

A G E N D A

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, TO BE HELD JUNE 7, 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. APS COMMUNITY PARTNER ACADEMY CERTIFICATE PRESENTATION TO MAYOR JOENS.
- VI. CALL TO THE PUBLIC--This portion of the agenda is set aside for the public to address the Council regarding an item that is not listed on the agenda for discussion. However, the Council cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02.A.(H).) Comments are limited to a 5 minute time period.
- VII. APPROVAL OF MINUTES--Regular Meeting of 3/15/11 & Special Meeting of 4/7/11.

Comments regarding items listed on the agenda are limited to a 5 minute time period per speaker.

- VIII. UNFINISHED BUSINESS
 1. ORDINANCE NUMBER 576--ANNEXING CERTAIN TERRITORY CONTIGUOUS TO THE CITY LIMITS OF THE CITY OF COTTONWOOD, BEING APPROXIMATELY 105 ACRES IN SIZE (QUAIL CANYON SUBDIVISIONS, UNITS I & II); PURSUANT TO THE PROVISIONS OF A.R.S. § 9-471; AND CONTINUING THE COUNTY ZONING OF R1L-70 (RESIDENTIAL/SINGLE FAMILY, LIMITED TO SITE BUILT CONSTRUCTION, 70,000 SQUARE FOOT MINIMUM LOT SIZE) ON THE ANNEXATION TERRITORY; SECOND & FINAL READING.
 2. ORDINANCE NUMBER 577--ZONE CHANGE FROM R-1 (SINGLE FAMILY RESIDENTIAL) TO PAD (PLANNED AREA DEVELOPMENT) TO ENABLE THE CONSTRUCTION OF A SENIOR LIVING FACILITY ON ABOUT THREE ACRES LOCATED AT THE SOUTHEAST CORNER OF WEST MINGUS AVENUE AND CANDY LANE; SECOND & FINAL READING.

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- IX. CONSENT AGENDA—The following items are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Council Member or a citizen so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.
1. CONSENT OF THE COUNCIL FOR THE MAYOR’S ABSENCE OF MORE THAN FIFTEEN DAYS AS REQUIRED BY THE MUNICIPAL CODE.
 2. SECOND RENEWAL OF THE UNDERGROUND UTILITY JOB ORDER CONTRACTING CONTRACT.
- X. NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.
1. MONTH TO MONTH EXTENSION TO THE WASTE MANAGEMENT COMPACTOR OPERATION AGREEMENT TO BE EFFECTIVE UNTIL DECEMBER 31, 2011.
 2. AUTHORIZATION FOR STAFF TO PURCHASE A GENERAC SG 275 ELECTRICAL GENERATOR FOR LIFT STATION FOUR FROM AGM SALES AND SERVICE.
 3. ABANDONMENT OF A TEN FOOT WATER AND WASTEWATER UTILITY EASEMENT ALONG THE EASTERLY BOUNDARY OF TRACT D, HILLCREST VILLA, BOOK 6 OF MAPS AND PLATS, PAGE 29, YAVAPAI COUNTY RECORDS.
 4. ACCEPTANCE AND IMPLEMENTATION OF THE FULLY EXECUTED HEALTHWAYS (SILVER SNEAKERS) CONTRACT AGREEMENT FOR THE SILVER SNEAKERS PROGRAM.
 5. REQUEST FOR CONTRACT EXTENSION/OPTION FOR RENEWAL OF CITY-WIDE CUSTODIAL SERVICES BY RICHARDSON’S LLC.
 6. CITY COUNCIL CIVILITY ACCORD PLEDGING TO EXHIBIT AND ENCOURAGE THE KINDS OF PERSONAL QUALITIES THAT ARE EMBLEMATIC OF A CIVIL SOCIETY; GRATITUDE, HUMILITY, OPENNESS, PASSION FOR SERVICE TO OTHERS, PROPRIETY, KINDNESS, CARING, FAITH, SENSE OF DUTY, AND A COMMITMENT TO DOING WHAT IS RIGHT.
 7. ANNUAL CONSIDERATION OF APPOINTMENT OF A VICE MAYOR.
 8. COUNCIL REPRESENTATIVE APPOINTMENTS TO VARIOUS COMMITTEES RELATED TO INTERGOVERNMENTAL MATTERS.
- XI. CLAIMS & ADJUSTMENTS
- XII. ADJOURNMENT

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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: June 7, 2011
Subject: Ordinance 576 Annexing the Quail Canyon Subdivisions
Department: Community Development
From: George Gehlert, Director

REQUESTED ACTION

Consider adoption of the Quail Canyon annexation ordinance (Ordinance 576). Second and final reading.

On April 19, 2011, the City Council reviewed the Quail Canyon annexation as part of the first reading of Ordinance 576. At that time, the Council also adopted Resolution 2586, establishing a 10-year plan for extension of infrastructure and City services to the site.

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

“I move to approve Ordinance 576, annexing the Quail Canyon subdivisions into the City.”

BACKGROUND

The City of Cottonwood purchased the Quail Canyon Water Company, which supports the unincorporated Quail Canyon Subdivisions, Units I and II. The subject property is located along the south side of Quail Springs Ranch Road (formerly Godard Road) just west of its intersection with Old 279. State Trust land is located to the east. Developing residential properties are located to the north, west and south. The property includes about 105 acres divided into 59 residential lots and private roadways developed over the last four years. Although improvements have been installed, most of the lots are vacant.

The Annexation Process

Annexation is a petition driven process in the State of Arizona, as set out under ARS § 9-471, which requires that signatures be obtained in support of the annexation representing more than 50 percent of the owners and at least 50 percent of the assessed property valuation within a defined “territory of annexation” before annexation can occur.

The annexation process is initiated with the filing of a blank signature petition, map and legal description of the annexation territory with the County Recorder’s office, together with an affidavit certifying that the territory is not presently subject to any other annexation proceeding. The filing starts a 30-day clock which must be exhausted before signatures can actually be obtained. During this period, the City must also hold a public hearing, publicize the process and the hearing and notify the individual property owners who are subject to annexation. The necessary signatures must be presented to the County Recorder’s office within one (1) year of the last day of the 30-day waiting period. The Council can then adopt the annexation ordinance. The ordinance must also be published and related advisories distributed to specific agencies.

As part of the adoption of the annexation ordinance, the City Council must also adopt a 10-year plan for the extension of City services and infrastructure.

Following adoption of the annexation ordinance, the City has six (6) months to approve City zoning on the property.

Chronology

On 8-17-10, the City Council directed staff to move forward with the annexation of the Quail Canyon subdivisions. On 9-1-10, Staff filed the required documents with the County Recorder’s Office initiating the 30-day waiting period. A public hearing was held on 9-21-10 regarding the annexation, as required by statute. Notifications regarding the proposed annexation and public hearing were advertised and distributed, as required.

Signatures

There are 13 ownerships representing 62 total parcels within the Quail Canyon subdivisions. Staff has received signatures representing 7 of the 13 ownerships (53.8%). Those 7 ownerships represent 80% of the full cash valuation for the entire annexation territory. The signatures have been filed with the County Recorder’s office. The Council may adopt the annexation ordinance at this time.

JUSTIFICATION/BENEFITS/ISSUES

- **Added Service Area Responsibilities:** As part of the annexation process, the City is required to commit to a 10-year plan of infrastructure and serviceability for these properties (*adopted as Resolution 2586*). There will be new costs associated with providing City services to this area, principally for maintenance of roads and drainage areas, as well as police and fire protection.

- **Added Revenues:** As the lots are developed and occupied, the additional housing units and population will generate construction sales tax and water revenues as well as entitle the City to added State-Shared revenues.

COST/FUNDING SOURCE

There is minimal cost associated with the annexation process. Costs associated with maintenance issues are addressed by the 10-year service plan.

REVIEWED BY:

City Manager: _____

City Attorney: _____

ATTACHMENTS

- Map of Annexation Territory and Legal Description
- Ordinance 576

Exhibit A: Map of the Annexation Territory

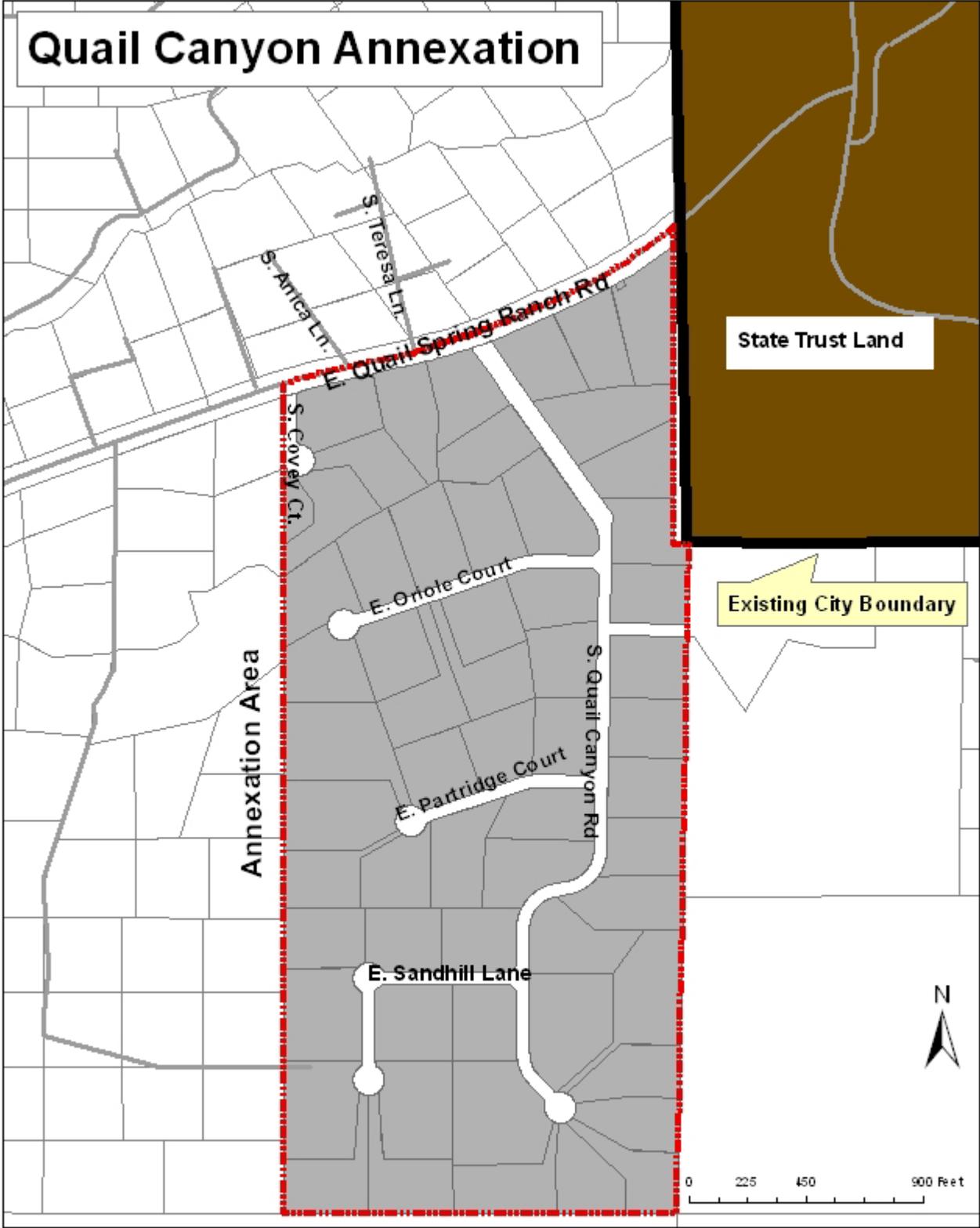


Exhibit B: Legal Description

A portion of Sections 15 and 22 of Township 15 North, Range 3 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as Quail Canyon Subdivision, Units I and II.

