free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project.
- 7.1.4.** The Payment Request may request payment for stored equipment and materials if construction progress is in reasonable conformance with the approved schedule.
- 7.1.4.1.** For equipment and materials suitably stored at the Site, the equipment and materials shall be protected by suitable insurance and City shall receive the equipment and materials free and clear of all liens and encumbrances.
- 7.1.4.2.** For materials and equipment stored off the Site, the City must approve the storage. The material and equipment must be stored within the County where the Work is to be constructed or as the City may otherwise approve in writing and be accessible for City's inspection. The CM@R must protect the City's interest and shall be responsible for insurance, bonding, storage and transportation to the Site.
- 7.1.4.3.** All bonds and insurance required for stored materials shall name the City as the loss payee to the extent of its interest in the stored materials.
- 7.1.5.** CM@R shall submit its payment request to City on the monthly anniversary of the construction Notice To Proceed beginning with the first month after the construction Notice To Proceed.
- 7.2. Payment of GMP**
- 7.2.1.** City shall make payment in accordance with ARS 34-609. Payment will be made as set forth in the referenced provisions but in each case, less the total of payments previously made, and less amounts properly retained under Section 7.3 below or as otherwise allowed by Arizona law.
- 7.2.2.** City shall pay CM@R all amounts properly due. If City determines that CM@R is not entitled to all or part of a Payment Request, it will notify CM@R in writing within (7) days after the date Payment Request is received by the City. The notice shall indicate the specific amounts City intends to withhold, the reasons and contractual basis for the withholding, and the specific measures CM@R must take to rectify City's concerns. CM@R and City will attempt to resolve City's concerns. If the parties cannot resolve such concerns, CM@R may pursue its rights under the Contract Documents, including those under Article 8 hereof.

7.3. Retention on GMP

- 7.3.1.** All retention shall be retained and paid out pursuant to ARS 34-609 and other applicable Arizona law. Where the provisions of this agreement conflict with the above referenced law, the law shall control. City will retain ten percent (10%) of each Payment Request amount provided, however, that when fifty percent (50%) of the Work has been completed by CM@R, upon request of the CM@R, and providing CM@R is making satisfactory progress on the Project, City may pay CM@R one-half (1/2) the amount retained to that point and reduce the amount subsequently retained to five percent (5%) from CM@R's subsequent Payment Requests. If, at any time the City determines satisfactory progress is not being made, the 10% retention shall be reinstated for all progress payments made under this agreement subsequent to the determination.
- 7.3.2.** In lieu of retention, the CM@R may provide as a substitute, an assignment of time certificates of deposit (CDs) from a bank licensed by Arizona, securities guaranteed by the United States, securities of the United States, the state of Arizona, Arizona counties, Arizona municipalities, or shares of savings and loan institutions authorized to transact business in Arizona.
- 7.3.2.1.** CDs assigned to the City must be maintained at the City's servicing bank in the form of time deposit receipt accounts.
- 7.3.2.2.** Securities deposited in lieu of retention must be deposited into a separate account with a bank having a branch located in the City.
- 7.3.2.3.** CDs and Securities shall be assigned exclusively for the benefit of the City pursuant to an appropriate Escrow Agreement.
- 7.3.2.4.** All substitute securities must be accompanied by a signed and acknowledged waiver of any right or power of the obligor to set off any claim against either the City or the CM@R in relationship to the security assigned.
- 7.3.3.** City shall pay or substitute security shall be returned to CM@R within 60 days after Final Completion and acceptance of work under the Contract unless the City's City Council provides a specific written finding of reasons justifying the delay and payment of retention. However, the City may not retain any monies after 60 days which are in excess of the amount necessary to pay the expenses the City Council reasonably expects to incur in order to pay or discharge the expenses determined in the finding justifying the retention of monies.

7.4. Final Payment

- 7.4.1.** After receipt of a final Payment Request, City shall make final payment 60 days after the receipt by the City, provided that CM@R has completed all of the Work in conformance with the Contract Documents, a Final Acceptance/Completion Letter has been issued by the City, and the CM@R has provided the information and documents noted in 7.4.2.
- 7.4.2.** At the time of submission of its final Payment Request, CM@R shall provide the following information:
- 7.4.2.1.** An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect City's interests;
- 7.4.2.2.** A general release executed by CM@R waiving, upon receipt of final payment by CM@R, all claims, except those claims previously made in writing to City and remaining unsettled at the time of final payment; and
- 7.4.2.3.** Consent of CM@R's surety, if any, to final payment.

7.5. Payments To Subcontractors or Supplier

7.5.1. CM@R shall pay its Subcontractors or suppliers within seven (7) calendar days of receipt of each progress payment from the City and as required by Arizona law. The CM@R shall pay for the amount of Work performed or materials supplied by each Subcontractor or supplier as accepted and approved by the City with each progress payment. In addition, any reduction of retention by the City to the CM@R shall result in a corresponding reduction to Subcontractors or suppliers who have performed satisfactory work. CM@R shall pay Subcontractors or suppliers the reduced retention within fourteen (14) calendar days of the payment of the reduction of the retention to the CM@R. No Contract between CM@R and its Subcontractors and suppliers may materially alter the rights of any Subcontractor or supplier to receive prompt payment and retention reduction as provided herein or by Arizona law.

7.5.2. If the CM@R fails to make payments in accordance with these provisions, the City may take any one or more of the following actions and CM@R agrees that the City may take such actions:

7.5.2.1. Hold the CM@R in default under this Agreement;

7.5.2.2. Withhold future payments including retention until proper payment has been made to Subcontractors or suppliers in accordance with these provisions;

7.5.2.3. Reject all future offers to perform work for the City from the CM@R for a period not to exceed one year from Substantial Completion date of this Project; and/or

7.5.2.4. Terminate this agreement.

7.5.3. Should the City fail or delay in exercising or enforcing any right, power, privilege, or remedy under this Section, such failure or delay shall not be deemed a waiver, release, or modification of the requirements of this Section or of any of the terms or provisions thereof.

7.5.4. CM@R shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Agreement.

7.6. Record Keeping and Finance Controls

7.6.1. Records of the CM@R's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the City and CM@R shall be kept on a generally recognized accounting basis and shall be available for three years after Final Acceptance/Completion of the Project.

7.6.2. The City, its authorized representative, and/or the appropriate federal agency, reserve the right to audit the CM@R's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate Contract Documents and any change orders.

7.6.3. The City reserves the right to decrease Contract Price and/or payments made on this Agreement if, upon audit of the CM@R's records, the audit discloses the CM@R has provided false, misleading, or inaccurate cost and pricing data.

7.6.4. The CM@R shall include a similar provision in all of its agreements with Subconsultants and Subcontractors providing services under the Contract Documents to ensure the City, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants' and Subcontractors' records to verify the accuracy of cost and pricing data.

7.6.5. The City reserves the right to decrease Contract Price and/or payments made under this Agreement if the above provision is not included in Subconsultant's and Subcontractor's contracts, and one or more Subconsultants and/or Subcontractors do not allow the City to audit their records

to verify the accuracy and appropriateness of pricing data.

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Article 8- Claims and Disputes

- 8.1** City Contract Representative's Resolution of Claims and Disputes; Review by Administrative Services General Manager
- 8.1.1** This Article relates to claims for additional compensation and any other differences between the parties arising under and by virtue of the Contract. Such claims are to be resolved at the earliest possible time and at the first responsible level so as to increase the possibility that such matters will be resolved without the vexation of litigation or other formal dispute resolution proceedings.
- 8.1.2** All claims, including but not limited to, claims relating to adjustments or interpretations of the Contract, payments of money, or other relief with respect to the terms of the Contract, shall be referred initially in writing to the City Contract Representative for action. The responsibility to substantiate claims shall rest with the Contractor.
- 8.1.3** Claims by the Contractor must be made within twenty-one (21) days after the event giving rise to the claim or within twenty-one (21) days after the Contractor first becomes aware of the condition giving rise to the claim, whichever is later.
- 8.1.4** Pending final resolution of a claim, the Contractor shall proceed diligently with performance of the Contract and the City shall continue to make payments in accordance with the Contract.
- 8.1.5** The City Contract Representative shall, within twenty-one (21) days of receipt of a claim, do one of the following:
- (1) Issue a decision either rejecting or approving the claim.
 - (2) Suggest an equitable compromise of the claim.
 - (3) Provide a schedule to the Contractor indicating when he expects to be able to take action, which shall be within a reasonable time.
- 8.1.6** The City Contract Representative may require the submission of additional documentation from the Contractor to facilitate a decision.
- 8.1.7** The Contractor shall have ten (10) days from the date of the City Contract Representative's final decision rejecting or approving a claim, or suggesting a compromise, within which to accept or object to the decision. Failure of the Contractor to accept or object to the decision in writing within such ten (10) day period shall be deemed an acceptance of the decision. If the Contractor rejects the decision of the City Contract Representative in writing within such ten (10) day period, the matter shall be referred to the City's Administrative Services General Manager for de novo review.
- 8.1.8** The Administrative Services General Manager shall have sixty (60) days from receipt of a written objection by the Contractor to the City Contract Representative's final decision, or such longer period as the parties may stipulate in writing, to review the matter and issue a decision. During such period, the Administrative Services General Manager may require such additional documentation or testimony as deemed necessary to support his/her response.
- 8.2** **Representatives of the Parties**
- 8.2.1** **City's Representative** City designates the individual listed below or his designee as its Representative ("City's Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Division 8.1.3:

Scott Mangarpan, City of Cottonwood

Article 9 – Suspension and Termination

9.1 City's Right to Stop Work

9.1.1 City may, at its discretion and without cause, order CM@R in writing to stop and suspend the Work. Such suspension shall not exceed one hundred and eighty (180) consecutive days.

9.1.2 CM@R may seek an adjustment of the Contract Price and/or Contract Time if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of Work by City.

9.1.2 Termination for Convenience

9.1.2.1 Upon receipt of written notice to CM@R, City may, at its discretion and without cause, elect to terminate this Agreement. In such event, City shall pay CM@R only the direct value of its completed Work and materials supplied as of the date of termination. CM@R shall be entitled to profit and overhead on completed Work only, but shall not be entitled to anticipated profit or anticipated overhead.

9.1.2.2 If the City suspends the Work for 181 consecutive days or more, such suspension shall be deemed a termination for convenience.

9.1.3 Upon such termination, the CM@R shall proceed with the following obligations.

9.1.3.1 Stop Work as specified in the notice.

9.1.3.2 Place no further subcontracts or orders.

9.1.3.3 Terminate all subcontracts to the extent they relate to the work terminated.

9.1.3.4 Assign to the City all right, title and interest of the CM@R under the subcontracts terminated, in which case the City shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

9.1.3.5 Take any action that may be necessary for the protection and preservation of the property related to the contract that is in the possession of the CM@R and which the City has or may acquire an interest.

9.1.4 The CM@R shall submit complete termination inventory schedules no later than 90 days from the date of the notice of termination.

9.1.5 The City shall pay CM@R the following:

9.1.5.1 The direct value of its completed Work and materials supplied as of the date of termination.

9.1.5.2 The reasonable and direct, actual costs and expenses attributable to such termination. Reasonable costs and expenses shall not include, among other things, anticipated profit, anticipated overhead, or costs arising from CM@R's failure to perform as required under this contract.

9.1.5.3 CM@R shall be entitled to profit and overhead on completed Work only, but shall not be entitled to anticipated profit or anticipated overhead. If it appears the CM@R would have sustained a loss on the entire Work had the CM@R completed the Work, the CM@R shall not be allowed profit and the City shall reduce the settlement to reflect the indicated rate of loss.

9.1.6 The CM@R shall maintain all records and documents for three years after final settlement. These records shall be maintained and subject to auditing as prescribed in Section 7.6.

9.2 City's Right to Perform and Terminate for Cause

- 9.2.2** If the City provides the CM@R with a written order to provide adequate maintenance of traffic, adequate cleanup, adequate dust control or to correct deficiencies or damage resulting from abnormal weather conditions, and the CM@R fails to comply in a time frame specified, the City may have work accomplished by other sources at the CM@R's expense.
- 9.2.3** If CM@R persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Subconsultants and/or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time, as such times may be adjusted, and in compliance with all other contract terms, conditions and specifications, or (vi) perform material obligations under the Contract Documents, then City, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Divisions 9.2.3 and 9.2.4 below.
- 9.2.4** Upon the occurrence of an event set forth in Division 9.2.2 above, City may provide written notice to CM@R that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of CM@R's receipt of such notice.
- 9.2.4.1** If CM@R fails to cure, or reasonably commence to cure, such problem, then City may give a second written notice to CM@R of its intent to terminate within an additional seven (7) day period.
- 9.2.4.2** If CM@R, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then City may declare the Agreement terminated for default by providing written notice to CM@R of such declaration.
- 9.2.5** Upon declaring the Agreement terminated pursuant to Subdivision 9.2.3.2 above, City may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which CM@R hereby transfers, assigns and sets over to City for such purpose, including the assignment of subcontracts pursuant to Paragraph 12.7, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items.
- 9.2.6** In the event of such termination, CM@R shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, the CM@R will only be entitled to be paid for Work performed and accepted by the City prior to its default minus amounts described in Paragraph 9.2.6.
- 9.2.7** If City's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then CM@R shall be obligated to pay the difference to City. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by City in connection with the procurement and defense of claims arising from CM@R's default.
- 9.2.8** If City improperly terminates the Agreement for cause, the termination for cause shall be converted to a termination for convenience in accordance with the provisions of Section 9.1.

Article 10 - Insurance and Bonds

10.0 Insurance Requirements

10.0.1 CM@R and Subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the Work hereunder by the CM@R, his agents, representatives, employees or Subcontractors.

10.0.2 The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement or amounts City may recover.

10.0.3 The City in no way warrants that the minimum limits contained herein are sufficient to protect the CM@R from liabilities that might arise out of the performance of the work under this Agreement by the CM@R, his agents, representatives, employees, or subcontractors. CM@R is free to purchase such additional insurance as may be determined necessary.

10.1 **Minimum Scope And Limits Of Insurance.** CM@R shall provide coverage with limits of liability not less than those stated below:

10.1.1 **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, direct operations, sublet work, completed operations, sexual predator coverage, broad form contractual liability and XCU coverage.

• General Aggregate/for this Project	\$2,000,000/\$2,000,000
• Products – Completed Operations Aggregate	\$2,000,000
• Personal and Advertising Injury	\$2,000,000
• Each Occurrence	\$2,000,000
• Maximum Deductible	\$2,000
• Med Exp,	\$10,000 any one person

The policy shall be endorsed to include the following additional insured language: **"The City shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the CM@R".**

10.1.2 **Automobile Liability - Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Agreement.**
 Combined Single Limit (CSL) \$2,000,000

The policy shall be endorsed to include the following additional insured language: **"The City shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the CM@R, including automobiles owned, leased, hired or borrowed by the CM@R".**

10.1.3 **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease - Each Employee	\$100,000
Disease – Policy Limit	\$500,000

The policy shall contain a **waiver of subrogation** against the City.

10.1.4 **Builders' Risk Insurance or Installation Floater** \$_____
 In an amount equal to the initial Agreement Amount plus additional coverage equal to Agreement

Amount for all subsequent change orders.

