

## A G E N D A

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, TO BE HELD OCTOBER 18, 2011, AT 6:00 P.M., AT THE CITY 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. 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.
- VI. INTRODUCTION OF NEW EMPLOYEES
- VII. APPROVAL OF MINUTES--BUDGET WORK SESSIONS OF JUNE 6, 8, AND 13, 2011; REGULAR MEETING OF OCTOBER 4, 2011.

*Comments regarding agenda items are limited to a 5 minute time period per speaker.*

- VIII. OLD BUSINESS
  1. ORDINANCE NUMBER 579--AMENDING SECTION 404.O: ANIMALS AND PETS OF THE CITY OF COTTONWOOD ZONING ORDINANCE BY ADDING A NEW SUB-SECTION a. to SECTION O. 1. HOUSEHOLD PETS; AMENDING SUB-SECTION 2. SHOW ANIMALS, OF SECTION 404. O. ANIMALS AND PETS; ADDING A NEW SUB-SECTION 8. TO SECTION 413.B: R-1 ZONE (PERMITTED USES); ADDING A NEW SUB-SECTION 11. TO SECTION 414. B: R-2 ZONE (PERMITTED USES); ADDING A NEW SUB-SECTION 15. TO SECTION 416.B: R-4 ZONE (PERMITTED USES); AND ADDING A NEW SUB-SECTION 12. TO SECTION 417.B: MH ZONE (PERMITTED USES); SECOND & FINAL READING.
  2. ORDINANCE NUMBER 580--AMENDING THE CITY OF COTTONWOOD ZONING ORDINANCE BY ADDING A NEW SUB-SECTION 406. G. REGULATIONS APPLICABLE TO PARKING IN THE "COTTONWOOD COMMERCIAL HISTORIC DISTRICT" TO SECTION 406. PARKING AND LOADING REQUIREMENTS; ADDING A NEW SUB SECTION 406. B. 7. EXCEPTIONS FOR USES LOCATED NEAR PUBLIC PARKING LOTS; AND ADDING A NEW SUB-SECTION 406. E. 6. EXEMPT USES (PERTAINING TO OFF-STREET LOADING REQUIREMENTS); SECOND & FINAL READING.

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3. ORDINANCE NUMBER 581--AMENDING THE CITY OF COTTONWOOD ZONING ORDINANCE BY DELETING SUBSECTION 22. SIGN, POLITICAL, AND ADDING A NEW SUBSECTION 405. B. 22. SIGN, POLITICAL AND CAMPAIGN; AMENDING SECTION 405. E. REGULATIONS APPLICABLE TO SIGNS IN ALL DISTRICTS, BY ADDING A NEW SUBSECTION 14. POLITICAL AND CAMPAIGN SIGNS, AND 15. POLITICAL AND CAMPAIGN SIGNS LOCATED IN CITY RIGHTS-OF-WAY; AND DELETING SUBSECTION 405. G. 6. POLITICAL SIGNS; SECOND & FINAL READING.

IX. CONSENT AGENDA--No items.

X. NEW BUSINESS--The following items are for Council discussion, consideration, and possible legal action.

1. AGREEMENT FOR THE RIGHT-OF-WAY AND DRAINAGE EASEMENT FROM THE ARIZONA CONFERENCE CORPORATION OF SEVENTH DAY ADVENTISTS FOR THE WEST MINGUS AVENUE RECONSTRUCTION PROJECT.
2. RESOLUTION NUMBER 2612-- DECLARING THE CITY'S INTENT TO CONSTRUCT A NEW WASTEWATER TREATMENT FACILITY AT RIVERFRONT PARK, AND APPROVING A PRECONSTRUCTION SERVICES AGREEMENT WITH PCL CONSTRUCTION, INC.
3. ORDINANCE NUMBER 575--APPROVING THE TRANSFER OF A CABLE TELEVISION LICENSE FROM NPG CABLE, INC., TO NPG CABLE, LLC D/B/A SUDDENLINK COMMUNICATIONS IN CONNECTION WITH THE SALE AND CORPORATE RESTRUCTURING OF THE COMPANY; AND SETTING NPG/SUDDENLINK'S PERFORMANCE BOND AT \$5,000.00; FIRST READING.

XI. CLAIMS & ADJUSTMENTS

XII. 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



Meeting Date: October 18, 2011  
**Subject: Ordinance 579: Keeping of Chickens in City Limits**  
Department: Community Development  
From: George Gehlert, Director

**REQUESTED ACTION**

Approval of Ordinance 579, amending the Cottonwood Zoning Ordinance to allow keeping of chickens within City limits. Second and final reading.

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

“I move to approve Ordinance Number 579.”

**BACKGROUND**

The keeping of fowl and other animals is addressed by the Cottonwood Zoning Ordinance, Section 404.O (General Provisions / Animals and Pets). Raising of poultry is currently allowed in the GA (General Agricultural) and AR (Agricultural/Residential) zones. The practice is not currently permitted in any other zones. The City’s Municipal Code does not address the issue of chickens.

**Chickens are permitted in other nearby jurisdictions:**

- Yavapai County allows eight (8) poultry per acre, or fraction thereof.
- Camp Verde permits the keeping of chickens subject to their nuisance code.
- Clarkdale permits 1 chicken per 1,000 sq.ft. of lot area (10,000 sq.ft. lot minimum).

This item was discussed previously as part of a Council work session on September 13; and at a regular City Council hearings on September 20 at which time revisions were suggested and incorporated into the first reading on October 4. The initial ordinance proposal targeted only the R-1 and R-2 residential zones. In discussions during the initial Council sessions, there was general consensus to broaden the application of the

code to also include the R-4 and MH zones; and to allow up to 12 chickens per household. Additionally, Council did not feel the need to require a minimum lot size or to prohibit outdoor slaughtering.

Attached is Section 404.O from the zoning ordinance, detailing the proposed revisions to the General Provisions section of the zoning ordinance.

**JUSTIFICATION/BENEFITS/ISSUES**

Will allow for the domestic production of chickens and eggs as a food source. Could also result in nuisance related impacts (and complaints) due to odor and waste by-products, particularly in residential zones where small lots are prevalent.

**COST/FUNDING SOURCE**

N/A

**REVIEWED BY:**

City Manager: \_\_\_\_\_

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

**ATTACHMENTS**

- Section 404.O: Animals and Pets
- Ordinance 579

## **PROPOSED AMENDMENT TO SECTION 404.O: ANIMALS AND PETS**

### **O. ANIMALS AND PETS.**

1. Household Pets: Except as otherwise permitted in this Ordinance, the keeping of animals in connection with each dwelling shall not exceed a total of three (3) pets, such as dogs, cats and similar household pets, exclusive of birds, fish and other pets which at all times are kept within a fully enclosed building or accessory building and which do not create odor or sound which is detectable on an adjoining lot.
  - a. ***Exception for Chickens: The regular (non-commercial) keeping and raising of chickens is permitted in the R-1, R-2, R-4 and MH zones, subject to the following performance standards:***
    - 1) ***Conformance to all applicable Yavapai County Health standards.***
    - 2) ***Keeping shall also be subject to the same standards as for Show Animals (below) pertaining to caging, cleaning, and for storage of feed and equipment.***
    - 3) ***Number of chickens is limited to twelve (12) per household.***
    - 4) ***Roosters are prohibited.***
    - 5) ***Containment areas shall be located a minimum of 15 feet from property boundaries.***
    - 6) ***Issuance of an annual permit by the Community Development Department.***
2. Show Animals: The keeping of animals as show projects, not to exceed one lamb, or three adult ~~poultry~~, rabbits or other small animals per project or premises, shall be an allowable use only by family members residing on the premises. Annually a completed form, prescribed by the Planning and Zoning Department, with name and physical address of each applicant and type, duration and number of animals of each project shall be submitted to the Planning and Zoning Department by said resident. Goat, swine, beef, adult sheep and horse projects shall be limited to Agricultural zones. Lamb, ~~poultry~~, rabbits and other small animal projects shall be allowed in residential zones by permit only. The projects in zones other than Agricultural shall be of a limited duration not exceeding six (6) months in one (1) calendar year, allowing for the care, feeding and grooming of such animals to be shown and/or sold annually at events such as the Verde Valley, Yavapai County and/or Arizona State Fair. In the instance that a prize winning animal is to be entered into competition more than one time, an extension of the permit may be applied for and after evaluation by the Planning and Zoning Department conditionally extended. Pens, stables, cages and other shelters for such animal projects shall not be located closer than twenty five (25) feet to any property line. All structures shall be kept in a neat and sightly manner and shall be controlled daily from refuse, manure, flies and other nuisances at all times. Storage of feed equipment and other material related to such animals shall be entirely within an enclosed building. Carports or garages attached to a residence shall not be used to contain such animal projects.
3. Nuisance: Where the keeping of such animals becomes a nuisance, the Planning and Zoning Inspector shall have the authority to require a reduction in the number of and/or removal of the animals. Normally the Inspector will allow a ten (10) day grace

period for compliance to the Ordinance. In exceptional cases the Inspector shall require immediate removal of the animals in question.

4. The provisions of the Ordinance are not intended to authorize the keeping of animals, regardless of number, size or type, in a manner which constitutes a nuisance and which impairs the enjoyment or use of nearby properties or violates other legal restrictions the properties are subject to.

ORDINANCE NUMBER 579

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING SECTION 404.O: ANIMALS AND PETS OF THE CITY OF COTTONWOOD ZONING ORDINANCE BY ADDING A NEW SUB-SECTION a. TO SECTION O. 1. HOUSEHOLD PETS; AMENDING SUB-SECTION 2. SHOW ANIMALS, OF SECTION 404. O. ANIMALS AND PETS; ADDING A NEW SUB-SECTION 8., TO SECTION 413.B: R-1 ZONE (PERMITTED USES); ADDING A NEW SUB-SECTION 11. TO SECTION 414. B: R-2 ZONE (PERMITTED USES); ADDING A NEW SUB-SECTION 15. TO SECTION 416.B: R-4 ZONE (PERMITTED USES); AND ADDING A NEW SUB-SECTION 12. TO SECTION 417.B: MH ZONE (PERMITTED USES).

WHEREAS, the City Council has determined that the following changes to the City's Zoning Ordinance are appropriate and desirable.

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 404. O. ANIMALS AND PETS, of the Cottonwood Zoning Ordinance is hereby amended by adding new sub-section a. to Section O. 1. Household Pets, as follows:

- a. Exception for Chickens: The regular (non-commercial) keeping and raising of chickens is permitted in the R-1, R-2, R-4 and MH zones subject to the following performance standards:
  - 1) Conformance to all applicable Yavapai County Health standards.
  - 2) Keeping shall also be subject to the same standards as for Show Animals (below) pertaining to caging, cleaning, and for storage of feed and equipment.
  - 3) Number of chickens is limited to 12 (12) per household.
  - 4) Roosters are prohibited.
  - 5) Containment areas shall be located a minimum of 15 feet from property boundaries.
  - 6) Issuance of an annual permit by the Community Development Department.

Section 2. That SECTION 404. O. ANIMALS AND PETS, sub-section 2. Show Animals, is hereby amended by removing the word "poultry" from said section.

ORDINANCE NUMBER 579

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Section 3. That a new sub-section 8. be added to SECTION 413.B: R-1 ZONE (PERMITTED USES) of the Zoning Ordinance as follows:

8. The keeping of fowl, subject to the standards set out under Section 404. O.

Section 4. That a new sub-section 11. be added to SECTION 414. B: R-2 ZONE (PERMITTED USES) as follows:

11. The keeping of fowl, subject to the standards set out under Section 404. O.

Section 5. That a new sub-section 15. be added to SECTION 416. B: R-4 ZONE (PERMITTED USES) as follows:

13. The keeping of fowl, subject to the standards set out under Section 404. O.

Section 6. That a new sub-section 12. be added to SECTION 417. B: MH ZONE (PERMITTED USES) as follows:

12. The keeping of fowl, subject to the standards set out under Section 404. O.

Section 7. That if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be unlawful, invalid or unenforceable by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, ARIZONA, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2011.

\_\_\_\_\_  
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



Meeting Date: October 18, 2011

**Subject: ORDINANCE NUMBER 580 - Proposing Amendments to the Cottonwood Zoning Ordinance, Section 406 "Parking and Loading Requirements" amending the parking requirements for properties in the Old Town Commercial area.**

Department: Community Development

From: Charlie Scully, AICP, Long-Range Planner

**REQUESTED ACTION**

Consideration of Ordinance Number 580, which approves amendments to the Zoning Ordinance by adding a new Section 406. G. Regulations Applicable to Parking in the "Cottonwood Commercial Historic District." and adding a new Section 406. B. 7. "Exceptions for uses located near Public Parking Lots." and adding a new Section 406. E. 6. "Off-Street Loading Requirements in the Cottonwood Commercial Historic District."

**Second and Final Reading.**

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

"I move to approve Ordinance Number 580 approving amendments to the City Zoning Ordinance, Section 406, regarding parking requirements in the Old Town commercial area"

**BACKGROUND**

When the Cottonwood Zoning Ordinance was adopted in 1979, most of the existing commercial uses in the historic Old Town area became nonconforming in terms of the parking requirements. The existing uses may continue indefinitely as legally nonconforming uses; however, new development or a change of use that results in increased requirements is technically subject to the same parking requirements as applied city-wide. Parking in this area has been subject to administrative policy based on the existing nonconforming status. The proposed zoning amendment brings the majority of properties into conformance with existing conditions.

**REVIEWED BY**

City Manager: \_\_\_\_\_

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

**ATTACHMENTS**

- Ordinance 580, amending the parking requirements for Old Town
- Historic District Map

ORDINANCE NUMBER 580

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING THE CITY OF COTTONWOOD ZONING ORDINANCE BY ADDING A NEW SUB SECTION 406. G. REGULATIONS APPLICABLE TO PARKING IN THE "COTTONWOOD COMMERCIAL HISTORIC DISTRICT" TO SECTION 406. PARKING AND LOADING REQUIREMENTS; ADDING A NEW SUB SECTION 406. B. 7., EXCEPTIONS FOR USES LOCATED NEAR PUBLIC PARKING LOTS; AND ADDING A NEW SUB SECTION 406. E. 6. EXEMPT USES (PERTAINING TO OFF-STREET LOADING REQUIREMENTS).

WHEREAS, the City Council has determined that the following changes to the City's Zoning Ordinance are appropriate and desirable.

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 406. PARKING AND LOADING REQUIREMENTS., of the Zoning Ordinance is hereby amended by adding a new Sub Section 406. G, REGULATIONS APPLICABLE TO PARKING IN THE "COTTONWOOD COMMERCIAL HISTORIC DISTRICT" TO SECTION 406, PARKING AND LOADING REQUIREMENTS, as follows:

G. REGULATIONS APPLICABLE TO PARKING IN THE "COTTONWOOD COMMERCIAL HISTORIC DISTRICT."

1. Purpose: This section is intended to provide reasonable exceptions to the off-street parking requirements in the area commonly known as "Old Town Cottonwood" where most properties have been developed with full lot coverage to the property lines and where lots are generally smaller than comparably lots in other parts of the city.
2. Applicability: This section applies to properties located in the Cottonwood Commercial Historic District as listed on the National Register of Historic Places.

3. Exempt Parking. Except as described in this Section, properties located in the Cottonwood Commercial Historic District, shall be exempt from the off-street parking and loading schedule as set forth in Section 406. "Parking and Loading Requirements."
4. Existing off-street parking. New construction or the expansion of an existing building shall not be permitted where such construction results in the removal of existing off-street parking on the same property where such parking would otherwise be considered required parking for such uses.
5. Design Standards: Where new or remodeled parking facilities are provided, all such parking and/or loading shall be required to conform to City of Cottonwood development standards, including dimensions, location, safe access, landscaping, lighting, surfacing, drainage and engineering standards.

Section 2. That SECTION 406. PARKING AND LOADING REQUIREMENTS., of the Cottonwood Zoning Ordinance is hereby amended by adding a new Subsection 406. B.7, as follows:

7. Exceptions for uses located near public parking lots: The Community Development Director may administratively approve a reduction of up to 50% of required off-street parking for non-residential uses located within 300 feet of a public parking lot, as measured from the building entrance to the parking lot. Appeal of the decision of the Director shall be to the Planning and Zoning Commission.