ORDINANCE NUMBER 576

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, ANNEXING CERTAIN TERRITORY CONTIGUOUS TO THE CITY LIMITS OF THE CITY OF COTTONWOOD, BEING APPROXIMATELY 105 ACRES IN SIZE (QUAIL CANYON SUBDIVISIONS, UNITS I & II); PURSUANT TO THE PROVISIONS OF A.R.S. § 9-471; AND CONTINUING THE COUNTY ZONING OF R1L-70 (RESIDENTIAL/SINGLE FAMILY, LIMITED TO SITE BUILT CONSTRUCTION, 70,000 SQUARE FOOT MINIMUM LOT SIZE) ON THE ANNEXATION TERRITORY.

WHEREAS, a blank petition in writing, accompanied by a description and accurate map of real property was filed by the City of Cottonwood with the Yavapai County Recorder on September 1, 2010, and the notice was given to the Clerk of the Board of Supervisors and the County Assessor pursuant to A.R.S. §9-471.A(1); and

WHEREAS, a petition signed by the owners of one-half or more in value of the real and personal property and more than one-half of the persons owning real and personal property that would be subject to taxation by the City of Cottonwood in the event of annexation, as shown by the last assessment of property, has been filed in the office of the Yavapai County Recorder on April 14, 2011, all in accordance with A.R.S. §9-471.A; and

WHEREAS, the Mayor and Council of the City of Cottonwood, Arizona, following notice to the public as required by A.R.S. §9-471.A(3), timely held the required public hearing on September 21, 2010, in accordance with A.R.S. §9-471.A(3) to discuss the annexation proposal; and

WHEREAS, the said petition sets forth a true and correct description of all the exterior boundaries of the entire area proposed to be annexed to the City of Cottonwood, and had attached thereto at all times a description and accurate map of the territory desired to be annexed. Said map is attached to this Ordinance as "Exhibit A" and said description is attached as "Exhibit B"; and

WHEREAS, all other provisions of A.R.S. § 9-471 have been fully observed; and

ORDINANCE NUMBER 576

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WHEREAS, proper and sufficient certification and proof of the foregoing facts are now on file in the office of the City Clerk of the City of Cottonwood, Arizona, together with a true and correct copy of the original petition referred to herein, which is on file in the Office of the Yavapai County Recorder; and

WHEREAS, it is the desire of the Mayor and City Council of the City of Cottonwood to annex certain territory described as the Quail Canyon Subdivisions, Units I and II, annexation area; and

WHEREAS, the requirements regarding provisions of infrastructure as set forth in A.R.S. § 9-471(O) have been fully complied with as set forth in Resolution Number 2586.

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

Section 1: The statutory requirements set forth in A.R.S. § 9-471 having been fulfilled, the Quail Canyon Annexation Area, the map of which is attached as Exhibit "A" and the legal description is attached as Exhibit "B," is hereby declared to be annexed to the corporate limits of the City of Cottonwood.

Section 2: Pursuant to A.R.S. §9-471(L), the county zoning of R1L-70 (Residential/Single Family, Limited to Site Built Construction, 70,000 square foot lot minimum) is continued.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, ARIZONA, THIS 6TH DAY OF JUNE 2011.

Diane Joens, Mayor

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

Exhibit A: Map of the Annexation Territory

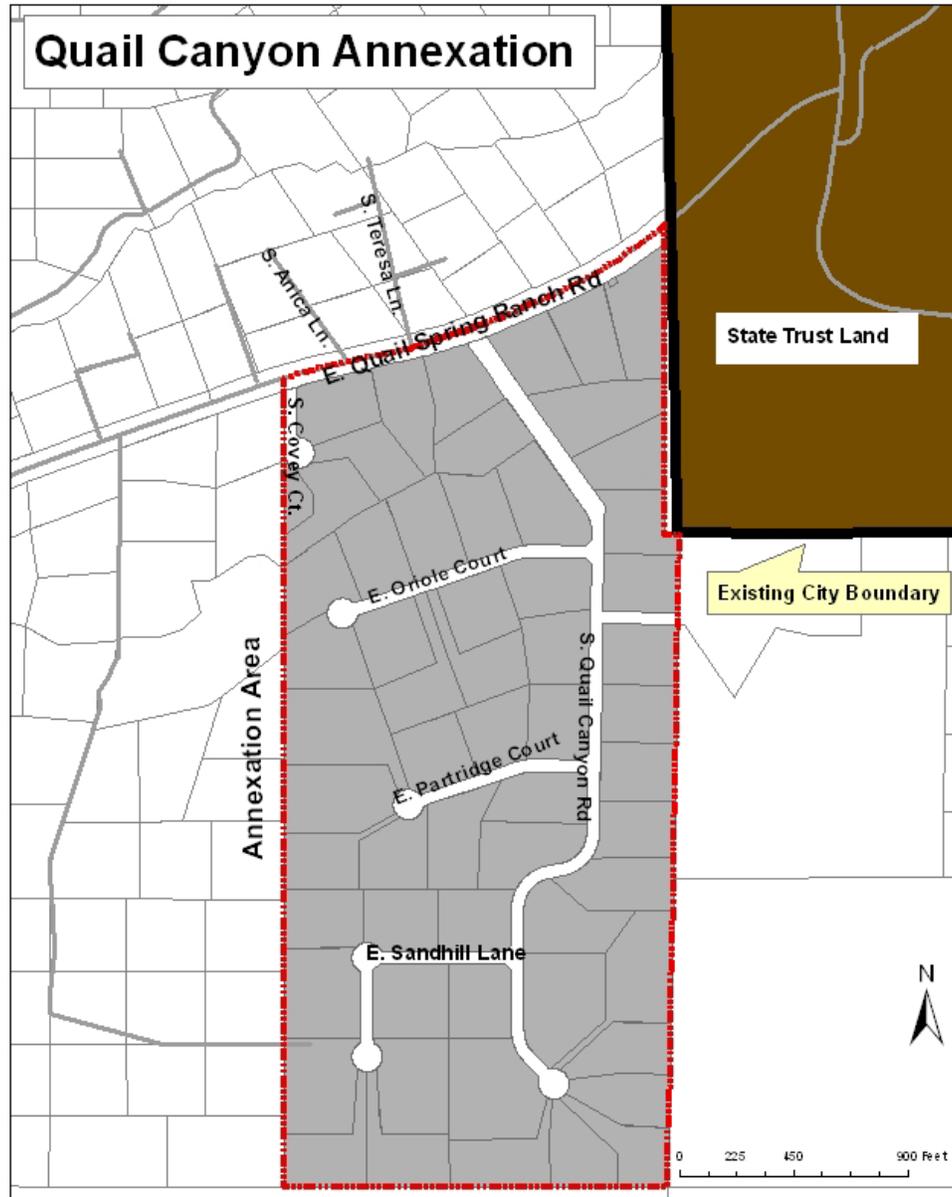


Exhibit B: Legal Description

A portion of Sections 15 and 22 of Township 15 North, Range 3 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as Quail Canyon Subdivision, Units I and II.

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011

**Subject: Ordinance 577
PAD Zoning for Highland Square Senior Living Facility**

Department: Community Development

From: George Gehlert, Director

REQUESTED ACTION

Final approval of the Master Development Plan (MDP) and Planned Area Development (PAD) zoning request for the Highland Square Senior Living Facility. This will also be the second and final reading of Ordinance 577.

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

“I move to approve Ordinance 577 approving the Master Development Plan for the Highland Square Senior Living Facility; and changing the zoning of this property from R-1 (single family residential) to PAD (Planned Area Development), subject to the associated stipulations.”

BACKGROUND

The applicant is requesting approval of a zone change from R-1 (single family residential) to PAD (Planned Area Development) to enable the construction of a senior living facility on 2.87 acres located at the southeast corner of West Mingus Avenue and Candy Lane.

P&Z Commission Review

On April 18, 2011, the Planning and Zoning Commission recommended approval of this request, subject to the stipulations identified in Ordinance 577 (attached). The staff memo outlining the project is also attached for your review, together with the Master Development Plan. Once approved, the MDP will function as the zoning ordinance for this parcel.

Although no written comments or objections were ever received, there were some concerns expressed at the P&Z hearing by a neighbor regarding obstruction of views, possible noise from roof mounted ventilators; and lighting impacts from roof mounted warning lights for air traffic (not required).

There was also some discussion concerning the parking requirement for this facility. The staff memo points out that the parking provided on-site is roughly 2/3 of what would normally be required for a typical apartment complex of this scale. Staff has reviewed related parking requirements in other jurisdictions and has found that this ratio is not unusual. Regardless, the applicants are considering adding additional parking as part of final site plan revisions associated with the Candy Lane access drives and nearby street improvements.

With regard to the access issue associated with the residential driveway to the south, the P&Z Commission directed Staff to work out the best solution as part of an administrative site plan revision (together with the final detail for the Candy Lane improvements). This would be processed administratively as a minor amendment to the PAD site plan, as set out by the Cottonwood Zoning Ordinance, section 424.K.

City Council Review

On May 3, 2011, representatives of the owner of the residence located to the south of the proposed development site voiced concerns over the legal access relating to the residence. The site plan depicts the redevelopment of an access west to Candy Lane over an existing easement as part of a common driveway proposal. Verbal comments were received at the Council meeting objecting to the design of the access; and asserting that the owner also had a right to a historic access route which followed the former Cholla Street alignment, leading north to Mingus Avenue (along the east boundary of the development site). That route would be obstructed by this project. It has been Staff's understanding that the developer has no obligation to provide the access to Cholla, so long as legal and unobstructed access is provided to Candy Lane. Primary access to the home site has always been contemplated via Candy Lane as part of this proposal. As an alternative to the common access drive on Candy Lane, the applicant has also offered to develop a second driveway immediately adjacent to the Highlands entry on Candy Lane. Again, this could be approved as part of an administrative amendment.

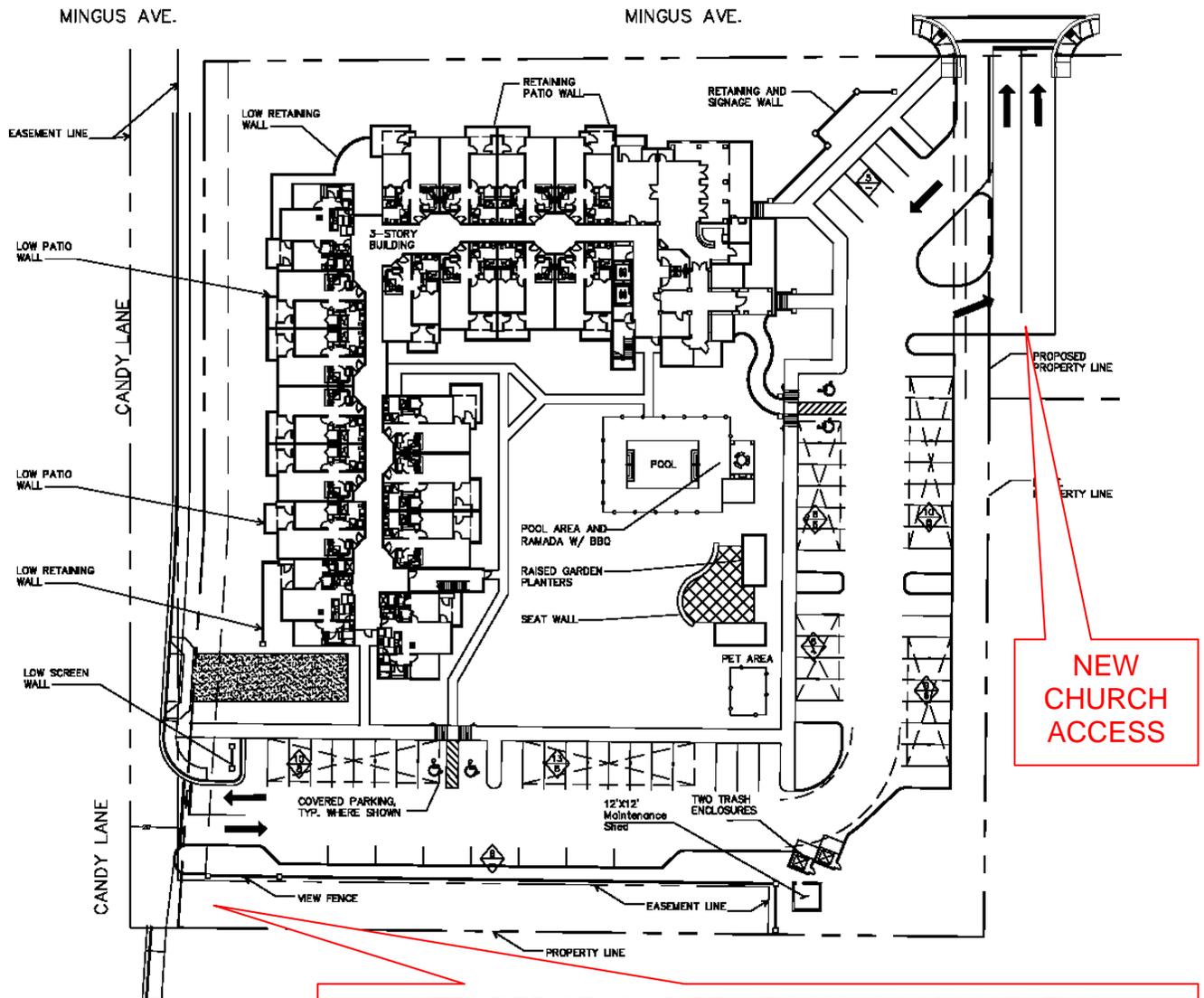
In view of the concern over the access issue received on May 3rd, the Council re-scheduled the first reading of Ordinance 577 for May 10, 2011, while also scheduling a formal public hearing for June 7, 2011, subject to the required notification process.