- 10.1.4.1 The City, the CM@R, Subcontractors, Design Professional and Design Professional's consultant and any others with an insurable interest in the work shall be **Named Insureds** on the policy.
- 10.1.4.2 Coverage shall be written on an all risk, replacement cost basis and **shall include coverage for soft costs, flood and earth movement**.
- 10.1.4.3 Policy shall be maintained until whichever of the following shall first occur: (i) final payment has been made; or, (ii) until no person or entity, other than the City, has an insurable interest in the property required to be covered.
- 10.1.4.4 Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the City.
- 10.1.4.5 Policy must provide coverage from the time any covered property becomes the responsibility of the CM@R, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site, or awaiting installation, whether on or off site.
- 10.1.4.6 Policy shall contain a **waiver of subrogation** against the City.
- 10.1.4.7 CM@R is responsible for the payment of all policy deductibles.
- 10.2 **Additional Insurance Requirements.** The policies shall include, or be endorsed to include, the following provisions:
 - 10.2.1 On insurance policies where the City is named as an additional insured, the City shall be an additional insured to the full limits of liability purchased by the CM@R even if those limits of liability are in excess of those required by this Agreement.
 - 10.2.2 The CM@R's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
 - 10.2.3 Coverage provided by the CM@R shall not be limited to the liability assumed under the indemnification provisions of this Agreement.
- 10.3 **Notice Of Cancellation.** Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the City. Such notice shall be sent directly to the City Representative and shall be sent by certified mail, return receipt requested.
- 10.4 **Acceptability Of Insurers.** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect the CM@R from potential insurer insolvency.
- 10.5 **Verification Of Coverage**
 - 10.5.1 CM@R shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

- 10.5.2** All certificates and endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.
- 10.5.3** All certificates required by this Agreement shall be sent directly to City's Representative. The City project/contract number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**
- 10.5.4** If the Certificate of Insurance reflecting policy coverage and cancellation notice does not conform to the City's requirements, the contractor must:
- Submit a current insurance certificate (dated within 15 days of the payment request submittal) with each payment request form. The payment request will be rejected if the insurance certificate is not submitted with the payment request and/or if the insurance or certificate is deficient or non-conforming.
- 10.6** **Subcontractors.** CM@Rs' certificate(s) shall include all Subcontractors as additional insureds under its policies or CM@R shall furnish to the City separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to the minimum requirements identified above.
- 10.7** **Approval.** Any modification or variation from the insurance requirements in this Contract shall be made by the City, whose decision shall be final. Such action **will** not require a formal Contract amendment, but may be made by administrative action.
- 10.8** **Bonds and Other Performance Security.**
- 10.8.1** Prior to execution of this Agreement, the CM@R must provide a performance bond and a labor and materials bond, each in an amount equal to the full amount of the GMP set forth in this Agreement and in strict compliance with ARS 34-610 and ARS 34-611 and other applicable laws.
- 10.8.2** Each such bond shall be executed by a surety company or companies holding a Certificate of Authority to transact surety business in the state of Arizona, issued by the Director of the Arizona Department of Insurance. A copy of the Certificate of Authority shall accompany the bonds. The Certificate shall have been issued or updated within two years prior to the execution of this Agreement.
- 10.8.3** The bonds shall be made payable and acceptable to the City.
- 10.8.4** The bonds shall be written or countersigned by an authorized representative of the surety who is either a resident of the state of Arizona or whose principal office is maintained in this state, as by law required, and the bonds shall have attached thereto a certified copy of Power of Attorney of the signing official.
- 10.8.4.1** If one Power of Attorney is submitted, it shall be for twice the total GMP amount.
- 10.8.4.2** If two Powers of Attorney are submitted, each shall be for the total GMP amount. Personal or individual bonds are not acceptable.
- 10.8.5** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract Documents, the CM@R shall promptly furnish a copy of the bonds or shall permit a copy to be made.

10.8.6 All bonds submitted for this project shall be provided by a company which has been rated AM Best rating of "B+VI or better for the prior four quarters" by the A.M. Best Company.

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Article 11 - Indemnification

11.1 CM@R's General Indemnification.

- 11.1.1 CM@R agrees to indemnify and save harmless the City, its officers, agents and employees, and any jurisdiction or agency issuing permits for any work included in the Project, their officers, agents and employees, hereinafter referred to as indemnitee, from all suits and claims, including attorney's fees and cost of litigation, actions, loss, damage, expense, cost or claims of any character or any nature arising out of the work done in fulfillment of the terms of the Contract Documents or on account of any act, claim or amount arising or recovered under worker's compensation law or arising out of the failure of the CM@R to conform to any statutes, ordinances, regulation, law or court decree. It is agreed that the CM@R will be responsible for primary loss investigation, defense and judgment costs where this contract of indemnity applies. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the City, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the City.

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Article 12 – General Provisions

- 12.1 Contract Documents**
- 12.1.1** Contract Documents are as defined in Article 1.
- 12.1.2** The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Times for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards.
- 12.1.3** In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in the definition of Contract Documents in Article 1.
- 12.1.3.1** On the drawings, given dimensions shall take precedence over scaled measurements, and large scale drawings over small-scale drawings.
- 12.1.3.2** Specifications take precedence over Plans.
- 12.1.3.3** In the event of any inconsistency, conflict, or ambiguity between the Contract Documents and the Design Phase Contract, the Contract Documents take precedence over the Design Phase Contract
- 12.1.4** The headings used in this Agreement, or any other Contract Documents, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.
- 12.1.5** The Contract Documents form the entire agreement between City and CM@R and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.
- 12.2 Amendments.** The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.
- 12.3 Time is of the Essence.** City and CM@R mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.
- 12.4 Mutual Obligations.** City and CM@R commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.
- 12.5 Cooperation And Further Documentation.** The CM@R agrees to provide the City such other duly executed documents as shall be reasonably requested by the City to implement the intent of the Contract Documents.
- 12.6 Assignment.** Neither CM@R nor City shall, without the written consent of the other assign, transfer or sublet any portion of this Agreement or part of the Work or the obligations required by the Contract Documents.
- 12.7 Contingent Assignment of Subcontracts.** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:
- 12.7.1** Assignment is effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 9.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and

- 12.7.2** Assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract. Said contingent assignment shall be in all subcontracts.
- 12.8** **Successorship.** CM@R and City intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.
- 12.9** **Third Party Beneficiary.** Nothing under the Contract Documents shall be construed to give any rights or benefits in the Contract Documents to anyone other than the City and the CM@R, and all duties and responsibilities undertaken pursuant to the Contract Documents will be for the sole and exclusive benefit of City and the CM@R and not for the benefit of any other party.
- 12.10** **Governing Law.** The Agreement and all Contract Documents shall be deemed to be made under, and shall be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Contract or to obtain any remedy with respect hereto shall be brought in the Superior Court, in the Arizona County in which the Work is to be constructed, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such Court.
- 12.11** **Severability.** If any provision of the Contract Documents or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of the Contract Documents and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.
- 12.12** **Compliance with Federal Laws.** CM@R understands and acknowledges the applicability of Federal Laws including, but not limited to, the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989 to it. The CM@R agrees to comply with these laws in performing the Contract Documents and to permit the City to verify such compliance.
- 12.13** **Legal Requirements.** CM@R shall perform all Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.
- 12.14** **Fair Treatment of Workers.** The CM@R shall keep fully informed of all Federal and State laws, County and City ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of the work. CM@R shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to laws and regulations ensuring fair and equal treatment for all employees and against unfair employment practices, including OSHA and the Fair Labor Standards Act (FLSA). The CM@R shall protect and indemnify the City and its representatives against any claim or liability arising from or based on the violation of such, whether by himself or his employees.
- 12.15** **Independent Contractor.** The CM@R is and shall be an independent contractor. Any provisions in the Contract Documents that may appear to give the City the right to direct the CM@R as to the details of accomplishing the Work or to exercise a measure of control over the Work means that the CM@R shall follow the wishes of the City as to the results of the Work only. These results shall comply with all applicable laws and ordinances.
- 12.16** **City's Right Of Cancellation.** All parties hereto acknowledge that this Agreement is subject to cancellation by the City pursuant to the provisions of Section 38-511, Arizona Revised Statutes and other applicable Arizona law.
- 12.17** **Survival.** All warranties, representations and indemnifications by the CM@R shall survive the completion or termination of this Agreement.

12.18 Covenant Against Contingent Fees. The CM@R warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the City Council, or any employee of the City has any interest, financially, or otherwise, in the firm. For breach or violation of this warrant, the City shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

12.19 No Waiver. The failure of either party to enforce any of the provisions of the Contract Documents or to require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of such provisions, nor shall it affect the validity of the Contract Documents or any part thereof, or the right of either party to thereafter enforce each and every provision.

12.19 Notice.

12.19.1 Unless otherwise provided, any notice, request, instruction or other document to be given under this Agreement by any party to any other party shall be in writing and shall be delivered in person or by courier or facsimile transmission or mailed by certified mail, postage prepaid, return receipt requested and shall be deemed given upon (a) confirmation of receipt of a facsimile transmission, (b) confirmed delivery by hand or standard overnight mail or (c) upon the expiration of three (3) business days after the day mailed by certified mail, as follows:

To CM@R:

D. L. Withers Construction
Address: 3220 East Harbour Drive, Phoenix, AZ 85034
Phone: 602-438-9500
Fax: 602-438-9600

To City:

Doug Bartosh, City Manager, City of Cottonwood
Address: 827 N. Main St., Cottonwood, AZ 86326
Phone: 928-634-5526
Fax: 928-634-5520

With a Copy to:

Scott Mangarpan, Project Manager, City of Cottonwood
Address: 111 N. Main Street, Cottonwood, AZ 86326
Phone: 928-634-01863 ext 3327
Fax: 928-639-4254

or to such other place and with such other copies as either Party may designate as to itself by written notice to the other Party. Rejection, any refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

12.19.2 Notices Related to Payment, Securities-in-lieu, Bonds. Any notice, request, instruction or other document to be given under this Agreement by any party to any other party related to payment, securities-in-lieu, bonds or other instrument securing the performance of this Agreement, including but not limited to, bid bonds, performance bonds, payment bonds or letters of credit, shall be in writing and shall be delivered in person or by courier or facsimile transmission or mailed by certified mail, postage prepaid, return receipt requested and shall be deemed given upon (a) confirmation of receipt of a facsimile transmission, (b) confirmed delivery by hand or standard

overnight mail or (c) upon the expiration of three (3) business days after the day mailed by certified mail, as follows:

To CM@R:

D. L. Withers Construction
Address: 3220 East Harbour Drive, Phoenix, AZ 85034
Phone: 602-438-9500
Fax: 602-438-9600

To City:

Doug Bartosh, City Manager, City of Cottonwood
Address: 827 N. Main St., Cottonwood, AZ 86326
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or to such other place and with such other copies as either Party may designate as to itself by written notice to the other Party. Rejection, any refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

12.20 Equal Opportunity/Affirmative Action

12.20.1 The CM@R shall comply with the provisions of this Agreement, including the requirements of City policies, pertaining to discrimination and accepting applications or hiring employees. The CM@R shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age or disability nor otherwise commit an unfair employment practice. The CM@R will take affirmative action to ensure that applicants are employed, and employees are dealt with during employment, without regard to their race, color, religion, gender or national origin, age or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship as well as all other labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. The CM@R further agrees that this clause will be incorporated in all subcontracts, job-consultant contracts of this Contract entered into by the CM@R.

12.20.2 The City extends to each individual, firm, vendor, supplier, contractor, and Subcontractor an equal economic opportunity to compete for City business and strongly encourages voluntary utilization of Disadvantaged and/or Minority-owned or Woman-owned business to reflect both the industry and community ethnic composition.

12.20.3 The following two paragraphs apply to the CM@R named herein and shall appear in all contracts between the CM@R and any and all Subcontractors who are employed on this Project. The CM@R further agrees that the two paragraphs will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract.

"Any Party (Subcontractor), in performing under this contract, shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age or disability nor otherwise commit an unfair employment practice.

The Party (Subcontractor) will take affirmative action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, gender or national origin, age or disability. Such action shall include, but not be limited to the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training; including apprenticeship."

The CM@R further agrees that the above two paragraphs will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract.

12.21 Confidentiality Of Plans & Specifications

12.21.1 Any plans or specifications you receive regarding this project are for official use only. You may not share them with others except as required to fulfill the obligations of your contract with the City.

12.21.2 All Record Documents, Shop Drawings and other plans or drawings prepared or submitted by the CM@R shall include the following language: "These plans are official use only and may not be shared with others except as required to fulfill the obligations of your contract with the City".

12.22 Hazardous Materials

12.22.1 Unless included in the Work, if the CM@R encounters onsite material which he reasonably believes to contain asbestos, polychlorinated biphenyl (PCB), or other hazardous substances or materials regulated by Public Health Laws, he shall immediately stop work and report the condition to the City.

12.22.2 If the material is found to contain asbestos, PCB or other hazardous substances or materials regulated by Public Health Laws, the CM@R shall not resume work in the affected area until the material has been abated or rendered harmless. The CM@R and the City may agree, in writing, to continue work in non-affected areas onsite.

12.22.3 An extension of Contract Time may be granted in accordance with Article 6.

12.22.4 The CM@R will comply with all applicable laws/ordinances and regulations and take all appropriate health and safety precautions upon discovery.

12.23 [Section left intentionally blank.]

12.24 **Traffic Control.** CM@R will comply with all traffic control provisions as may be provided in the technical specifications.

12.25 In accordance with A.R.S. § 35-397 the Contractor hereby certifies that the Contractor does not have scrutinized business operations in Iran or Sudan.

12.26 By entering the contract, Contractor warrants compliance with ARS subsection 41-4401, ARS subsection 23-214, the Federal Immigration and Nationality Act (FINA), and all other federal immigration laws and regulations. The Contractor shall obtain statements from its Subcontractors certifying compliance with the foregoing requirements and shall furnish the statements to the City upon request. These warranties shall remain in effect through the term of the contract.

The Contractor and its Subcontractors shall also maintain employment eligibility verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under this contract. I-9 Forms are available for download at USCIS.GOV.

Contractor also warrants and certifies by execution of this contract that Contractor and all Subcontractors have or shall, prior to construction, comply and maintain compliance with FINA and A.R.S. § 41-4401 and 23-214 which require compliance with federal immigration laws by State employers, State contractors and State subcontractors in accordance with the E-Verify Employee Eligibility Verification Program.

DRAFT

CITY OF COTTONWOOD, ARIZONA

CITY OF COTTONWOOD

[PROJECT NAME]

Project No. _____, Contract No. _____

IN WITNESS WHEREOF, two (2) identical counterparts of this Agreement each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties herein above named, on the date and year first above written.

The CM@R agrees that this Agreement, as awarded, is for the stated work and understands that payment for the total work will be made on the basis of the indicated amount(s), per the terms and conditions of the Agreement.

Guaranteed Maximum Price No. 1

(Two million, four hundred and ten thousand, and eleven dollars)

\$2,410,011

CITY OF COTTONWOOD

D. L. Withers Construction
a legal entity

By: _____
Diane Joens, Mayor

By: _____
_____, President

DATE: _____

DATE: _____

RECOMMENDED:

By: _____ (Corporate Seal)

APPROVED AS TO FORM:

APPROVED BY CITY
DATE:

EXHIBIT A - PROJECT DESCRIPTION

Following is a brief description of the Project for which the construction services specified in this Contract are to be performed:

CM@R Design Phase and Construction Services as necessary and/or as set forth in the Contract Documents for the construction of the Cottonwood Emergency Communications Center to be located in Cottonwood, Arizona, all as may be more fully set forth in the documents provided pursuant to the Contracts herein.

The full street or physical address of the Project is:

650 East Aspen Street,
Cottonwood, AZ 86326

DRAFT

DRAFT

EXHIBIT C – TECHNICAL SPECIFICATIONS

Three sets of specifications, as referenced herein, are on file with the:

- Design Professional
- City Project Manager
- CM@R Contractor

DRAFT

EXHIBIT D – CONSTRUCTION DRAWINGS

Three sets of construction drawings, as referenced herein, are on file with the:

- Design Professional
- City Project Manager
- CM@R Contractor

DRAFT

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date:	January 7, 2014
Subject:	Staff request and recommendation to conduct the 12th Street reconstruction project in two separate phases.
Department:	Development Services
From:	Morgan Scott, Development Services Manager

REQUESTED ACTION

Authorization to conduct the 12th Street reconstruction project in two separate phases.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to conduct the 12th Street reconstruction project in two phases, in accordance with the Staff recommendation."

BACKGROUND

As the Council knows, the City and its engineering consultants have been working on the design for the reconstruction of 12th Street from Fir Street to Hwy 89A for several years. The easements for the southern 60% of the project have been obtained and the plans and bid documents for this portion of the project are almost complete and this happens to be the portion of the road that is in the worst condition and in greatest need of repair.

However, securing all of the required easements for the north end of the project has proven to be more challenging and time-consuming than originally anticipated. In fact, there is at least one case in which the City may be required to exercise its condemnation power to obtain the necessary easement.

Staff has discussed the project status in great detail and the consensus is that the project should be broken into two phases with the southern portion (red line on the attached aerial view)

would be bid and construction would start as soon as practical. Staff would continue working with the property owners on the northern portion of the project and upon obtaining all of the required easements, would direct the engineering consultant to complete the plans for that portion of the project and prepare them for bid.