Section 3. That SECTION 406. PARKING AND LOADING REQUIREMENTS., of the Cottonwood Zoning Ordinance is hereby amended by adding a new Subsection 406. E. 6. (pertaining to Off-Street Loading Requirements), as follows:

6. Exempt Uses: Uses located within the Cottonwood Commercial Historic District are exempt from requirements for providing loading spaces. If provided, such loading spaces must conform to development standards, including dimensions, location, safe access, landscaping, lighting, surfacing, drainage and engineering standards.

Section 4. That if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be unlawful, invalid or unenforceable by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

ORDINANCE NUMBER 580

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PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, ARIZONA, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2011.

\_\_\_\_\_  
Diane Joens, Mayor

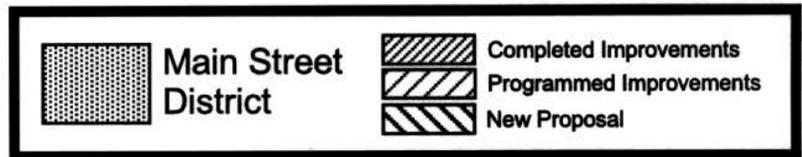
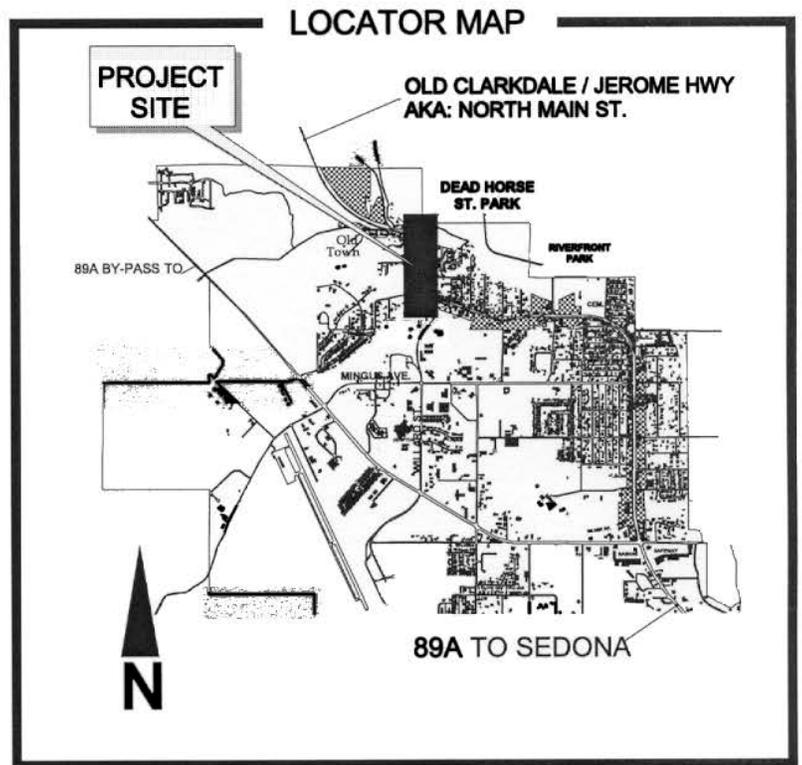
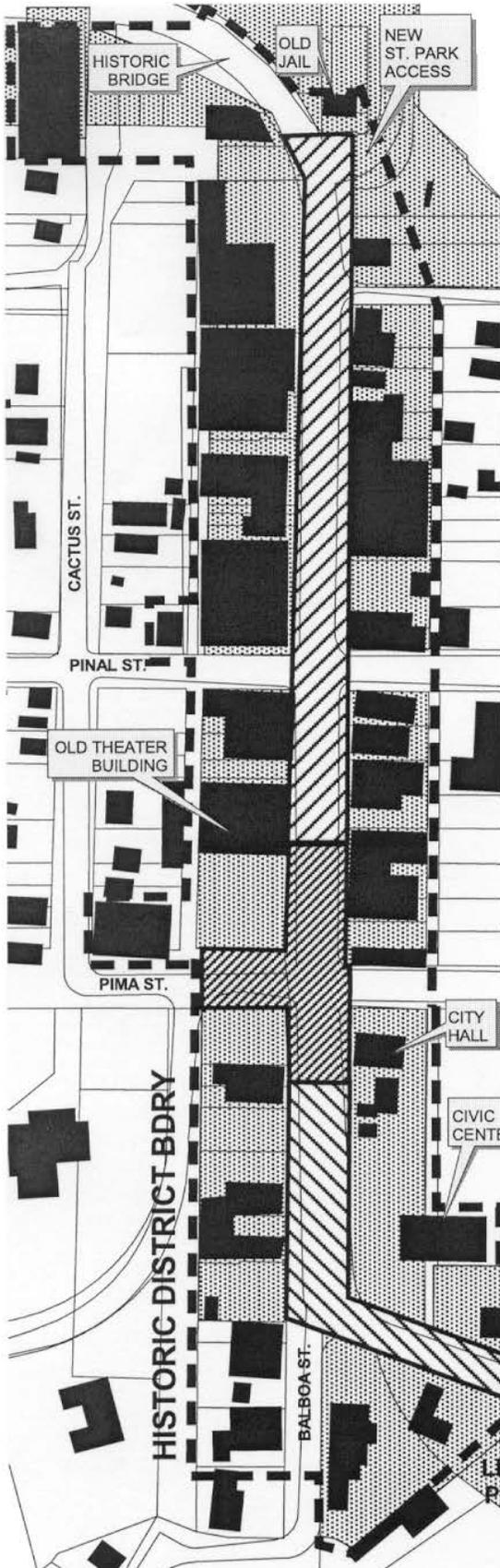
APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Steven B. Horton, Esq., City Attorney

\_\_\_\_\_  
Marianne Jiménez, City Clerk

# Old Town Cottonwood Main Street Improvement Project



SCALE: 1" = 200'

City of Cottonwood, Arizona  
City Council Agenda Communication



Meeting Date: October 18, 2011

**Subject: ORDINANCE NUMBER 581 - Proposing Amendments to the Cottonwood Zoning Ordinance regarding Political Signs and Political Signs in City Right-of-Way.**

Department: Community Development

From: Charles Scully, AICP, Long-Range Planner

**REQUESTED ACTION**

Consideration of Ordinance Number 581 which approves amendments to the Zoning Ordinance Section 405. Signs., deleting existing Section 405. G. 6. "Political Signs" in its entirety; and adding a new Section 405. E. 14. "Political Signs" and, 405. E. 15. "Political and Campaign Signs located in public Right-of-Way" Second and Final Reading.

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

"I move to approve Ordinance Number 581 approving amendments to the City Zoning Ordinance Section 405 regarding political signs."

**BACKGROUND**

As of July 2011, new state legislation requires municipalities to allow political signs to be located in municipal right-of-way. Arizona Revised Statutes § 16-1019, "Political signs; tampering; classification," requires municipalities to allow relatively large political and campaign signs to be located within city right-of-way as a matter of right. So as to bring existing sign standards into conformance with the new State law and to address other local concerns, as permitted, the following amendment is proposed for the Cottonwood Zoning Ordinance Section 405, "Signs." The state law took effect July 20, 2011.

## DELETE Existing Section 405. G. 6. Political Signs.

### G. REGULATIONS APPLICABLE TO SIGNS IN COMMERCIAL AND INDUSTRIAL ZONES

6. Political Signs: Political Signs of not more than six (6) square feet are permitted during an election campaign. Such signs may not be erected prior to ninety (90) days before the pertinent election and must be removed immediately thereafter.

### Summary of new Political Sign regulations as per Arizona Revised Statutes:

Relatively large political signs are allowed to be placed in municipal right-of-way. The removal of political signs in R-O-W is prohibited during the period from 60 days prior to a primary election to 15 days after a general election (or to 15 days following a primary election for signs of candidates who lose the primary) if the following conditions are met:

- The sign is in a public right-of-way that is controlled or owned by that jurisdiction.
- The sign is not placed in a hazardous location that obstructs clear vision in the area.
- The sign is not in violation of the provisions of the Americans with Disabilities Act as defined by federal law.
- The sign has a maximum area of 16 square feet, if the sign is located in an area zoned for residential use, or the sign has a maximum area of 32 square feet, if the sign is located in any area other than land zoned for residential use.
- The sign contains the name and telephone number of the candidate or campaign committee contact person.

### Emergencies

If a jurisdiction deems it an emergency matter, it may relocate an improperly placed sign, but it must notify the candidate or campaign committee within 24 hours of relocation. In the case of an improperly placed sign that does not constitute an emergency, the jurisdiction must notify the candidate or campaign committee. If the sign is not moved within 24 hours of notification, the jurisdiction may remove the sign but must retain it for 10 business days, during which time the campaign committee may retrieve the sign without penalty.

### Political Sign-free Zones for Right-of-way

Municipalities have the right to regulate certain aspects of the placement of political signs, including the ability to designate **Commercial Tourism, Commercial Resort and Hotel Sign Free Zones** for political signs. Municipalities may identify sign-free zones in areas of predominant commercial tourism. There may not be more than two such zones in a municipality and each zone shall not be larger than three square miles. The City Council can do this by resolution.

**Prohibitions**

The law also provides that municipalities may ban placement of political signs on any structure owned by the jurisdiction. It further clarifies that a local government employee acting within the scope of his employment is not liable for injury caused by the failure to remove a sign, unless the employee intended to cause injury or was grossly negligent.

**REVIEWED BY**

City Manager: \_\_\_\_\_

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

**ATTACHMENTS**

- Ordinance 581, amending Section 405. "Signs" adding new subsections 405. E. 14 & 15 for Political Signs.
- ARS § 16-1019. "Political signs; tampering; classification."

ORDINANCE NUMBER 581

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING THE CITY OF COTTONWOOD ZONING ORDINANCE BY DELETING SUBSECTION 22. SIGN, POLITICAL, AND ADDING A NEW SUBSECTION 405. B. 22. SIGN, POLITICAL AND CAMPAIGN; AMENDING SECTION 405. E. REGULATIONS APPLICABLE TO SIGNS IN ALL DISTRICTS., BY ADDING A NEW SUBSECTION 14. POLITICAL AND CAMPAIGN SIGNS, AND 15. POLITICAL AND CAMPAIGN SIGNS LOCATED IN CITY RIGHTS-OF-WAY; AND DELETING SUBSECTION 405. G. 6. POLITICAL SIGNS.

WHEREAS, the City Council has determined that the following changes to the City's Zoning Ordinance are appropriate and desirable.

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 405. SIGNS., of the Zoning Ordinance is hereby amended by deleting Subsection B. 22. SIGN, POLITICAL, and adding a new Subsection B. 22. SIGN, POLITICAL AND CAMPAIGN., as follows:

22. SIGN, POLITICAL AND CAMPAIGN - Any temporary sign announcing or supporting any candidate for public office or issues in connection with any national, state or local election.

Section 2. That SECTION 405. E. REGULATIONS APPLICABLE TO SIGNS IN ALL DISTRICTS., is hereby amended by adding a new Subsection 14. POLITICAL AND CAMPAIGN SIGNS., and 15. POLITICAL AND CAMPAIGN SIGNS LOCATED IN CITY RIGHTS-OF-WAY., as follows:

E. REGULATIONS APPLICABLE TO SIGNS IN ALL DISTRICTS

14. Political and campaign signs shall not require a sign permit but shall be subject to the following regulations:

a. Political and campaign signs may be located on private property with the property owner's permission.

ORDINANCE NUMBER 581

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- b. Political and campaign signs shall be no more than six (6) square feet in area.
  - c. Political and campaign signs may not be erected prior to sixty (60) days before the election. All such signs shall be removed within fifteen (15) days after a general election or fifteen days (15) after the primary election for a candidate who does not advance to the general election. The person or parties responsible for erecting the signs are responsible for their removal.
  - d. Political and campaign signs shall not be placed in any public right-of-way, except in accordance with Subsection E.15 below.
  - e. Political and campaign signs shall not be installed or placed on any structure, building or property owned or managed by the City of Cottonwood. Such signs shall be subject to immediate removal.
  - f. Political and campaign signs shall not be attached to any other sign or sign structure, street light pole, traffic signal pole, utility pole or utility structure.
  - g. Political and campaign signs shall include the name and telephone number of the candidate or campaign contact person placed in a clearly visible location on the sign.
15. Political and Campaign Signs located in City Rights-of-Way.
- a. Notwithstanding any other statute, ordinance or regulation, the City shall not remove, alter, deface or cover any political or campaign sign located within a public right-of-way owned or controlled by the City as long as the following requirements are met:
    - (1) The sign supports or opposes a candidate for public office or ballot measure.
    - (2) The sign does not pose a safety hazard, restrict movement of vehicles or people, obstruct clear vision in the area, or interfere with the requirements of the Americans with Disabilities Act. Signs shall not be located within or immediately adjacent to any travel lane or vehicle maneuvering area. Signs shall not be attached to any other sign or sign structure, street light pole, traffic signal pole, utility pole or utility structure.
    - (3) Signs shall not be located within the sight visibility triangle at street intersections and driveways as measured twenty-five (25) feet from the intersecting point from the side property lines.
    - (4) The sign may have a maximum area of sixteen (16) square feet, if the sign is located in an area zoned for residential use, or a maximum area of thirty-two (32) square feet if the sign is located in any other area.

ORDINANCE NUMBER 581

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- (5) The sign shall include the name and telephone number of the candidate or campaign contact person placed in a clearly visible location on the sign.
- b. If authorized representatives of the City deem that the location of a political or campaign sign constitutes an emergency, City representatives may immediately relocate the sign. The City representative shall notify the candidate or campaign committee that placed the sign within twenty-four (24) hours after the relocation. If a sign is otherwise placed in violation of this Section and the placement is not deemed to constitute an emergency, the City shall notify the candidate or campaign committee that placed the sign of the violation. If the sign remains in violation at least twenty-four (24) hours after the City notified the candidate or campaign committee, the City may remove the sign. The City shall contact the candidate or campaign contact person and shall retain the sign for at least ten (10) business days to allow the candidate or campaign committee to retrieve the sign without penalty. If the sign has not been retrieved by the candidate after the 10 day notification period, the City shall have the right to dispose of the sign.
- c. The City Council may by Resolution designate political sign-free zones within the City for areas associated with commercial tourism, commercial resorts, and hotels. No political signs may be located within municipal rights-of-way in any areas designated as political sign-free zones within the City.
- d. As per A.R.S. § 16-1019, the exception allowing political signs in public rights-of-way does not apply to state highways or routes, or overpasses over such state highways or routes, which includes all of State Route 89A and State Route 260 through Cottonwood.
- e. This section applies only during the period commencing sixty (60) days before a primary election and ending fifteen (15) days after the general election, except for a candidate in a primary election who does not advance to the general election, the period ends fifteen days (15) after the primary election.
- f. This section does not apply to the removal, alteration, defacing or covering of a political sign by the candidate or the authorized agent of the candidate in support of whose election the sign was placed; by the owner or authorized agent of the owner of any private property on which such signs are placed with or without permission of the owner; or to signs placed in violation of any state law or City ordinance or regulation.

Section 3. That Subsection 405 G. 6. Political Signs, is hereby deleted.

Section 4. That if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be unlawful, invalid or unenforceable by

ORDINANCE NUMBER 581

Page 4

decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, ARIZONA, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2011.