On May 10th, representatives of the Seventh Day Adventist Church also highlighted an access issue which overlaps the same route west to Candy Lane. The Church has since agreed to a re-direction of their second access route north to the Cholla intersection at Mingus Avenue.

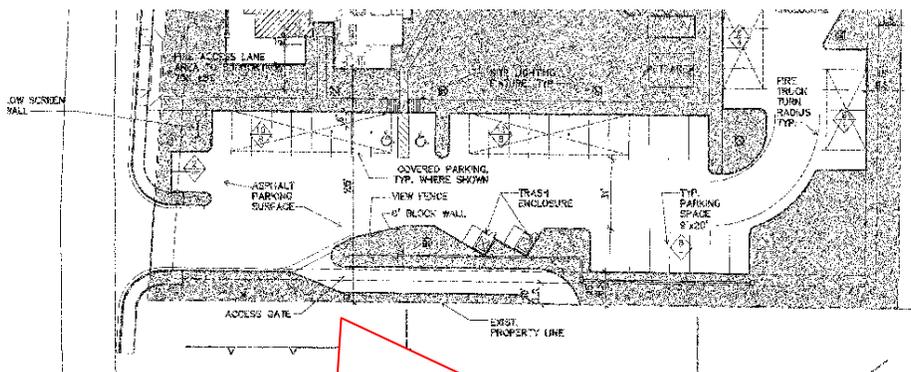
JUSTIFICATION/BENEFITS/ISSUES

In Staff's opinion, this request is supported by Cottonwood's General Plan, due to its value as an infill project; the resulting increase in residential density for this location; provision of added

ACCOMMODATIONS FOR ADJACENT ACCESS EASEMENTS AND DRIVEWAYS



INTENDED SECOND DRIVEWAY ACCOMMODATION FOR EXISTING RESIDENTIAL ACCESS EASEMENT



CURRENT PROPOSAL FOR COMMON DRIVEWAY

ORDINANCE NUMBER 577

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR A PARCEL OF LAND TOTALING APPROXIMATELY THREE ACRES LOCATED AT THE SOUTHEAST CORNER OF WEST MINGUS AVENUE AND CANDY LANE, FROM R-1 (SINGLE-FAMILY RESIDENTIAL) TO PAD (PLANNED AREA DEVELOPMENT).

WHEREAS, the Planning & Zoning Commission held a public hearing on April 18, 2011, concerning the rezoning of property and has recommended approval of this request as presented to the City Council, and the requirements of A.R.S. § 9-462.04 have been met.

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

Section 1: That the following described parcels of land lying within the City of Cottonwood, Yavapai County, Arizona, shall be and are hereby reclassified from R-1 (Single Family) to PAD (Planned Area Development):

CANDY LANE & MINGUS AVENUE

A parcel of land located in the SE¼ of Section 33, T16N, R3E, G&SRB&M, Yavapai County, Arizona, more particularly described as follows:

Commencing at the SE corner of the NE¼ of said Section 33, from which the NE corner of said NE¼ bears N01°37' 18"E, a distance of 2641.68 feet; thence N01°37'18"E, along the east line of said NE¼, a distance of 43.46 feet; thence S72°20'57"W, a distance of 57.50 feet; thence S89°29'13"W, a distance of 306.16 feet; thence S02°08'22"W, along an existing fence, a distance of 183.62 feet; thence N89°38'56"W, along the north line of the parcel of land described in Book 3343, Page 714, Official Records of Yavapai County, a distance of 341.29 feet and the TRUE POINT OF BEGINNING; thence S00°34'58"W, along the west line of said parcel, a distance of 225.94 feet; thence N89°20'21"W, a distance of 90.37 feet; thence N89°15'31"W, a distance of 129.28 feet; thence N89°29'51"W, a distance of 118.25 feet; thence N03°43'05"E, along an east line of Candy Lane as described in Book 1813, Page 803, Yavapai County records, a distance of 167.61 feet; thence N00°02'02"W, along an east line of said Candy Lane, a distance of

196.19 feet; thence N89°35'58"E, along a south line of Mingus Avenue, as described in Book 389, Page 241, Yavapai County records, a distance of 330.89 feet to a ½" rebar with cap "LS #19853"; thence S00°34'58"W, a distance of 143.60 feet to the TRUE POINT OF BEGINNING.

The above described parcel contains 2.7878 acres more or less.

Section 2: That the Planning and Zoning Commission and City Council have determined the following items necessary as conditions of the zoning approval to protect the public health, safety and general welfare:

1. That the use comply with the Master Development Plan dated 3/30/11.
2. That the applicant work with Staff to provide for a transit stop at this location.
3. That the applicant submit an alternative to the use of horizontal bars on the upper deck enclosures.
4. That the applicant address all other Code Review comments from the meeting of 3/8/11.
5. That the applicant submit revisions to the final site plan which address improvements along Candy Lane (including the sidewalk, left turn bay, transit bay and residential access) for Staff review and approval prior to plan submittal.

Section 3: The zoning map shall be amended to reflect this zone change only upon compliance with all zoning conditions set forth herein.

Section 4: That at least three (3) copies of the zoning map of the City of Cottonwood, Arizona, as hereby amended be kept in the office of the City Clerk for public use and inspection.

Section 5: Severability: That if any section, subsection, sentence, clause, phrase or portion of this ordinance adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, THIS 6TH DAY OF JUNE 2011

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

Steve Horton, Esq.
City Attorney



1010 N. Main St.
P.O. Box 1245
Cottonwood, Arizona 86326
Tel: 928-639-0776
Fax: 928-639-3801

5/25/2011

George Gehlert, Community Development Director
City of Cottonwood
111 North Main Street
Cottonwood, AZ. 86326

Re: Highland Square Apartments

Greetings George,

This letter is written as a follow-up to the concerns regarding access to the Seventh Day Adventist Church and the Fire Departments concern with driveway configuration accessing Mingus Avenue. We have met with both parties and have modified the site plan to address their concerns. I have attached a revised site plan that was prepared and delivered to the Church representatives and emailed to Fire Marshal Rick Contreras for his use.

We have discussed the access with Mr. David Hilbers and the Pastor of the Seventh Day Church and they have verbally agreed with the relocation of the easement for access to the school play ground to north side of their property in line with the proposed access to Mingus Avenue.

As you are aware we met with you, Rick Contreras, Troy Odell and Morgan Scott where we decided to eliminate the landscape island and modify the driveway striping to accommodate the fire apparatus. This work has now been depicted on the revised site plan.

Please feel free to contact me if you have any additional questions.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Tom L. Pender', is written over a light blue horizontal line.

Tom L. Pender, P.E.

C: Terry Campbell, Campbell-Hogue

Attachment: Site Plan

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011
Subject: Consent of the Council for the Mayor's Absence
Department: City Clerk
From: Marianne Jiménez

REQUESTED ACTION

Mayor Joens is requesting the Council's consent to be absent from the city for more than 15 days.

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

"I move to approve the absence of Mayor Joens from the city for a period of more than 15 days."

BACKGROUND

The Cottonwood Municipal Code requires the consent of the City Council for the absence of the Mayor for a period of time greater than 15 days. Mayor Joens will be away more than 15 days and is requesting the Council's consent for her absence.

JUSTIFICATION/BENEFIT/ISSUES

The section of the Municipal Code pertaining to the absence of the Mayor is as follows:

2.04.040 Absence.

The mayor shall not absent himself from the city for a greater period than fifteen days without the consent of the council.

REVIEWED BY

City Manager: _____

City Attorney: _____

ATTACHMENTS

None.

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011

Subject: Underground Utility Job Order Contracting Renewal

Department: Development Services

From: Dan Lueder

REQUESTED ACTION

Consider approval of the second renewal of the **Underground Utility Job Order Contracting (JOC) contract.**

If the Council desires to approve this item the suggested motion is: **Approve the second renewal of the Underground Utility Job Order Contracting contract.**

BACKGROUND

In November of 2008, Council awarded the underground JOC contract to three local underground contractors, Tiffany Construction, Arizona Northern Equipment, and Rocky Construction. These contractors perform underground utility projects based on sealed quotes all three submit for each job. The projects are limited to a maximum value of \$100,000 and the City utilized the Job Order Contracting qualifications based selection process as authorized by Arizona Revised Statute 34-601 through 34-611 in awarding the initial contract for these services. The master contract for this work allows for two annual renewals to the contract and staff is recommending that Council authorize the second of the renewals. If Council approves, this renewal will remain valid until November 2011 at which time a new Job Order Contract Statement of Qualifications process will be initiated, the results of which will once again be brought before Council. All three current contractors have performed extremely well and the process has allowed the Utility Department to complete projects in a timely and cost effective manner

JUSTIFICATION/BENEFITS/ISSUES

The City of Cottonwood has numerous complex utility infrastructure projects planned and having multiple contractors contracted to perform this work is definitely in the City's best interest. By utilizing the Job Order Contracting delivery method for this non-emergency work, we are assured that the work is performed by qualified contractors and still utilize competitive pricing to ensure fair competition. Council authorized this method of project delivery, each of the three firms selected receive plans for a specific project, submit sealed pricing quotes for the complete project to the City and the award of each

project is based on the price quote which is in the City's best interest. Any projects in an amount over \$50,000 and up to \$100,000 are submitted to Council for approval on a project by project basis.

COST/FUNDING SOURCE

Water and Wastewater Capital and Operations Funds

REVIEWED BY:

City Manager: _____

City Attorney: _____

ATTACHMENTS

N/A

Exhibit "A"

INDEPENDENT CONTRACTOR AGREEMENT (hereinafter the "Agreement")
made this ____ day of _____, 2008,

BETWEEN

(hereinafter the "Independent Contractor"),

AND

CITY OF COTTONWOOD, a political subdivision of the State of Arizona, of 827 North
Main Street Cottonwood, Arizona 86326, (hereinafter the "City ");

WHEREAS:

- A. The City has a need to obtain the services of an Independent Contractor to provide Job Order Contracting (JOC) services for City -Wide Underground Utility Services for the City of Cottonwood Utilities Department and other City Departments; and
- B. The City has reviewed Statements of Qualifications (SOQ's) in order to obtain the services (hereinafter the "Services"); and
- C. The Independent Contractor has submitted a successful proposal (hereinafter the "Proposal"); and
- D. The City desires to contract with the Independent Contractor to provide the Services; and
- E. The Independent Contractor is ready, willing and able to provide the Services.

THEREFORE, in consideration of their mutual promises set out herein, the Independent Contractor and the City agree as follows:

I. Scope of Work

- A. The Independent Contractor shall provide job order contracting services to the City during the term of the Agreement, when and as requested by the City for specific projects. The City reserves the right to have multiple

Independent Contractors under contract to select from to provide such services.