The main reason for recommending the phasing of this project is timing. If no portion of the project is bid within the next 45 days it would push the construction schedule back to where it would be unlikely that any portion of the street would be reconstructed in calendar year 2014.

If Council approves the recommendation to phase the project, Staff would work with the design engineer to identify a transition location between the two phases which would cause the least inconvenience to the public. While phasing the project is not something staff wanted to do, the reality is that we do not want to punish those on the southern portion of the project for the reluctance of some of their northern neighbors to work in good faith with the City to complete this long-needed project.

JUSTIFICATION/BENEFITS/ISSUES

The southern portion of 12th Street is in very poor condition and in need of immediate repair and replacement while the northern portion is in slightly better shape and can last an additional year if necessary. Pushing the entire project back because of a few holdouts in the northern section would not be fair to the numerous property owners who have worked in good faith with the City, or to the many City residents who have already waited a very long time for this project to be completed.

COST/FUNDING SOURCE

HURF/Capital Project Fund

ATTACHMENTS:

Name:	Description:	Type:
 Phase_one.jpg	Aerial View	Cover Memo



© 2013 Google

Google earth

1992

Imagery Date: 5/28/2013 34°43'14.05" N 112°00'44.00" W elev 3410 ft eye alt 10488 ft

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date: January 7, 2014

Subject: Award of contract for Lease Purchase Financing of
Emergency Communications Center Equipment

Department: Administrative Services

From: Lisa Elliott, Purchasing Agent
Jesus R Rodriguez, C.G.F.M., Administrative Services
General Manager

REQUESTED ACTION

Staff is requesting that Council consider awarding the contract for Lease Purchase Financing to US Bancorp Government Leasing and Finance, Inc. for the acquisition of equipment for the new Emergency Communications Center.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to award the bid for Lease Purchase Financing for equipment for the new Emergency Communications Center to US Bancorp Government Leasing and Finance, Inc., and authorize Staff to negotiate a final agreement for execution by the Mayor."

BACKGROUND

Staff issued a Request for Proposals for Lease Purchase Financing for equipment for the new Emergency Communications Center on November 20, 2013. The total principal amount to be financed is \$850,000.00.

Three (3) proposals were received; Wells Fargo Equipment Finance, National Bank, and US Bancorp Government Leasing and Finance, Inc. US Bancorp provided the lowest interest rate proposal of 1.76% with a five (5) year term, resulting in bi-annual payments of \$89,172.00 beginning July 1, 2014.

JUSTIFICATION/BENEFITS/ISSUES

The award of the bid for Lease Purchase Financing of the equipment for the new Emergency Communications Center will allow the City to begin purchasing the equipment and ensure that revenues received throughout the remainder of the fiscal year are available to support

continued operations.

COST/FUNDING SOURCE

Repayment of the obligation will be provided through General Fund operating revenues and any 0.2% sales tax when and if it becomes available.

ATTACHMENTS:

Name:	Description:	Type:
 Solicitation Tabulation Form.pdf	Lease Purchase Tabulation	Backup Material
 US Bancorp Government Leasing and Finance Proposal.pdf	US Bancorp Proposal	Backup Material

City of Cottonwood

SOLICITATION TABULATION

Project Name: Emergency Communications Center Equipment Lease Purchase Financing

Solicitation Number: 2014-AS-04

Solicitation Opening Date: December 19, 2013 at 2:00 pm

Firm Name	Interest Rate	Addend Ack?
National Bank of Arizona	2.02%	N-submitted prior to issuance
Wells Fargo – Equipment Finance	2.10%	Y
US Bancorp Government Leasing & Finance Inc	1.76%	Y

Notes: _____



All of **us** serving you®

Government Leasing and Finance

December 18, 2013

City of Cottonwood, AZ
Solicitation 2014-AS-04
Communications Equipment Financing

Thank you for the opportunity to provide a proposal for the Communications Equipment Financing. Please note the proposal is organized as follows;

- Exhibit A – Offer Section
 - Proposed Payment Table
 - Credit application / Essential use form (required to complete underwriting)
 - Lease purchase document (this would be schedule 03 to existing Master Lease Purchase Agreement)
- Exhibit B – Contactor Immigration Warranty
- Exhibit C – Non-Collusion Affidavit
- Exhibit D – Disclosure of Responsibility Statement
- USBGLF – W-9

Notes: There are no fees associated with this offer including the establishment of a U.S. Bank, N.A. escrow account should one be required. Lease may be pre-paid in whole, but not in part, on any payment date with no penalty.

Exceptions/Clarifications: Proposal assumes that sales tax, if applicable, is included in the amount financed. Funds will be paid to vendor directly or deposited in escrow at closing.

Additionally, the terms and conditions outlined herein are subject to final review and approval (including collateral and essential use review) by USBGLF's business, legal, credit, and equipment risk management personnel.

Please contact me directly with any questions.

Sincerely,

Thomas E. Seybold

Thomas E. Seybold
Vice President

Payment Table

(assumes contract executed before and transaction funded Jan 1, 2014)

Interest Rate – 1.76%					
*Prepayment balance equals 100% of outstanding principal after payment due.					
	Date	Payment	Interest	Principal	Prepayment Balance*
Loan	1/1/2014				850,000.00
1	7/1/2014	89,172.00	7,486.98	81,685.02	768,314.98
2	1/1/2015	89,172.00	6,767.48	82,404.52	685,910.46
3	7/1/2015	89,172.00	6,041.64	83,130.36	602,780.11
4	1/1/2016	89,172.00	5,309.41	83,862.59	518,917.52
5	7/1/2016	89,172.00	4,570.74	84,601.26	434,316.26
6	1/1/2017	89,172.00	3,825.55	85,346.45	348,969.81
7	7/1/2017	89,172.00	3,073.80	86,098.20	262,871.61
8	1/1/2018	89,172.00	2,315.43	86,856.57	176,015.03
9	7/1/2018	89,172.00	1,550.38	87,621.62	88,393.41
10	1/1/2019	89,172.00	778.59	88,393.41	0.00
Grand Totals		891,720.00	41,720.00	850,000.00	

**EXHIBIT A
PROPOSAL SECTION**

(Including all information required to be submitted with proposal)

1. Proposer Information

Firm Name: U.S. Bancorp Government Housing and Finance, Inc.

Contact Name: Thomas Seybold

Principal Address: 950 17th St, 7th Fl
Denver CO 80202

Phone: 303 585 4052 Fax: 800 866 3817

Email: thomas.seybold@udbank.com

Local Address: NA

Type of Organization: Corporation

Tax ID #: 45 379 8148 License #: 20850397

2. Exceptions to RFP: See cover letter "Exceptions (clarifications)"
(See Information & Instructions §4.5.4 Exceptions to Solicitation)

3. Disclosure of Debarment Information: NA
(See Information & Instructions §4.5.5 Disclosure)

4. Financing Terms:

A. Payment Amount: \$ 89,172.00 (see attached payment table)

B. Fixed Annual Rate: 1.76% (valid for 60 days)

C. Date Funds Will Be Available: 15 days after receipt / review of essential use

5. References (Must be provided):

Provide names, addresses and telephone numbers of government agencies/business to which you have provided similar goods or services.

A. Entity: Town of Florence, AZ

Address: 775 N Main St, Florence AZ 85132

Contact: Becky Guilan Finance Director

Phone: 520-868-7505 becki.guilan@florenceaz.gov

B. Entity: Town of Camp Verde, AZ

Address: 395 Main St, Camp Verde, AZ 86322

Contact: Mike Showers - Finance Director

Phone: 928-554-0811 michael.showers@campverde.az.gov

C. Entity: Town of Avon, CO

Address: PO Box 975 Avon CO 81620

Contact: Scott Wright - Asst Town Manager

Phone: 970-748-4055

6. Receipt of Addenda:
Proposer acknowledges receipt of the following Solicitation Addendum(s):

<u>Addendum No.</u>	<u>Date</u>
<u>01</u>	<u>12/11/2013</u>
_____	_____
_____	_____

7. Intent to be Bound by Proposal: Thomas E. Seybold

(Signature of Individual Authorized to Sign Proposal)

Thomas E. Seybold

(Printed Name of Individual Authorized to Sign Proposal)

Government Leasing and Finance

Payment Table

(assumes contract executed before and transaction funded Jan 1, 2014)

Interest Rate – 1.76%					
*Prepayment balance equals 100% of outstanding principal after payment due.					
	Date	Payment	Interest	Principal	Prepayment Balance*
Loan	1/1/2014				850,000.00
1	7/1/2014	89,172.00	7,486.98	81,685.02	768,314.98
2	1/1/2015	89,172.00	6,767.48	82,404.52	685,910.46
3	7/1/2015	89,172.00	6,041.64	83,130.36	602,780.11
4	1/1/2016	89,172.00	5,309.41	83,862.59	518,917.52
5	7/1/2016	89,172.00	4,570.74	84,601.26	434,316.26
6	1/1/2017	89,172.00	3,825.55	85,346.45	348,969.81
7	7/1/2017	89,172.00	3,073.80	86,098.20	262,871.61
8	1/1/2018	89,172.00	2,315.43	86,856.57	176,015.03
9	7/1/2018	89,172.00	1,550.38	87,621.62	88,393.41
10	1/1/2019	89,172.00	778.59	88,393.41	0.00
Grand Totals		891,720.00	41,720.00	850,000.00	



Government Leasing and Finance, Inc.
Application for Equipment Lease

Legal Name of Lessee (Applicant)	Tax ID #	Web address (if, applicable)	
Address	City	State	Zip

Person(s) to Contact for Clarification Regarding Project

Name	Title	Phone
Name	Title	Phone
Email	Fax	

Obligations / Economics

Bank Qualified Non-Bank Qualified
Are the Applicant's obligations bank qualified (i.e., expected to issue less than \$10 Million in tax-exempt financing this calendar year)?

Moody's Investors Service: _____ Standard & Poor's: _____ Fitch: _____
Please list the Applicant's current underlying bond rating from the rating agencies listed above (if applicable)

Discuss the Applicant's economic trends (stable, positive, negative) and reasons for any variation

Yes No
Has the Applicant ever defaulted or non-appropriated on an obligation?

If Yes, _____
Please explain

Demographic Information

Please provide the following demographic information (please attach any applicable demographic statistics)

Approx square mile _____ Population _____ Increasing or Decreasing Population?
Cities, Towns and Counties

If Decreasing, _____
Please explain

Educational Applicants Only

Enrollment _____ Increasing or Decreasing Enrollment?
Please also answer the above question regarding the resident city

If Decreasing, _____
Please explain

Elementary: _____ Middle: _____ High School: _____ Other: _____
How many schools make up the district (please list the number and type of each school)?



EQUIPMENT FINANCE

Government Leasing and Finance
Essential Use Form

Purchase Description (please be specific and attach any applicable equipment lists or invoices available) Est. Equipment Delivery Date

Are any of the Lease Proceeds for reimbursement of prior purchases? If yes, has a Reimbursement Resolution been approved by the Governing Body?

Yes No

Is the Equipment replacing existing equipment?

If Yes, Please state how long you have currently used the Equipment and the reason you are replacing the Equipment

What will the Applicant do with the old equipment that is being replaced?

If No, Please state the reason additional equipment is needed

What will the Applicant do with the old equipment that is being replaced?

Please describe in detail the following (please be specific)

What will the Equipment be used for?

Describe the essential nature of the equipment financed

List the specific department that will be the primary user of the Equipment

Lease Payments

Yes No

Will the lease payments be made from Applicant's General Fund?

If No, From which Special Fund will the lease payments be made?

Yes No

Will any federal grant or loan monies be used? If so, please describe

Yes No

Has the first payment been appropriated?

Terms and Conditions

Total Cost of Equipment Advance payment Amount to Finance

Term (in years) Annual Semi-Annual Quarterly Monthly
Frequency (choose one):

Advance Arrears
Remittance (choose one): Equipment Delivery Date

Insurance Company Name or indicate Self Insured Amount of Liability Insurance Amount of Property Damage Insurance

The undersigned hereby certifies that all the information in the above Application for Equipment Lease and Essential Use Form is true, complete and correct.

Applicable Signature

Title Date

Master Tax-Exempt Lease/Purchase Agreement

Between: U.S. Bancorp Government Leasing and Finance, Inc. (the "Lessor")
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

And: City of Cottonwood (the "Lessee")
816 N. Main Street
Cottonwood, AZ 86326
Attention: Jesus "Rudy" Rodriguez
Telephone: 928-340-2710

Dated: January 31, 2013

ARTICLE I DEFINITIONS

The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Agreement" means this Master Tax-Exempt Lease/Purchase Agreement, including all exhibits and schedules attached hereto.

"Code" is defined in Section 3.01(f).

"Commencement Date" is the date when the term of a Property Schedule and Lessee's obligation to pay rent thereunder commences, which date shall be set forth in such Property Schedule.

"Event of Default" is defined in Section 13.01.

"Lease Payments" means the Lease Payments payable by Lessee under Article VI of this Agreement and each Property Schedule, as set forth in each Property Schedule.

"Lease Payment Dates" means the Lease Payment dates for the Lease Payments as set forth in each Property Schedule.

"Lease Term" means, with respect to a Property Schedule, the Original Term and all Renewal Terms. The Lease Term for each Property Schedule executed hereunder shall be set forth in such Property Schedule, as provided in Section 4.02.

"Lessee" means the entity identified as such in the first paragraph hereof, and its permitted successors and assigns.

"Lessor" means the entity identified as such in the first paragraph hereof, and its successors and assigns.

"Nonappropriation Event" is defined in Section 8.06.

"Original Term" means, with respect to a Property Schedule, the period from the Commencement Date until the end of the budget year of Lessee in effect at the Commencement Date.

"Property" means, collectively, the property lease/purchased pursuant to this Agreement, and with respect to each Property Schedule, the property described in such Property Schedule, and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Article IX.

"Property Schedule" means a Property Schedule in the form attached hereto for Property Schedule 1. Subsequent Property Schedules pursuant to this Agreement shall be numbered consecutively, beginning with Property Schedule 2.

"Purchase Price" means the amount that Lessee may, in its discretion, pay to Lessor to purchase the Property under a Property Schedule, as provided in Section 11.01 and as set forth in the Property Schedule.

"Renewal Terms" means the renewal terms of a Property Schedule, each having a duration of one year and a term coextensive with Lessee's budget year.

"State" means the state where Lessee is located.

"Vendor" means the manufacturer or contractor of the Property as well as the agents or dealers of the manufacturer or contractor from whom Lessor or Lessee purchased or is purchasing all or any portion of the Property.

ARTICLE II

2.01 Property Schedules Separate Financings. Each Property Schedule executed and delivered under this Agreement shall be a separate financing, distinct from other Property Schedules. Without limiting the foregoing, upon the occurrence of an Event of Default or a Nonappropriation Event with respect to a Property Schedule, Lessor shall have the rights and remedies specified herein with respect to the Property financed and the Lease Payments payable under such Property Schedule, and except as expressly provided in Section 12.02 below, Lessor shall have no rights or remedies with respect to Property financed or Lease Payments payable under any other Property Schedules unless an Event of Default or Nonappropriation Event has also occurred under such other Property Schedules.

ARTICLE III

3.01 Covenants of Lessee. As of the Commencement Date for each Property Schedule executed and delivered hereunder, Lessee shall be deemed to represent, covenant and warrant for the benefit of Lessor as follows:

- (a) Lessee is a public body corporate and politic duly organized and existing under the constitution and laws of the State with full power and authority to enter into this Agreement and the Property Schedule and the transactions contemplated thereby and to perform all of its obligations thereunder.
- (b) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic. To the extent Lessee should merge with another entity under the laws of the State, Lessee agrees that as a condition to such merger it will require that the remaining or resulting entity shall be assigned Lessee's rights and shall assume Lessee's obligations hereunder.
- (c) Lessee has been duly authorized to execute and deliver this Agreement and the Property Schedule by proper action by its governing body, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and the Property Schedule, and Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the

Property Schedule and the acquisition by Lessee of the Property thereunder. On or before the Commencement Date for the Property Schedule, Lessee shall cause to be delivered an opinion of counsel in substantially the form attached to the form of the Property Schedule as Exhibit 2.