\_\_\_\_\_  
Diane Joens, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Steven B. Horton, Esq., City Attorney

\_\_\_\_\_  
Marianne Jiménez, City Clerk

**ARS §16-1019. Political signs; tampering; classification**

- A. It is a class 2 misdemeanor for any person to knowingly remove, alter, deface or cover any political sign of any candidate for public office for the period commencing forty-five days ~~prior to~~ BEFORE a primary election and ending seven days after the general election.**
- B. ~~The provisions of This section shall~~ DOES not apply to the removal, alteration, defacing or covering of a political sign by the candidate or the authorized agent of the candidate in support of whose election the sign was placed, ~~or~~ by the owner or authorized agent of the owner of private property on which such signs are placed with or without permission of the owner, or placed in violation of state law, or county, city or town ordinance or regulation.**
- C. NOTWITHSTANDING ANY OTHER STATUTE, ORDINANCE OR REGULATION, A CITY, TOWN OR COUNTY OF THIS STATE SHALL NOT REMOVE, ALTER, DEFACE OR COVER ANY POLITICAL SIGN IF THE FOLLOWING CONDITIONS ARE MET:**
- 1. THE SIGN IS PLACED IN A PUBLIC RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY THAT JURISDICTION.**
  - 2. THE SIGN SUPPORTS OR OPPOSES A CANDIDATE FOR PUBLIC OFFICE OR IT SUPPORTS OR OPPOSES A BALLOT MEASURE.**
  - 3. THE SIGN IS NOT PLACED IN A LOCATION THAT IS HAZARDOUS TO PUBLIC SAFETY, OBSTRUCTS CLEAR VISION IN THE AREA OR INTERFERES WITH THE REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT (42 UNITED STATES CODE SECTIONS 12101 THROUGH 12213 AND 47 UNITED STATES CODE SECTIONS 225 AND 611).**
  - 4. THE SIGN HAS A MAXIMUM AREA OF SIXTEEN SQUARE FEET, IF THE SIGN IS LOCATED IN AN AREA ZONED FOR RESIDENTIAL USE, OR A MAXIMUM AREA OF THIRTY-TWO SQUARE FEET IF THE SIGN IS LOCATED IN ANY OTHER AREA.**
  - 5. THE SIGN CONTAINS THE NAME AND TELEPHONE NUMBER OF THE CANDIDATE OR CAMPAIGN COMMITTEE CONTACT PERSON.**
- D. IF THE CITY, TOWN OR COUNTY DEEMS THAT THE PLACEMENT OF A POLITICAL SIGN CONSTITUTES AN EMERGENCY, THE JURISDICTION MAY IMMEDIATELY RELOCATE THE SIGN. THE JURISDICTION SHALL NOTIFY THE CANDIDATE OR CAMPAIGN COMMITTEE THAT PLACED THE SIGN WITHIN TWENTY-FOUR HOURS AFTER THE RELOCATION. IF A SIGN IS PLACED IN VIOLATION OF SUBSECTION C AND THE PLACEMENT IS NOT DEEMED TO CONSTITUTE AN EMERGENCY, THE CITY, TOWN OR COUNTY MAY NOTIFY THE CANDIDATE OR CAMPAIGN COMMITTEE THAT PLACED THE SIGN OF THE VIOLATION. IF THE SIGN REMAINS IN VIOLATION AT LEAST TWENTY-FOUR HOURS AFTER THE JURISDICTION NOTIFIED THE**

**CANDIDATE OR CAMPAIGN COMMITTEE, THE JURISDICTION MAY REMOVE THE SIGN. THE JURISDICTION SHALL CONTACT THE CANDIDATE OR CAMPAIGN COMMITTEE CONTACT AND SHALL RETAIN THE SIGN FOR AT LEAST TEN BUSINESS DAYS TO ALLOW THE CANDIDATE OR CAMPAIGN COMMITTEE TO RETRIEVE THE SIGN WITHOUT PENALTY.**

- E. A CITY, TOWN OR COUNTY EMPLOYEE ACTING WITHIN THE SCOPE OF THE EMPLOYEE'S EMPLOYMENT IS NOT LIABLE FOR AN INJURY CAUSED BY THE FAILURE TO REMOVE A SIGN PURSUANT TO SUBSECTION D UNLESS THE EMPLOYEE INTENDED TO CAUSE INJURY OR WAS GROSSLY NEGLIGENT.**
- F. SUBSECTION C DOES NOT APPLY TO COMMERCIAL TOURISM, COMMERCIAL RESORT AND HOTEL SIGN FREE ZONES AS THOSE ZONES ARE DESIGNATED BY MUNICIPALITIES. THE TOTAL AREA OF THOSE ZONES SHALL NOT BE LARGER THAN THREE SQUARE MILES, AND EACH ZONE SHALL BE IDENTIFIED AS A SPECIFIC CONTIGUOUS AREA WHERE, BY RESOLUTION OF THE MUNICIPAL GOVERNING BODY, THE MUNICIPALITY HAS DETERMINED THAT BASED ON A PREDOMINANCE OF COMMERCIAL TOURISM, RESORT AND HOTEL USES WITHIN THE ZONE THE PLACEMENT OF POLITICAL SIGNS WITHIN THE RIGHTS-OF-WAY IN THE ZONE WILL DETRACT FROM THE SCENIC AND AESTHETIC APPEAL OF THE AREA WITHIN THE ZONE AND DETER ITS APPEAL TO TOURISTS. NOT MORE THAN TWO ZONES MAY BE IDENTIFIED WITHIN A MUNICIPALITY.**
- G. A CITY, TOWN OR COUNTY MAY PROHIBIT THE INSTALLATION OF A SIGN ON ANY STRUCTURE OWNED BY THE JURISDICTION.**
- H. SUBSECTION C APPLIES ONLY DURING THE PERIOD COMMENCING SIXTY DAYS BEFORE A PRIMARY ELECTION AND ENDING FIFTEEN DAYS AFTER THE GENERAL ELECTION, EXCEPT THAT FOR A SIGN FOR A CANDIDATE IN A PRIMARY ELECTION WHO DOES NOT ADVANCE TO THE GENERAL ELECTION, THE PERIOD ENDS FIFTEEN DAYS AFTER THE PRIMARY ELECTION.**
- I. THIS SECTION DOES NOT APPLY TO STATE HIGHWAYS OR ROUTES, OR OVERPASSES OVER THOSE STATE HIGHWAYS OR ROUTES.**

City of Cottonwood, Arizona  
City Council Agenda Communication



Meeting Date: October 18, 2011

**Subject:** W. Mingus Avenue Reconstruction  
Right-of-Way Purchase from the Seventh Day Adventist Church

Department: Public Works

From: Tim Costello, Public Works Director

**REQUESTED ACTION**

Consider approval of a purchase agreement for the right-of-way and drainage easement from the Seventh Day Adventists needed for the West Mingus Avenue Reconstruction project.

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

I move to approve the purchase agreement with the Arizona Conference Corporation of Seventh Day Adventists.

**BACKGROUND**

From SR 89A to Willard Street, West Mingus Avenue is designed to be a 3-lane collector street with a modern roundabout at the intersection of Mingus and Willard. The wider street needs considerably more right-of-way than exists today.

New right-of-way and a drainage easement are needed from the Seventh Day Adventists church at the southwest corner of Mingus and Willard. The attached agreement sets forth the compensation and conditions for the land purchase.

**JUSTIFICATION/BENEFITS/ISSUES**

The new right-of-way is an outright purchase of the "fee simple" interest in the land. The agreement also solidifies the existing, 48'-wide, Mingus Avenue right-of-way that was granted in 1966 and titled "easement".

Additionally in the agreement, the church is being compensated for their monument sign that will be in the new right-of-way and removed with the project.

**COST/FUNDING SOURCE**

The funding source is the Highway Revenue User Fund (HURF) and local sales tax.

**REVIEWED BY:**

City Manager: \_\_\_\_\_

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

**ATTACHMENTS**

Purchase Agreement

## REAL ESTATE PURCHASE AGREEMENT

This Purchase Agreement (“Agreement”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2011, by and between Arizona Conference Corporation of Seventh Day Adventists, an Arizona non-profit organization (hereinafter referred to as “Seller”), and the City of Cottonwood, Arizona, an Arizona municipal corporation (hereinafter referred to as “Buyer”).

### RECITALS

- A. Seller is the fee simple owner of a portion of real property situated within the City of Cottonwood, Yavapai County, Arizona, and more particularly described by the legal description attached as Exhibit “A” (hereinafter referred to as “Property”).
- B. Seller desires to sell and Buyer desires to purchase the Property upon the terms and for the consideration set out in this Agreement.
- C. Seller is the fee simple owner of a portion of real property situated within the City of Cottonwood, Yavapai County, Arizona, and more particularly described by the legal description attached as Exhibit “B” (hereinafter referred to as the “Drainage Easement”).
- D. Seller desires to sell and Buyer desires to purchase the right for a drainage easement for the conveyance of stormwater over and across the Drainage Easement upon the terms and for the consideration set out in this Agreement.
- E. Buyer has legal authority to enter into this Agreement pursuant to A.R.S. § 9-241.

IN CONSIDERATION of the mutual promises, covenants and conditions herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Seller and Buyer hereby agree as follows:

- 1. **Purchase Price.** The total purchase price shall be nine thousand, one hundred and twenty-seven dollars and no cents (\$9,127.00) and include the following:
  - (a) \$2814 for purchase of the Property
  - (b) \$1313 for purchase of the Drainage Easement
  - (c) \$5000 as compensation for the monument sign that is located on the Property and will be removed by the Buyer.
- 2. **Closing.**
  - 2.1 **Time for Closing: Last Day to Close.** The Transaction shall be closed in Yavapai County, Arizona. Buyer and Seller shall deposit in escrow with the closing agent all instruments, documents and monies necessary to complete the sale in accordance with this Agreement. The date that this transaction closes is herein called the “Property Closing Date,” and shall be November 30, 2011.
  - 2.2 **Prorations; Closing Costs.** Prorated taxes and assessments on the

Property for the period up and until the Property Closing Date shall be paid by Seller at or before closing. Buyer shall pay the premium and other charges for the cost of standard coverage title insurance for Buyer's required Title Policy. Buyer shall also pay at closing any Arizona or local documentary transfer tax or other Arizona transfer taxes or fees arising from the conveyance of the Property. Buyer shall pay all the escrow fee and recording charges.

**2.3 Buyer's Conditions to Closing.** The closing of this Transaction is subject to and conditioned upon the satisfaction of, or Buyer's written waiver of, the following conditions precedent in favor of Buyer, at or prior to the Property Closing Date:

- (a) Buyer shall have received or the Title Company shall be unconditionally committed to issue a policy of title insurance dated the date the deed is recorded and insuring Buyer's fee title to the Property in the amount of the Purchase Price free and clear of any exceptions other than the printed general exceptions and exclusions in the policy form.
- (b) Each and all of the representations and warranties made by Seller hereof shall be true and correct as of the Property Closing Date.
- (c) Seller shall have delivered the deed and fully performed all of the material covenants that Seller, pursuant to the terms of this Agreement, has agreed to perform on or prior to the Property Closing Date.
- (d) Seller shall deed to the City the underlying fee simple interest to the existing easement for Mingus Avenue as recorded in Book 389, Page 247, Records of Yavapai County.

**2.4 Seller's Conditions to Closing.** Seller's obligation to close shall be subject to and conditioned upon:

- (a) Buyer's deposit of the Purchase Price funds with the closing agent on or before the Property Closing Date.
- (b) The closing agent has not received instructions or conditions of closing from Buyer that are inconsistent with or in addition to those provided in this Agreement.
- (c) Buyer shall have performed all of the material obligations required herein.

**3. Closing Documents.** At or prior to closing, Buyer and Seller shall execute and deliver to the closing agent the following:

- 3.1 Seller shall duly execute, acknowledge and deliver to Buyer, at closing, a warranty deed, in recordable form, conveying good and marketable title to the Property free and clear of any defects, liens or encumbrances.
- 3.2 Seller shall duly execute, acknowledge and deliver to Buyer, at closing, a drainage easement, in a form provided by the City, conveying the right for the conveyance of stormwater over and across the Drainage Easement.
- 3.3 If required by the closing agent, Seller shall execute and deliver a real estate transfer return, in form sufficient to satisfy Seller's obligations regarding the documentary transfer or real estate transfer tax (if any) owing upon the transfer of the Property.
- 3.4 Buyer shall cause the Title Company to issue or be unconditionally committed to issue the Title Policy.
- 3.5 Seller shall execute and deliver an assignment of all Seller's rights, interests, claims and privileges under any express or implied warranties or guaranties, benefitting the Property, any plans, specifications, and designs of the Property, any property insurance policies and claims, and any condemnation awards or rights to same pertaining to the Property.
- 3.6 Buyer and Seller shall each execute and deliver such other documents as may be reasonably required to close the purchase and sale of the Property in accordance with this Agreement.

4. **Title Insurance.** Within thirty (30) days after the date this Agreement is signed, Buyer will obtain a preliminary commitment for the Title Policy (the "Commitment") in the amount of the Purchase Price and issued by the Title Company, together with copies of all exceptions set forth therein. The Commitment (any supplements thereto) shall reflect no exceptions, unless agreed to in writing by Buyer. If the Commitment or any supplement thereto reflects any exceptions other than the standard printed exclusions and general exceptions in the policy form and the Permitted Exceptions, Buyer may elect to require Seller to remove such exceptions at Seller's sole expense at or prior to closing.

If Buyer elects to require Seller to remove such exceptions at or prior to closing by notice to Seller, then Seller's failure to remove such exceptions at Seller's sole expense by the Property Closing Date shall constitute a default by Seller, and Buyer may, in its sole discretion, pursue any one or more of the following remedies: bring suit for specific performance and/or damages; extend the Property Closing Date by a period that Buyer determines is reasonably required for the removal or endorsement over by the Title Company of such disapproved exceptions and reserving all rights, claims and remedies; and/or elect to close subject to such disapproved exceptions and retain all rights and remedies to recover damages from Seller after closing in an amount equal to the diminution in the value of the Property caused by such disapproved exceptions.

The Title Policy shall be dated as of the date the deed to Buyer is recorded, and shall

insure Buyer in the amount of the Purchase Price against loss or damage by reason of defect in Buyer's title to the Property and such other matters as are insured against by such policy and endorsements, subject only to the standard printed exclusions and general exceptions appearing in the title insurance policy form.

**5. Seller's Representations.** Understanding that Buyer is relying on the following representations and warranties, Seller makes the following representations and warranties which are agreed to constitute a material part of the consideration hereunder and which shall survive the closing.

**5.1** To Seller's actual knowledge, there has been no production, discharge, disposal, or storage on, from, or onto the Property of any petroleum products or hazardous waste, hazardous materials, or other toxic substance or any activity which could have otherwise contaminated the Property or adjacent real property excepting the fuel or other products that may have incidentally leaked on or near the Property from vehicles and other equipment under normal operating conditions; and there is no proceeding or inquiry by any governmental agency with respect to contamination of the Property. To Seller's actual knowledge, the Property is in compliance with all federal, state, and local environmental laws and regulations. To Seller's actual knowledge, no environmental enforcement action exists with respect to the Property, nor does Seller have actual knowledge of any basis for such an action.

**5.2** Seller is currently the sole owner of the Property and Drainage Easement and has full power, authority, and legal capacity to enter into the transaction contemplated by this Agreement, to execute this Agreement and any and all other documents or instruments required in connection with this Agreement, and to carry out this Agreement and the transactions contemplated hereby.

**5.3** There are no leases, options, contracts, or rights of first refusal, recorded or unrecorded, affecting the Property and Drainage Easement. The Property and Drainage Easement are free and clear of any encumbrances, liens, or exceptions to title.

**5.4** No actions, lawsuits, proceedings, or claims are pending or threatened which would affect the Property and Drainage Easement, the value of the Property and Drainage Easement, Seller's ownership thereof, or the conveyance of ownership to the Buyer pursuant to the terms of this Agreement.

**5.5** There are no parties in adverse possession of the Property and Drainage Easement. There are no parties in possession of the Property and Drainage Easement except Seller, and no parties have been granted any license, lease, or other right relating to the use or possession of the Property and Drainage Easement.

**5.6** There are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy or pursuant to any other laws for relief of debtors contemplated or

filed by Seller or pending against Seller or affecting or involving the Property and Drainage Easement.

- 5.7 Except for the obligations imposed by this Agreement, Buyer does not and shall not have any liability with respect to any claim, obligation, or liability (including attorney's fees and court costs) arising out of or related to the Property as a consequence of any act or failure to act by Seller prior to the closing.
- 5.8 Seller is not prohibited from consummating the transaction contemplated by this Agreement, by any law, regulation, agreement, instrument, restriction, order, or judgment.
- 5.9 There is no default, nor has any event occurred which, with the passage of time or the giving of notice or both would constitute a default in any contract, mortgage, deed of trust, lease, or other instrument which relates to the Property and Drainage Easement or which affects the Property and Drainage Easement in any manner whatsoever.

**6. Buyer's Representations.**

- 6.1 Buyer represents that it has the legal authority and ability to enter into the transaction contemplated by this Agreement.
- 6.2 Buyer represents to Seller that it has examined the Property and Drainage Easement, that it is fully satisfied with the physical condition thereof, excepting any latent defects, and that neither the Seller nor any representative of the Seller has made any representation or promise upon which Buyer has relied concerning the physical condition of the Property and Drainage Easement, except as to those representations expressly stated in this Agreement.