- B. The Independent Contractor shall prepare, upon request from the City, a price proposal for a given project. (Scope of Work language added).

II. Compensation

The compensation to be paid by the City for the work performed by the Independent Contractor under Section I above, shall be based on the price proposal in Attachment "A" hereto.

III. Term of Agreement

- A. The effective term of this Agreement is from _____ until _____.
- B. The City has the option to extend this Agreement for an additional one year period for no more than two (2) additional years.

IV. Termination of Agreement

Either party may terminate this Agreement by giving thirty (30) days notice of termination to the other party.

V. Insurance

The Independent Contractor will provide and maintain and cause its sub-contractors to provide and maintain appropriate insurance acceptable to the City.

- A. In no event will the total coverage be less than the minimum insurance coverage specified below:
 1. Commercial General Liability in an amount not less than Two Million Dollars (\$2,000,000) per occurrence.
 2. Automobile Liability in an amount not less than One Million Dollars (\$1,000,000) per occurrence.
 3. Professional Liability in an amount not less than One Million Dollars (\$1,000,000).
- B. The Independent Contractor will name the City , its officers, agents,

employees and volunteers as additional insureds, except for professional liability insurance, if any, and will specify that the insurance afforded by the Independent Contractor is primary insurance and that any insurance coverage carried or self-insurance by the City, any department or any employee will be excess coverage and not contributory insurance to that provided by the Independent Contractor. Said policy must contain a severability of interest provision. City reserves the right to continue payment of premium for which reimbursement will be deducted from amounts due or subsequently due Independent Contractor.

- C. Upon the execution of this Agreement by the Independent Contractor, the Independent Contractor will furnish the City with copies of the Certificates of Insurance drawn in conformity with the above insurance requirements. The City reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements. Failure on the part of the Independent Contractor to procure and maintain the required liability insurance and provide proof thereof to the City within ten (10) days following the commencement of a new policy, will constitute a material breach of the Agreement upon which the City may immediately terminate the Agreement.
- D. The Independent Contractor will comply with statutory requirements for both workers' compensation and unemployment insurance coverage during the term of this Agreement. A Certificate of Insurance for workers' compensation coverage will be provided within ten (10) days of signing this Agreement. The insurer must agree to waive all rights of subrogation against the City, its officers, agents, employees and volunteers for losses arising from work performed by the Independent Contractor for the City.

VI. Indemnification

The Independent Contractor will at all times, to the fullest extent permitted by law, indemnify, keep indemnified, defend and save harmless the City and/or any of its agents, officials and employees from any and all claims, demands, suits, actions, proceedings, losses, costs and/or damages of every kind and description, including any attorney's fees and/or litigation expenses, which may be brought or made against or incurred by the City on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reason of any alleged act, omission, professional error, fault, mistake, or negligence of the Independent Contractor, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance of this Agreement or arising out of Workers' Compensation claims, Unemployment Compensation claims, or Unemployment Disability

Compensation claims of employees of the Independent Contractor and/or its subcontractors or claims under similar such laws or obligations. The Independent Contractor's obligations under this paragraph do not extend to any liability caused by the sole negligence of the City or its employees.

VII. Independent Contractor's Status

The Independent Contractor will operate as an independent contractor and not as an officer, agent, servant, or employee of the City.

- A. The Independent Contractor will be solely responsible for the acts and omissions of its officers, agents, servants, and employees. As an independent contractor, the Independent Contractor is responsible for the payment of all applicable income and employment taxes and for providing all workers' compensation insurance required by law.
- B. The Independent Contractor has no authority to enter into contracts or agreements on behalf of the City. This Agreement does not create a partnership or employer-employee relationship between the parties.

VIII. Amendment and Entirety of Contract

This document constitutes the entire agreement between the parties with respect to the subject matter hereto and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings, agreements and other communications between the parties. It may not be changed or modified except by an instrument in writing signed by a duly authorized representative of each party.

IX. Records

The Independent Contractor will:

- A. Submit all reports and invoices specified in this Agreement.
- B. Retain and contractually require each subcontractor to retain all data and other records relating to the acquisition and performance of this Agreement (hereinafter the "Records") for a period of five (5) years after the termination or completion of this Agreement. If any litigation, claim, dispute or audit is initiated before the expiration of the five (5) year period, the Records will be retained until all litigation, claims, disputes or audits have been finally resolved. All Records will be subject to inspection and audit by the City at reasonable times. Upon request the Independent Contractor will produce a legible copy of any or all Records.

C. As required by Arizona Revised Statutes Section 41-4401 (Government procurement; E-verify requirement; definitions) the Contractor warrants that it complies with all federal immigration laws and regulations, that it shall verify, through the U.S. Department of Homeland Security's E-Verify program, the employment eligibility of each employee who provides services or labor in Arizona for wages or other remuneration, and that it shall require its subcontractors and sub-subcontractors to provide the same warranties to the Contractor. The Contractor acknowledges that a breach of this warranty by Contractor or by any subcontractor or sub-subcontractor under this Contract shall be deemed a material breach of this Contract, and is grounds for penalties, including termination of this Contract, by the City. The City retains the legal right to inspect the papers of any Contractor, subcontractor and sub-subcontractor employee who performs work under this Contract, and to conduct random verification of the employment records of the Contractor and each subcontractor and sub-subcontractor who works on this Contract, to ensure that the Contractor and each subcontractor and sub-subcontractor is complying with the warranties set forth above.

X. Approval by the City

Before this Agreement can become effective and binding upon the City, it must be approved by the Cottonwood City Council. In the event that the Cottonwood City Council fails or refuses to approve this Agreement, it will be null and void and of no effect whatsoever.

XI. Waiver

The failure of either party at any time to require performance by the other party of any provisions hereof will in no way affect the party's subsequent rights and obligations under that provision. Waiver by either party of the breach of any provision hereof will not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of such provision itself.

XII. Non-assignment

This Agreement is non-assignable. Any attempt to assign any of the rights, duties or obligations of this Agreement is void.

XIII. Cancellation of Agreement

This Agreement may be cancelled by the City pursuant to A.R.S. §38-511.

XIV. Non-discrimination

The Independent Contractor will comply with State Executive Order No. 99-4 and All other applicable Federal and State laws, rules and regulations prohibiting discrimination.

XV. Notice

Any notice given in connection with this Agreement must be given in writing and delivered either by hand to the party or by certified mail-return receipt to the party's place of business as set forth above.

XVI. Choice of Law

Any dispute under this Agreement or related to this Agreement will be decided in accordance with the laws of the State of Arizona.

XVII. Severability

If any part of this Agreement is held to be unenforceable, the rest of the Agreement will nevertheless remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date hereinbefore indicated.

(Name of Independent Contractor in CAPS)

CITY OF COTTONWOOD

(Name and title)

(Name)
Mayor

ACKNOWLEDGED before me

ATTEST: Cottonwood City Clerk

(Independent Contractor) on
this _____ day of _____, 2008.

Clerk

Approved as to form: City Attorney

Notary Public

City Attorney

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011

Subject: Extension of Waste Management Compactor Operation Agreement

Department: Development Services

From: Dan Lueder

REQUESTED ACTION

Consider approval of an extension to the Waste Management compactor station operations agreement.

If the Council desires to approve this item the suggested motion is: **Move to approve a month to month extension to the Waste Management compactor operation agreement to be effective until December 31, 2011.**

BACKGROUND

On July 6, 2010 Council approved an extension to the Waste Management compactor operation agreement to allow time for a survey to be presented to our citizens regarding solid waste and residential trash services and for staff to analyze the best options for the future of the compactor station. Staff has been working on several options to make the compactor station more user-friendly and effective and recently two of the local waste disposal contractors have expressed interest in developing a solid waste transfer station which would negate the need for the compactor station. To allow time for review and presentation to Council of the various options available for this service, staff is recommending that the Waste Management agreement be extended on a month to month basis with said extension to expire December 31, 2011 unless terminated prior to that date by Council. We anticipate that the options will be discussed with Council in a work session in August.

JUSTIFICATION/BENEFITS/ISSUES

The existing solid waste compactor station offers a valuable service to the City and surrounding areas. It is imperative that as the solid waste industry changes, the City ensures we are providing the best service possible while reducing the waste stream by encouraging separation of recyclables and other items of value from what is hauled to the landfills. Being able to provide this service at a fair cost to the users also helps to keep citizens from dumping solid waste along roadways and in the many illegal locations which require city and volunteer labor to remove.

COST/FUNDING SOURCE

N/A

REVIEWED BY:

City Manager: _____

City Attorney: _____

ATTACHMENTS

Contract extension

**AMENDMENT TO THE OPERATING AGREEMENT
BETWEEN THE CITY OF COTTONWOOD
AND WASTE MANAGEMENT
FOR THE COTTONWOOD WASTE TRANSFER STATION**

PARTIES: The CITY OF COTTONWOOD, a municipal body hereinafter referred to as “OWNER”, and

WASTE MANAGEMENT, a division of WASTE MANAGEMENT OF ARIZONA, INC., hereinafter referred to as “OPERATOR”.

AGREEMENT

WHEREAS:

The OWNER and the OPERATOR entered into an Operating Agreement for the Cottonwood Waste Transfer Station, dated November 22, 2000; and

The OWNER and the OPERATOR amended the Operating Agreement on July 1, 2005; and

The OWNER and the OPERATOR wish to extend and amend the Operating Agreement and are empowered to enter into such Amendment.

I.

The OWNER and OPERATOR agree to renew the Operating Agreement on a month to month basis for an additional six-month period through December 31, 2011. This agreement may be terminated prior to that date with thirty (30) days notice at the discretion of the Cottonwood City Council.

II.

The OPERATOR has indicated that the disposal fees as set forth in Exhibit A, a copy of which are attached hereto, which became effective August 1, 2010 will remain in effect during the period covered by this amendment.

III.

This amendment, and the underlying agreement are subject to cancellation in accordance with the provisions of Arizona Revised Statutes Section 38-511, which provisions are incorporated into the amended agreement as if fully set forth herein.

IV.

The parties agree that all other provisions contained in the Operating Agreement not specifically addressed above and entered into between the OWNER and the OPERATOR on November 22, 2000, and as amended on July 1, 2005, shall remain in full force and effect.

CITY OF COTTONWOOD:

Diane Joens, Mayor

Date

ATTEST:

Marianne Jiménez, City Clerk

Date

APPROVED AS TO FORM:

Steven B. Horton, Esq.
City Attorney

WASTE MANAGEMENT OF ARIZONA, INC.:

Waste Management

Date

COTTONWOOD TRANSFER STATION

Item	Cottonwood Transfer Rates	Cottonwood Residents Rates
Car Load	\$21.75	\$16.50
Pick-up/van load	\$37.00	\$28.00
Loose Load (larger than a pick-up)	\$27.00 sq. yard	\$18.50 sq. yard
Trash Bag	\$4.50 each	\$2.75 each
Appliances	\$25.00	\$22.00
*Tires (smaller than 20 in.) unmounted	\$6.50	\$5.25
**Tires (20in) unmounted	\$15.00	\$14.00
Used motor oil (up to 1 gallon)	FREE	FREE
1-5 gallons	\$4.00	\$4.00
More than 5 gallons	\$2.25 per gallon	\$2.25 per gallon

*Yavapai County's \$2.00 fee for small tires on rims will be passed on to any person that delivers a small tire on a rim.

**Tires on 20 inch rims will not be accepted.

Absolutely no loads over 4 cubic yards

NO COMMERCIAL LOADS
NO DIRT OF CEMENT
SPECIAL HANDLING FEE APPLIES

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011

Subject: Lift Station Four Generator Emergency Purchase

Department: Development Services

From: Dan Lueder

REQUESTED ACTION

Consider approval of the emergency purchase of an electrical generator for Lift Station Four.

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

Pursuant to Section VI-C of the City's Financial Operations Guide, I move that the Council find that due to extenuating circumstances, it is in the City's best interests to purchase a Generac SG 275 electrical generator for lift station four from AGM Sales and Service in the amount of \$72,209; and to authorize staff to make that purchase.