- (d) During the Lease Term for the Property Schedule, the Property thereunder will perform and will be used by Lessee only for the purpose of performing essential governmental uses and public functions within the permissible scope of Lessee's authority.
- (e) Lessee will provide Lessor with current financial statements, budgets and proof of appropriation for the ensuing budget year and other financial information relating to the ability of Lessee to continue this Agreement and the Property Schedule in such form and containing such information as may be requested by Lessor.
- (f) Lessee will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 148 thereof, and the regulations of the Treasury Department thereunder, from time to time proposed or in effect, in order to maintain the excludability from gross income for federal income tax purposes of the interest component of Lease Payments under the Property Schedule and will not use or permit the use of the Property in such a manner as to cause a Property Schedule to be a "private activity bond" under Section 141(a) of the Code. Lessee covenants and agrees that it will use the proceeds of the Property Schedule as soon as practicable and with all reasonable dispatch for the purpose for which the Property Schedule has been entered into, and that no part of the proceeds of the Property Schedule shall be invested in any securities, obligations or other investments except for the temporary period pending such use nor used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of the Agreement, would have caused any portion of the Property Schedule to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the regulations of the Treasury Department thereunder proposed or in effect at the time of such use and applicable to obligations issued on the date of issuance of the Property Schedule.
- (g) The execution, delivery and performance of this Agreement and the Property Schedule and compliance with the provisions hereof and thereof by Lessee does not conflict with or result in a violation or breach or constitute a default under, any resolution, bond, agreement, indenture, mortgage, note, lease or other instrument to which Lessee is a party or by which it is bound by any law or any rule, regulation, order or decree of any court, governmental agency or body having jurisdiction over Lessee or any of its activities or properties resulting in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any property or assets of Lessee or to which it is subject.
- (h) Lessee's exact legal name is as set forth on the first page of this Agreement. Lessee will not change its legal name in any respect without giving thirty (30) days prior notice to Lessor.

ARTICLE IV

4.01 **Lease of Property.** On the Commencement Date of each Property Schedule executed hereunder, Lessor will be deemed to demise, lease and let to Lessee, and Lessee will be deemed to rent, lease and hire from Lessor, the Property described in such Property Schedule, in accordance with this Agreement and such Property Schedule, for the Lease Term set forth in such Property Schedule.

4.02 **Lease Term.** The term of each Property Schedule shall commence on the Commencement Date set forth therein and shall terminate upon payment of the final Lease Payment set forth in such Property Schedules and the exercise of the Purchase Option described in Section 11.01, unless terminated sooner pursuant to this Agreement or the Property Schedule.

4.03 **Delivery, Installation and Acceptance of Property.** Lessee shall order the Property, shall cause the Property to be delivered and installed at the locations specified in the applicable Property Schedule and shall pay all taxes, delivery costs and installation costs, if any, in connection therewith. To the extent funds are deposited under an escrow agreement or trust agreement for the acquisition of the Property, such funds shall be disbursed as provided therein. When the Property described in such Property Schedule is delivered, installed and accepted as to Lessee's specifications, Lessee shall immediately accept the Property and evidence said acceptance by executing and delivering to Lessor the Acceptance Certificate substantially in the form attached to the Property Schedule.

ARTICLE V

5.01 **Enjoyment of Property.** Lessee shall during the Lease Term peaceably and quietly have, hold and enjoy the Property, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Agreement. Lessor shall not interfere with such quiet use and enjoyment during the Lease Term so long as Lessee is not in default under the subject Property Schedule.

5.02 **Location; Inspection.** The Property will be initially located or based at the location specified in the applicable Property Schedule. Lessor shall have the right at all reasonable times during business hours to enter into and upon the property of Lessee for the purpose of inspecting the Property.

ARTICLE VI

6.01 **Lease Payments to Constitute a Current Expense of Lessee.** Lessor and Lessee understand and intend that the obligation of Lessee to pay Lease Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional, statutory or charter limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the faith and credit or taxing power of Lessee. Upon the appropriation of Lease Payments for a fiscal year, the Lease Payments for said fiscal year, and only the Lease Payments for said current fiscal year, shall be a binding obligation of Lessee; provided that such obligation shall not include a pledge of the taxing power of Lessee.

6.02 **Payment of Lease Payments.** Lessee shall promptly pay Lease Payments under each Property Schedule, exclusively from legally available funds, in lawful money of the United States of America, to Lessor in such amounts and on such dates as described in the applicable Property Schedule, at Lessor's address set forth on the first page of this Agreement, unless Lessor instructs Lessee otherwise. Lessee shall pay Lessor a charge on any delinquent Lease Payments under a Property Schedule in an amount sufficient to cover all additional costs and expenses incurred by Lessor from such delinquent Lease Payment. In addition, Lessee shall pay a late charge of five cents per dollar or the highest amount permitted by applicable law, whichever is lower, on all delinquent Lease Payments and interest on said delinquent amounts from the date such amounts were due until paid at the rate of 12% per annum or the maximum amount permitted by law, whichever is less.

6.03 **Interest Component.** A portion of each Lease Payment due under each Property Schedule is paid as, and represents payment of, interest, and each Property Schedule hereunder shall set forth the interest component (or method of computation thereof) of each Lease Payment thereunder during the Lease Term.

6.04 **Lease Payments to be Unconditional.** SUBJECT TO SECTION 6.06, THE OBLIGATIONS OF LESSEE TO PAY THE LEASE PAYMENTS DUE UNDER THE PROPERTY SCHEDULES AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED HEREIN SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE PROPERTY OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES. THIS PROVISION SHALL NOT LIMIT LESSEE'S RIGHTS OR ACTIONS AGAINST ANY VENDOR AS PROVIDED IN SECTION 10.02.

6.05 **Continuation of Lease by Lessee.** Lessee intends to continue all Property Schedules entered into pursuant to this Agreement and to pay the Lease Payments thereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Lease Payments during the term of all Property Schedules can be obtained. Lessee agrees that its staff will provide during the budgeting process for each budget year to the governing body of Lessee notification of any Lease Payments due under the Property Schedules during the following budget year. Notwithstanding this covenant, if Lessee fails to appropriate the Lease Payments for a Property Schedule pursuant to Section 6.06, such Property Schedule shall terminate at the end of the then current Original Term or Renewal Term. Although Lessee has made this covenant, in the event that it fails to provide such notice, no remedy is provided and Lessee shall not be liable for any damages for its failure to so comply.

6.06 **Nonappropriation.** If during the then current Original Term or Renewal Term, sufficient funds are not appropriated to make Lease Payments required under a Property Schedule for the following fiscal year, Lessee shall be deemed to not have renewed such Property Schedule for the following fiscal year and the Property Schedule shall terminate at the end of the then current Original Term or Renewal Term and Lessee shall not be obligated to make Lease Payments under said Property Schedule beyond the then current fiscal year for which funds have been appropriated. Upon the occurrence of such nonappropriation (a "Nonappropriation Event") Lessee shall, no later than the end of the fiscal year for which Lease Payments have been appropriated, deliver possession of the Property under said Property Schedule to Lessor. If Lessee fails to deliver possession of the Property to Lessor upon termination of said Property Schedule by reason of a Nonappropriation Event, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to the portion of Lease Payments thereafter coming due that is attributable to the

number of days after the termination during which the Lessee fails to deliver possession and for any other loss suffered by Lessor as a result of Lessee's failure to deliver possession as required. In addition, Lessor may, by written instructions to any escrow agent who is holding proceeds of the Property Schedule, instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to Lessee's obligations under the Property Schedule and this Agreement. Lessee shall notify Lessor in writing within seven (7) days after the failure of the Lessee to appropriate funds sufficient for the payment of the Lease Payments, but failure to provide such notice shall not operate to extend the Lease Term or result in any liability to Lessee.

6.07 Defeasance of Lease Payments. Lessee may at any time irrevocably deposit in escrow with a defeasance escrow agent for the purpose of paying all of the principal component and interest component accruing under a Property Schedule, a sum of cash and non-callable securities consisting of direct obligations of, or obligations the principal of an interest on which are unconditionally guaranteed by, the United States of America or any agency or instrumentality thereof, in such aggregate amount, bearing interest at such rates and maturing on such dates as shall be required to provide funds sufficient for this purpose. Upon such defeasance, all right, title and interest of Lessor in the Property under said Property Schedule shall terminate. Lessee shall cause such investment to comply with the requirements of federal tax law so that the exclusion from gross income of the interest component of Lease Payments on said Property Schedule is not adversely affected.

ARTICLE VII

7.01 Title to the Property. Upon acceptance of the Property by Lessee and unless otherwise required by the laws of the State, title to the Property shall vest in Lessee, subject to Lessor's interests under the applicable Property Schedule and this Agreement.

7.02 Personal Property. The Property is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Property or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. If requested by Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Property from any party having an interest in any such real estate or building.

7.03 Security Interest. To the extent permitted by law and to secure the performance of all of Lessee's obligations under this Agreement with respect to a Property Schedule, including without limitation all Property Schedules now existing are hereafter executed, Lessee grants to Lessor, for the benefit of Lessor and its successors and assigns, a security interest constituting a first lien on Lessee's interest in all of the Property under the Property Schedule, whether now owned or hereafter acquired, all additions, attachments, alterations and accessions to the Property, all substitutions and replacements for the Property, and on any proceeds of any of the foregoing, including insurance proceeds. Lessee shall execute any additional documents, including financing statements, affidavits, notices and similar instruments, in form and substance satisfactory to Lessor, which Lessor deems necessary or appropriate to establish, maintain and perfect a security interest in the Property in favor of Lessor and its successors and assigns. Lessee hereby authorizes Lessor to file all financing statements which Lessor deems necessary or appropriate to establish, maintain and perfect such security interest.

ARTICLE VIII

8.01 Maintenance of Property by Lessee. Lessee shall keep and maintain the Property in good condition and working order and in compliance with the manufacturer's specifications, shall use, operate and maintain the Property in conformity with all laws and regulations concerning the Property's ownership, possession, use and maintenance, and shall keep the Property free and clear of all liens and claims, other than those created by this Agreement. Lessee shall have sole responsibility to maintain and repair the Property. Should Lessee fail to maintain, preserve and keep the Property in good repair and working order and in accordance with manufacturer's specifications, and if requested by Lessor, Lessee will enter into maintenance contracts for the Property in form approved by Lessor and with approved providers.

8.02 Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Property free of all levies, liens and encumbrances, except for the interest of Lessor under this Agreement. The parties to this Agreement contemplate that the Property will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Property will be exempt from all property taxes. The Lease Payments payable by Lessee under this Agreement and the Property Schedules hereunder have been established to reflect the savings resulting from this exemption from taxation. Lessee will take such actions necessary under applicable law to obtain said exemption. Nevertheless, if the use, possession or acquisition of the Property is determined to be subject to taxation or later becomes subject to such taxes, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to the Property. Lessee shall pay all gas, water, steam, electricity, heat, power, telephone, utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property. Lessee shall pay such taxes or charges as the same may become due; provided that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the then current fiscal year of the Lease Term for such Property.

8.03 Insurance. At its own expense, Lessee shall maintain (a) casualty insurance insuring the Property against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Lessor in an amount equal to at least the outstanding principal component of Lease Payments, and (b) liability insurance that protects Lessor from liability in all events in an amount reasonably acceptable to Lessor, and (c) worker's compensation insurance covering all employees working on, in, near or about the Property, provided that Lessee may self-insure against all such risks. All insurance proceeds from casualty losses shall be payable as hereinafter provided in this Agreement. All such insurance shall be with insurers that are authorized to issue such insurance in the State. All such liability insurance shall name Lessor as an additional insured. All such casualty insurance shall contain a provision making any losses payable to Lessor and Lessee as their respective interests may appear. All such insurance shall contain a provision to the effect that such insurance shall not be canceled or modified without first giving written notice thereof to Lessor and Lessee at least thirty (30) days in advance of such cancellation or modification. Such changes shall not become effective without Lessor's prior written consent. Lessee shall furnish to Lessor, on or before the Commencement Date for each Property Schedule, and thereafter at Lessor's request, certificates evidencing such coverage, or, if Lessee self-insures, a written description of its self-insurance program together with a certification from Lessee's risk manager or insurance agent or consultant to the effect that Lessee's self-insurance program provides adequate coverage against the risks listed above.

8.04 Advances. In the event Lessee shall fail to either maintain the insurance required by this Agreement or keep the Property in good repair and working order, Lessor may, but shall be under no obligation to, purchase the required insurance and pay the cost of the premiums thereof or maintain and repair the Property and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the Lease Term for the applicable Property Schedule and shall be due and payable on the next Lease Payment Date and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date such amounts are advanced until paid at the rate of 12% per annum or the maximum amount permitted by law, whichever is less.

ARTICLE IX

9.01 Damage or Destruction. If (a) the Property under a Property Schedule or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or (b) title to, or the temporary use of, the Property under a Property Schedule or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessor and Lessee will cause the Net Proceeds (as hereinafter defined) of any insurance claim, condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Property, unless Lessee shall have exercised its right to defease the Property Schedule as provided herein, or unless Lessee shall have exercised its option to purchase Lessor's interest in the Property if the Property Schedule so provides. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee. For purposes of Section 8.03 and this Article IX, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim, condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof.

9.02 Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 9.01, Lessee shall (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds and, if Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Section 6.02, or (b) defease the Property Schedule pursuant to Section 6.07, or (c) exercise its option to purchase Lessor's interest in the Property pursuant to the optional purchase provisions of the Property Schedule, if any. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after such defeasance or purchase may be retained by Lessee.

ARTICLE X

10.01 Disclaimer of Warranties. LESSOR MAKES NO (AND SHALL NOT BE DEEMED TO HAVE MADE ANY) WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN, OPERATION OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE PROPERTY, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE STATE OF TITLE THERETO OR ANY COMPONENT THEREOF, THE ABSENCE OF LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), AND LESSOR HEREBY DISCLAIMS THE SAME; IT BEING UNDERSTOOD THAT THE PROPERTY IS LEASED TO LESSEE "AS IS" ON THE DATE OF THIS AGREEMENT OR THE DATE OF DELIVERY, WHICHEVER IS LATER, AND ALL SUCH RISKS, IF ANY, ARE TO BE BORNE BY LESSEE. Lessee acknowledges that it has made (or will make) the selection of the Property from the Vendor based on its own judgment and expressly disclaims any reliance upon any statements or representations made by Lessor. Lessee understands and agrees that (a) neither the Vendor nor any sales representative or other agent of Vendor, is (i) an agent of Lessor, or (ii) authorized to make or alter any term or condition of this Agreement, and (b) no such waiver or alteration shall vary the terms of this Agreement unless expressly set forth herein. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Property Schedules, or the existence, furnishing, functioning or use of any item, product or service provided for in this Agreement or the Property Schedules.

10.02 Vendor's Warranties. Lessor hereby irrevocably assigns to Lessee all rights that Lessor may have to assert from time to time whatever claims and rights (including without limitation warranties) related to the Property against the Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the Vendor of the Property, and not against Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties of the Vendor of the Property.

10.03 Use of the Property. Lessee will not install, use, operate or maintain the Property improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement and the applicable Property Schedule. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Property. In addition, Lessee agrees to comply in all respects with all laws of the jurisdiction in which its operations involving any item of Property may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the items of the Property; provided that Lessee may contest in good faith the validity or application of any such law or rule in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Property or its interest or rights under this Agreement. Lessee shall promptly notify Lessor in writing of any pending or threatened investigation, inquiry, claim or action by any governmental authority which could adversely affect this Agreement, any Property Schedule or the Property thereunder.

10.04 Modifications. Subject to the provisions of this Section, Lessee shall have the right, at its own expense, to make alterations, additions, modifications or improvements to the Property. All such alterations, additions, modifications and improvements shall thereafter comprise part of the Property and shall be subject to the provisions of this Agreement. Such alterations, additions, modifications and improvements shall not in any way damage the Property, substantially alter its nature or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Property, on completion of any alterations, additions, modifications or improvements made pursuant to this Section, shall be of a value which is equal to or greater than the value of the Property immediately prior to the making of such alterations, additions, modifications and improvements. Lessee shall, at its own expense, make such alterations, additions, modifications and improvements to the Property as may be required from time to time by applicable law or by any governmental authority.