7. **Brokerage.** It is the expressed declaration of the Parties that no real estate commissions will be due from Buyer to Seller or any other party resulting from the proposed sale of the Property. If any person or entity shall assert a claim to a finder's fee, brokerage commission, or other compensation on account of alleged employment as a finder or broker or performance of services as a finder or broker in connection with this transaction, the Party hereto under whom the finder or broker is claiming shall indemnify and hold the other Party harmless from and against any such claim and all costs, expenses, and liabilities incurred in connection with such claim or any action or proceeding, including, but not limited to, attorney and witness fees and court costs in defending against such claim. This indemnity shall survive the closing or the cancellation of this Agreement.

8. **Time Periods.** Time is of the essence in this Agreement. If the last day of any time period hereunder or a date for performance referenced herein is a Saturday, Sunday or legal holiday, the last day of such specified period or such date for performance shall be extended to the next business day. In construing the Parties' intent with regard to this Agreement and the applicable terms of this Agreement, no greater or stricter

construction of any term or provision hereof shall be asserted against a Party by reason of such Party's being the drafter or alleged drafter thereof.

9. **Default and Remedies.** If a Party defaults with respect to this Agreement, the non-defaulting Party may seek specific performance, or any other remedy specified herein or permitted in equity or at law. However, good faith participation in mediation is a condition precedent to any enforcement action or claim for breach. Said mediation will be conducted in Yavapai County by a mutually-agreed-upon mediator. However, if the Parties cannot agree to a mediator, either Party can request the appointment of a mediator through the Yavapai County Superior Court. If any action is brought by either party in respect to its rights under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs as determined by the court.

10. **Escrow.**

10.1 **Opening of Escrow.** Buyer shall open an escrow (the "Opening of Escrow") by delivering to the Cottonwood, Arizona, office of the Title Company, a copy of this Agreement. This Agreement, together with any additional instructions ("Instructions") hereinafter executed by the Parties, shall constitute the Escrow Holder's instructions in connection with the Escrow. In no event shall any Instructions modify the provisions of this Agreement except to the extent that such Instructions expressly state that they modify the provisions of this Agreement, and in the event of any inconsistency between the provisions of any Instructions and the provisions of this Agreement, the provisions of this Agreement shall govern.

10.2 **The Escrow Holder.** The duties of the Escrow Holder shall be as follows:

- (a) To retain and safely keep all funds, documents and instruments deposited with it.
- (b) To confirm that all conditions to the Closing specified in this Agreement have been met.
- (c) Upon the Closing, to deliver to the Parties entitled hereto all funds, documents and instruments to be delivered through Escrow.
- (d) Upon the Closing, to cause the recordation of the deeds referred to herein with the Office of the Yavapai County Recorder.
- (e) To comply with the terms of this Agreement and any additional instructions jointly executed by Buyer and Seller.

11. **Insurance.** Throughout the period between the date of this Agreement and the Property Closing Date, Seller shall maintain existing liability insurance on the Property.

12. **Conditions Subsequent to Closing.** Following the Property Closing Date, and at

times deemed appropriate by the Buyer, the Buyer shall:

- (a) cause to be planted on the Seller's property, two 24" box trees with irrigation from the Seller's irrigation system as replacement trees for trees removed by the improvements to Mingus Avenue.
- (b) for the compensation mentioned in Section 1, remove the Seller's monument sign located on the Property without replacing said sign.

13. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511 and Buyer and Seller specifically state that neither is aware of any employee of Buyer who has any affiliation with Seller.

14. **Notices.** Notices shall be in writing and shall be given by personal delivery or by U.S. certified mail, return receipt requested, postage prepaid, addressed to Seller or Buyer, as applicable, at the addresses set forth below or at such other address as a party may designate in writing.

Seller: Arizona Conference Corporation of Seventh Day Adventists  
Cottonwood Seventh Day Adventist Church  
P.O. Box 1459  
Cottonwood AZ 86326

Buyer: City of Cottonwood  
827 North Main Street  
Cottonwood, AZ 86326  
Attn: Mr. Doug Bartosh, City Manager

15. **Governing Law.** This Agreement shall be governed by the laws of the State of Arizona, and litigation can only be brought within the Yavapai County Superior Court.

16. **Binding Effect.** This Agreement shall be binding and inure to the benefit of the Parties and their respective successors, assigns, representatives, affiliates, directors, members, officers, and insurers of the Parties.

17. **Severability.** If a court of competent jurisdiction makes a final determination that any term or provision of this contract is invalid or unenforceable, all other terms and provisions shall remain in full force and effect, and the invalid or unenforceable term or provision shall be deemed replaced by a term or provision that is valid and enforceable and comes closest to expressing the intention of the invalid term or provision.

18. **Headings.** The headings of this Agreement are for the purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.

19. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

20. **Merger.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in this Agreement. All prior and contemporaneous agreements, representations, and understandings, written or oral, are superseded by and merged in this Agreement. No supplement, modification, or amendment of this Agreement shall be binding unless in writing and executed by Buyer and Seller.



THIS AGREEMENT was accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by  
the Mayor and City Council of the CITY OF COTTONWOOD, Cottonwood, Arizona.

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Diane Joens, Mayor  
City of Cottonwood

ATTEST:

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Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

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Steve Horton, Esq.  
City Attorney

**LEGAL DESCRIPTION  
Seventh Day Adventist Property  
ROW Take  
SWI Project #08139**



A parcel of ground lying in Sections 33 & 34, Township 16 North, Range 3 East, G.&S.R.M., Yavapai County, Arizona described as follows:

Commencing at the East Quarter Corner of Section 33 as marked by a found ½” rebar below the pavement (formerly had a plastic cap stamped “JJ&A LS 19853” – said cap now obliterated) from which, a found ½ inch iron pipe locally accepted as the C-W-E 1/64 corner of Section 33 lies North 89°21’31” West (Basis of Bearings as measured per GPS observations) a distance of 1906.76 feet (North 89°23’02” West 1906.71 feet per a Results of Survey sealed by Scott Smith, RLS on 1/23/04 and recorded in Book 98 of Land Surveys, Pages 21-22);

Thence North 89°21’31” West 92.43 feet;

Thence South 00°38’29” West 48.00 feet to a point on the south line of a right-of-way line of an easement described in Book 389 of Official Records, Page 247 in the County Recorder’s Office;

Thence South 89°21’31” East along said south easement line a distance of 80.37 feet to the True Point of Beginning;

Thence South 89°21’31” East 12.30 feet;

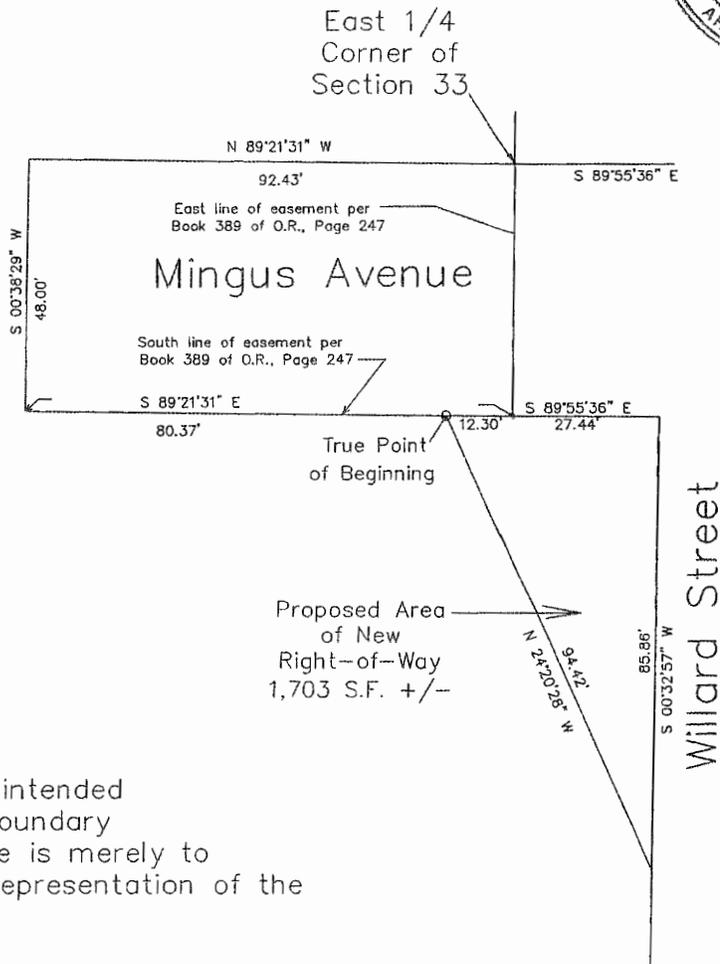
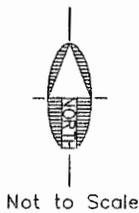
Thence South 89°55’36” East, a distance of 27.44 feet;

Thence South 00°32’57” West 85.86 feet;

Thence North 24°20’28” West 94.42 feet to the True Point of Beginning containing 1,703 square feet, more or less.

EXHIBIT A

EXHIBIT DRAWING TO ACCOMPANY  
 LEGAL DESCRIPTION  
 7th Day Adventist  
 ROW Dedication  
 City of Cottonwood  
 Lying in Sections 33 & 34  
 T16N, R3E, G.&S.R.M.  
 Yavapai County, AZ



This sketch is not intended to be used as a boundary survey. Its purpose is merely to provide a graphic representation of the legal description.

EXHIBIT A

 <b>Shephard Wesnitzer, Inc.</b>	75 Kallof Place Sedona, AZ 86336 928.282.1061 928.282.2058 fax www.swiaz.com	JOB NO: 08139	City of Cottonwood	Cottonwood	SHEET
		DATE: April 2011	New ROW	AZ	
		SCALE: AS SHOWN	<b>EXHIBIT DRAWING</b> <b>7th Day Adventist</b> <b>New ROW</b>		<b>2</b>
		DRAWN: PWN			
		DESIGN: N/A			
		CHECKED: PWN			OF 2

City of Cottonwood, Arizona  
City Council Agenda Communication



Meeting Date: October 18, 2011

**Subject: Resolution 2612 - Riverfront Water Reclamation Facility**

Department: Development Services/Utilities

From: Dan Lueder

**REQUESTED ACTION**

Consider approval of a resolution to construct a water reclamation facility (WRF) at Riverfront Park and a preconstruction services agreement for the WRF.

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

"I move to approve Resolution 2612, authorizing the construction of a new water reclamation facility at Riverfront Park; and approving the preconstruction services agreement with PCL, Inc., subject to final review and approval of the agreement by the City Attorney."

**BACKGROUND**

In March of 2007 while on a vacation in Paris France, former city manager Brian Mickelsen awoke in the middle of the night from a dream he had about building Cottonwood's future wastewater treatment and reclamation facilities as smaller satellite plants located where the reclaimed water would have the most benefit. Four and one half years later we are presenting the pre-construction services component of the first proposed satellite WRF to the City Council for consideration. Along the way have been an initial presentation to Council on the benefits of this type of facility, two engineering feasibility studies and numerous council presentations and work sessions to discuss this type of facility, its pros and cons and most importantly, the long term advantages of this WRF to the City and its residents.

In the fall of 2010, council expressed an interest in possibly constructing the WRF as a design/build project and on October 20, 2010, an informational presentation by firms specializing in design/build construction was held to give council a better understanding of the process and also to gauge the interest of contractors in utilizing this method of procurement and construction. On November 9, 2010 a work session was held to discuss Council's preference for this project and staff was given direction to proceed with a design/build statement of qualifications (DBSOQ) solicitation and selection process. Staff

along with legal counsel developed specification and a contract for solicitation of a design/build firm which Council approved by motion at their January 4, 2011 meeting.

The DBSOQ was advertised and thirteen (13) firms submitted completed packets prior to the submission deadline outlined in the DBSOQ advertisement. A selection committee consisting of utility engineer Troy Odell PE, project manager Scott Mangarpan, utility administrative manager Roger Biggs and licensed contractor Bob Backus reviewed and scored the submissions. The five highest scoring firms from the initial submission review were asked to meet with the selection committee for an interview at which they were given an opportunity to respond to specific questions provided in advance by the review committee. The five firms were Sundt, CDM, PCL, Hunter Contracting Co. and Archer Western Contractors. After completion and scoring of the interviews, the selection committee's ranking of the firms was as follows:

1. PCL
2. Hunter Contracting
3. Archer Western Contractors
4. Sundt
5. CDM

Negotiations on a scope of work and cost for pre-construction services were initiated with PCL and after several months of meetings and negotiations a scope of work, cost and pre-construction services contract were compiled and then reviewed by city legal staff. The proposal and contract being presented within this item are for pre-construction services only. A separate construction services agreement and guaranteed maximum price (GMP) for the actual construction of the Riverfront WRF would be presented to Council for review and consideration at a later date upon completion of the pre-construction services portion of the design/build process.

PCL has not only assembled a highly qualified design and construction team, they also utilized several Cottonwood professionals to give their team an experienced local component. Mark Millar/ Arizona Northern Equipment, Christian Vernosky Architects and TJ Stockbridge/Stockbridge Energy Group all have significant roles in both the design and construction phases of this project. The not to exceed fee for the pre-construction services is Nine Hundred Eleven Thousand, Seven Hundred Seventeen Dollars (\$911,717). The cost is explained in greater detail in the attached Amendment Number One and proposal. The pre-construction services contract is being reviewed by the city attorney and upon his final approval, will be presented to the Mayor for signature should council authorize the pre-construction services.

### **JUSTIFICATION/BENEFITS/ISSUES**

The cost and liability associated with pumping raw sanitary sewage several miles up hill to the existing treatment plant and need for additional, long term irrigation at Riverfront Park and the surrounding area make this project a win/win for both the utility department and City of Cottonwood and its residents. This project has also been very well received by the Arizona

Department of Environmental Quality and is a model for the Governor's Blue Ribbon Panel on Water Sustainability in Arizona. This plant represents the future for water reuse in the Verde Valley and state.

**COST/FUNDING SOURCE**

Enterprise capital fund balance

**REVIEWED BY:**

City Manager: \_\_\_\_\_

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

**ATTACHMENTS**

Resolution 2612

PCL Amendment Number One and proposal

## AMENDMENT NO. 1

DATED \_\_\_\_\_ OCTOBER 11, 2011 \_\_\_\_\_

## DESIGN AND PRECONSTRUCTION FEES UP TO GMP SUBMITTAL

**I. Scope**

- A. The Project scope is generally as set forth in the THE CITY OF COTTONWOOD REQUEST FOR QUALIFICATIONS For Design Build Services for RIVERFRONT WATER RECLAMATION FACILITY and as the parties may subsequently agree in writing.
- B. The Project's scope includes, but is not limited to, site preparation and construction of all infrastructure needed.
- C. The Project's scope includes all design services needed for the Project including, but not limited to, the requisite consultants such as mechanical engineering, civil engineering, electrical engineering, landscape design, and other such services reasonably necessary for this Project.
- D. The scope also includes all construction activity necessary to complete the Project and includes, but is not limited to, permits, fees, inspections and testing, as required; however, the actual cost of the permits, fees, inspections and testing may be treated as reimbursables to save mark up and sales taxes. Budget money may be allocated to allow treatment of these necessary expenses outside of this contract at the City's sole discretion.

**II. List of Assumptions**

- A. The Project will be delivered using two distinct amendments under this single agreement.
- B. The first phase will be for design services and will include pre-construction services, including scheduling, cost estimating, schematic and design development, value engineering and constructability analysis, and construction documents. The first phase will have cost breakdown as follows:
  1. Design services through 30%, 60%, & 90% design development;
  2. Design services for the balance;
  3. Pre-construction services through 30%, 60% & 90% design development;
  4. Pre-construction services for the balance up to proposal and possible establishment of the GMP.
- C. The second phase will be for construction services and shall be performed pursuant to an agreed upon GMP or series of GMPs. The GMPs shall fully set forth all factors and assumptions relative to establishing the GMP.

- D. If the City does not accept a GMP, the second phase for construction services, will not be initiated, or if a prior construction services under a phased or multiple GMP has been accepted, subsequent GMPs and the construction services therein will not be performed nor be considered a liability against the City.
- E. All contingencies, cost savings and unused allowances shall be returned to the City for their use, or redirected for additional improvements as needed.
- F. Additional assumptions that may arise must be agreed to by the parties in writing.
- G. Amendment No. 1 and attachments thereto are supplementary to the contract between the parties and do not limit the contract to the parties. In the event of a conflict between Amendment No. 1 and the attachments thereto and the contract between the parties, the contract between the parties shall control.