BACKGROUND

Lift station four is a critical component of the City's wastewater collection system, and pumps approximately 900,000 gallons of raw sewage per day to the treatment plant on Mingus Avenue. This lift station is equipped with an emergency electrical generator that supplies power to the lift station when the APS supply is lost or compromised. The existing generator is approximately twenty years old, has been increasingly problematic recently and is a major concern to staff. Replacement parts are no longer readily available and in several cases replacement parts have had to be fabricated to keep the unit operable. Additionally, our contracted service company has advised us that it can no longer remove several of the spark plugs as they are not able to loosen them utilizing standard methods and they fear that if they attempt more drastic methods the plugs may snap and render the generator inoperable. After consultation with the city manager, city attorney and administrative services general manger, it was determined that this situation was in fact time-critical and the best option to remedy this situation was to bypass the normal bid process and solicit quotes from generator suppliers. Generator specifications were sent to seven (7) vendors which included Arizona Diesel Power, Empire Power Systems, AGM Equipment, Gentech, Loftin Equipment, Cummins Rocky Mountain and Simonsen Generator. All of these vendors initially indicated that they intended to supply a quote, however, only AGM and Empire Power Systems returned quotes by the deadline. The quotes were checked and found to comply with the

specifications. AGM quoted \$72,209 and Empire quoted \$187,999. AGM is a local company and has been the maintenance service contractor for the City over the past several years.

JUSTIFICATION/BENEFITS/ISSUES

Section VI-C of the City’s Financial Operations Guide authorizes Council to waive normal procurement procedures when the Council finds that it is in the City’s best interest to do so. That section is shown below:

C. Waiver by City Council. The City Council may waive any provision or requirement of this Procurement Policy upon a finding that doing so is in the best interests of the City. Circumstances justifying waiver include, but are not limited to situations in which timing/expediency is critical; special or unique qualifications of an individual, firm, vendor or item(s); the procurement of additional goods or services under an existing contract; or to comply with specific requirements of a gift or grant.

Due to the critical nature of lift station four and the potential for significant environmental contamination, as well as the cleanup and regulatory costs that would be associated with a failure of the station, it is clearly in the City’s best interests to replace this generator as expeditiously as possible. Staff has acquired a backup generator to power the lift station should the main generator fail before a replacement is operable, however, there are significant cost and operational issues associated with this unit which make expediency a priority.

COST/FUNDING SOURCE

Sewer enterprise fund

REVIEWED BY:

City Manager: _____

City Attorney: _____

ATTACHMENTS

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011

Subject: Abandonment of Utility Easement

Department: Development Services

From: Dan Lueder

REQUESTED ACTION

Consider approval of abandonment of an unused ten foot utility easement on APN 406-04-024A.

If the Council desires to approve this item the suggested motion is: **Move to approve abandonment of a ten foot water and wastewater utility easement along the easterly boundary of Tract D, Hillside Villa Book 6 of Maps and Plats, Page 29 Yavapai County Records.**

BACKGROUND

Big 5 Sporting Goods has been approved by the Planning and Zoning Commission to construct a new store on a portion of the former Larry Green dealership on Main Street south of Villa Drive and adjacent to Murphy's restaurant. The construction plans have been reviewed and approved by staff and the only item remaining before commencement of construction is the abandonment of an unused utility easement which bisects the building pad for this project.

Attached to this staff report are letters from APS, Qwest, Unisource and Cable One indicating that they have no utilities in this easement nor do they have any intention of placing utilities there in the future. The City of Cottonwood utility department likewise has no utilities in said easement nor is it in a location where we would contemplate placing utilities.

JUSTIFICATION/BENEFITS/ISSUES

The construction of the proposed Big 5 store will provide our residents with an outlet for all types of sports related goods and the sales tax generated by this store will provide significant revenue for the City.

COST/FUNDING SOURCE

N/A

REVIEWED BY:

City Manager: _____

City Attorney: _____

ATTACHMENTS

Letters from utility companies

Legal description of easement to be abandoned



A subsidiary of Pinnacle West Capital Corporation

Dennis Pomroy
Senior Land Agent
Land Services Department

Tel. 602-371-7847
Fax 602-371-6586
e-mail dennis.pomroy@aps.com

Mail Station 3016
PO Box 53933
Phoenix, Arizona 85072-3933

November 30, 2010

e-mailed to:
scott@avaloninvestmentsinc.com

Scott Woodington

**Re: Utilities Easement Abandonment
Tract D, Hillcrest Villa, Book 6 of Maps & Plats, Page 29
Yavapai County Records**

Mr. Woodington:

In response to your request for Arizona Public Service Company's (APS) concurrence to abandon its interest in a portion of the 10-foot wide Utilities Easement dedicated along the easterly boundary of Tract D of Hillcrest Villa, Book 6 of Maps & Plats, Page 29, Yavapai County Records, the following information is provided.

APS has no objection to the abandonment of said easement as it relates to Yavapai County Assessor Parcel Number 406-04-038A.

Should you have further questions concerning this matter, please contact me at 602-371-7847.

Sincerely,

Dennis Pomroy
Sr. Land Agent
Land Services Department



The **ONE** you count on

3201 Tower Road
Prescott, AZ 86305
Telephone 928.443.3348
Facsimile 928.443.3303
Email Johnny.cedillo@cableone.biz

To: Scott Woodington

May 17, 2011

Avalon Investments, Inc
WPP III, LLC
111 Lomas Blvd, NW, Suite 200
Albuquerque, NM 87102

Reference: Utilities Easement Abandonment
Tract D, Hillcrest: Hillcrest: Villa, Book 6 of Maps & Plats, Page 29
Yavapai County Records

In response to your request for CableOne concurrence to abandon its interest in a portion of the 10-foot wide Utilities Easement dedicated along the easterly boundary of Tract D of Hillcrest Villa, Book 6 of Maps & Plats, Page 29, Yavapai county Records, the following information is provided.

CableOne, Inc. has no objection to the abandonment of said easement as it relates to Yavapai County Assessor Parcel Number 406-04-038A

Should you have further questions concerning this matter, please contact me at 928-443-3348

Sincerely,

A handwritten signature in black ink, appearing to read "Johnny Cedillo".

Johnny Cedillo
Lead Advanced Tech Construction

UniSourceEnergy SERVICES

May 16, 2011

Sy Santos, Executive Assistant
Property Manager
Avalon Investments Inc.
111 Lomas Blvd, NW, Suite 200
Albuquerque, NM 87102

RE: Hillcrest Villa Tract D

Dear Mr. Santos:

This letter is in response to your request of May 12, 2012 for abandonment of the 10-foot wide Utilities Easement dedicated along the easterly boundary of Tract D, Hillcrest Villa, Book 6 of Maps and Plats, Page 29, Yavapai County Records.

We do not currently have any existing utility lines in the 10' easement affecting APN #406-04-024A. Furthermore, we do not have a requirement or necessity to use said Utilities Easement for any future application. Therefore, UNS Gas, Inc. has no objection to the abandonment of this easement.

Sincerely,



Laurie Hawkins, SR/WA, CGREA
R/W Agent
UNS Gas, Inc.
2901 W. Shamrell Blvd., Ste. 110
Flagstaff, Arizona 86001

333 E. Wetmore Road
3RD Floor
Tucson, AZ 85705-1790



Qwest Corporation
Right Of Way Department
333 E Wetmore Rd 3rd Floor
Tucson, AZ 85705

May 27, 2011

Sy Santos
Executive Assistant
Property Manager
Avalon Investments, Inc.
111 Lomas Blvd, NW, Suite 200
Albuquerque, NM 87102

Response to request for abandonment

Qwest Tracking #
A1100613

This is in response to your request of May 12, 2011 for the abandonment of 10' Public Utility easement on the property located parcel #406-02-024A and #406-04-038A as described/illustrated in your letter.

A review of our existing facilities has been made in reference to the area involved. Qwest has no objection to the abandonment as described above.

If you have any questions or need additional information, please contact Rick Ogg at 520-634-7556 or Grace Martinez at 520-292-7552.

Yours truly,

Grace Martinez for Rick Ogg

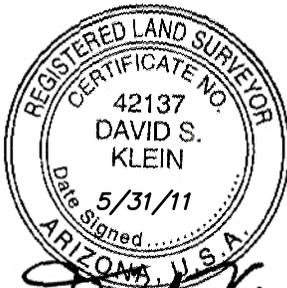
DESCRIPTION

OF UTILITY EASEMENT TO BE
ABANDONED AT 737 S. MAIN
STREET, COTTONWOOD, ARIZONA

All of that certain 10' wide utility easement shown and dedicated on the plat of Hillcrest Villa recorded in Book 6 of Maps and Plats, Page 29, records of Yavapai County, Arizona which lies within the following described parcel of land:

A parcel of land in a portion of Tract D, HILLCREST VILLA, according to the plat of record in file in the office of the Yavapai County Recorder in Book 6 of Maps, page 29 and a portion of the Southwest quarter of the Northwest quarter of Section 2, Township 15 North, Range 3 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, all more particularly described as follows:

COMMENCING at the Northwest corner of Tract C of said HILLCREST VILLA;
THENCE East, a distance of 288.00 feet along the North line of said Tract C, to the Northeast corner of said Tract C;
THENCE South 37 degrees 33 minutes East, a distance of 191.00 feet to the POINT OF BEGINNING of the herein described Parcel;
THENCE South 82 degrees 38 minutes West, a distance of 280.30 feet along the Southerly line of the Allred Parcel described in Book 548 of Official Records, page 147, to the Easterly 50 foot right-of way line of U.S. Highway 89-A;
THENCE Southeasterly along said right-of-way on a curve to the left with a radius of 3770.00 feet, a distance of 150.00 feet;
THENCE North 82 degrees 38 minutes East, parallel to the South line of said Allred Parcel to a point that lies South 37 degrees 33 minutes East, a distance of 150.00 feet from the POINT OF BEGINNING;
THENCE North 37 degrees 33 minutes West, to the POINT OF BEGINNING.



David S. Klein

EXPIRES 3/31/14

Superior Surveying Services, Inc. **Professional Land Surveying**

21415 North 23rd Avenue, Phoenix, Arizona 85027
Phone (623) 869-0223 Fax (623) 869-0726

REVISIONS		DATE: 5/31/11
DATE	DESCRIPTION	JOB NO.: 100702

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011

Subject: American Healthways Services Inc. (Silver Sneakers Fitness Program Implementation) - Adoption of Healthways Provider Agreement

Department: Parks and Recreation

From: Richard Faust; Community Services General Manager

REQUESTED ACTION

Council consideration and approval to accept and implement the fully executed Healthways (Silver Sneakers) contract agreement attached. Documentation identifies the process to take place effective immediately once staff has received training and is able to familiarize itself with the tracking, auditing and billing processes of the Healthways program.

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

I make a motion to approve the Healthways provider agreement whereby the Cottonwood Recreation Center can offer the Silver Sneakers program to eligible members effective immediately.

BACKGROUND

Over the past eight months staff has been working with Healthways to craft an acceptable agreement between the City of Cottonwood and American Healthways Services. The provider agreement will allow the City of Cottonwood to offer the Silver Sneakers Fitness Program to eligible members of the Cottonwood Recreation Center. After many months of collaboration the Cottonwood Recreation Center is ready to move forward with the implementation facet of the process thereby creating a partnership and giving eligible members the opportunity to subsidize the cost of a membership. American Healthways will be billed monthly for the cost of a senior membership. The attached agreement represents many months of collaboration and efforts of American Healthways and staff along with both legal departments from both agencies.

JUSTIFICATION/BENEFIT/ISSUES

According to Silver Sneakers representative Andrea Wirth; “there are 1452 eligible Silver Sneaker members that live within a five mile radius of the Cottonwood Recreation Center.”

The Cottonwood Recreation Center will be able to offer the Silver Sneakers Fitness program to all eligible members and non-members whereas the Cottonwood Recreation Center would allow Healthways to provide subsidized basic fitness memberships and services, on the terms and conditions set forth and outlined in the agreement attached.