ARTICLE XI

11.01 Option to Purchase. Lessee shall have the option to purchase Lessor's entire interest in all of the Property subject to a Property Schedule and to terminate any restrictions herein on the Property under such Property Schedule on the last day of the Lease Term for a Property Schedule, if the Property Schedule is still in effect on such day, upon payment in full of the Lease Payments due thereunder plus payment of One (1) Dollar to Lessor. Lessee shall give written notice to Lessor of its intent to purchase Lessor's interest in the Property at least sixty (60) days prior to the last day of the Lease Term for applicable Property Schedule. Upon exercise of the purchase option as set forth in this Section 11.01 and payment of the purchase price under the applicable Property Schedule, and performance by Lessee of all other terms, conditions and provisions hereof, Lessor shall deliver to Lessee all such documents and instruments as Lessee may reasonably require to evidence the transfer, without warranty by or recourse to Lessor, of all of Lessor's right, title and interest in and to the Property subject to such Property Schedule to Lessee.

11.02 Option to Prepay. Lessee shall have the option to prepay in whole the Lease Payments due under a Property Schedule, but only if the Property Schedule so provides, and on the terms set forth in the Property Schedule.

ARTICLE XII

12.01 Assignment by Lessor. Lessor's right, title and interest in, to and under each Property Schedule and the Property under such Property Schedule may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor without the necessity of obtaining the consent of Lessee; provided that any assignment shall not be effective until Lessee has received written notice, signed by the assignor, of the name, address and tax identification number of the assignee. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interests in this Agreement and the Property Schedules.

12.02 Property Schedules Separate Financings. Assignees of the Lessor's rights in one Property Schedule shall have no rights in any other Property Schedule unless such rights have been separately assigned.

12.03 Assignment and Subleasing by Lessee. NONE OF LESSEE'S RIGHT, TITLE AND INTEREST IN, TO AND UNDER THIS AGREEMENT AND IN THE PROPERTY MAY BE ASSIGNED, SUBLEASED OR ENCUMBERED BY LESSEE FOR ANY REASON, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR.

12.04 Release and Indemnification Covenants. To the extent permitted by applicable law, Lessee shall indemnify, protect, hold harmless, save and keep harmless Lessor from and against any and all liability, obligation, loss, claim and damage whatsoever, regardless of cause thereof, and all expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest (collectively, "Losses") arising out of or resulting from the entering into this Agreement, any Property Schedules hereunder, the ownership of any item of the Property, the loss of federal tax exemption of the interest on any of the Property Schedules, the ordering, acquisition, use, operation, condition, purchase, delivery rejection, storage or return of any item of the Property or any accident in connection with the operation, use, condition, possession, storage or return of any item of the Property resulting in damage to property or injury to or death of any person; provided, however, that Lessee shall not be required to indemnify Lessor for Losses arising out of or resulting from Lessor's own willful or negligent conduct, or for Losses arising out of or resulting from Lessor's preparation of disclosure material relating to certificates of participation in this Agreement and any Property Schedule (other than disclosure material provided to Lessor by Lessee). The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement, or the applicable Property Schedule, or the termination of the Lease Term for such Property Schedule for any reason.

ARTICLE XIII

13.01 Events of Default Defined. Any of the following shall constitute an "Event of Default" under a Property Schedule:

- (a) Failure by Lessee to pay any Lease Payment under the Property Schedule or other payment required to be paid with respect thereto at the time specified therein;
- (b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed with respect to the Property Schedule, other than as referred to in subparagraph (a) above, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;
- (c) Any statement, representation or warranty made by Lessee in or pursuant to the Property Schedule or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made;
- (d) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of

creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

- (e) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 90 consecutive days.

The foregoing provisions of Section 13.01 are subject to the following limitation: if by reason of force majeure Lessee is unable in whole or in part to perform its agreements under this Agreement and the Property Schedule (other than the obligations on the part of Lessee contained in Article VI hereof) Lessee shall not be in default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; Insurrections, riots, landslides, earthquakes, fires, storms, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessee.

A Nonappropriation Event is not an Event of Default.

13.02 Remedies on Default. Whenever any Event of Default exists with respect to a Property Schedule, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

- (a) Without terminating the Property Schedule, and by written notice to Lessee, Lessor may declare all Lease Payments and other amounts payable by Lessee thereunder to the end of the then-current budget year of Lessee to be due, including without limitation delinquent Lease Payments under the Property Schedule from prior budget years, and such amounts shall thereafter bear interest at the rate of 12% per annum or the maximum rate permitted by applicable law, whichever is less;
- (b) Lessor may terminate the Property Schedule, may enter the premises where the Property subject to the Property Schedule is located and retake possession of the Property, or require Lessee, at Lessee's expense, to promptly return any or all of the Property to the possession of Lessor at such place within the United States as Lessor shall specify, and Lessor may thereafter dispose of the Property in accordance with Article 9 of the Uniform Commercial Code in effect in the State; provided, however, that any proceeds from the disposition of the property in excess of the sum required to (i) pay off any outstanding principal component of Lease Payments, (ii) pay any other amounts then due under the Property Schedule, and (iii) pay Lessor's costs and expenses associated with the disposition of the Property (including attorneys fees), shall be paid to Lessee or such other creditor of Lessee as may be entitled thereto, and further provided that no deficiency shall be allowed against Lessee except with respect to unpaid costs and expenses incurred by Lessor in connection with the disposition of the Property;
- (c) By written notice to any escrow agent who is holding proceeds of the Property Schedule, Lessor may instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to payment of Lessee's obligations under the Property Schedule;
- (d) Lessor may take any action, at law or in equity, that is permitted by applicable law and that may appear necessary or desirable to enforce or to protect any of its rights under the Property Schedule and this Agreement.

Notwithstanding the foregoing, if the proceeds are insufficient to pay items (i) to (iii) in Section 13.02(b) in whole, Lessee shall remain obligated after application of proceeds to items (i) and (ii), to pay in whole the amounts for item (iii).

13.03 No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article.

13.04 Costs and Attorney Fees. Upon the occurrence of an Event of Default by Lessee in the performance of any term of this Agreement, Lessee agrees to pay to Lessor or reimburse Lessor for, in addition to all other amounts due hereunder, all of Lessor's costs of collection, including reasonable attorney fees, whether or not suit or action is filed thereon. Any such costs shall be immediately due and payable upon written notice and demand given to Lessee, shall be secured by this Agreement until paid and shall bear interest at the rate of 12% per annum or the maximum amount permitted by law, whichever is less. In the event suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial or on appeal of such suit or action or in any bankruptcy proceeding, in addition to all other sums provided by law.

ARTICLE XIV

14.01 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, to the parties hereto at the addresses as specified on the first page of this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party), to any assignee at its address as it appears on the registration books maintained by Lessee.

14.02 Arbitration Certificates. Unless a separate Arbitration Certificate is delivered on the Commencement Date, Lessee shall be deemed to make the following representations and covenants as of the Commencement Date for each Property Schedule:

- (a) The estimated total costs, including taxes, freight, installation, cost of issuance, of the Property under the Property Schedule will not be less than the total principal amount of the Lease Payments.
- (b) The Property under the Property Schedule has been ordered or is expected to be ordered within six months after the Commencement Date and the Property is expected to be delivered and installed, and the Vendor fully paid, within eighteen months from the Commencement Date. Lessee will pursue the completion of the Property and the expenditure of the net proceeds of the Property Schedule with due diligence.
- (c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Lease Payments under the Property Schedule, or (ii) that may be used solely to prevent a default in the payment of the Lease Payments under the Property Schedule.
- (d) The Property under the Property Schedule has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Lease Payments under the Property Schedule.
- (e) There are no other obligations of Lessee which (i) are being sold within 15 days of the Commencement Date of the Property Schedule; (ii) are being sold pursuant to the same plan of financing as the Property Schedule; and (iii) are expected to be paid from substantially the same source of funds.
- (f) The officer or official who has executed the Property Schedule on Lessee's behalf is familiar with Lessee's expectations regarding the use and expenditure of the proceeds of the Property Schedule. To the best of Lessee's knowledge, information and belief, the facts and estimates set forth in herein are accurate and the expectations of Lessee set forth herein are reasonable.

14.03 Further Assurances. Lessee agrees to execute such other and further documents, including, without limitation, confirmatory financing statements, continuation statements, certificates of title and the like, and to take all such action as may be necessary or appropriate, from time to time, in the reasonable opinion of Lessor, to perfect, confirm, establish, reestablish, continue, or complete the interests of Lessor in this Agreement and the Property Schedules, to consummate the transactions contemplated hereby and thereby, and to carry out the purposes and intentions of this Agreement and the Property Schedules.

14.04 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

14.05 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

14.06 Waiver of Jury Trials. Lessee and Lessor hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement or the actions of Lessor or Lessee in the negotiation, administration, performance or enforcement hereof.

14.07 Amendments, Changes and Modifications. This Agreement may be amended in writing by Lessor and Lessee to the extent the amendment or modification does not apply to outstanding Property Schedules at the time of such amendment or modification. The consent of all assignees shall be required to any amendment or modification before such amendment or modification shall be applicable to any outstanding Property Schedule.

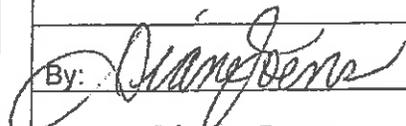
14.08 Execution in Counterparts. This Agreement and the Property Schedules hereunder may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

14.09 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

14.10 Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

Lessor: U.S. Bancorp Government Leasing and Finance, Inc.
By: 
Name: Myra Aksamit Documentation Supervisor
Title:

Lessee: City of Cottonwood
By: 
Name: Diane Joens Mayor
Title:

Attest:
By: 
Name: Marianne Jimenez City Clerk
Title:

Property Schedule No. 1

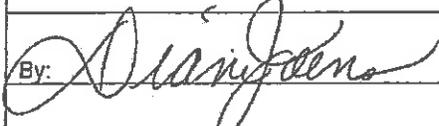
Master Tax-Exempt Lease/Purchase Agreement

This Property Schedule No. 1 is entered into as of the Commencement Date set forth below, pursuant to that certain Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement"), dated as of January 31, 2013, between U.S. Bancorp Government Leasing and Finance, Inc., and City of Cottonwood.

- 1. Interpretation.** The terms and conditions of the Master Agreement are incorporated herein by reference as if fully set forth herein. Reference is made to the Master Agreement for all representations, covenants and warranties made by Lessee in the execution of this Property Schedule, unless specifically set forth herein. In the event of a conflict between the provisions of the Master Agreement and the provisions of this Property Schedule, the provisions of this Property Schedule shall control. All capitalized terms not otherwise defined herein shall have the meanings provided in the Master Agreement.
- 2. Commencement Date.** The Commencement Date for this Property Schedule is January 31, 2013.
- 3. Property Description and Payment Schedule.** The Property subject to this Property Schedule is described in Exhibit 1 hereto. Lessee shall not remove such property from the locations set forth therein without giving prior written notice to Lessor. The Lease Payment Schedule for this Property Schedule is set forth in Exhibit 1.
- 4. Opinion.** The Opinion of Lessee's Counsel is attached as Exhibit 2.
- 5. Lessee's Certificate.** The Lessee's Certificate is attached as Exhibit 3.
- 6. Proceeds.** Lessor shall disburse the proceeds of this Property Schedule in accordance with the instructions attached hereto as Exhibit 4.
- 7. Acceptance Certificate.** The form of Acceptance Certificate is attached as Exhibit 5.
- 8. Additional Purchase Option Provisions.** In addition to the Purchase Option provisions set forth in the Master Agreement, Lease Payments payable under this Property Schedule shall be subject to prepayment in whole at any time by payment of the applicable Termination Amount set forth in Exhibit 1 (Payment Schedule) and payment of all accrued and unpaid interest through the date of prepayment.
- 9. Bank Qualification and Arbitrage Rebate.** Attached as Exhibit 6.
- 10. Expiration.** Lessor, at its sole determination, may choose not to accept this Property Schedule if the fully executed, original Master Agreement (including this Property Schedule and all ancillary documents) is not received by Lessor at its place of business by February 7, 2013.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Property Schedule to be executed in their names by their duly authorized representatives as of the Commencement Date above.

Lessor: U.S. Bancorp Government Leasing and Finance, Inc.
By: 
Name: Myra Aksamit
Title: Documentation Supervisor

Lessee: City of Cottonwood
By: 
Name: Diane Joens
Title: Mayor

Attest:
By: 
Name: Marianne Jimenez
Title: City Clerk

EXHIBIT 1

Property Description and Payment Schedule

Re: **Property Schedule No. 1 to Master Tax-Exempt Lease/Purchase Agreement U.S. Bancorp Government Leasing and Finance, Inc. and City of Cottonwood.**

THE PROPERTY IS AS FOLLOWS: The Property as more fully described in Exhibit A incorporated herein by reference and attached hereto. It includes all replacements, parts, repairs, additions, accessions and accessories incorporated therein or affixed or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries.

PROPERTY LOCATION:

827 N Main Street
Address

Cottonwood, AZ 86326
City, State Zip Code

USE: Various Capital Equipment & Vehicles - This use is essential to the proper, efficient and economic functioning of Lessee or to the services that Lessee provides; and Lessee has immediate need for and expects to make immediate use of substantially all of the Property, which need is not temporary or expected to diminish in the foreseeable future.

Lease Payment Schedule

Total Principal Amount: \$616,573.00

Payment No.	Due Date	Lease Payment	Principal Portion	Interest Portion	Termination Amount (After Making Payment for said Due Date)
1	31-Jul-2013	64,412.80	59,462.18	4,950.61	557,110.82
2	31-Jan-2014	64,412.80	59,939.62	4,473.18	497,171.20
3	31-Jul-2014	64,412.80	60,420.89	3,991.91	436,750.31
4	31-Jan-2015	64,412.80	60,906.02	3,506.77	375,844.28
5	31-Jul-2015	64,412.80	61,395.05	3,017.74	314,449.23
6	31-Jan-2016	64,412.80	61,888.01	2,524.79	252,561.22
7	31-Jul-2016	64,412.80	62,384.92	2,027.87	190,176.30
8	31-Jan-2017	64,412.80	62,885.82	1,526.97	127,290.48
9	31-Jul-2017	64,412.80	63,390.75	1,022.05	63,899.73
10	31-Jan-2018	64,412.80	63,899.73	513.07	0.00
TOTALS:		644,127.95	616,573.00	27,554.95	

Interest Rate: 1.61%

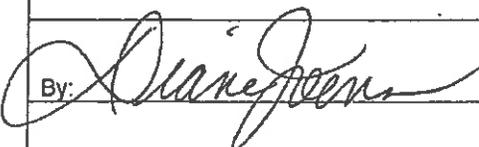
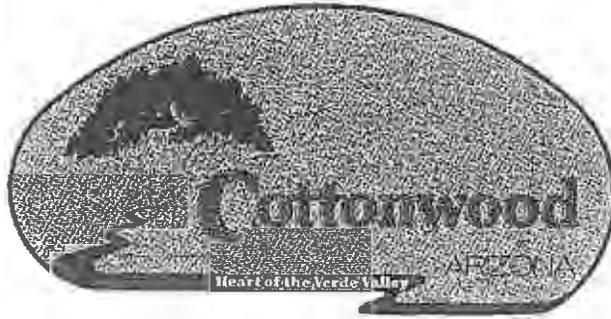
Lessee: City of Cottonwood	
By:	
Name:	Diane Joens
Title:	Mayor

EXHIBIT A

Property Description

REVISED FY 2013 Vehicles and Equipment Needing to be Financed		
Department	Description	Estimated Amount
Fire Dept	Vehicle	\$47,000
Fire Dept	SCBA - (breathing apparatuses)	\$150,000
Fire Dept	EKG Monitor/Defibrillators (2)	\$60,000
Fire Dept	Staff Vehicle Replacement	\$50,000
Fire Dept	Thermal Imaging Cameras (2)	\$30,000
Fire Dept	Office Furniture Replacement Project	\$10,000
Police Dept	Spillman Server	\$58,685
Police Dept	Patrol Vehicles (2)	\$91,388
	GF Total	\$497,073
Water Dept	Utility Trucks (2)	\$55,000
	Late model full sized pickup truck (Operations Mgr)	\$30,000
	Late model full sized pickup truck (Water System Op)	\$26,000
	UTAM handheld thermal imaging device	\$8,500
	Enterprise Total	\$119,500
	Total Financing Requested	\$616,573



January 31, 2013

U.S. Bancorp Government Leasing and Finance, Inc.
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

RE: Property Schedule No. 1 to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. and City of Cottonwood.

Ladies and Gentlemen:

In my capacity as City Attorney and General Counsel for the City of Cottonwood, Arizona ("City"), I have examined the Master Tax-Exempt Lease/Purchase Agreement, dated as of January 31, 2013 (the "Master Agreement"), between the City as Lessee, and U.S. Bancorp Government Leasing and Finance, Inc. as Lessor, as well as Property Schedule No. 1 (the "Property Schedule"), and offer the following opinion with respect to those documents.