### III. List of Clarifications

- A. The following items clarify further Project scope, intent and scope of services:
  - 1. The contract will be between the CITY OF COTTONWOOD AND PCL CONSTRUCTION, INC.
  - 2. PCL CONSTRUCTION, INC. will contract directly with WOOD, PATEL & ASSOCIATES, INC. & STOCKBRIDGE ENERGY GROUP for all design services and will include all consultants, contract administration, and requisite errors and omissions insurance coverage naming PCL CONSTRUCTION, INC, WOOD, PATEL & ASSOCIATES, INC. & STOCKBRIDGE ENERGY GROUP as insured with the CITY OF COTTONWOOD as additional insured;
  - 3. PCL CONSTRUCTION, INC.'s primary representative on this Project in all stages is DOUG SCHMITS.
  - 4. This represents the foreseeable clarifications at this time. This list can be amended by mutual written agreement by the parties prior to incorporation into the final contract.

### IV. Proposed Schedule

- A. Substantial Completion shall occur no later than 18 months after receipt of Notice to Proceed for the beginning of Construction, and Final Completion within 30 calendar days after Substantial Completion.
- B. Phased delivery of a portion of the units shall be incorporated in to the final schedule as agreed to by the parties.
- C. An initial proposed Project schedule is attached hereto, subject to modification by mutual written agreement of the parties.

**V. Design and Pre-construction Services Fee**

A. The following are the fees for the design and pre-construction services anticipated for this Project. These and all other fees, costs, and other expenditures relative to this Project shall be provided to the City, without request, pursuant to the open book policy of this agreement.

1. Design services through 30% design development \$491,761;
2. Design services through 60% design development \$245,880;
3. Design services through completion, including documents \$81,960;
4. Pre-construction services through GMP \$92,416;
5. Construction Fees 7%.

10/18/11  
Date

  
\_\_\_\_\_

By: PCL CONSTRUCTION, Inc.

Its: PRESIDENT - DISTRICT MANAGER

\_\_\_\_\_  
Date

\_\_\_\_\_

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

Its: \_\_\_\_\_

11 11 11

**DESIGN-BUILD SERVICES BY PCL  
CONSTRUCTION, INC.**



October 11th, 2011

Mr. Dan Lueder  
Development Services General Manager  
City of Cottonwood  
111 North Main Street  
Cottonwood, Arizona 86326

RE: Riverfront Water Reclamation Facility  
Final Design-Build Services

Dear Mr. Lueder,

Below you will find a revised detailed summary of the PCL Construction, Inc. scope of work relevant to the Design-Build services for the Riverfront Water Reclamation Facility (WRF) Project. We are appreciative of the opportunity to be working with the City of Cottonwood and are thrilled about this venture. As we discussed within our submitted Statement of Qualifications, we would like to address our understanding of this project and the scope of work as it pertains to the services we intend to offer. In addition to this document, please see the PCL Construction, Inc. Design-Build Services cost proposal (attached) for your review. We have attempted to address all foreseen facets of this project however welcome your feedback, comments, questions or otherwise.

For this Design-Build project PCL put forth a diligent effort to ensure we assembled a team which would provide the City of Cottonwood with a superior group of experienced staff specialists and supervisory personnel to deliver this project on time and within budget. Extensive knowledge relative to the key elements of the Riverfront Water Reclamation Facility was sought after, and we are confident we have achieved this.

As you will find further detailed below, the PCL Construction, Inc. /Wood-Patel /Arizona Northern Equipment, Inc. / Stockbridge Energy Group partnership is tailor-made for this project. Our team's specific knowledge of the project history, local construction conditions and processes, abundant water reclamation facility and treatment plant project experience, as well solar photovoltaic design and construction project experience will allow us to bring the design builders perspective to the forefront of the project from the onset. Furthermore, our teams Design-Build Institute of America (DBIA) and LEED professional accreditation qualifications, an understanding of the interrelationships between design and construction, and our long term relationships locale to the project shall prove to be ideal.

#### TEAM STRUCTURE

As part of this summary regarding scope of services, we wanted to provide the City of Cottonwood a clear delineation of each firm's role, including each team member's responsibility in regard to designing and constructing the Riverfront Water Reclamation Facility, as well as the relationships between team members and other contributing firms. PCL Construction, Inc. shall be the prime contractor for this single Design-Build entity and will be contractually responsible for all permitting, design, procurement, construction, quality control/quality assurance, start-up and commissioning of the fully operational Riverfront Water Reclamation Facility. Doug Schmits of PCL will serve as the Design-Build Manager and primary point of contact on this project for the City of Cottonwood. He



will ultimately be responsible for the delivery of this project to the complete satisfaction of all stakeholders involved.

PCL shall execute subcontract agreements with those entities undertaking specific project elements as determined through project team and City of Cottonwood consultation. PCL has retained the services of Wood-Patel to provide all design services for this project (with the exception of the solar photovoltaic (PV) power design's project management and design to be provided by Stockbridge Energy Group & Christian J. Vernosky Architects), and upon contract execution with the City of Cottonwood and PCL, Wood-Patel will enter into contractual responsibilities with PCL Construction, Inc. for the specific design services required (which is further detailed within the scope of services provided by Wood-Patel). Construction services are excluded from this proposal.

Ken Knickerbocker, P.E. of Wood-Patel will serve as the Design Manager for this project. Ken shall be responsible for all permitting, design and detailing to meet the required parameters the facility aims to achieve. It goes without saying that Ken's personal involvement with the Riverfront Water Reclamation Facility project, and his relationships with the City of Cottonwood Development Services Department over the past 9 years ensure he is apt to perform to the highest standards possible with regard to the design phase services. Ken will report directly to Doug throughout the duration of the project to ensure a seamless transition from design to construction occurs. Wood-Patel has retained the services of several key Arizona engineering firms which bring significant value, experience and local presence to the project team. Christian J. Vernosky Architects, LLC shall provide Architectural design support & passive solar elements and systems incorporation, Gervasio & Associates, Inc. will be responsible for structural engineering support, APEX Engineering & Automation, LLC shall provide Electrical and I&C design assistance, and Western Technologies, Inc. will complete all applicable Geotechnical Engineering and Environmental Consulting for the project. Upon notice of contract execution with the City of Cottonwood and PCL, each of these firms shall enter into sub-consultant agreements with Wood-Patel.

Additionally, PCL shall work in conjunction with Arizona Northern Equipment, Inc. to provide construction services for the specific scope of work where their expertise and local knowledge can be utilized to the fullest. Arizona Northern Equipment has operated out of Cottonwood for the better part of 20 years and shall not only bring considerable local knowledge and understanding of neighboring conditions, but a key local presence which we know is quite important to the City. Rounding out the PCL Construction team shall be Stockbridge Energy Group, which will be responsible for design, design management and construction package for the solar PV aspect of the project. Stockbridge Energy Group has a significant history of success as a key system integrator in the solar industry with the recent Red Rock High School project in Sedona as a prime example of how they have become leaders within this emerging industry in the State of Arizona. See attached scope of work from Stockbridge Energy Group and the services included in their scope of work being performed by Christian Vernosky Architects. This is separate from the passive solar related Architectural services Chris is providing under Wood-Patel's scope of work.

The risk allocation on this project shall be as follows:

- PCL Construction, Inc. – Construction risk associated with schedule and escalation
- Wood-Patel – Design risk and process performance risk
- Stockbridge Energy Group – Design and performance risk associated with the solar power system
- However, as stated above, PCL remains responsible to the City of Cottonwood for all of the above and as set forth in the contract between PCL and the City of Cottonwood.



These various forms of agreement have proven to be successful on all Design-Build projects PCL has completed to date, and the Riverfront Water Reclamation Facility will be no exception to this.

### PROJECT BACKGROUND

The project design criteria shall be based upon the conclusions and recommendations set forth in the “City of Cottonwood Riverfront Park Water Reclamation Facility Feasibility Study” dated August 25<sup>th</sup> 2009 and the “City of Cottonwood Riverfront Park Water Reclamation Facility Expanded Scope” dated December 21<sup>st</sup>, 2009 as well various meetings and discussions with the City of Cottonwood staff. Design-Build services shall be based upon the “City of Cottonwood Request for Qualifications for Design Build Services for the Riverfront Water Reclamation Facility” dated December 23<sup>rd</sup>, 2010 as well the “Design Build Agreement and General Conditions” between the City of Cottonwood and PCL Construction, Inc. The aforementioned documents shall provide details relating to the overall constraints and goals of the project including performance requirements, as well Local, State and Federal regulatory requirements.

The Riverfront Water Reclamation Facility will be constructed for the dual-purpose of reducing the pumping requirements and capacity constraints of the existing collection system and provide a source of reclaimed water to irrigate turf and landscaped areas with the vicinity of the Riverfront Park. The capacity of the proposed WRF will be 0.3 million gallons per day (MGD) designed to produce ADEQ Class A+ water to allow for reuse, and effluent suitable for discharge to the Verde River. Additionally, the facility shall reduce the most prevalent pharmaceuticals found in typical municipal wastewater; these constituents will require treatment beyond “conventional” wastewater treatment technologies. To achieve the special nutrient standards for total nitrogen and phosphorus for surface waters of the Verde River and its tributaries as set forth by ADEQ per A.A.C. R18-11-109(F) for new facilities, additional treatment processes shall be required. The treatment processes anticipated for the Riverfront Water Reclamation Facility shall be activated sludge extended aeration, influent pumping, screening, BOD<sub>5</sub> removal, nitrification and denitrification, filtration, advanced oxidation, nitrogen removal to less than 1.0 mg/L, phosphorus removal to 0.1 mg/L or less, disinfection, effluent pumping and sludge pumping.

In addition to the major elements of work as described above, we also understand the importance of input from both the City and operations staff alike. We will again work closely with Wood-Patel to evaluate the facility’s design criteria. A combination of written study, comparison and reporting coupled with three-dimensional modeling will prove invaluable in determining the likelihood of flawless operation. A significant value PCL will offer shall be through the use of detailed cost modeling from very early conceptual planning, which will assist the City in making decisions on which improvements to move forward with prior to investing in design efforts.

### DESIGN PHASE SERVICES

The approach during the design phase would be through a cooperative team effort to make sure that all incidental and related scope of work is identified and planned prior to construction. Pre-construction services will be organized around Doug Schmits, our Design-Build Manager for this project; as well, Ken Knickerbocker of Wood-Patel, our designated Design Manager. Jeremy McVey, our Lead Estimator shall price all design options, conduct constructability reviews, and lead agency coordination during pre-construction. To ensure continuity from pre-construction to construction occurs, the Project Manager and our Construction Supervisor, Chris Currier will be actively involved during all design phase services.



The design phase will be broken into 3 distinct milestone percentages. For this project, we will provide a design, documents and a cost model at the 30%, 60% & 90% stages. The level of effort required to reach the 30% design stage is much higher than the effort required at the 60% and 90% stages. Similarly, it will require much more effort to reach the 60% design stage than that required to reach 90%. The bulk of the work will take place early, and decrease as we progress towards final design. As our schedule suggests, it will take approximately 135 days to begin the permitting process, complete 30% design documents & present to the City for comments. The 60% design phase is expected to last approximately 70 days, and the 90% design phase will last approximately 20 days. Out of the 225 days for preconstruction activities, approximately 60% of the time will be spent on 30% design, 30% of the effort will be spent during the 60% design phase and 10% during the 90% and final design stage.

Wood-Patel works directly for PCL, therefore we are obligated to do our due diligence to ensure the City is getting the design services you have requested and expect. For a NOT TO EXCEED COST as detailed in the attached proposal, Specific to the Riverfront Water Reclamation Facility Project, shall be the following services (If any of these services are not performed or necessary as directed by the City, PCL will not perform nor bill for said services):

- Provide project management throughout the course of the facility design
- Provide preliminary geotechnical investigations to determine existing soil conditions
- Provide facility design calculations and a preliminary evaluation of the project based upon the City's program and other relevant information
- Provide the City details on equipment selections, including manufacturer and materials of construction, as well alternate manufacturer options which meet the required criteria
- Provide and update monthly progress plans for both design and construction
- Provide and update a preliminary master schedule of the work denoting activities of the City, Wood-Patel and sub-consultants, as well PCL
- Provide detailed project planning and project scheduling for each stage of design and construction, including key milestone dates
- Provide detailed cost estimating and cost models throughout the various stages of design
- Provide schematic design documents, design development documents and construction documents based upon the City's program and the facility design
- Provide alternate systems evaluation and potential value engineering concepts
- Provide constructability analysis and review for each stage of construction
- Provide analysis of means and methods to improve project efficiency and delivery
- Provide in-depth equipment, materials and labor analyses as requested
- Assist the City in obtaining all applicable permits required (see a detailed list of permits on the next page) for plan approval, construction and final acceptance. All costs of permits to be handled by the City.
- Develop and present project presentations to members of the community through open-forum public meetings, as well present the project details to City Council
- Provide Verde Valley team members (Chris Currier – PCL, TJ Stockbridge – Stockbridge Energy Group, Mark Millar – AZ No. Eqpt., Chris Vernosky – Christian J. Vernosky Architects, LLC to name a few) that have knowledge of local market conditions and their analysis of associated impacts
- Ensure sensitivity to quality, safety and environmental factors specific to the project
- Present detailed open-book GMP's to the City for each stage of construction services
- And such other services as provided in the executed contract between the parties

Again, to ensure the designer is providing the services we have contracted them to perform, from the earliest stages of design and conceptual planning, PCL shall attend regular project review meetings



and offer comments and feedback as pertinent. We will advise the City on matters of site use, site improvements, selection of materials, construction means and methods, construction details, building systems, process equipment selection, phasing, sequencing, and scheduling. We will be evaluating all design options from a capital cost perspective and will also consider the long term operational and life cycle costs when exploring each design issue. PCL will submit, to the City of Cottonwood, cost studies, pro/con evaluations of each of the cost studies, documentation of all cost studies performed and a tracking report for the increases or decreases in project cost due to value engineering and/or scope changes. Through the progression of the design phase, a detailed list of these items and/or issues discovered will be discussed internally with all parties and provided to the City for review and comment prior to the submittal of each stage of subsequent design. Furthermore, we will look to be of assistance in any way to the City's Developmental Services Department during each of the applicable design review periods.

In addition to this, PCL shall perform complete constructability reviews throughout the pre-construction phase of the project and at the major design milestones. We will provide the City with a written report containing (1) a description of the constructability issues with background information; (2) a summary of PCL's in-depth study/research relative to the issue; and (3) PCL's written recommendations for addressing each constructability issue. Prior to the final submittal, we will utilize existing as-built drawings or City-performed/supplied potholing information to gain knowledge of exact locations of these utilities for inclusion in the project's design.

Understanding the City shall cover all costs associated with project permitting, PCL shall assist the City in all ways possible to expedite the permitting process as early as possible within the design phase. PCL Construction and Wood/Patel will coordinate with the necessary approval agencies and submit the required contract documents for approvals as listed below:

- 208 Plan Amendment (Wood Patel, 4 hours of consultation only– City to handle all efforts to obtain & purchase this permit)
- ADEQ Reclaimed Water and Reuse Permit, Type 2
- Nationwide 404 Permit for Railroad Wash
- Aquifer Protection Permit (APP)
- Arizona Pollution Discharge Elimination Permit (AZPDES)
- Flood Plain Use Permit
- Reuse Permit
- ADWR Well Drilling Permit (groundwater monitoring wells)
- Air Quality Permit (for the standby generator)
- City of Cottonwood Building Permit (building review and code review)
- Stormwater Pollution Prevention Plan (SWPPP)

In conjunction with all of the aforementioned efforts as described, listed below you will find a summary of the tasks associated with the design-build services cost proposal:

## MEETINGS

Throughout the design phase, the project team shall meet with the City at least monthly to solicit the City's input into the design and to review the progress of the design. Wood-Patel shall record and distribute meeting minutes of the design phase meetings, noting all City directives and request. This will involve project team meetings between approximately November 2011 and August 2012 to address all stages of pre-construction services particular to the design and cost modeling of both phases of construction. We are proposing an allowance of 8 meetings at 4 hours each with the City, an additional 8 internal meetings with the project team regarding the facility design and analysis,



contractor work plan, permitting coordination and assistance, value engineering and alternative strategies, and a minimum of 6 team site visits, including finalization of the scope of work and strategic planning.

We shall also prepare for and present for three public meetings throughout the design phase. This shall include 2 open-forum public town hall meetings to present and discuss the facility with the public, as well address questions posed during the presentation. Also included shall be 1 council meeting where the team shall present the facility design for final council approval. Once again, if any of these meetings are deemed not necessary by the City, PCL will not bill for said meeting(s).