COST/FUNDING SOURCE

Healthways shall compensate the Cottonwood Recreation Center at \$2.50 per visit up to a maximum of \$20.00 per program participant per month. No administrative fees will be incurred by the city as it pertains to the implementation of the program as the Healthways reporting, billing, and tracking software will be compatible with the Active System currently utilized by recreation center staff. American Healthways will provide all training and equipment at no cost to the City of Cottonwood.

REVIEWED BY

City Manager: _____

City Attorney: _____

ATTACHMENTS

Healthways Provider Agreement

HEALTHWAYS PROVIDER AGREEMENT

This Agreement is entered into between **AMERICAN HEALTHWAYS SERVICES, INC.**, for itself and on behalf of its subsidiaries (hereinafter referred to as "Healthways"), a Delaware corporation, and the undersigned Facility whose name and other identifying information appear herein ("Facility"). This Agreement replaces and supersedes any other agreement between or among Facility and Healthways and its subsidiaries and affiliates for the Healthways programs and products represented herein. Following the execution hereof, all such other agreements shall be terminated on the effective date of this Agreement.

PREAMBLE

WHEREAS, Healthways has entered into agreements with health plans and other sponsoring organizations to provide fitness services, benefits, and programs to eligible Members within an established network of fitness centers;

WHEREAS, Facility offers health and fitness programming and services;

WHEREAS, Healthways would like to include Facility, and Facility desires to be included, as a member of the network of facilities for one or more Healthways products to provide subsidized basic fitness memberships and services, all on the terms and conditions as hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual premises set forth above and the promises hereinafter appearing, and for other good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, the parties agree as follows:

1. **Definitions.** Unless the context otherwise requires, the terms defined in this Section shall have the meanings specified for all purposes of this Agreement.
 - a) "**Account Manager**" shall mean a Healthways employee or contractor overseeing the Program contemplated by this Agreement. As the official liaison between Healthways and Sponsoring Organization, and Healthways and Facility, this Account Manager will be responsible for implementation and management of the Program.
 - b) "**Agreement**" shall mean this Healthways Provider Agreement between Healthways and Facility and any amendments thereto.
 - c) "**Confidential Information**" shall mean any Sponsoring Organization membership information or Healthways business expertise, manuals, guides, videos, contracts, trade secrets, and financial projections, including compensation to be made to Facility pursuant to the terms of this Agreement, and any Facility membership information, business expertise, manuals, guides, contracts, trade secrets, and financial projections, to which Healthways may obtain access as part of this Agreement. **Notwithstanding the foregoing, Healthways recognizes that Facility is a governmental entity which is subject to the Public Records Law governing the production of records pursuant to Arizona Statutes, Article 2, Section 39-121. Information which is not exempt from disclosure, or is required to be and actually is, disclosed by Facility, under such law or any resulting judicial order shall be considered excepted from such obligations of confidential treatment. The Parties do not contemplate Facility undertaking any obligations with respect to Confidential Information which are inconsistent with such law, nor does this Agreement waive, reduce, or nullify any protections or exemptions accorded Healthways Confidential Information from disclosure under any provision of such law or other Arizona law. All usage of the term "Confidential Information" in this Agreement shall be deemed to include these qualifications.**

Confidential

- d) "Facility" shall mean Facility and any additional participating locations of Facility as mutually agreed to and set forth in Exhibit A, which have entered into this Agreement with Healthways to be part of its Healthways Network, on the terms and conditions set forth herein.
- e) "Healthways Network" shall mean, collectively, all participating locations that have entered into a contract agreement with Healthways to provide the Program.
- f) "Member" shall mean a Sponsoring Organization member, employee, dependent or other person eligible for the Program as determined by the Sponsoring Organization's criteria.
- g) "Program" means all of the Healthways programs described in the Program Schedules.
- h) "Program Schedule" shall mean each, and "Program Schedules" shall mean all, of the program schedules attached to this Agreement, and incorporated herein by reference, that describe the Healthways programs provided through each program's Healthways Network to Members of Sponsoring Organizations. Healthways and Facility acknowledge and agree that Healthways may amend this Agreement, from time to time, by sixty (60) days prior written notice to Facility to modify existing Program Schedules or to add one or more new Program Schedules, and that Facility may elect to withdraw its participation in a modified or new Program Schedule within such sixty (60) day period if such modified or new Program Schedule would have a material adverse effect on Facility.
- i) "Reference Guide" shall mean the procedures and guidelines established by Healthways for participation in the Healthways Network by Facility and under which the Program is administered. The Reference Guide, which shall be provided to Facility prior to the commencement of this Agreement, is incorporated herein by reference; the Reference Guide may be periodically updated by Healthways and updated copies shall be provided to Facility from time to time.
- j) "Sponsoring Organization" shall mean any organization, employer group, health plan or subset thereof that is contracted with Healthways to provide the Program to its members and whose members may therefore utilize Facility in accordance with the terms of this Agreement. Facility shall provide the Program to eligible Members of all Sponsoring Organizations. Healthways shall provide Sponsoring Organization information to Facility, and such Sponsoring Organization information shall be incorporated herein by reference.
- k) "Term" shall mean the initial term of the Agreement and each successive one (1) year period as provided in the Term Section of this Agreement.

2. Duties and Obligations of Facility.

- a) Acceptance to and Participation in the Healthways Network. In order to become and remain a participant in the Healthways Network, Facility shall throughout the Term of this Agreement comply with the Reference Guide, including all operations, protocols, policies, procedures, follow-up guidelines, and health and safety standards of Healthways. Healthways' execution of this Agreement shall serve as notice of Facility's acceptance into the Healthways Network.
- b) Member Program Rights. Members shall be entitled, at no charge, including those fees normally associated with initiation or monthly dues, to establish a basic fitness membership with unrestricted hours at Facility, provided that such individual remains a Member and this Agreement remains in effect. The Program excludes all those programs and services offered by Facility which carry additional charges beyond basic fitness membership services, such as racquetball, tennis, massage therapy, lessons related to recreational sports, tournaments, and similar fee-based activities. Facility shall not impose any charges on Members for Program services covered under this Agreement. If a Member requests services after being informed by Sponsoring Organization or Facility that the services are not covered under the Program, the Member shall be solely liable for payment.
- c) Compliance with Health and Safety Standards. Facility shall comply with all health and safety standards as outlined in the Reference Guide.

- d) Joint Marketing and Public Relations. Facility agrees to allow Healthways and Sponsoring Organization to use the name, address, phone, amenities and web site information provided in Exhibit A in marketing and advertising materials and campaigns. All marketing and advertising materials, and materials intended for distribution to Members prepared by Facility that refer to the Program, Healthways, or Sponsoring Organization shall be approved by Healthways in writing prior to their distribution. Facility agrees to make best efforts to coordinate all media communications through the Healthways Public Relations Department, and immediately inform the Healthways Account Manager of all media inquires regarding the Program, Healthways, or Sponsoring Organization.
- e) Limited Facility Use of Healthways Trademarks, Logos, and Copyrighted Materials. Facility agrees that for the Term of this Agreement, all external marketing and advertising of all Healthways trademarked and service marked names, logos, identities, formats, and materials, including the Program name, will first be approved in writing by Healthways, and that at the conclusion of this Agreement, Facility shall cease all advertising, marketing, and references to the same. At no time during the Term of this Agreement shall Facility refer to Healthways-created programs and/or classes under any title or name other than Program name or other authorized Healthways-owned trademarks. Upon termination of this Agreement, Healthways shall retain all rights to its trademarked and service marked names, logos, identities, formats, and materials, including the Program name, and Facility shall have no further right to use the same.
- f) Customer Service. Facility agrees that in the event any disagreement arises between Facility, Healthways and/or Sponsoring Organization on any matter whatsoever, Healthways, Facility, and/or Sponsoring Organization or any subset thereof shall work with the other party(ies) to reach a resolution of the disagreement, and no one shall involve Members in any matter concerning such a disagreement.
- g) Facility Meeting Space and Participation. Subject to the approval of Facility, Sponsoring Organization shall be able to display Sponsoring Organization marketing brochures, banners, posters, et cetera within Facility. Additionally, subject to the approval of Facility, Sponsoring Organization may hold enrollment meetings, health fairs, health and wellness classes, and public relations activities within Facility. All such functions are restricted to availability and must be scheduled with reasonable preparation time. Approval for such requests will not be unreasonably withheld. All distribution of any Sponsoring Organization materials, including brochures, banners, and posters, as well as any activity or event shall be coordinated directly with and approved by the Healthways Account Manager.
- h) Quality Assurance Program. As a provider of fitness services to Members, Facility acknowledges the importance of quality management systems in providing quality customer service. Therefore, Facility shall, with the support of Healthways, cooperate in a quality assurance program to ensure quality customer service. Such cooperation shall include compliance with Facility operations reviews and corrective procedures as defined in the Reference Guide.
- i) Member Experience. Facility agrees to offer and participate in activities designed to encourage the frequent and ongoing participation of Members enrolled in the Program. Such activities may be a part of Facility's existing member retention efforts, or may be based on Healthways' Member retention program. Facility shall work cooperatively with Healthways to implement strategies to manage the Healthways experience within the Facility.
- j) Research Studies. Facility shall notify Healthways of any and all research or clinical studies of Members or the Program. Facility shall not proceed with such studies without the prior written approval of Healthways. Facility shall provide study findings and results to Healthways prior to any publication or presentation of such findings or results.
- k) Membership Conversion. Facility agrees that Members eligible for a fully subsidized Program who are currently members of Facility will be able to inactivate or "freeze" their memberships for the duration of this Agreement and pay no monthly dues, cancellation fee, or other fees during the inactivation period so that they may attend Facility at no charge under the Program. At the time this Agreement terminates, or if applicable Members terminate their membership in Sponsoring Organization, those Members will then be responsible for the remaining terms of their individual

memberships with Facility. Facility shall not refuse or dissuade eligible Members from participating in the Program.

- l) Healthways Network Reciprocity. For the Term of this Agreement, all Members utilizing the Program will be allowed, after completing Program enrollment, to visit any and all Healthways Network participating locations offering the Healthways Program for which they are eligible. All participating locations, including the undersigned, will accept Members and be compensated in accordance with the terms of this Agreement. Reciprocity rights under this Agreement shall not include locations of Facility or other affiliated facilities not specifically set forth in Exhibit A.

3. Compensation. Facility shall be compensated by Healthways for Program services offered to Members during the Term of this Agreement as follows:

- a) Compensation for Program Services. As payment for Program services, Healthways shall pay Facility according to the terms set forth in each applicable Program Schedule attached hereto for services provided on or after the Program Rollout Date. Compensation paid by Healthways is inclusive of any and all taxes which Facility may be required to pay to any governmental authority.
- b) Financial Transaction. Healthways will make payment to Facility via check or other payment procedure as may be mutually agreed upon by Facility and Healthways.

4. Term.

- a) Initial Term. This Agreement will commence upon execution by the Parties, and shall continue in full force and effect until December 31, 2011 ("Initial Term"), subject to cancellation as provided in the Cancellation section below.
- b) Program Rollout Date. The Program Rollout Date shall be a date following the commencement of this Agreement, communicated to Facility by Healthways. Notwithstanding any other provision of this Agreement, Facility shall not permit Members to use the Program prior to the Program Rollout Date.
- c) Renewal of Agreement. This Agreement shall be automatically renewed for successive one year terms after the initial Term unless either party gives written notice of termination at least one hundred twenty (120) days prior to the expiration of the initial Term or the current renewal Term of the Agreement or unless the Agreement is canceled pursuant to the Cancellation Section below.

5. Cancellation.

- a) Change in Terms; Poor Usage. Healthways retains, upon thirty (30) days written notice, the right to terminate this Agreement or the participation by Facility under any Program Schedule for any location of Facility in Exhibit A on the basis of poor usage of Facility by Members or upon termination or change in terms of a Sponsoring Organization's contract with Healthways. In the event Healthways removes Facility from the Healthways Network, Facility shall be compensated per this Agreement for services rendered up to and including the date of cancellation.
- b) Bankruptcy. Notwithstanding any provision in this Agreement, if at any time there shall be filed by or against a party to this Agreement, in any court, tribunal, administrative agency, or any other forum having jurisdiction, pursuant to any applicable law, either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver, trustee, or conservator of all or a portion of the party's property, or if a party makes an assignment for the benefit of creditors, and if this action is not dismissed after ninety (90) calendar days, this Agreement may be immediately canceled and terminated by the other party.
- c) Material Breach. Either party may terminate this Agreement by providing the other party with a minimum of thirty (30) days prior written notice in the event the other party commits a material breach of any provision of this Agreement. The notice must specify the nature of said material breach. The breaching party shall have thirty (30) days from receipt of the notice to correct the material breach. In the event the

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breaching party fails to cure the material breach within the thirty (30) day period, this Agreement shall automatically terminate upon completion of the thirty (30) days notice period, notwithstanding any other provision in this Agreement.