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of Arizona, and has, under the Constitution and laws of the state, the power to tax (subject to certain limitations and requirements); the power of eminent domain (again, subject to certain limitations and requirements); and the police power (same).
2. Lessee has all requisite power and authority to enter into the Master Agreement and the Property Schedule and to perform its obligations thereunder.
3. The execution, delivery and performance of the Master Agreement and the Property Schedule by Lessee have been duly authorized by all necessary action on the part of Lessee.
4. All proceedings of Lessee and its governing body relating to the authorization and approval of the Master Agreement and the Property Schedule, the execution thereof and the

January 31, 2013

Letter to U.S. Bancorp Government Leasing and Finance, Inc.

Page 2 of 2

transactions contemplated thereby have been conducted in accordance with all applicable open meeting laws and all other applicable state and federal laws.

5. Lessee is in the process of arranging for the acquisition of the Property subject to the Property Schedule, and has entered into the Master Agreement and the Property Schedule in compliance with all applicable public bidding laws.

6. To the best of my knowledge, Lessee requires no additional consents or approvals from any other governmental authority in order to execute, deliver and perform its obligations under the Master Agreement and the Property Schedule.

7. The Master Agreement and the Property Schedule have been duly executed and delivered by Lessee and constitute legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with the terms thereof, except insofar as the enforcement thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other laws of equitable principles of general application, or of application to municipalities or political subdivisions such as the Lessee, affecting remedies or creditors' rights generally, and to the exercise of judicial discretion in appropriate cases.

8. As of the date hereof, and to the best of my knowledge, no litigation is pending or threatened against Lessee in any court (a) seeking to restrain or enjoin the delivery of the Master Agreement or the Property Schedule or of other agreements similar to the Master Agreement; (b) questioning the authority of Lessee to execute the Master Agreement or the Property Schedule, or the validity of the Master Agreement or the Property Schedule, or the payment of principal of or interest on, the Property Schedule; (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Master Agreement and the Property Schedule; or (d) affecting the provisions made for the payment of or security for the Master Agreement and the Property Schedule.

Very truly yours,



Steve Horton, Esq.
City Attorney
City of Cottonwood

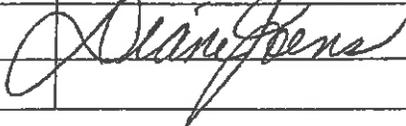
EXHIBIT 3

Lessee's Certificate

Re: Property Schedule No. 1 to Master Tax-Exempt Lease/Purchase Agreement U.S. Bancorp Government Leasing and Finance, Inc. and City of Cottonwood.

The undersigned, being the duly elected, qualified and acting City Clerk of the City of Cottonwood ("Lessee") do hereby certify, as of January 31, 2013, as follows:

1. Lessee did, at a meeting of the governing body of the Lessee held Dec 4, 2012 by resolution or ordinance duly enacted, in accordance with all requirements of law, approve and authorize the execution and delivery of the above-referenced Property Schedule (the "Property Schedule") and the Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement") by the following named representative of Lessee, to wit:

NAME OF EXECUTING OFFICIAL	TITLE OF EXECUTING OFFICIAL	SIGNATURE OF EXECUTING OFFICIAL
Diane Joens And/ Or	Mayor	

2. The above-named representative of the Lessee held at the time of such authorization and holds at the present time the office set forth above.

3. The meeting(s) of the governing body of the Lessee at which the Master Agreement and the Property Schedule were approved and authorized to be executed was duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, and the enactment approving the Master Agreement and the Property Schedule and authorizing the execution thereof has not been altered or rescinded. All meetings of the governing body of Lessee relating to the authorization and delivery of Master Agreement and the Property Schedule have been: (a) held within the geographic boundaries of the Lessee; (b) open to the public, allowing all people to attend; (c) conducted in accordance with internal procedures of the governing body; and (d) conducted in accordance with the charter of the Lessee, if any, and the laws of the State.

4. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default or a Nonappropriation Event (as such terms are defined in the Master Agreement) exists at the date hereof with respect to this Property Schedule or any other Property Schedules under the Master Agreement.

5. The acquisition of all of the Property under the Property Schedule has been duly authorized by the governing body of Lessee.

6. Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Lease Payments scheduled to come due during the current budget year under the Property Schedule and to meet its other obligations for the current budget year and such funds have not been expended for other purposes.

7. As of the date hereof, no litigation is pending, (or, to my knowledge, threatened) against Lessee in any court (a) seeking to restrain or enjoin the delivery of the Master Agreement or the Property Schedule or of other agreements similar to the Master Agreement; (b) questioning the authority of Lessee to execute the Master Agreement or the Property Schedule, or the validity of the Master Agreement or the Property Schedule, or the payment of principal or of interest on, the Property Schedule; (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Master Agreement and the Property Schedule; or (d) affecting the provisions made for the payment of or security for the Master Agreement and the Property Schedule.

City of Cottonwood
By: 
Title: City Clerk
SIGNER MUST NOT BE THE SAME AS THE EXECUTING OFFICIAL(S) SHOWN ABOVE.

SUMMARY MINUTES
OF THE REGULAR MEETING OF THE COTTONWOOD CITY COUNCIL HELD DECEMBER 4,
2012, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 N. MAIN STREET,
COTTONWOOD, ARIZONA.

This summary is a statement of action taken by the Cottonwood City Council at a Regular Meeting pursuant to A.R.S. § 38-431.02(D.), and is being provided as required by A.R.S. § 38-431.01(D.).

Council Members Present: Mayor Diane Joens, Vice Mayor Karen Pfeifer, Council Members Ruben Jauregui, Linda Norman and Terence Pratt.

Council Members Absent: Council Members Tim Elinski and Jesse Dowling.

PRESENTATION OF A CHECK TO THE NORTHERN ARIZONA VETERANS ADMINISTRATION OF FUNDS RAISED AS PART OF THE COTTONWOOD FALL VETERANS DAY CLASSIC DISC GOLF TOURNAMENT

Dan Lueder, Development Services General Manager, presented a check to the Northern Arizona Veterans Administration of funds.

PRESENTATION OF THE NATIONAL LEAGUE OF CITIES MEDALS RECOGNIZING THE CITY'S ACHIEVEMENTS IN ADDRESSING CHILDHOOD OBESITY THROUGH LET'S MOVE! CITIES, TOWNS, AND COUNTIES

The Council unanimously approved to table this item until a future meeting.

CONSENT AGENDA

SUBMITTAL OF A LIBRARY SERVICES AND TECHNOLOGY GRANT APPLICATION FOR A SMALL COMPUTER LAB WITH SOFTWARE FOR THE COTTONWOOD PUBLIC LIBRARY

The Council unanimously approved the consent agenda as presented.

NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.

ORDINANCE NUMBER 591—AMENDING TITLE 5, BUSINESS TAXES, LICENSES AND REGULATIONS, OF THE MUNICIPAL CODE BY DELETING CHAPTER 5.04, BUSINESS LICENSES, AND ADDING A NEW CHAPTER 5.04, BUSINESS REGISTRATION; REGULATIONS; FIRST READING

The Council held the first reading of Ordinance Number 591. The new ordinance would delete Chapter 5.04, Business Licenses and replace it with Chapter 5.04, Business Registration; Regulations.

AWARD OF A CONTRACT FOR THE CITY'S LEASE PURCHASE FINANCING FOR FISCAL YEAR 2013 FOR THE ACQUISITION OF NECESSARY EQUIPMENT

The Council unanimously approved an award of a contract to US Bancorp Government Leasing and Financing, Inc. for lease purchasing of necessary equipment in the amount of \$613,510.

AWARD OF BID FOR THE PARTIAL DEMOLITION AND REMODEL OF THE CITY COUNCIL CHAMBERS BUILDING PROJECT

The council unanimously awarded the bid for the partial demolition and remodel of the City Council Chambers building project to Woodruff Construction in the amount of \$87,600.

APPROVAL OF A GROUND LEASE WITH JEROME VERDE DEVELOPMENT COMPANY FOR THE SUNSHINE HILL PUBLIC SAFETY COMMUNICATIONS REPEATER SITE

The Council unanimously approved a ground lease with Jerome Verde Development Company for the Sunshine Hill Public Safety Communications repeater site.

SUBMITTING A SECTION 5311 APPLICATION AND CONTRACT TO THE ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) FOR FEDERAL GRANT FUNDING FOR THE COTTONWOOD AREA TRANSIT (CAT) AND VERDE LYNX SYSTEMS

The Council unanimously approved submitting a grant application and contract to the Arizona Department of Transportation for 5311 funding for the Cottonwood Area Transit and Verde Lynx Systems.

RESOLUTION NUMBER 2674--SUPPORTING THE WIDENING OF STATE ROUTE 260 BETWEEN COTTONWOOD AND CAMP VERDE

The Council unanimously approved Resolution Number 2674, supporting the widening of State Route 260 between Cottonwood and Camp Verde and sending letters of support to the County Supervisors as well as ADOT.

CONSIDERATION OF CLOSING CITY OFFICES MONDAY, DECEMBER 24, 2012 AS PART OF A CITY HOLIDAY

The Council unanimously approved closing city offices on Monday, December 24, 2012 as part of the city holiday.

CLAIMS & ADJUSTMENTS

The Council unanimously approved the claims and adjustments.

ADJOURNMENT

The regular meeting adjourned at 7:25 pm.

EXHIBIT 4

Payment of Proceeds Instructions

U.S. Bancorp Government Leasing and Finance, Inc.
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

Re: Property Schedule No. 1 (the "Property Schedule") to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. ("Lessor") and City of Cottonwood ("Lessee").

Ladies and Gentlemen:

The undersigned, an Authorized Representative of the Lessee hereby requests and authorizes Lessor to disburse the net proceeds of the Property Schedule as follows:

Name of Payee: _____

By check _____

By wire transfer _____

If by check, Payee's address: _____

If by wire transfer, instructions as follows:

Pay to Bank Name: _____

Bank Address: _____

Bank Phone #: _____

For Account of: _____

Account No.: _____

ABA No.: _____

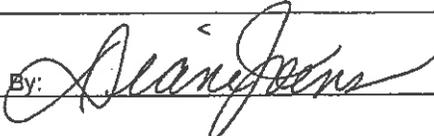
Lessee: City of Cottonwood
By: 
Name: Diane Joens
Title: Mayor

EXHIBIT 5

Acceptance Certificate

U.S. Bancorp Government Leasing and Finance, Inc.
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

Re: **Property Schedule No. 1 to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. and City of Cottonwood**

Ladies and Gentlemen:

In accordance with the above-referenced Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement"), the undersigned ("Lessee") hereby certifies and represents to, and agrees with, U.S. Bancorp Government Leasing and Finance, Inc. ("Lessor"), as follows:

- (1) The Property, as such terms are defined in the above-referenced Property Schedule, has been acquired, made, delivered, installed and accepted on the date indicated below.
- (2) Lessee has conducted such inspection and/or testing of the Property as it deems necessary and appropriate and hereby acknowledges that it accepts the Property for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default or a Nonappropriation Event (as such terms are defined in the Master Agreement) exists at the date hereof.

Acceptance Date: _____

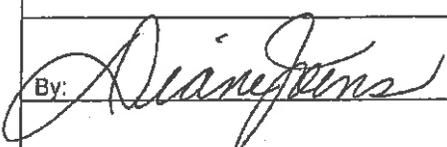
Lessee: City of Cottonwood
By: 
Name: Diane Joens
Title: Mayor

EXHIBIT 6

Bank Qualification And Arbitrage Rebate

U.S. Bancorp Government Leasing and Finance, Inc.
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

Re: **Property Schedule No. 1 to Master Tax-Exempt Lease/Purchase Agreement U.S. Bancorp Government Leasing and Finance, Inc. and City of Cottonwood**

Bank Qualified Tax-Exempt Obligation under Section 265

Lessee hereby designates this Property Schedule as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code. Lessee reasonably anticipates issuing tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds and including all tax-exempt obligations of subordinate entities of the Lessee) during the calendar year in which the Commencement Date of this Property Schedule falls, in an amount not exceeding \$10,000,000.

Arbitrage Rebate

Eighteen Month Exception:

Pursuant to Treasury Regulations Section 1.148-7(d), the gross proceeds of this Property Schedule will be expended for the governmental purposes for which this Property Schedule was entered into, as follows: at least 15% within six months after the Commencement Date, at least 60% within 12 months after the Commencement Date, and 100% within 18 months after the Commencement Date. If Lessee is unable to comply with Section 1.148-7(d) of the Treasury Regulations, Lessee shall compute rebatable arbitrage on this Agreement and pay rebatable arbitrage to the United States at least once every five years, and within 60 days after payment of the final Lease Payment due under this Agreement.

Lessee: City of Cottonwood
By: 
Name: Diane Joens
Title: Mayor

Notification of Tax Treatment to Tax-Exempt Lease/Purchase Agreement

This Notification of Tax Treatment is pursuant to the Master Tax-Exempt Lease/Purchase Agreement dated as of January 31, 2013 and the related Property Schedule No. 1 dated January 31, 2013, between Lessor and Lessee (the "Agreement").

- Lessee agrees that this Property Schedule SHOULD be subject to sales/use taxes
- Lessee agrees that this Property Schedule should NOT be subject to sales/use taxes and Lessee has included our tax-exemption certificate with this document package
- Lessee agrees that this Property Schedule should NOT be subject to sales/use taxes and no tax-exemption certificate is issued to us by the State
- Lessee agrees that this Property Schedule is a taxable transaction and subject to any/all taxes
- Lessee agrees that this Property Schedule is subject to sales/use taxes and will pay those taxes directly to the State or Vendor

IN WITNESS WHEREOF, Lessee has caused this Notification of Tax Treatment to be executed by their duly authorized representative.

Lessee: City of Cottonwood	
By:	
Name:	Diane Joens
Title:	Mayor

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("*Escrow Agreement*") is made as of January 31, 2013 by and among U.S. Bancorp Government Leasing and Finance, Inc. ("*Lessor*"), City of Cottonwood ("*Lessee*") and U.S. BANK NATIONAL ASSOCIATION, as escrow agent ("*Escrow Agent*").

Lessor and Lessee have heretofore entered into that certain Master Tax-Exempt Lease/Purchase Agreement dated as of January 31, 2013 (the "*Master Agreement*") and a Property Schedule No. 1 thereto dated January 31, 2013 (the "*Schedule*") and, together with the terms and conditions of the Agreement incorporated therein, the "*Agreement*"). The Schedule contemplates that certain personal property described therein (the "*Equipment*") is to be acquired from the vendor(s) or manufacturer(s) thereof (the "*Vendor*"). After acceptance of the Equipment by Lessee, the Equipment is to be financed by Lessor to Lessee pursuant to the terms of the Agreement.

The Master Agreement further contemplates that Lessor will deposit an amount equal to the anticipated aggregate acquisition cost of the Equipment (the "*Purchase Price*"), being \$616,573.00, with Escrow Agent to be held in escrow and applied on the express terms set forth herein. Such deposit, together with all interest and other additions received with respect thereto (hereinafter the "*Escrow Fund*") is to be applied to pay the Vendor its invoice cost (a portion of which may, if required, be paid prior to final acceptance of the Equipment by Lessee); and, if applicable, to reimburse Lessee for progress payments already made by it to the Vendor of the Equipment.

The parties desire to set forth the terms on which the Escrow Fund is to be created and to establish the rights and responsibilities of the parties hereto.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Escrow Agent hereby agrees to serve as escrow agent upon the terms and conditions set forth herein. The moneys and investments held in the Escrow Fund are irrevocably held in trust for the benefit of Lessee and Lessor, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Escrow Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either Lessee or Lessor. Lessor, Lessee and Escrow Agent intend that the Escrow Fund constitute an escrow account in which Lessee has no legal or equitable right, title or interest until satisfaction in full of all conditions contained herein for the disbursement of funds by the Escrow Agent therefrom. However, if the parties' intention that Lessee shall have no legal or equitable right, title or interest until all conditions for disbursement are satisfied in full is not respected in any legal proceeding, the parties hereto intend that Lessor have a security interest in the Escrow Fund, and such security interest is hereby granted by Lessee to secure payment of all sums due to Lessor under the Master Agreement. For such purpose, Escrow Agent hereby agrees to act as agent for Lessor in connection with the perfection of such security interest and agrees to note, or cause to be noted, on all books and records relating to the Escrow Fund, the Lessor's interest therein.