### GMP DEVELOPMENT

As described above, PCL Construction, Inc. will work hand-in-hand with Wood-Patel and our applicable sub-consultants developing the conceptual plans, project requirements, technical specifications, and construction documents for components of work to be completed during construction activities. Specifically, this scope will address the design and construction of the off-site improvements and the complete Water Reclamation Facility and applicable treatment processes. This scope shall include, but not be limited to the following:

- Construction of an off-site all-weather access road
- Relocation of the existing soccer field
- Design and construction of a flood wall around the proposed facility
- Design and construction of an access road from Riverfront Drive
- Design and construction of parking facilities outside the Water Reclamation Facility site wall for soccer field use, as well as public parking for the facility and the related solar panels
- Design and construction of the Water Reclamation Facility complete
- Design and construction of the solar planning and layout
- Design and construction of the visitor center and public use facilities

PCL shall provide the City with detailed cost information for all aspects of the project at the 30%, 60%, and 90% design submittals. Each cost model will contain a detailed estimate of the direct costs pertaining to each aspect of the project along with the cost of the contract bonds, the cost of the project's required insurance, the cost of taxes, PCL's general conditions, PCL's fee (profit) and the proposed amount of the contractor's contingency.

PCL will develop subcontractor interest in the project throughout the pre-construction phase of the project for all scope of work not intended to be self-performed by PCL. This scope of work shall include, but not be limited to, electrical and instrumentation, structural steel modifications, and special finishes/painting. At the 90% design milestone, PCL will divide the work associated with the project into bid packages and create a Subcontracting Plan for the City's approval. The Subcontracting Plan will include subcontract bid packages formulated in such a way to produce the most competitive subcontract prices. We will solicit and pre-qualify a minimum of three (3) subcontractors for each subcontract bid package for the City of Cottonwood's approval. The pre-qualification process would involve a complete analysis of the potential subcontractor's references, prior work history, financial status, safety performance, and their overall ability to perform the work. PCL will submit a complete report of the subcontract bidding results to the City with PCL's recommendations for awarding each subcontract bid package.

The PCL team will also prepare a preliminary project work plan, equipment and materials staging plan, site access plan including delivery and haul routes, work sequencing and construction schedule



for construction activities based upon the preliminary design, as well the findings and outcome of the previously discussed items and present it to the team for review and feedback.

Once the 100% design has been completed we will perform our final cost estimate revision resulting from the aforementioned meetings and discussions, value engineering and constructability concepts, and early cost modeling. We will then submit our GMP open-book cost model to the City of Cottonwood by a date agreed upon by the City's primary stakeholders. During the GMP review meeting, both equipment and subcontractor selections will be further detailed and described by PCL so the City can understand our reasoning and make fully informed decisions. We will also clearly review our cost modeling approach and justify means and methods for each element of construction activities.

Upon receiving feedback, directive or otherwise from the project team and the City staff, PCL will finalize and submit our Final GMP to the City for council approval.

### QC PROGRAM

PCL will include this in our construction services phase of the project.

### SAFETY PROGRAM

PCL will include this in our construction services phase of the project.

### REIMBURSABLE EXPENSES

Throughout the design phase, we shall include the costs of reimbursable expenses which are necessary during the complete project design. These expenses include, but are not limited to reproduction and printing costs, and expenses as noted in the contract between the parties.

### CONSTRUCTION PHASE SERVICES

All construction phases services costs shall be included within each GMP submittal as described above.

Best Regards,

PCL CONSTRUCTION, INC.

*JD McVey*

Jeremy McVey  
Estimator, Special Projects

CC: Doug Schmits, Design-Build Manager



DESIGN-PHASE SERVICES BY WOOD,  
PATEL & ASSOCIATES, INC.

Darrel E. Wood, P.E., R.L.S.  
Ashok C. Patel, P.E., R.L.S., CFM  
James S. Campbell, P.E.  
Thomas R. Gettings, R.L.S.  
Michael T. Young, P.E.  
Peter Hemingway, P.E.  
Jeffrey R. Minch, P.E.  
Robert D. Gofonia, P.E., R.L.S.  
Patrick W. Marum, P.E.  
Kenneth L. Knickerbocker, P.E., R.L.S.

July 28, 2011

Mr. Doug Schmits  
Manager, Special Projects  
PCL Construction, Inc.  
1711 West Greentree Drive  
Suite 201  
Tempe, AZ 85284

Phone: (480) 763-2757  
Email: [daschmits@pcl.com](mailto:daschmits@pcl.com)

Re: City of Cottonwood Riverfront Water Reclamation Facility  
Contract Proposal Modifications  
WP #113700

Dear Doug:

Pursuant to our meeting with the City of Cottonwood on July 12, 2011, attached is Wood/Patel's revised contract proposal. During the meeting, the City requested we delete work and add new work not previously defined in our contract. A summary of the deleted work and new work is shown below along with fee modifications.

Deletions:

LS#3 revisions (except for 500-year flood protection and relocation of electrical equipment).....	<\$4,900>
WAS Pump Station (cost offset by influent pump station below) .....	<\$0>
All weather access road, soccer field, and offsite grading .....	<\$33,360>
Hard copy of deliverables.....	<\$950>
208 Amendment preparation (except for minor assistance).....	<\$20,425>
Plant process water pump station .....	<\$10,887>
<b>Total Deletions .....</b>	<b>&lt;\$70,522&gt;</b>

New Work Items:

250,000 gallon concrete reservoir .....	\$17,140
Influent pump station (cost offset by WAS pump station above) .....	\$0
Include ozone as backup for UV disinfection .....	Included at no cost
Evaluate using VFD for existing LS#3 pumps.....	\$250
Revise irrigation pump station to include plant process water pump station .....	Included at no cost
<b>Total New Work Items.....</b>	<b>\$17,390</b>



Mr. Doug Schmits  
Manager, Special Projects  
PCL Construction, Inc.  
City of Cottonwood Riverfront Water Reclamation Facility  
Contract Proposal Modifications

July 28, 2011  
Page 2

The deleted items and new work items result in a net decrease of **\$53,132**. Wood/Patel is pleased to perform some of the new work at no additional cost as a gesture of goodwill and to show our appreciation to the City of Cottonwood.

Please call me if you have questions or require clarification. Thank you for the opportunity to present these modifications.

Sincerely,

**Wood, Patel & Associates, Inc.**



Kenneth L. Knickerbocker, P.E.  
Principal

KLK/slr

enclosures

# **SCOPE OF SERVICES**

## **City of Cottonwood**

### **Design Phase of the Riverfront Water Reclamation Facility (WRF)**

Wood, Patel & Associates, Inc. (Wood/Patel) is pleased to submit this proposal to PCL Construction, Inc. (PCL) for professional services for the Design Phase of the Riverfront Water Reclamation Facility. For a not-to-exceed fee of \$725,585, we will perform the following services:

#### **1.0 BACKGROUND**

Wood/Patel will provide professional services for the design phase of the Riverfront Water Reclamation Facility (WRF) for PCL. The work will be initially based on the conclusions and recommendations made in the "*City of Cottonwood Riverfront Park Water Reclamation Facility Feasibility Study*" dated August 25, 2009 and "*City of Cottonwood Riverfront Park Water Reclamation Facility Expanded Scope*" dated December 21, 2009 and meetings with City staff on April 27, 2011 and May 10, 2011.

Wood/Patel will prepare the design report, drawings and specifications contract documents. The project will be delivered to the City under the design-build delivery method. Key components of the project include:

- Preparation of contract documents for the WRF and ancillary components.
- The facility will be powered through a combination of off-site solar photo voltaic energy (not a part of Wood/Patel's services, however, Wood/Patel will coordinate and assist to ensure the incorporation of these services into the design) and power from the APS grid.
- Preparation of specific permits required for the construction and operation of the WRF including the aquifer protection permit (APP), reuse permit, discharge permit (AZPDES), flood plain use permit, well drilling permit, air quality permit and local permits as specified below.

#### **2.0 FACILITY TO BE DESIGNED**

The new facility will be designed to produce ADEQ Class A+ water to allow for reuse, removal of pharmaceuticals to the level outlined in the referenced feasibility studies, and removal of

nutrients to a level suitable for discharge to the Verde River. Solids collected in the secondary clarifiers will be returned to the existing sewage collection system for treatment at the City's existing treatment facility. The project scope and budget established in the Agreement are based on providing services for the following work at the WRF:

- a. The capacity of the proposed WRF will be 0.3 million gallons per day (MGD). A new pump station and wetwell upstream of existing lift station #3 (LS #3) will be used to divert 0.3 MGD to the WRF. Flows in excess of 0.3 MGD will continue to be pumped to the Mingus Avenue WRF for treatment. Two new variable frequency drives (VFD) pumps will be used to pump raw wastewater to the WRF. In the event of a failure of either pump, LS#3 will pump wastewater to the Mingus Avenue WRF.
- b. Design of site work will include grading, drainage and gravel roadway improvements. A separate all-weather emergency access road from 10th Street will be designed by the City for access to the site during a 500-year storm event.
- c. Preliminary treatment consisting of one (1) mechanical fine screen, a manual screen bypass and a vortex type grit chamber with classifier and washer will be designed. Solids will be stored in a sealed container. The equipment will be located in the secondary treatment building.
- d. A 0.3 MGD continuously aerated activated sludge secondary treatment process will be designed. The proposed plant will be a package-type system with two stage aeration, aerobic digestion, clarification and ancillary equipment to support the process. The manufacturer shall supply all equipment, hardware, instrumentation, controls, electrical cable and conduits, aeration piping, process piping and walkways. The plant will be designed to treat wastewater to remove organic load to less than 30 mg/L biochemical oxygen demand (BOD) and nitrogen to less than 5 mg/L. Settled solids from the secondary clarifiers will either be pumped to or flow by gravity to existing LS #3. The secondary treatment facility will be self contained using common wall construction. Tank walls will be reinforced concrete. The secondary treatment process will be enclosed in a building (see Architectural services below). The air in the building will be treated for removal of foul odors and to minimize corrosion. A waste activated sludge (WAS) pump station will be designed to pump settled sludge to the existing LS#3 if the solids cannot flow by gravity. The station will also be designed to pump secondary effluent to LS#3 if bypass of the tertiary processes is required.

- e. Effluent from the secondary process will flow to a filter pump station which will pump the effluent to two (2) continuously backwashed, upflow, deep bed, granular package fiberglass sand filters that use reactive media to remove phosphorus to less than Verde River permit levels through adsorption. A two pass system will be used to ensure phosphorus removal to less than 0.1 mg/L. The equipment will be mounted outside on a slab.
- f. Filter effluent will flow to an advanced oxidation (AOX) reactor that uses hydrogen peroxide and ozone to reduce the level of pharmaceuticals in the water. The ozone generator and treatment system will be housed in an air conditioned enclosure. The entire system will be packaged by one manufacturer to ensure reliability of system components. The enclosure will be mounted on a slab.
- g. Following AOX treatment the wastewater will flow to a biological filter to reduce total nitrogen to less than 1 mg/L, a requirement for discharging effluent directly to the Verde River. Since AOX frequently converts non-biodegradable compounds into biodegradable ones, a biological treatment step is required. Additionally, final “polishing” will be required to remove oxidized nitrogen compounds remaining following activated sludge treatment (primarily nitrate, NO<sub>3</sub>). Biological nitrate removal requires a carbon source and at this point in the process there will be very little carbon remaining. Therefore, supplemental carbon will be required. The biological filter will include at least one fiberglass filter and ancillary equipment, such as chemical feed pumps, backwashing pumps and reservoir and feed pumps (depending on the hydraulics of the filter). A bypass around the biological filter will be provided since it will not always be necessary or desirable to remove nitrogen to less than 1.0 mg/L.
- h. Biological filter effluent will flow to an ultraviolet (UV) package treatment disinfection system installed in a concrete channel. We will investigate providing ozone disinfection upstream of the UV system and, if the City deems feasible, ozone disinfection will be designed into the disinfection system. Following the UV system will be a channel-type flow monitoring system to measure plant effluent flow.
- i. A reclaimed water irrigation pump station and backbone distribution system to irrigate Riverfront Park will be provided. The pump station will include three vertical turbine can pumps with VFD drives located near the on-site effluent storage basin. The system will be sized to provide plant process water with an onsite distribution system and yard hydrants.

- j. Electrical power supply including coordination with APS. Also, a SCADA system will be included for remote operation of the facility from the Mingus Ave. WWTP. Site lighting will be designed in accordance with the City's dark sky ordinance.
- k. Landscaping improvements are not included.
- l. Preparation of boundary, easement and parcel descriptions are not included.

### **3.0 PROJECT TASKS**

#### **3.1 Project Management**

##### **3.1.1 Work Plan**

Wood/Patel will prepare and submit to PCL a description of the project scope, schedule and deliverables. The plan shall be updated monthly to reflect actual progress.

##### **3.1.2 Meetings**

Coordination meetings with PCL, City and subconsultants will be held once per month beginning with a kick off meeting. This assumes 8 meetings.

##### **3.1.3 Project Management**

Provide general project management and administrative activities for the design phase to facilitate the successful completion and delivery of the construction documents to PCL. Perform project monitoring and control functions such as coordination of project activities, facilitating quality assurance reviews, monitoring project budget and schedule, preparation of miscellaneous project correspondence, and overall management of project activities. Technical quality control and assurance activities are included as an ongoing part of the individual technical tasks.

##### **3.1.4 Project Presentations**

Wood/Patel will prepare for and present at three (3) public meetings to take comment from the City Council and the public regarding the status of the project.

#### **3.2 Design**

##### **3.2.1 Survey**

The City will coordinate and contract separately, land surveying services to determine location and elevation of existing structures and improvements and to provide topography for the design of new structures and site improvements within the proposed WRF footprint and solar facilities off-site.

### **3.2.2 Site Work**

Site work generally includes:

- Design of a flood wall around the proposed WRF,
- Design of a 20-foot wide access road from Riverfront Drive,
- Design of parking facilities outside the WRF site wall for soccer field use as well as public parking for the WRF, and
- Site design of the WRF.

#### **a. Site Plan**

Wood/Patel will prepare a Site Plan based on Client direction provided in previous meetings, preliminary engineering and City of Cottonwood engineering standards. Emergency service vehicle and access connection to Riverfront Drive from the treatment plant site will be provided, including drive lane widths, and radii. Hardscape, curbing, site walls, pedestrian walkways, and ADA routes will be shown as required.

Building, landscape, and parking setbacks will be determined based on the design team's understanding of current City of Cottonwood published standards. Property line, topographic survey, and right-of-way information will be shown based on Client-provided data. Once the City of Cottonwood reviews the two (2) options, we will prepare a Final Site Plan. This Final Site Plan will be provided to the Client and design team for use in final design.

#### **b. Preliminary Grading and Drainage Plan**

We will prepare a Preliminary Grading and Drainage Plan for the project, based on the Final Site Plan. Our design will be in accordance with City of Cottonwood standards. The plan will include an access road from Riverfront

Drive to the WRF. Included are the Visitor Center, the flood wall, and grading of the WRF site.

**c. Grading and Drainage Plan**

Wood/Patel will prepare a Grading and Drainage Plan of the WRF site based on the results of our preliminary engineering design. Review comments of the preliminary design for the City of Cottonwood will be incorporated.