- d) Unresolved Corrective Action. If the corrective action process defined in the Reference Guide has been exhausted, and an issue(s) remains unresolved, Healthways reserves the right to cancel this Agreement upon thirty (30) days written notice to Facility.
 - e) Early Termination. Notwithstanding any other provision of this Agreement, Healthways may terminate this Agreement at any time upon notice to Facility due to 1) failure of Facility to maintain necessary insurance coverage as required by this Agreement; 2) closure of Facility, resulting in denial of Program services to Members, without a minimum of thirty (30) days prior written notice to Healthways; 3) fraudulent Program utilization reporting by Facility; or 4) Healthways' reasonable determination that the health or safety of Members may be in jeopardy if this Agreement is not terminated.
 - f) Default. In the event that Facility defaults under this Agreement or the Agreement is terminated pursuant to the Material Breach Section or the Early Termination Section above, Healthways may, at its sole discretion and without limiting other remedies available to Healthways at law or in equity, withhold payment of any amounts otherwise due and payable to Facility under this Agreement.
 - g) Conflict of Interest. Parties hereby acknowledge the applicability of A.R.S. §38-511 and neither Party is aware of any facts that would implicate this statute.
6. Confidentiality. All Confidential Information between Healthways and Facility, including the provisions of this Agreement, are shared in strictest confidence. During the Term and at all times thereafter, Facility shall not divulge, furnish or make accessible to anyone or use in any way (other than use in the ordinary course of providing services under this Agreement) any Confidential Information. Upon completion of this Agreement or in the event of its termination, Facility shall return to Healthways all of Healthways' materials used in the provision of the Program, including the Reference Guide and Member files. Notwithstanding the foregoing, Healthways recognizes that Facility is a governmental entity which is subject to the Public Records Law governing the production of records pursuant to Arizona Statutes, Article 2, Section 39-121. Information which is not exempt from disclosure, or is required to be and actually is, disclosed by Facility, under such law or any resulting judicial order shall be considered excepted from such obligations of confidential treatment. The Parties do not contemplate Facility undertaking any obligations with respect to Confidential Information which are inconsistent with such law, nor does this Agreement waive, reduce, or nullify any protections or exemptions accorded Healthways Confidential Information from disclosure under any provision of such law or other Arizona law. All usage of the term "Confidential Information" in this Agreement shall be deemed to include these qualifications.
7. Member Contact. Facility agrees to not directly contact Members during the Term of this Agreement in regard to business related matters pertaining to the Program, such as, but not limited to, switching health care plans, disenrolling, enrolling with other health care plans or similar entities, or contracting directly with Facility instead of Healthways and Sponsoring Organization.
8. Enforceability. Facility acknowledges and agrees as follows:
- a) The amount of payment by Healthways pursuant to the Agreement shall not limit the amount of damages, if any, to which Healthways may be entitled as a result of the breach by Facility of any of the provisions of this Agreement; and
 - b) Should any provision herein be determined by any court of competent jurisdiction to be illegal, invalid or unenforceable in any respect, in whole or in part, the offending provisions shall not affect the enforceability of the remaining provisions of this Agreement.
9. Insurance. Facility shall obtain and maintain in force general liability insurance coverage in an amount of at least \$1,000,000 per occurrence, and shall cause such insurance to require that the carrier will provide

Healthways written notice of expiration, termination, or cancellation at least thirty (30) days prior to any expiration, termination, or cancellation of such policy. Facility shall provide a current certificate of insurance with this Agreement and within ten (10) days of request by Healthways thereafter. **PLEASE ATTACH A COPY OF FACILITY LIABILITY POLICY FACE SHEET.**

- 10. Notices. Unless expressly provided otherwise, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when sent by 1) facsimile transmission using equipment that provides automatic verification of transmission; 2) hand delivery, including by a recognized courier service; or 3) registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below,

If to Healthways:

Healthways
Contracts Department
1445 South Spectrum Blvd., Suite 100
Chandler, Arizona 85286
Fax: 602-391-2138

If to Facility (please complete if different from contact information in Exhibit A):

Name

Address

Address

Phone

Email

Fax

Facility shall provide a minimum of ten (10) days notice to Healthways in the event of a change in any of the information provided in Exhibit A of this Agreement. Either party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section for the giving of notice.

- 11. Miscellaneous.

- a) Compliance with Federal and State Rules and Regulations. For the Term of this Agreement, Facility shall comply with all applicable federal and state rules and regulations regarding services provided to Members.
- b) Compliance with Immigration Laws and Regulations. Pursuant to the provisions of A.R.S. §41-4401, each Party warrants to the other Party that the warranting Party and all its sub consultants are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. §23-214(A). Each Party acknowledges that a breach of this warranty by the warranting Party or any of its sub consultants is a material breach of this agreement subject to penalties up to and including termination of this agreement or any subcontract. Each Party retains the legal right to inspect the papers of any employee of the other Party or any sub consultant who works under this agreement to ensure compliance with this warranty.

A Party may conduct random verification of the employment records of the other Party and any of its sub consultants to ensure compliance with this warranty.

A Party will not consider the other Party or any of its sub consultants in material breach of the foregoing warranty if the warranting Party and its sub consultants establish that they have complied with the employment verification provisions prescribed by 8 USCA § 1324(a) and (b) of the Federal Immigration and Nationality Act and the e-verify requirements prescribed by Arizona Revised Statutes § 23-214(A).

The provisions of this Article must be included in any contract a Party enters into with any and all of its sub consultants who provide services under this agreement or any subcontract. As used in this Section, "services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property. This Section 11 b) is applicable only to Healthways' operations and services under this Agreement occurring in the state of Arizona.

- c) Business License and Regulatory Standards. Facility shall hold an active an unrestricted business license as required by law, not subject to stipulations, practice limitations, probationary periods, temporary supervision requirements, or other limitations, and covering all aspects of services offered such as exercise, recreational safety, health, beauty, and food service, and occupational health and safety requirements, and meet regulatory standards in the state and jurisdiction in which Facility operates.
- d) Severability. Should any one or more of the provisions of this Agreement or of any agreement entered into pursuant to this Agreement be determined to be illegal or unenforceable, all other provisions of this Agreement and of each other agreement entered into pursuant to this Agreement shall be given effect separately from the provision or provisions determined to be illegal or unenforceable and shall not be affected thereby.
- e) Amendment of Agreement. This Agreement may be amended by Healthways upon written notice to Facility if necessary in order to comply with applicable law. Healthways and Facility acknowledge and agree that Healthways may amend this Agreement, from time to time, by sixty (60) days prior written notice to Facility, and that Facility may elect to withdraw its acceptance with regard to such amendment within such sixty (60) day period if such amendment would have a material adverse effect on Facility.
- f) Choice of Law; Venue. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Arizona without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Arizona or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Arizona. The parties agree that the proper venue for any proceeding at law or in equity shall be Yavapai County, Arizona, and the parties waive any right to object to such venue.
- g) Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.
- h) Integration. This Agreement, together with any Exhibits and Schedules hereto, represents the entire understanding and agreement among the parties with respect to the subject matter hereof and shall supersede any prior writings, understandings, or agreements among the parties with respect to the subject matter hereof.
- i) Sale of Business/Transfer of Assets. If Facility desires to sell or transfer its business to another entity, Facility shall so advise Healthways in writing at least ninety (90) days prior to the sale or transfer date. Facility warrants and covenants this Agreement will be part of the sale or transfer, and will be assumed by the new entity and that the new entity will honor and be fully bound by the terms and conditions of the Agreement. Notwithstanding the above, upon notification of sale, Healthways may, in its sole discretion, choose to terminate the Agreement effective on date of sale or extend the terms of the Agreement to the new entity.
- j) Prohibition of Doing Business with Sudan and Iran. Pursuant to A.R.S. §§35-391.06 and 35-393-06, each Party hereby certifies to the other Party that the certifying Party does not have "scrutinized" business operations, as defined in A.R.S. §§35-391 and 35-393, in either Sudan or Iran. The certifying Party acknowledges that, in the event either of the certifications contained in this paragraph is determined by the other Party to be false, that Party may terminate this agreement

PROGRAM SCHEDULE

Program Name: Mature Market Fully Subsidized Program

Program Brands: SilverSneakers® Fitness Program, SilverSneakers® Private Brand, and other brand names for the Mature Market Fully Subsidized Program communicated to Facility by Healthways from time to time

Member Type: Medicare, Group Retirees and Older Adults

Program Description: The Program is offered to Members of the Sponsoring Organization. The Program includes SilverSneakers exercise classes and basic fitness membership services for Members provided through a network of facilities; also included in the Program are all facets presented in the Duties and Obligations of Facility Section of the Agreement.

1. Program Duties and Obligations of Facility. In exchange for the compensation to be paid by Healthways, Facility shall perform the following services:
 - a) Program Implementation Process. To prepare for Program commencement, Facility agrees to participate in the following: 1) an introductory session given by Healthways for Facility management and staff; 2) coordination with Healthways of electronic reporting containing the required data elements; 3) Healthways-scheduled and led training in-services for representatives from applicable Facility departments; 4) Healthways' evaluation of Facility conducted by the Account Manager prior to the Program Rollout Date to certify Facility's preparedness to provide Program; and 5) an initial Program Enrollment Process, which shall require representatives from Facility to enroll new Members at Facility.
 - b) Member Access. Facility shall ensure that Members have access to Facility only during those hours when Facility is appropriately staffed in accordance with professionally-recognized standards of fitness and wellness programs, and that Facility is so staffed a minimum of six (6) staffed hours per day, Monday through Friday, between the hours of 5:00 a.m. to 5:00 p.m. Facility agrees to inform Members that the Program is only provided during staffed hours. Use of Facility during non-staffed hours is strictly between Facility and the Member. Visits that occur outside of Facility's staffed hours are not payable as Program Visits.
 - c) Program Enrollment Process. Enrollment in the Program includes an organized series of introduction and information forms and processes that are to be completed by Members on their first visit to Facility before they begin participating in the Program. The Program Enrollment Process may be amended by Healthways from time to time. Facility staff shall administer the Program Enrollment Process for all Members upon their first visit to Facility and prior to participation in the Program. The Program Enrollment Process will include the following procedures in accordance with the Reference Guide: 1) the Member shall complete the Program enrollment forms; 2) the Member shall be cleared for exercise prior to actual participation in the Program; 3) the Member shall receive a facility membership card; 4) the Member shall receive a fitness demonstration for safe usage of exercise equipment and amenities, and an orientation to Facility programs and offerings. Healthways shall supply master enrollment forms to Facility. Facility shall bear the cost of preparing and supplying the enrollment forms, including the cost of membership cards if necessary, and will have enrollment forms available for interested Members during all business hours.
 - d) Reporting Obligations of Facility. Facility shall report Program utilization to Healthways on a monthly basis. Program utilization reporting shall consist of all a) Program forms, including enrollment forms completed during the previous month, and b) visits for the month.
 - 1) At the end of each month, Facility shall prepare a report of daily visits and utilization from the month summarizing activity and containing the required data elements and submit it electronically to Healthways no later than the fifth (5th) day of the following month. The required

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file format and data elements are defined in the Reference Guide. The parties to this Agreement shall work cooperatively to establish correct and acceptable electronic monthly utilization data reporting; Healthways may provide technical support to Facility if necessary.