2. On such day as is determined to the mutual satisfaction of the parties (the "*Closing Date*"), Lessor shall deposit with Escrow Agent cash in the amount of the Purchase Price, to be held in escrow by Escrow Agent on the express terms and conditions set forth herein.

On the Closing Date, Escrow Agent agrees to accept the deposit of the Purchase Price by Lessor, and further agrees to hold the amount so deposited together with all interest and other additions received with respect thereto, as the Escrow Fund hereunder, in escrow on the express terms and conditions set forth herein.

3. Escrow Agent shall at all times segregate the Escrow Fund into an account maintained for that express purpose, which shall be clearly identified on the books and records of Escrow Agent as being held in its capacity as Escrow Agent. Securities and other negotiable instruments comprising the

Escrow Fund from time to time shall be held or registered in the name of Escrow Agent (or its nominee). The Escrow Fund shall not, to the extent permitted by applicable law, be subject to levy or attachment or lien by or for the benefit of any creditor of any of the parties hereto (except with respect to the security interest therein held by Lessor).

4. The cash comprising the Escrow Fund from time to time shall be invested and reinvested by Escrow Agent in one or more investments as directed by Lessee. Absent written direction from Lessee, the cash will be invested in the U.S. Bank National Association Money Market Deposit Fund. See Exhibit 1 Investment Direction Letter. Lessee represents and warrants to Escrow Agent and Lessor that the investments selected by Lessee for investment of the Escrow Fund are permitted investments for Lessee under all applicable laws. Escrow Agent will use due diligence to collect amounts payable under a check or other instrument for the payment of money comprising the Escrow Fund and shall promptly notify Lessee and Lessor in the event of dishonor of payment under any such check or other instruments. Interest or other amounts earned and received by Escrow Agent with respect to the Escrow Fund shall be deposited in and comprise a part of the Escrow Fund. Escrow Agent shall maintain accounting records sufficient to permit calculation of the income on investments and interest earned on deposit of amounts held in the Escrow Fund. The parties acknowledge that to the extent regulations of the Comptroller of Currency or other applicable regulatory entity grant a right to receive brokerage confirmations of security transactions of the escrow, the parties waive receipt of such confirmations, to the extent permitted by law. The Escrow Agent shall furnish a statement of security transactions on its regular monthly reports. Attached as Exhibit 6 is the Class Action Negative Consent Letter to be reviewed by Lessee.

5. Upon request by Lessee and Lessor, Escrow Agent shall send monthly statements of account to Lessee and Lessor, which statements shall set forth all withdrawals from and interest earnings on the Escrow Fund as well as the investments in which the Escrow Fund is invested.

6. Escrow Agent shall take the following actions with respect to the Escrow Fund:

(a) Upon Escrow Agent's acceptance of the deposit of the Purchase Price, an amount equal to Escrow Agent's set-up fee, as set forth on Exhibit 2 hereto, shall be disbursed from the Escrow Fund to Escrow Agent in payment of such fee.

(b) Escrow Agent shall pay costs of the Equipment upon receipt of a duly executed Requisition Request (substantially in the format of Exhibit 3) signed by Lessor and Lessee. Lessor's authorized signatures are provided in Exhibit 5. Lessee's authorized signatures will be provided in Exhibit 3 of Master Lease Purchase Agreement. Escrow Agent will use best efforts to process requests for payment within one (1) business day of receipt of requisitions received prior to 2:00 p.m. Central Time. The final Requisition shall be accompanied by a duly executed Acceptance Certificate form attached as Exhibit 4 hereto.

(c) Upon receipt by Escrow Agent of written notice from Lessor that an Event of Default or an Event of Nonappropriation (if provided for under the Master Agreement) has occurred under the Agreement, all funds then on deposit in the Escrow Fund shall be paid to Lessor for application in accordance with the Master Agreement, and this Escrow Agreement shall terminate.

(d) Upon receipt by Escrow Agent of written notice from Lessor that the purchase price of the Equipment has been paid in full, Escrow Agent shall pay the funds then on deposit in the Escrow Fund to Lessor to be applied first to the next Lease Payment due under the Master Agreement, and second, to prepayment of the principal component of Lease Payments in inverse order of maturity without premium. To the extent the Agreement is not subject to prepayment, Lessor consents to such prepayment to the extent of such prepayment amount from the Escrow Fund. Upon disbursement of all amounts in the Escrow Fund, this Escrow Agreement shall terminate.

(e) This Escrow Agreement shall terminate eighteen (18) months from the date of this Escrow Agreement. It may, however, be extended by mutual consent of Lessee and Lessor in writing to Escrow Agent. All funds on deposit in the Escrow Fund at the time of termination under this paragraph, unless otherwise directed by Lessee in writing (electronic means acceptable), shall be transferred to Lessor.

7. The fees and expenses, including any legal fees, of Escrow Agent incurred in connection herewith shall be the responsibility of Lessee. The basic fees and expenses of Escrow Agent shall be as set forth on Exhibit 2 and Escrow Agent is hereby authorized to deduct such fees and expenses from the Escrow Fund as and when the same are incurred without any further authorization from Lessee or Lessor. Escrow Agent may employ legal counsel and other experts as it deems necessary for advice in connection with its obligations hereunder. Escrow Agent waives any claim against Lessor with respect to compensation hereunder.

8. Escrow Agent shall have no liability for acting upon any written instruction presented by Lessor in connection with this Escrow Agreement, which Escrow Agent in good faith believes to be genuine. Furthermore, Escrow Agent shall not be liable for any act or omission in connection with this Escrow Agreement except for its own negligence, willful misconduct or bad faith. Escrow Agent shall not be liable for any loss or diminution in value of the Escrow Fund as a result of the investments made by Escrow Agent.

9. Escrow Agent may resign at any time by giving thirty (30) days' prior written notice to Lessor and Lessee. Lessor may at any time remove Escrow Agent as Escrow Agent under this Escrow Agreement upon written notice. Such removal or resignation shall be effective on the date set forth in the applicable notice. Upon the effective date of resignation or removal, Escrow Agent will transfer the Escrow Fund to the successor Escrow Agent selected by Lessor.

10. Lessee hereby represents, covenants and warrants that pursuant to Treasury Regulations Section 1.148-7(d), the gross proceeds of the Agreement will be expended for the governmental purposes for which the Agreement was entered into, as follows: at least 15% within six months after the Commencement Date, such date being the date of deposit of funds into the Escrow Fund, at least 60% within 12 months after the Commencement Date, and 100% within 18 months after the Commencement Date. If Lessee is unable to comply with Section 1.148-7(d) of the Treasury Regulations, Lessee shall, at its sole expense and cost, compute rebatable arbitrage on the Agreement and pay rebatable arbitrage to the United States at least once every five years, and within 60 days after payment of the final rental or Lease Payment due under the Agreement.

11. In the event of any disagreement between the undersigned or any of them, and/or any other person, resulting in adverse claims and demands being made in connection with or for any moneys involved herein or affected hereby, Escrow Agent shall be entitled at its option to refuse to comply with any such claim or demand, so long as such disagreement shall continue, and in so refusing Escrow Agent may refrain from making any delivery or other disposition of any moneys involved herein or affected hereby and in so doing Escrow Agent shall not be or become liable to the undersigned or any of them or to any person or party for its failure or refusal to comply with such conflicting or adverse demands, and Escrow Agent shall be entitled to continue so to refrain and refuse so to act until:

(a) the rights of the adverse claimants have been finally adjudicated in a court assuming and having jurisdiction of the parties and the moneys involved herein or affected hereby; or

(b) all differences shall have been adjusted by Master Agreement and Escrow Agent shall have been notified thereof in writing signed by all of the persons interested.

12. All notices (excluding billings and communications in the ordinary course of business) hereunder shall be in writing, and shall be sufficiently given and served upon the other party if delivered (a) personally, (b) by United States registered or certified mail, return receipt requested, postage prepaid, (c) by an overnight delivery by a service such as Federal Express or Express Mail from which written

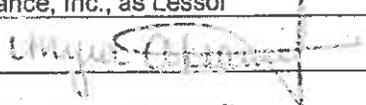
confirmation of overnight delivery is available, or (d) by facsimile with a confirmation copy by regular United States mail, postage prepaid, addressed to the other party at its respective address stated below the signature of such party or at such other address as such party shall from time to time designate in writing to the other party, and shall be effective from the date of mailing.

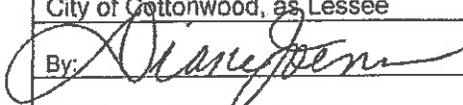
13. This Escrow Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. No rights or obligations of Escrow Agent under this Escrow Agreement may be assigned without the prior written consent of Lessor.

14. This Escrow Agreement shall be governed by and construed in accordance with the laws in the state of Arizona. This Escrow Agreement constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof, and no waiver, consent, modification or change of terms hereof shall bind any party unless in writing signed by all parties.

15. This Escrow Agreement and any written direction may be executed in two or more counterparts, which when so executed shall constitute one and the same agreement or direction.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed as of the day and year first above set forth.

U.S. Bancorp Government Leasing and Finance, Inc., as Lessor
By: 
Name: Myra Aksamit
Title: Documentation Supervisor
Address: 13010 SW 68 th Parkway, Suite 100 Portland, OR 97223

City of Cottonwood, as Lessee
By: 
Name: Diane Joens
Title: Mayor
Address: 816 N. Main Street Cottonwood, AZ 86326

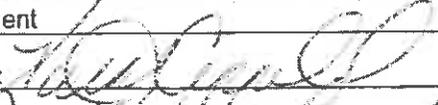
U.S. BANK NATIONAL ASSOCIATION, as Escrow Agent
By: 
Name: Kathleen Connelly
Title: Vice Pres
Address: U.S. Bank National Association 950 17 th Street, 12 th Floor Denver, CO 80202

EXHIBIT 1

INVESTMENT DIRECTION LETTER

U.S. Bank National Association
950 17th Street, 12th Floor
Denver, CO 80202

Re: Escrow Agreement dated as of January 31, 2013, U.S. Bancorp Government Leasing and Finance, Inc. as Lessor, City of Cottonwood as Lessee, and U.S Bank National Association as Escrow Agent

Ladies and Gentlemen:

Pursuant to the above-referenced Escrow Agreement, \$616,573.00 will be deposited in escrow with you on or about January 31, 2013. Such funds shall be invested in one or more of the following qualified investments in the amounts indicated:

U.S. Bank Money Market Deposit Account

Agent is hereby directed to deposit and invest funds in the U.S. Bank Money Market Deposit Savings Account. Depositors acknowledge that the U. S. Bank Money Market Deposit Account is a U. S. Bank National Association ("U.S. Bank") interest-bearing money market deposit account designed to meet the needs of U.S. Bank's Corporate Trust Services Escrow Group and other Corporate Trust customers of U.S. Bank. Selection of this investment includes authorization to place funds on deposit with U.S. Bank. U. S. Bank uses the daily balance method to calculate interest on this account (actual/365 or 366). This method applies a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates currently offered on the accounts are determined at U. S. Bank's discretion and may be tiered by customer deposit amount. The owner of the accounts is U. S. Bank as Agent for its trust customers. U.S. Bank's trust department performs all account deposits and withdrawals. Each customer's deposit is insured by the Federal Deposit Insurance Corporation as determined under FDIC Regulations, up to applicable FDIC limits. Any and all interest earned on the Assets after the deposit shall be added to the Assets and shall become a part thereof. Agent shall thereafter hold, maintain and utilize the Assets pursuant to the terms and conditions of this Agreement. Depositors shall provide Agent with a W-9 or original W-8 IRS tax form prior to the disbursement of interest and Agent will file the appropriate 1099 or other required forms pursuant to Federal and Arizona laws. A statement of citizenship will be provided if requested by Agent. Agent shall not be responsible for maximizing the yield on the Assets. Agent shall not be liable for losses, penalties or charges incurred upon any sale or purchase of any such investment.

Very truly yours,

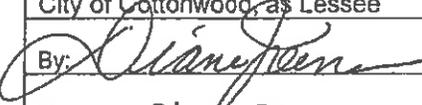
City of Cottonwood, as Lessee	
By:	
Name:	Diane Joens
Title:	Mayor

EXHIBIT 2

**Schedule of Fees for Services as
Escrow Agent
For
City of Cottonwood
Equipment Lease Purchase Escrow**

CTS01010A	Acceptance Fee The acceptance fee includes the administrative review of documents, initial set-up of the account, and other reasonably required services up to and including the closing. This is a one-time, non-refundable fee, payable at closing.	WAIVED
CTS04460	Escrow Agent Annual fee for the standard escrow agent services associated with the administration of the account. Administration fees are payable in advance.	WAIVED
	Direct Out of Pocket Expenses Reimbursement of expenses associated with the performance of our duties, including but not limited to publications, legal counsel after the initial close, travel expenses and filing fees.	At Cost
	Extraordinary Services Extraordinary Services are duties or responsibilities of an unusual nature, including termination, but not provided for in the governing documents or otherwise set forth in this schedule. A reasonable charge will be assessed based on the nature of the services and the responsibility involved. At our option, these charges will be billed at a flat fee or at our hourly rate then in effect.	

Account approval is subject to review and qualification. Fees are subject to change at our discretion and upon written notice. Fees paid in advance will not be prorated. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the above fee schedule, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related out-of-pocket expenses will be billed to you directly. Absent your written instructions to sweep or otherwise invest, all sums in your account will remain uninvested and no accrued interest or other compensation will be credited to the account. Payment of fees constitutes acceptance of the terms and conditions set forth.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT:

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account.

For a non-individual person such as a business entity, a charity, a Trust or other legal entity we will ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

EXHIBIT 3

REQUISITION REQUEST

The Escrow Agent is hereby requested to pay from the Escrow Fund established and maintained under that certain Escrow Agreement dated as of January 31, 2013 (the "Escrow Agreement") by and among U.S. Bancorp Government Leasing and Finance, Inc. (the "Lessor"), City of Cottonwood (the "Lessee"), and U.S. Bank National Association (the "Escrow Agent"), the amount set forth below to the named payee(s). The amount shown is due and payable under a purchase order or contract (or has been paid by and not previously reimbursed to Lessee) with respect to equipment being financed under that certain Master Tax-Exempt Lease Purchase Agreement dated as of January 31, 2013 (the "Master Agreement") and Property Schedule No. 1 thereto dated January 31, 2013 (the "Schedule" and, together with the terms and conditions of the Master Agreement incorporated therein, the "Master Agreement"), by and between the Lessor and the Lessee, and has not formed the basis of any prior requisition request.

PAYEE	AMOUNT	INVOICE NO.	EQUIPMENT

Total requisition amount \$ _____

The undersigned, as Lessee under the Master Agreement, hereby certifies:

1. The items of the Equipment being acquired with the proceeds of this disbursement have been delivered and installed at the location(s) contemplated by the Master Agreement. The Lessee has conducted such inspection and/or testing of the Equipment being acquired with the proceeds of this disbursement as it deems necessary and appropriate, and such Equipment has been accepted by Lessee.
2. The costs of the Equipment to be paid from the proceeds of this disbursement have been properly incurred, are a proper charge against the Escrow Fund and have not been the basis of any previous disbursement.
3. No part of the disbursement requested hereby will be used to pay for materials not yet incorporated into the Equipment or for services not yet performed in connection therewith.
4. The Equipment is covered by insurance in the types and amounts required by the Agreement.
5. No Event of Default or Event of Nonappropriation (if applicable), as each such term is defined in the Master Agreement, and no event which with the giving of notice or lapse of time, or both, would become such an Event of Default or Event of Nonappropriation has occurred and is continuing on the date hereof.
6. If Lessee paid an invoice prior to the commencement date of the Master Agreement, and is requesting reimbursement for such payment, Lessee has satisfied the requirements for reimbursement set forth in Treas. Reg. §1.150-2.