**3.2.3 Geotechnical**

Geotechnical Investigations will include:

Borings on-site (4) approximately 25' deep to determine

- (1) Pipe bedding
- (2) Backfill around structures, pipe backfill
- (3) Groundwater depth
- (4) Corrosivity to piping, concrete
- (5) Foundation requirements
- (6) Lateral earth pressures
- (7) Suitability of soils for embankments
- (8) Prepare a gradation analysis on a selected sample for scour analysis

Borings off-site (5) approximately 10' deep to determine

- (1) Pipe bedding
- (2) Pipe backfill
- (3) Groundwater depth
- (4) Roadway section
- (5) Corrosivity to piping, concrete

**3.2.4 Preliminary Design**

These services will draw upon, where applicable, the work already performed and documented in the feasibility reports referenced above. Preliminary design activities and tasks consist of the following:

**a. Process/Plant Components and Design Criteria**

The treatment processes and associated design criteria previously developed as part of the feasibility studies, will be used as the basis for the design of this project. The following activities will be performed under this task:

- i. Assist the City with a sampling program to identify specific raw wastewater constituents not previously sampled for and to optimize the AOX process, for developing design criteria and permit requirements, including raw wastewater quality, pharmaceuticals, refractory nitrogen, ambient river quality, ambient groundwater quality. Dr. Snyder will assist the City with a strategic program which includes analytical analyses and rapid bench-scale advanced oxidation process testing. Dr. Snyder will design a sampling program to identify specific raw wastewater constituents which are representative as surrogates and indicators for larger classes of emerging contaminants. He also will conduct bench-scale experiments to determine oxidant demand, decay, and organic constituent attenuation efficacy. He will utilize those data to help optimize the advanced oxidation process and assist in design criteria and permit requirement discussions.
- ii. Develop a detailed preliminary site plan. Wood/Patel will prepare a Grading and Drainage Plan which consists of the pedestrian access (i.e. sidewalks and authorized access points) and other surface improvements within the WRF.
- iii. Prepare detailed calculations including:
  - (1) Hydraulics
  - (2) WRF kinetics and process
  - (3) Structural design
  - (4) Pump designs
  - (5) HVAC
  - (6) Process equipment design
- iv. Develop a process flow schematic and hydraulic profile for the treatment processes;
- v. Develop process and instrumentation diagrams that incorporate the process data and all the WRF process systems;

- vi. Design a non-potable plant water system using the WRF effluent for uses other than those required for potable water;
- vii. Design an off-site reclaimed water irrigation distribution system to serve Riverfront Park and surrounding uses; and
- viii. Identify chemical and power requirements associated with the new facilities.

**b. Conceptual Design Report**

A Design Report (DR) will be prepared to reflect the work under this contract. The DR will document key design decisions and will include a recommended plan of improvements as well as calculations and equipment selection summaries.

After receipt of all comments, Wood/Patel will revise the DR and will submit copies of the draft DR to PCL and the City for discussions with the Arizona Department of Environmental Services (ADEQ).

**3.2.5 Architectural**

The architectural design includes the administration, preliminary and secondary treatment buildings as described below.

**a. Site planning:**

- 1) Review facility requirements with Wood/Patel.
- 2) Program Owners requirements.
- 3) Provide Architectural site design for building facilities.
- 4) Design visitor tour path through site.
- 5) Soccer field design input.
- 6) Attend design and code review meetings as required.

**b. Preliminary and secondary treatment building:**

- 1) Provide schematic and design development documents.

- 2) Provide construction documents and specifications.
- 3) Provide mechanical and structural design for the building through subconsultants.
- 4) Work with solar designer to incorporate passive solar elements, such as location of windows, doors, building orientation, building materials and finishes, into building structure.
- 5) Design miscellaneous auxiliary buildings for pumps, motor controls and generators.

**c. Administration Building (approximately 4,000 ft<sup>2</sup>)**

- 1) The Administration Building will include:

- Lobby
- Bathrooms
- Reception
- Office
- Control center
- Meeting room
- Lab

- 2) Provide schematic and design development documents.
- 3) Provide construction documents and specifications.
- 4) Provide electrical, mechanical and structural design for the building through subconsultants.
- 5) Provide interior finishes to lobby areas.
- 6) Work with solar designer to incorporate passive solar elements, such as location of windows, doors, building orientation, building materials and finishes, into building structure.

**d. Educational Systems Design:**

- 1) Solar monitoring Display.
- 2) Waste Water Treatment Display.

3) Riparian Habitat Display.

4) Solar Subscription Service Link to City's website for monitoring the solar voltaic systems.

### **3.2.6 Project Drainage**

The Riverfront WRF site is located partially (about 15%) within the 100-year floodplain of the Verde River as designated by the latest Federal Emergency Management Agency (FEMA) delineations. The project site is also impacted by Railroad Wash as it is located on the east side of the project site. The portion of project site which lies within the 500 year floodplain will be raised by use of earth fill based on discussions with City representatives in order to be compliant with interpretations of City and FEMA's regulatory policies.

The drainage scope includes the following:

- Coordinate the design of the project site grading and finish floor elevations based on the approved site plan.
- Site scour analysis along the north boundary of site and preliminary bank protection/flood wall requirement alternatives for the Verde River 500-year flow. The level of protection and type of bank protection to be incorporated into the final design will be determined by the City based on the preliminary design recommendations.
- Scour evaluation and recommendations will also be developed for the adjacent existing pump station for the Verde River 100 year & 500-year flows. These recommendations will include measures to protect the site from inundation from the Verde River 100-year flow. It is understood that the superstructure from the pump facility will either be removed or relocated to the proposed 500-year protected site. The wet well is to remain at the pump station.
- Assist in the preparation of a FEMA Elevation Certificate. The survey information required for the completion of this form will be provided by the City.

- Drainage system alternative analysis and design for the Railroad Wash containment north of the Cottonwood Ditch through the project site. Note that the wash is to remain in its natural state. Evaluation will be made of the existing spillway structure crossing the Cottonwood Ditch. If the spillway can't contain the 100 year flood, then necessary bank modifications will be designed to contain the 100 year flow thru the spillway.
- Due to the project location in the far overbank of the Verde River, a 404 permit for the Verde River is not anticipated nor included in this scope of work. Based on the information available at this time, it is not anticipated that the work described above will require roadway reconstruction of, or utility relocations within, Riverfront Drive. Therefore, these items are not included in this scope of work.

**a. Data Collection and Coordination**

Wood/Patel will request information from the City and Yavapai County. Available information will be compiled and reviewed by Wood/Patel.

- Digital files of the topographic mapping and control survey
- Pertinent drainage studies (master drainage plans, etc.)
- Pertinent master plan(s) (parks, trails & open space, etc.)
- Existing Flood Insurance Study (FIS) and Letters of Map Revisions (LOMR)
- Aerial photos
- Relevant infrastructure and utility as-built plans
- Boundary surveys and ALTA surveys
- Relevant hydrology, hydraulic models and work maps

**b. Containment Alternative Analysis for Railroad Wash**

Wood/Patel will evaluate two (2) options for Railroad Wash through the project site. Wood/Patel will work with the City to define and refine a cost effective solution:

- According to the City, railroad wash has been previously designated as a 404 wash. Therefore, a U.S. Army Corps of Engineers' Section 404 Application and Permit will be prepared for Railroad Wash. Necessary

coordination will be made with the Corps to support our conclusion. This task assumes a Native Plant inventory and salvage plan is not required.

- Preliminary Geotechnical Investigation (Earthwork factors)
- Drainage Alternatives Evaluation – using the U.S. Army Corps HEC-RAS hydraulic computer model.
- Final Alternative Recommendation – document in a letter report the final design concept that best meets City needs and goals.
- Coordinate City and County review and approvals

It is assumed, hydraulic models for the Railroad Wash prepared by HDR will be provided by the City.

**c. Verde River Bank Protection**

Wood/Patel will follow the procedures documented in Arizona State Standard 5-96 to perform scour analysis and design appropriate erosion protection for the project site. Methods for Level I and Level II scour depth estimations will be utilized in this project. These methods have been successfully applied in many projects within the State. Wood/Patel will employ geotechnical testing results to identify protection options. Three erosion and scour protection alternatives will be evaluated and final design alternatives will be recommended by Wood/Patel for approval by the City.

**d. Preliminary Drainage Improvement Plans (60%)**

Wood/Patel will prepare preliminary drainage improvement plans (60% design) for the following elements:

- Mass grading plan for elevated fill for the approved site plan and structures.
- Investigate raising structures out of the 500-year flood level by locating on the effluent storage tank.
- A bank protection design plan along the project site's boundary adjacent to the Verde River to protect the site to the 500-year level of protection.

- A bank and flood protection plan evaluation for the adjacent existing pump station from the 500-year event in the Verde River.
- A Railroad wash containment design plan within the project site.

**e. Final Drainage Improvement Plans (100%)**

Wood/Patel will prepare the final grading plans, bank protection plans, and wash containment design plans for the project site:

- Develop final construction documents and specifications.
- Develop special provisions and Opinions of Probable Costs in support of the construction documents.
- Prepare final drainage report in support of the construction documents for City approval.

**f. FEMA Elevation Certificate**

Wood/Patel will assist in the preparation and submittal of the documentation required for a FEMA National Flood Insurance Program Elevation Certificate.

- Using the client-furnished certified survey information per FEMA standards and format.
- Coordination with the City and the Yavapai County FCD.
- Submit the package to the City and Yavapai County FCD, and provide coordination to support the submittal.

**3.2.7 Structural**

The structural work includes design of the concrete structures and buildings. Water holding structures will be designed to ACI 350 Environmental Engineering Concrete Structures. The buildings will be designed to the latest adopted edition of the UBC.

The structural design of the buildings will be performed under architectural design (see 5, above). This task includes the structural design, including calculations and specifications, of the following:

- a. The perimeter wall, including flood wall and scour foundation, will be designed to help protect against the 500 year flood event.
- b. Secondary treatment facility process.
- c. Headworks equipment support, floor slab, grit chamber and influent channel.
- d. Foundations for the tertiary filters, filter pump station, reclaimed water pump station, UV disinfection channel, advanced oxidation supports and miscellaneous equipment supports.
- e. Site wall, including the flood wall.
- f. Site drainage channel.

### 3.2.8 Electrical

This task includes the electrical and instrumentation (E&I) design, contract drawing and specification preparation for the WRF. The scope includes E&I design of:

- a. Two (2) new VFD controlled pumps at the influent pump station;
- b. Preliminary treatment including one (1) mechanical fine screen and grit chamber;
- c. Secondary treatment, which consists of a two stage aeration, clarification and ancillary equipment to support the process, including the secondary treatment building;
- d. A filter station with two (2) effluent pumps;
- e. An advanced oxidation reactor (AOX) to reduce pharmaceutical levels;
- f. A biological filter to remove oxidized nitrogen compounds;
- g. An ultra-violet (UV) packaged disinfection system;
- h. An irrigation pump station for pumping reclaimed water to off-site green belt areas. This station will also include a small pump for plant process water;
- i. A standby, natural gas fueled generator to provide power to operate the WRF in the event of normal power systems failure.

The Plant electrical system shall consist of one (1) 480V, 3-phase service entrance and an automatic transfer switch that feeds a switchboard. The switchboard shall distribute power to the administration building, (1) plant motor control center and the packaged treatment skids. The switchboard shall also be

the point of common coupling with the photovoltaic system (By Others). Electrical design for a single natural gas standby generator is included. Apex will coordinate with APS for a new 480VAC electrical service. The City will meet with APS and coordinate with APEX. APEX will meet with the photo voltaic design group to coordinate special requirements for the service entrance equipment. Apex will design a single feeder from the service entrance switchboard to the administration building.

The control system shall be designed with a local plant PLC to perform automation control functions of the plant. The Plant PLC shall communicate with vender supplied packaged PLC's via Modbus TCP for remote IO gathering. Plant operations personnel shall have the ability to control the plant via a local HMI or remotely from the Mingus Ave WRF via remote HMI. Provisions shall be made to communicate with the Mingus Ave WRF via radio link. An HMI terminal shall be provided in the education center. The education center terminal shall have a security lockout such that visitors will be able to navigate HMI screens but will not be able to operate plant equipment or change plant setpoints.

### **3.2.9 Construction Documents**

Wood/Patel will prepare final construction contract documents (plans and specifications) for the recommended improvements identified in the Design Report.

We will prepare design drawings and specifications to be used for construction as described above. The construction documents will be completed in three phases: 30%, 60% and 90%.

#### **a. Preparation of Design Drawings and Technical Specifications**

Design drawings and associated specifications will include the following design disciplines:

- i. Process mechanical
- ii. Civil/Site
- iii. Geotechnical
- iv. Architectural

- v. Structural
- vi. Electrical
- vii. Instrumentation and control (I&C)

Wood/Patel will prepare the drawings using AutoCAD™ software and specifications in WORD™ format for submission to and review by PCL, the City and Arizona Department of Environmental Quality (ADEQ). Specifications will be prepared in the Construction Specifications Institute (CSI) standard format and to Maricopa Association of Governments (MAG) standard specifications.

**b. Responses to Agency Reviews**

Wood/Patel will submit the design construction documents at the completion of each phase to PCL and the City for review and meet with the City to discuss the project and receive comments. Wood/Patel will revise the documents accordingly and prepare the next phase for submittal to the City. Final review drawings will include complete design of all design disciplines defining site and building layout, pipe routing and equipment location, process and building structure construction features and details. A draft version of Wood/Patel's standard technical specification Divisions 1 through 17, will be provided with each review package. The review of the submittal package by the ADEQ is anticipated to occur during a six-week period after receipt of the drawings and specifications. Review comments of the submittal will be incorporated into the drawings and specifications prior to bid. Wood/Patel will respond to written review comments on the design drawings and specifications from the City and the Arizona Department of Environmental Quality (ADEQ). Wood/Patel will submit written responses to agency comments and will modify the design drawings and specifications either in the 100 percent submittal or by addendum, as appropriate.

**c. Deliverables**

- i. One CD with digital files of final construction documents (specifications and other written materials in Microsoft WORD; drawings in AutoCAD).

### **3.3 Permits and Approvals**

Wood/Patel will coordinate with the approval agencies and submit the contract documents for approvals as listed below:

a. 208 Plan Amendment

The City will prepare the amendment and application, for submittal to the NRO and attend all meetings, public and private. Wood/Patel will assist the City in providing information as requested to support the submittal package.

b. Aquifer Protection Permit (APP).

c. Arizona Pollution Discharge Elimination Permit (AZPDES).

d. Reuse Permit.

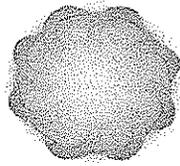
e. Air quality permit for the standby generator.

### **3.4 Reimbursable Expenses**

Reimbursable expenses shall be paid pursuant to the Contract between PCL and the City.

N:\2011\113700 Riverfront\Contracts and Scope\WP Scope\Final Scope of work for pcl.docx

**SOLAR SYSTEM DESIGN-PHASE SERVICES  
BY STOCKBRIDGE ENERGY GROUP**



# Stockbridge Energy Group LLC

928-634-0306

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**Address:** Stockbridge Energy Group LLC.

Po Box 869

Cottonwood Arizona 86326

Phone: 928-634-0306 Fax: 1-928-637-6471

License # K-11 264327

**Proposal # 20116**

**PCL Civil Constructors, Inc.**

Suite 201 1711 W. Greentree Drive

Tempe AZ 85284

**(480) 829-6333**

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**Date:** May 9th 2011

**Subject:** Solar System Design Team Services  
Cottonwood River Front Park Waste Water Treatment Facility

**Scope:** Stockbridge Energy Group shall provide Architectural, Structural Engineering, Solar System Design And Electrical Engineering Services necessary for the design and construction documents. For the photovoltaic system located in Cottonwood AZ. This proposal is based on (1) 587.6 KW System. Architectural and Structural Engineering included in this proposal is for all solar structures freestanding or over building roofs from point of attachment to the building up through solar panels. The building's Architectural and Engineering is to be provided by others under a separate contract. Please find the associated cost breakouts below.

**1 Programming and Design:**

The programming and design phase includes research and development of the initial project requirements to meet the needs of the project and incorporate them in a seamless manner into the overall project design.

1. Review System Requirements
2. Program Owner Requirements
3. Equipment Selection
4. Coordinate Electrical Requirements
5. Provide Preliminary Designs
6. Attend Design And Code Review Meetings
7. Provide Cost Evaluations

**Programming And Design Total: \$18,803.20**

**2 Construction Documents**

The construction documents phase takes the final programming and design information to engineering services for development. Producing the final building documents which includes, Plans, Permitting and utility production based incentive applications.

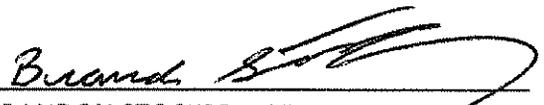
1. Integrate Design Structure Into The Building Design
2. Provide Elevated Solar Structure Design
3. Provide structural engineering
4. Provide Electrical Engineering
5. Provide Construction Documents
6. Secure Solar Permits
7. Apply for Arizona Public Service  
Production Based Incentives.

**Construction Documents Total: \$75,212.80**

The total combined design fees for this project are **NOT TO EXCEED:**  
Ninety Four Thousand Sixteen **\$94,016.00** Dollars.

Services not Included in this proposal are: Civil Engineering, Surveying, Energy modeling and three dimensional renderings and printing.