Request Date: _____

Lessor: U.S. Bancorp Government Leasing and Finance, Inc.
By:
Name:
Title:

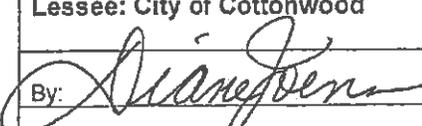
Lessee: City of Cottonwood
By: 
Name: Diane Joens
Title: Mayor

Exhibit 4

Acceptance Certificate

U.S. Bancorp Government Leasing and Finance, Inc.
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

Re: **Property Schedule No. 1 to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. and City of Cottonwood**

Ladies and Gentlemen:

In accordance with the above-referenced Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement"), the undersigned ("Lessee") hereby certifies and represents to, and agrees with, U.S. Bancorp Government Leasing and Finance, Inc. ("Lessor"), as follows:

- (1) The Property, as such terms are defined in the above-referenced Property Schedule, has been acquired, made, delivered, installed and accepted on the date indicated below.
- (2) Lessee has conducted such inspection and/or testing of the Property as it deems necessary and appropriate and hereby acknowledges that it accepts the Property for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default or a Nonappropriation Event (as such terms are defined in the Master Agreement) exists at the date hereof.

Acceptance Date: _____

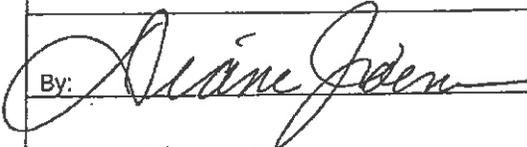
Lessee: City of Cottonwood
By: 
Name: Diane Joens
Title: Mayor

Exhibit 6

Class Action Negative Consent Letter

January 31, 2013

City of Cottonwood
816 N. Main Street
Cottonwood, AZ 86328

RE: USBGLF/City of Cottonwood - - Class Action Litigation Claims

Dear Mr. Rodriguez:

U.S. Bank National Association ("U.S. Bank") has established its policies and procedures relative to class action litigation claims filed on behalf of its clients' accounts. This policy may impact future claims filed by U.S. Bank on behalf of the above-referenced account. Listed below are the policies regarding class action litigation claims:

1. U.S. Bank will file class action litigation claims, at no charge, on behalf of open, eligible agency or custody accounts upon receipt of proper documented authorization. This notice, with your ability to opt out as further described below, constitutes such documented authorization.
2. U.S. Bank will not file claims for agency or custody accounts that were open during the class action period but were closed prior to receipt of any notice of the class action litigation.
3. Assuming requisite information is provided by the payor to identify the applicable account, settlement proceeds of the class action litigation will be posted within a reasonable time following receipt of such proceeds to the entitled accounts that are open at such time. If entitled accounts are closed prior to distribution and receipt of settlement proceeds, they will be remitted to entitled beneficiaries or successors of the account net of any research and filing fees. Proceeds, less any research and filing fees, will be escheated if the entitled beneficiaries or successors of the account cannot be identified /located.

If you wish U.S. Bank to continue to file class action litigation proofs of claim on behalf of your account, you do not need to take any further action. However, if you do not wish U.S. Bank to file class action proofs of claim on behalf of your account, you may notify us of this election by returning this letter with your signature and date provided below within 30 days or by filing a separate authorization letter with your Account Manager by the same date.

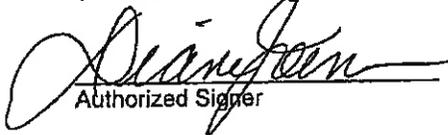
The authorization and understanding contained in this communication constitutes an amendment of any applicable provisions of the account document for the above-referenced account.

If you have any questions, please contact me at the below number.

Sincerely,

Kathleen Connelly
Vice President
303-585-4591

No, U.S. Bank is not authorized to file class action litigation proofs of claim on behalf of the above-referenced account(s). By making this election, I acknowledge that U.S. Bank is not responsible for forwarding notices received on class action or litigation claims.


Authorized Signer

Date

EXHIBIT B
CONTRACTOR IMMIGRATION WARRANTY
(To Be Completed by Contractor Prior to Execution of Contract)

A.R.S. § 41-4401 (Government procurement, E-verify requirement, definitions) requires as a condition of your Contract, verification of compliance by the Contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the Contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number: 2014-15-04		
Name (as listed in the contract): US Bank of Government Housing and Finance, Inc.		
Street Name and Number: 950 67th St. 7th Floor		
City: Denver	State: CO	Zip Code: 80202

I hereby attest that:

1. The Contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this Contract;
2. The Contractor shall verify, through the U.S. Department of Homeland Security's E-Verify program, the employment eligibility of each employee who provides services or labor in Arizona for wages or other remuneration, and that it shall require its subcontractors and sub-subcontractors to provide the same warranties to Contractor.
3. All subcontractors performing work under this Contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.
4. The Contractor acknowledges that a breach of this warranty by the Contractor or by any subcontractor or sub-subcontractor under this Contract shall be deemed a material breach of this Contract, and is grounds for penalties, including termination of this Contract, by Owner.
5. Owner retains the legal right to inspect the papers of Contractor, and any subcontractor and sub-subcontractor employee who performs work under this Contract, and to conduct random verification of the employment records of Contractor and each subcontractor and sub-subcontractor who works on this Contract, to ensure that Contractor and each subcontractor and sub-subcontractor is complying with the warranties set forth above.

Signature of Contractor (Employer) or Authorized Designee:

Printed Name: Thomas E. Seybold
Title: VP Western Region
Date (month/day/year): 12/18/2013

Request for Taxpayer Identification Number and Certification

Give Form to the
 requester. Do not
 send to the IRS.

Print or type
 See Specific Instructions on page 2.

Name (as shown on your income tax return) U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC.	
Business name/disregarded entity name, if different from above	
Check appropriate box for federal tax classification (required): <input type="checkbox"/> Individual/sole proprietor <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
<input checked="" type="checkbox"/> Exempt payee	
Address (number, street, and apt. or suite no.) 1310 MADRID ST STE 100	Requester's name and address (optional)
City, state, and ZIP code MARSHALL, MN 56258	
List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number								

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									
4	5	-	3	7	9	8	1	4	8

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶ <i>[Handwritten Signature]</i>	Date ▶ <i>11/13/15</i>
------------------	---	------------------------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding. If you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date:	January 7, 2014
Subject:	Special Event Liquor License Application for the Chamber of Commerce.
Department:	City Clerk
From:	Marianne Jiménez, City Clerk

REQUESTED ACTION

Consideration of recommendation of approval or denial of a Special Event Liquor License application submitted by Lana Tolleson, applicant for the Cottonwood Chamber of Commerce.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to recommend approval of the Special Event Liquor License Application submitted by Lana Tolleson, applicant for the Cottonwood Chamber of Commerce, for the annual Chamber banquet scheduled for January 31, 2014, at the Cottonwood Recreation Center."

BACKGROUND

Lana Tolleson has submitted a Special Event Liquor License Application on behalf of the Cottonwood Chamber of Commerce for their annual Chamber banquet scheduled for January 31, 2014, at the Cottonwood Recreation Center.

JUSTIFICATION/BENEFITS/ISSUES

All Special Event Liquor License applications that are submitted to the Arizona Department of Liquor Licenses & Control (ADLLC) for events located within the City of Cottonwood are presented to the Council for its recommendation of approval or denial of the application. The Council's recommendation is taken into consideration by the ADLLC prior to their final approval of the application.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

Name:

Description:

Type:

 [1-7-13 Chamber Special Event.pdf](#)

Special Event Liquor License

Cover Memo

10. Has the applicant been convicted of a felony in the past five years, or had a liquor license revoked?
 YES NO (attach explanation if yes)

11. This organization has been issued a special event license for 0 days this year, including this event
(not to exceed 10 days per year).

12. Is the organization using the services of a promoter or other person to manage the event? YES NO
If yes, attach a copy of the agreement.

13. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds.
**THE ORGANIZATION APPLYING MUST RECEIVE 25% OF THE GROSS REVENUES OF THE SPECIAL
EVENT LIQUOR SALES.**

Name Cottonwood Chamber of Commerce 100%
Percentage

Address 1010 S. Main Street, Cottonwood, AZ 86326

Name _____ Percentage _____

Address _____
(Attach additional sheet if necessary)

14. Knowledge of Arizona State Liquor Laws Title 4 is important to prevent liquor law violations. If you have any questions regarding the law or this application, please contact the Arizona State Department of Liquor Licenses and Control for assistance.

NOTE: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY.
"NO ALCOHOLIC BEVERAGES SHALL LEAVE SPECIAL EVENT PREMISES."

15. What security and control measures will you take to prevent violations of state liquor laws at this event?
(List type and number of security/police personnel and type of fencing or control barriers if applicable)

0 # Police Fencing
4 # Security personnel Barriers

Staff personal trained and aware of state liquor laws and will enforce. Security at front door and serving area. Event is being held at a place of business.

TIPS Concessions Trained: ID# 2689196 and ID# 2689200

16. Is there an existing liquor license at the location where the special event is being held? YES NO
If yes, does the existing business agree to suspend their liquor license during the time period, and in the area in which the special event license will be in use? YES NO

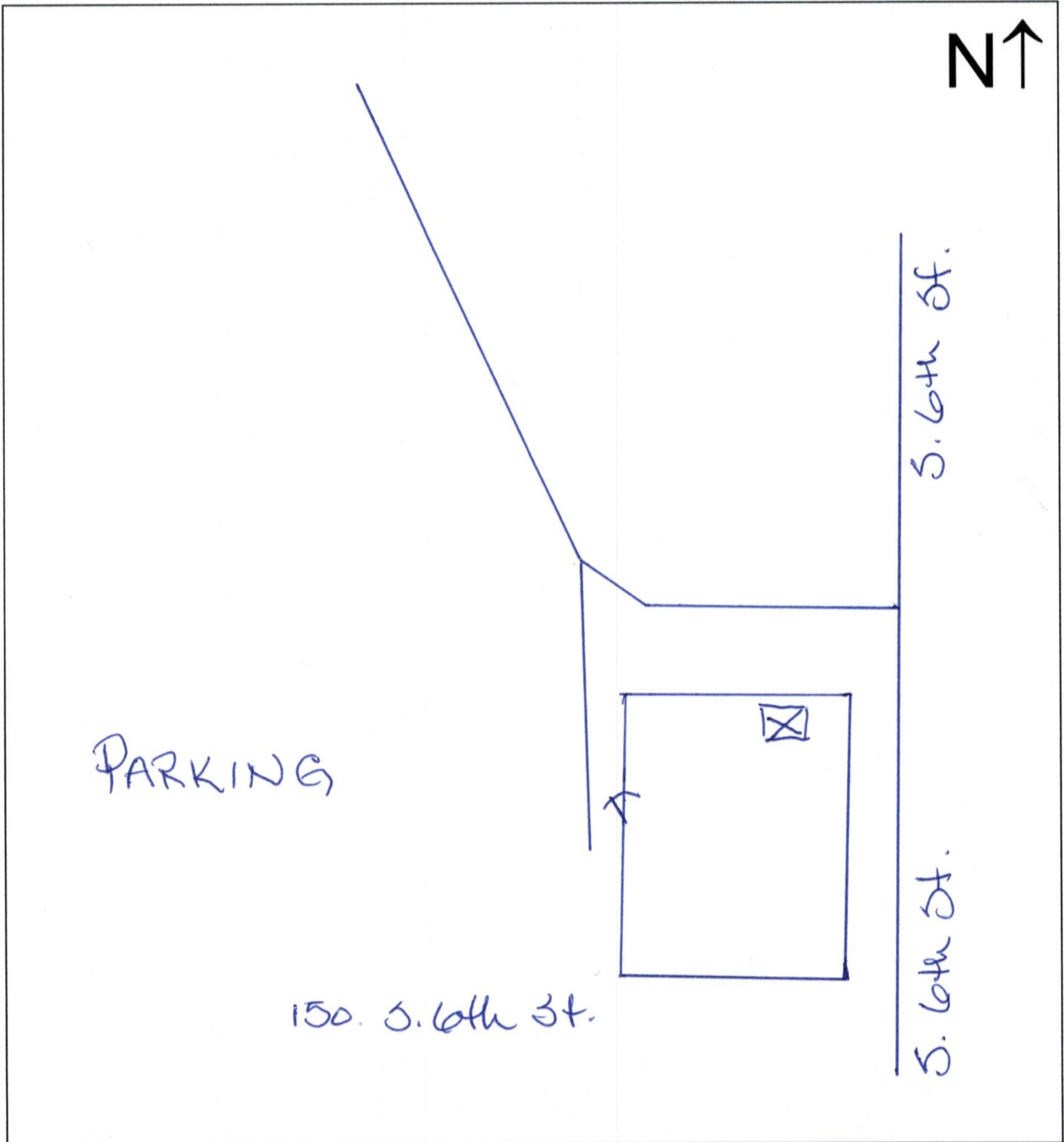
(ATTACH COPY OF AGREEMENT)

Name of Business () Phone Number

17. Your licensed premises is that area in which you are authorized to sell, dispense, or serve spirituous liquors under the provisions of your license. The following page is to be used to prepare a diagram of your special event licensed premises. Please show dimensions, serving areas, fencing, barricades or other control measures and security positions.

SPECIAL EVENT LICENSED PREMISES DIAGRAM
(This diagram must be completed with this application)

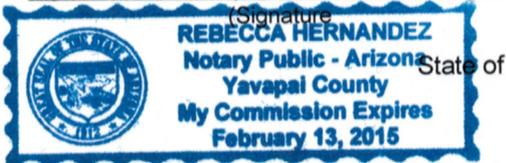
Special Event Diagram: (Show dimensions, serving areas, and label type of enclosure and security positions)
NOTE: Show nearest cross streets, highway, or road if location doesn't have an address.



THIS SECTION TO BE COMPLETED ONLY BY AN OFFICER, DIRECTOR OR CHAIRPERSON OF THE ORGANIZATION NAMED IN QUESTION #1

18. I, Lana Tolleson declare that I am an Officer/Director/Chairperson appointing the applicant listed in Question 6, to apply on behalf of the foregoing organization for a Special Event Liquor License.

X Lana Tolleson President/CEO 12-20-13 (928) 634-7593
(Signature) (Title/Position) (Date) (Phone #)



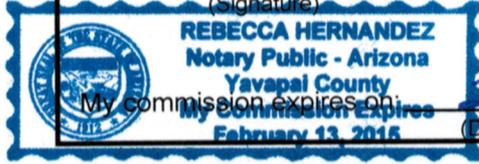
State of Yavapai County of Arizona
The foregoing instrument was acknowledged before me this 20th 12 2013
Day Month Year

My Commission expires on: 2-13-2015 (Date) Rebecca Hernandez (Signature of NOTARY PUBLIC)

THIS SECTION TO BE COMPLETED ONLY BY THE APPLICANT NAMED IN QUESTION #6

19. I, Lana Tolleson declare that I am the APPLICANT filing this application as listed in Question 6. I have read the application and the contents and all statements are true, correct and complete.

X Lana Tolleson State of Arizona County of Yavapai
(Signature) The foregoing instrument was acknowledged before me this



20th December 2013
Day Month Year
Rebecca Hernandez (Signature of NOTARY PUBLIC)

My commission expires on: 2-13-2015 (Date)

You must obtain local government approval. City or County MUST recommend event and complete item #20. The local governing body may require additional applications to be completed and submitted 60 days in advance of the event. Additional licensing fees may also be required before approval may be granted.

LOCAL GOVERNING BODY APPROVAL SECTION

20. I, _____ hereby recommend this special event application
(Government Official) (Title)
on behalf of _____
(City, Town or County) (Signature of OFFICIAL) (Date)

FOR DLLC DEPARTMENT USE ONLY

Department Comment Section:

(Employee) (Date)

APPROVED DISAPPROVED BY: _____
(Title) (Date)

**City of Cottonwood, Arizona
City Council Agenda Communication**



 Print

Meeting Date:	January 7, 2014
Subject:	City Council discussion and direction regarding the Council's annual strategic planning retreat
Department:	Mayor
From:	Mayor Diane Joens.

REQUESTED ACTION

The City Council would like to discuss the plans and direction for the Council's 2014 Strategic Planning Retreat

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is: N/A

BACKGROUND

Every year the Council has met around the first of the year to develop their strategic plan for the year. The Council will discuss how it desires to conduct its 2014 Strategic Planning Retreat and schedule a date for the retreat.

JUSTIFICATION/BENEFITS/ISSUES

The strategic planning process sets the Council's priorities for the year which also serves as the first stage in the budget planning process. The strategic plan also provides staff with direction regarding the Council's priorities for the year.

COST/FUNDING SOURCE

In past years there has been minimal hard costs associated with the planning retreat and the development of the Council's Strategic Plan.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