Date: 9-13-2011

BY:   
BRANDON STOCKBRIDGE  
Vice President, Stockbridge Energy Group LLC

**ACCEPTANCE**

**THE UNDERSIGNED HEREBY ACCEPTS THE FOREGOING PROPOSAL AND AGREES TO ALL THE TERMS AND CONDITIONS CONTAINED HEREIN ABOVE AND IN THE REVERSE HEREOF.**

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_  
PCL Civil Constructors Inc.  
Water Infrastructure Group

**PROPOSAL FOR ARCHITECTURAL SERVICES  
COTTONWOOD RIVER FRONT PARK  
SEWERAGE TREATMENT FACILITY**

August 1, 2011

T.J. Stockbridge  
Stockbridge Energy Group  
P.O Box 869  
Cottonwood, AZ. 86326

**RE:** Proposal for site planning and design for the new Solar Photovoltaic System at River Front Park in Cottonwood, Arizona.

Dear T.J.;

The following is a proposal for Architectural and Structural Engineering Services for the design and construction documents for the Photovoltaic System at the new Treatment Facility in Cottonwood, Arizona. This proposal is based on a 540-587 KW system. I have broken down the services as you requested below:

**PROGRAMMING AND DESIGN:**

- 1) Review systems requirements, plant and building demands.
- 2) Provide initial system sizing.
- 3) Determine tilt angles and array spacing.
- 4) Assist in panel selection and inverter selection.
- 5) Coordinate electrical string sizing
- 6) Provide preliminary design and system production estimates.
- 7) Assist in preliminary cost evaluation

**CONCEPTUAL DESIGN APPLICATIONS:**

- 1) Determine array mounting systems (ground, elevated, roof).
- 2) Determine structural mounting systems.
- 3) Determine inverter and S.E.S. locations.
- 4) Provide preliminary P.V. site plan layout.
- 5) Provide preliminary P.V. building plan layout.
- 6) Provide preliminary P.V. parking plan layout.

**DESIGN DEVELOPMENT:**

- 1) Provide building P.V. structural system design.
- 2) Provide elevated P.V. system structural design.
- 3) Provide design presentation.

**DESIGN REVIEW:**

- 1) Finalize system sizing with building and plant design.
- 2) Assist in final panel selection.
- 3) Assist in coordinating electrical design.
- 4) Assist in A.P.S. applications.
- 5) Assist in system costing.
- 6) Provide final design layout.

**CONSTRUCTION DOCUMENTS:**

- 1) Provide Structural Engineering for structural systems and foundations.
- 2) Provide construction documents and shop drawings for all structural systems.
  - Site plan
  - Foundation plans
  - Roof framing plan building 1.
  - Roof framing plan building 2.
  - Parking structures framing plan.
  - Soccer field shade structure framing plan.
  - Cross sections.
  - Cross sections.
  - Details.
  - Details.
- 3) Coordinate with Electrical Engineer.

**EXCLUSIONS:**

Services not included in this proposal are: Civil Engineering; Surveying, Electrical Engineering; Three Dimensional Renderings; Energy Use Modeling; and Printing.

Sincerely;

Christian vernosky

**ACCEPTED:**

*christian vernosky • architects*  
*p.o. box 3366 • cottonwood. arizona 86326*

**PROPOSED PRELIMINARY PROJECT  
SCHEDULE**

Act ID	Description	Orig Dur	Rem Dur	Early Start	Early Finish	Total Float
<b>OVERALL PROJECT MILESTONES</b>						
1000	Preconstruction Services to City	0	0	11OCT11*		1d
1070	City Council Date	0	0	11OCT11*		11d
1110	Final Contract Amendment Negotiations	15d	15d	23AUG12	13SEP12	81d
1180	Substantial Completion	0	0		20MAR14	1d
1190	Final Completion	0	0		17APR14	1d
<b>DESIGN PHASE</b>						
1200	Design Phase Contract Negotiations	30d	30d	11OCT11	21NOV11	1d
1210	Design Phase Contract Award	0	0	22NOV11		1d
<b>PERMITTING STAGE</b>						
3000	Permitting Stage	605d	605d	22NOV11	17APR14	1d
3010	SWPP Permit	15d	15d	08DEC11	30DEC11	176d
3020	Site Plan/Conditional Use Permit	90d	90d	08DEC11	16APR12	101d
3040	AZPDES Permit	220d	220d	08DEC11	18OCT12	376d
3050	Aquifer Protection Permit (APP)	300d	300d	08DEC11	14FEB13	296d
3080	Architectural Approval	1d	1d	08DEC11	08DEC11	595d
3090	Building Permit	30d	30d	08DEC11	20JAN12	161d
3100	Approval To Construct	30d	30d	08DEC11	20JAN12	161d
3120	404 Permit - RR Wash	60d	60d	08DEC11	05MAR12	131d
3070	Flood Plain Use Permit	60d	60d	23JAN12	19APR12	506d
3060	208 Amendment	240d	240d	21FEB12	31JAN13	306d
3030	Reclaimed Water & Reuse Permit - Type 2	5d	5d	21MAR14	27MAR14	16d
3110	Approval of Construction	20d	20d	21MAR14	17APR14	1d
<b>DESIGN PHASE</b>						
1020	30% Design & Preconstruction	90d	90d	22NOV11	02APR12	1d
1030	30% Design Review Workshop	0	0		02APR12	1d
1040	30% Design Cost Model Wkshp	0	0		16APR12	1d
1050	60% Design & Preconstruction	40d	40d	17APR12	12JUN12	1d
1060	60% Design Review Workshop	0	0		12JUN12	1d
1070	60% Design Cost Model Wkshp	0	0		26JUN12	1d
1080	90% Design & Preconstruction	30d	30d	27JUN12	08AUG12	1d
1090	90% Design Review Workshop	0	0		08AUG12	1d
1100	90% Design Cost Model Wkshp	0	0		22AUG12	1d
<b>CONSTRUCTION PHASE</b>						
1120	Begin Sitework Construction	0	0	07SEP12		1d
1160	Sitework Construction	100d	100d	07SEP12	31JAN13	286d
1140	Begin Treatment Plant Construction	0	0	11JAN13		1d
1170	Treatment Plant Construction	300d	300d	11JAN13	20MAR14	1d
1130	End Sitework Construction	0	0		31JAN13	286d
1150	End Treatment Plant Construction	0	0		20MAR14	1d

Preconstruction Services to City  
City Council Date  
Final Contract Amendment Negotiations

Design Phase Contract Negotiations  
Design Phase Contract Award  
SWPP Permit  
Site Plan/Conditional Use Permit  
AZPDES Permit  
Aquifer Protection Permit (APP)  
Architectural Approval  
Building Permit  
Approval To Construct  
404 Permit - RR Wash  
Flood Plain Use Permit  
208 Amendment

30% Design & Preconstruction  
30% Design Review Workshop  
30% Design Cost Model Wkshp  
60% Design & Preconstruction  
60% Design Review Workshop  
60% Design Cost Model Wkshp  
90% Design & Preconstruction  
90% Design Review Workshop  
90% Design Cost Model Wkshp

Begin Sitework Construction  
Sitework Construction  
Begin Treatment Plant Construction  
End Sitework Construction  
End Treatment Plant Construction

- Early bar
- Progress bar
- Critical bar
- Summary bar
- Start milestone point
- Finish milestone point

**PCL Construction, Inc.**  
**Riverfront WRF**

Start date	11OCT11
Finish date	17APR14
Data date	11OCT11
Run date	11OCT11
Page number	1A
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RESOLUTION NUMBER 2612

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, DECLARING THE CITY'S INTENT TO CONSTRUCT A NEW WASTEWATER TREATMENT FACILITY AT RIVERFRONT PARK, AND APPROVING A PRECONSTRUCTION SERVICES AGREEMENT WITH PCL CONSTRUCTION, INC.

WHEREAS, The City Council finds that it is in the City's long-term interest to construct a new satellite wastewater treatment facility at Riverfront Park, the outflow from which shall be used to irrigate the park and for other permitted uses, as appropriate and feasible;

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

FIRST, that the City shall cause to be constructed a new satellite wastewater treatment facility at Riverfront Park, the outflow from which shall be used to irrigate the park and for other permitted uses, as appropriate and feasible; and

SECOND, that subject to final review and approval by the City Attorney, the proposed preconstruction services agreement with PCL Construction, Inc., is hereby approved, and the Mayor is authorized to execute the agreement on the City's behalf.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 18TH DAY OF OCTOBER 2011.

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Diane Joens, Mayor

APPROVED AS TO FORM:

ATTEST:

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Steven B. Horton, Esq.  
City Attorney

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Marianne Jiménez, City Clerk

City of Cottonwood, Arizona  
City Council Agenda Communication



Meeting Date: October 18, 2011

**Subject: Ordinance 575 - Approving the Transfer of a Cable Television License from NPG Cable, Inc., to NPG Cable, LLC d/b/a Suddenlink Communications in Connection with the Sale and Corporate Restructuring of the Company; and Setting NPG/Suddenlink's Performance Bond at \$5,000.00**

Department: Legal; Administration

From: Steve Horton, City Attorney

**REQUESTED ACTION**

First reading of Ordinance Number 575, approving the transfer of a cable television license from NPG Cable, Inc., to NPG Cable, LLC d/b/a Suddenlink Communications in connection with the sale and corporate restructuring of the company; and setting NPG/Suddenlink's performance bond at \$5,000.00

Suggested Motion: None. First reading only.

**BACKGROUND/JUSTIFICATION/BENEFIT/ISSUES**

NPG Cable, Inc. has been transferred to Cequel Communications, LLC dba Suddenlink Communications in a stock sale, and its corporate structure has been changed into that of a limited liability company, or LLC. Under Section 5.12.030.D of the City Code, the transfer of NPG's cable license from NPG's former parent company to its current corporate parent requires Council approval, expressed by ordinance.

In connection with the approval process, the parties have also successfully conferred for the purpose of having NPG receive Yavapai Broadcasting Company's feed and provide over NPG Channel 4 the same local government-access programming - including City Council meetings and programs that originate at YBC's Cottonwood studio - that is currently carried on Cable One's Channel 2. This arrangement is the subject of a separate agreement that is on the same agenda as the first reading of this ordinance.

**COST/FUNDING SOURCE**

N/A

**REVIEWED BY**

City Manager: \_\_\_\_\_

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

**ATTACHMENTS**

Ordinance Number 575 (proposed)

ORDINANCE NUMBER 575

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, GRANTING CONDITIONAL APPROVAL FOR THE CHANGE IN CONTROL OF THE CABLE TELEVISION LICENSE PRESENTLY HELD BY NPG CABLE, INC., TO NPG CABLE LLC PURSUANT TO A CHANGE IN THE OWNERSHIP, CONTROL AND CORPORATE STRUCTURE OF NPG; AND SETTING THE AMOUNT OF THE PERFORMANCE BOND REQUIRED BY SECTION 5.12.100 OF THE COTTONWOOD MUNICIPAL CODE AT FIVE THOUSAND DOLLARS.

WHEREAS, NPG Cable, Inc. ("NPG Cable") owned, operated, and maintained a cable television system serving the City of Cottonwood ("City") pursuant to a cable television license issued by the City in accordance with Chapter 5.12 of the Municipal Code; and

WHEREAS, the City has been advised that News-Press & Gazette Company ("NPG"), the parent company of NPG Cable, has entered into a Stock Purchase Agreement with Cequel Communications, LLC, d/b/a Suddenlink Communications ("Suddenlink") through which, among other things, NPG sold to Suddenlink all of the issued and outstanding capital stock of NPG Cable ("Transaction"); and

WHEREAS, the City has been further advised that, effective as of the date of the closing of the Transaction, Suddenlink converted, by way of merger into a wholly-owned subsidiary of Suddenlink, NPG Cable from a corporation to a limited liability company named NPG Cable, LLC, d/b/a Suddenlink Communications ("Conversion"); and

WHEREAS, pursuant to Section 5.12.030.D of the Municipal Code, the City Council must approve any actual change in control of the license; and

WHEREAS, NPG Cable and Suddenlink have requested the approval of the City Council, expressed by ordinance, for the actual change in control of the license in connection with the Transaction and Conversion as it relates to the license in accordance with the requirements of the license and applicable law, and have filed with the City an application on FCC Form 394 that includes relevant information concerning the Transaction and the legal, technical and financial qualifications of Suddenlink; and

WHEREAS, upon review of the legal, financial and technical qualifications of Suddenlink, the City Council has determined that NPG Cable and Suddenlink have met or are able to meet all the requirements of the City to obtain approval of the change in control of the license; and

ORDINANCE NUMBER 575

Page 2

WHEREAS, the City Council has determined that it is in the best interest of the City to approve the change in control of the license and the Conversion as it relates to the license, subject to the conditions set forth in Sections 3 and 4 of this Ordinance.

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

Section 1. The City Council hereby conditionally approves the change in control of the license in connection with the Transaction and the Conversion as it relates to the license, all in accordance with the terms of the license and applicable law.

Section 2. The City Council confirms that the license was properly granted or assigned or transferred to NPG Cable.

Section 3. NPG Cable, LLC, as the licensee, shall comply with the provisions of Sections 5.12.100 (performance bond), and 5.12.110 (liability insurance and indemnification) of said Chapter 5.12 of the Municipal Code. The amount of the bond required pursuant to Section 5.12.100 shall be five thousand dollars (\$5,000.00).

Section 4. The City Council's approval of the change in control of the license in connection with the Transaction and the Conversion as it relates to the license is contingent upon and shall be effective immediately following the City's receipt of NPG Cable, LLC's written acknowledgement and legally binding covenant to comply with all of the provisions of Section 3 of this Ordinance and Chapter 5.12 of the City Code, such covenant to be delivered in a form satisfactory to the City.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, ARIZONA, THIS 3rd DAY OF NOVEMBER, 2011.

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Diane Joens, Mayor

ATTEST:

APPROVED AS TO FORM:

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Marianne Jiménez, City Clerk

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Steve Horton, City Attorney

## GOVERNMENT-ACCESS CHANNEL AGREEMENT

This Government-Access Channel Agreement (“Agreement”) is made and entered into as of the \_\_\_\_\_ day of October, 2011, by and between NPG Cable, LLC, d/b/a Suddenlink Communications (“Suddenlink”), and the City of Cottonwood, Arizona, an Arizona municipal corporation (“City”).

### RECITALS

- A. The City has the authority to issue, renew, and transfer cable television licenses pursuant to Chapter 5.12 of the Municipal Code of the City of Cottonwood.
- B. The City Council has determined that it is in the best interest of the City to expand public access to government services and meetings through the use of local government-access channels.
- C. As part of the license approval process, the Parties have discussed the need for a dedicated local government-access channel to be provided by Suddenlink for the benefit of the City.

IN CONSIDERATION of the mutual promises, covenants and conditions herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Suddenlink and the City hereby agree as follows:

1. Suddenlink shall provide local/government access channel capacity in the Basic Service Tier in the form of one dedicated local government access channel (“Channel”) operating on NPG Cable Channel 4 that will be managed by the City or such other entity as the City may designate; provided, however, that if and when NPG Cable Channel 2 becomes available, Suddenlink will notify the City and provide it with the opportunity to direct that Suddenlink’s government-access programming be carried on Channel 2 instead.
2. Subject to applicable laws and regulations, Suddenlink shall deliver to its City subscribers the local government-access programming it receives via the internet from Yavapai Broadcasting Corporation (“YBC”). Suddenlink may also deliver this programming to other subscribers in the Verde Valley.
3. In the event that, for whatever reason, Suddenlink finds it necessary to move the local Channel to another channel on the same cable system, the cost associated with such a move shall be the responsibility of Suddenlink. If this move is required, a ninety (90) day written notice shall be provided to the City.
4. All of the terms and conditions of Chapter 5.12 of the Municipal Code of the City of Cottonwood are incorporated by reference in this Agreement and made a part hereof as though fully set forth herein, and Suddenlink, by accepting and operating under a license from the City, specifically agrees to all the applicable provisions of the City Code and the requirements set forth in this Agreement.

5. This Agreement is subject to cancellation pursuant to the provisions of Arizona Revised Statutes Section 38-511. The parties hereby warrant that to the best of their knowledge and belief, there are no circumstances that would implicate this statute.

Entered into effective the \_\_\_\_\_ day of October, 2011

NPG Cable, LLC, d/b/a Suddenlink Communications:

\_\_\_\_\_  
John Fuhler  
Senior Vice President  
Fiscal Operations

City of Cottonwood:

\_\_\_\_\_  
Diane Joens, Mayor

ATTEST:

\_\_\_\_\_  
Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Steve Horton, City Attorney