- e) SilverSneakers Classes. SilverSneakers Classes are Healthways-owned and managed group exercise classes, and include the Healthways-owned and registered trademark name "SilverSneakers" and the accompanying logo, and all Healthways/SilverSneakers materials describing class formats and structure. Facility shall provide Healthways' group exercise class, SilverSneakers Muscular Strength and Range of Movement, a minimum of two days per week on non-consecutive days. All SilverSneakers classes shall be offered during Members' primary hours of utilization. Facility agrees to add additional classes if the current classes remain at capacity for four (4) or more consecutive weeks, or as demand dictates, and will solely bear the costs of adding such classes. Facility and Healthways agree to work cooperatively to add optional SilverSneakers classes for more advanced students as needed.
- f) SilverSneakers Class Equipment. Healthways shall ensure that Facility has all required equipment for the classes available by the Program Rollout Date, including chairs, elastic tubing with handles, hand-held weights and appropriate music, and shall provide such equipment to Facility as necessary. Following the Program Rollout Date, Facility shall be responsible for maintaining and replenishing the equipment, and shall comply with the exact specifications for this equipment as defined in the Reference Guide. In the event this Agreement is cancelled for any reason prior to the completion of the initial Term of the Agreement, Healthways shall have the option of retaining ownership of all equipment provided to Facility by Healthways.
- g) Instructor Training Workshop. Healthways will hold an instructor training workshop to provide Facility instructors with the necessary guidelines to teach the SilverSneakers class according to Program specifications. The training workshop, which will last approximately four (4) hours, will be led by a Healthways representative and will include the Healthways-designed Instructor Manual, class protocols, formats, choreography and Healthways recognition as an official SilverSneakers instructor. Two (2) instructors from Facility will be able to attend the initial workshop at no charge; additional instructors who pre-register may attend the initial workshop for a nominal fee.
- h) Facility Staff Qualifications. All fitness professionals who come in contact with Members shall be qualified for their respective positions. All group exercise instructors must 1) possess current CPR certification, 2) be eighteen years of age or older, and 3) have either a) a two or four year degree in physical activity education or a related field with ten hours per year of continuing education credits, or b) possess a nationally recognized certification that is available to the general population and requires continuing education courses and CPR certification as criteria for recertification. Each instructor teaching a SilverSneakers group format class must complete the Healthways instructor training workshop for that class prior to teaching the class and once every four years thereafter, and attend a minimum of one Healthways sponsored continuing education workshop annually.
- i) SilverSneakers Senior AdvisorSM Program. Facility shall designate one staff member as the SilverSneakers Senior Advisor, who shall serve as a liaison to Healthways and as a resource person for SilverSneakers Members utilizing the Healthways Network, and is knowledgeable concerning all services provided by Facility to Members. The SilverSneakers Senior Advisor shall be available during those hours that most closely follow the Members' primary hours of utilization. Healthways will schedule and provide mandatory training for SilverSneakers Senior Advisors as well as updated training sessions.
- j) Guest Pass Program. Sponsoring Organization may implement a guest pass program. Guests shall be required to complete a Guest Pass and Physical Activity Waiver prior to utilizing Facility. Properly documented guest visits will be counted the same as Program Visits for purposes of calculating Facility's compensation.
- k) Program Training for Facility Staff. Facility staff, including front desk staff, group exercise instructors, fitness professionals, SilverSneakers Senior Advisors, and other Facility employees who have regular contact with Members are required to attend Healthways training in-services prior to

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commencement of the Program and as needed thereafter to account for staff turnover and to ensure proper service for Members.

2. Services to Members of Sponsoring Organization. Facility agrees that during the Term and for a period of one (1) year after the completion or termination of this Agreement, Facility shall not contract to provide a fully subsidized fitness benefit to Members of the Sponsoring Organization which has contracted with Healthways to provide the Program in a geographic area proximate to Facility, or engage in any competing fully subsidized fitness network business (defined as the ownership, management, or consultation of programs or services similar to those covered by this Agreement).
3. Insurance. Facility shall cause American Healthways Services, Inc., to be named as an additional insured on its general liability insurance policy "for all services provided under the contract agreement between Healthways and the insured." Facility shall provide such certificate of insurance to Healthways no later than thirty (30) days after Program Rollout Date and within ten (10) days of request by Healthways thereafter.
4. Medicare Compliance for Program(s) Provided to Medicare Recipients. In recognition that Sponsoring Organization and its subcontractors may be obligated to comply with all applicable federal governmental regulations regarding services to Medicare members, Healthways and Facility mutually agree to comply with the following for services provided to Medicare Members.
 - a) Compliance with Federal and State Laws. Healthways and Facility acknowledge that payments made to Facility under this Agreement may be made from federal funds. Therefore, in connection with all services rendered under the Agreement, Healthways and Facility agree to comply with the requirements of the contracts between Healthways' customers and CMS (the "CMS Contracts"), and all applicable federal and state laws and regulations and CMS guidance and instructions, including, but not limited: to all Medicare laws, such as the Medicare Modernization Act and the regulations contained in 42 CFR Parts 422 and 423; all applicable state and federal privacy and security requirements, including but not limited to the confidentiality, privacy and security provisions for Medicare health plans contained in the regulations found at 42 CFR 422.118 and 42 CFR 423.136; and all applicable laws, regulations and guidance designed to prevent fraud, waste or abuse of federal funds, including the False Claims Act (31 U.S.C. 3729 et seq.), the Anti-kickback statute (Social Security Act § 1128B(b)), and HIPAA administrative simplification rules (45 CFR Parts 160, 162, and 164).
 - b) Right to Inspect. Healthways and Facility acknowledge and agree that the Department of Health and Human Services (HHS), the Comptroller General, or their designees, or any applicable state or federal governmental entity, or Sponsoring Organization, shall have the right to inspect, evaluate, and audit any pertinent contracts, books, documents, papers, and records involving transactions related to services provided under this Agreement to Medicare Members. Healthways and Facility shall maintain accurate records of compliance with this Agreement ("Records") in accordance with recognized accounting and document retention practices and in a format that shall permit audit. Such Records shall be maintained by Healthways and Facility for a period of ten (10) years following expiration or termination of this Agreement. This right to inspect shall extend for a period of ten (10) years from the termination date of the CMS Contracts (or applicable CMS Contract), or the date of completion of any audit in connection with the Medicare health plans, whichever is later. Healthways and Facility will make its books and other records available in accordance with 42 CFR 422.504(i)(2) and 42 CFR 423.505(i)(2) and any other applicable laws and regulations. In the event Facility is unable to retain such records for ten (10) years, Facility shall provide the records to Healthways at the conclusion of this Agreement and Healthways shall retain the records on behalf of Facility.
 - c) External Review. Healthways and Facility agree to cooperate with all independent quality review and improvement organization activities required by CMS and/or Sponsoring Organization pertaining to the provision of services to Sponsoring Organization Members.
 - d) Privacy/Confidentiality. Healthways and Facility agree to safeguard the privacy of any information that identifies a particular Sponsoring Organization Member in accordance with federal and state laws

and Sponsoring Organization policy and to maintain Sponsoring Organization Members' records in an accurate and timely manner. **Notwithstanding the foregoing, Healthways recognizes that Facility is a governmental entity which is subject to the Public Records Law governing the production of records pursuant to Arizona Statutes, Article 2, Section 39-121.**

- e) **Non-Discrimination.** Healthways and Facility agree to not discriminate against any person because of race, sex, age, marital status, national origin, religion, color, citizenship, disability, health status, health insurance coverage or veteran status. As applicable, Healthways and Facility agree to comply with: (1) Title VI of the Civil Rights Act of 1964 as implemented by regulations at 45 CFR Part 84; (2) The Age Discrimination Act of 1975 as implemented by regulations at 45 CFR Part 91; (3) The Americans With Disabilities Act; (4) The Rehabilitation Act of 1973; (5) Other laws applicable to recipients of federal funds; and (6) All other applicable laws and rules. This Agreement incorporates by reference and is subject to the following regulations of the Office of Federal Contract Compliance Programs, Department of Labor: 41 C.F.R. §60-1.4, Equal Opportunity Clause; 41 C.F.R. §60-250.5, Equal Opportunity Clause and Affirmative Action Clause for Special Disabled Veterans and Veterans of the Vietnam Era; 41 C.F.R. §60-741.5, Equal Opportunity Clause and Affirmative Action Clause for Handicapped and Disabled Persons. Healthways and Facility agree not to discriminate against any Medicare Advantage Member on the basis of any factor that is related to health status, including, but not limited to the following: (1) medical condition, including mental as well as physical illness; (2) claims experience; (3) receipt of health care; (4) medical history; (5) genetic information; (6) evidence of insurability, including conditions arising out of acts of domestic violence; and (7) disability.
- f) **Exclusion of Certain Persons.** Healthways and Facility each certify that neither it nor any of its principals (officers, directors, owners, partners, key employees, principal investigators, researchers or management or supervisory personnel) (Principals) is presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in any federal grant, benefit, contract or program (including, but not limited to, Medicare and Medicaid) by any Federal department or agency. Facility agrees to provide immediate written notice to Healthways if it learns at any time that the certification herein was erroneous when submitted or if, during the term of this Agreement, it, or any of its Principals, is debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in any federal grant, benefit, contract or program. If subcontracting is permitted by this Agreement, Healthways and Facility agree that its subcontractors will comply with the foregoing covenant. Healthways and Facility agree that debarment, suspension, proposed debarment or suspension, ineligibility or exclusion of either party, or any of its Principals or subcontractors, shall constitute cause for immediate termination of this Agreement. Healthways and Facility further agree to comply with all Federal anti-terrorism rules and regulations. Each party's signature below shall serve as certification that, to the best of the party's knowledge, the party (a) is not, (b) has not been designated as, (c) is not owned, affiliated, or controlled by, and (D) does not support, assist or aid a suspected terrorist organization or individual as defined by Federal law including, but not limited to, Executive Order 13224.
- g) **Hold Harmless.** With the exception of charges for services not covered under this Agreement, Healthways and Facility shall in no event bill, charge, collect a deposit from, or hold liable for any debts of Healthways or Facility, Members or any applicable government agency. In the event a Member provides payment to Facility for services provided pursuant to this Agreement, Healthways retains the right to deduct an equivalent amount from the compensation payable to Facility for the purpose of Member reimbursement. All obligations under this Section shall survive the termination of this Agreement, regardless of the cause giving rise to such termination, including, without limitation, insolvency of either party or breach of this Agreement.
- h) **Waiver of Claims and Indemnity.** Unless caused by the negligence or intentional wrongdoing of Healthways, Sponsoring Organization, or any applicable government agency, Facility hereby waives and releases all claims against Healthways, Sponsoring Organization, and applicable government agency, and/or any of their respective officers, directors, shareholders, employees, or representatives, in respect of a Member participating in the Healthways Network, and Healthways, Sponsoring Organization, and government agency shall not be liable for injury to person or damage to property sustained by Sponsoring Organization's Members as a result of participation in any activities which

may be undertaken in or sponsored by Facility, including, but not limited, to any accident, or from any occurrence, or act, or from negligence or omission on the part of Facility or any employee or agent thereof. Facility shall indemnify, defend, and hold harmless Healthways, Sponsoring Organization, Members, and applicable government agency and their respective officers, directors, shareholders, employees, and representatives, on a current basis, from any and all claims, demands, suits, liabilities, damages, obligations, and expenses (including without limitation reasonable attorneys' fees) arising out of or in any way related to any negligent act or other wrongful conduct by Facility under this Agreement, except to the extent caused by the negligence or intentional wrongdoing of Healthways, Sponsoring Organization, or applicable government agency.

Healthways and Facility agree that to the extent permitted by law, both parties shall cooperate with one another in the defense of any claim arising from alleged tortious acts of their respective officers, shareholders, employees, or agents and to give one another written notice of any claims covered by this paragraph. All obligations under this Section shall survive the termination of this Agreement, regardless of the cause giving rise to such termination, including, without limitation, insolvency of either party or breach of this Agreement.

- i) Professionally-Recognized Standards. Healthways and Facility shall provide the Program to Sponsoring Organization Members in a manner consistent with quality assurance standards, the Reference Guide, and professionally-recognized standards of fitness and wellness programs.

5. Compensation.

- a) Program Utilization Payment. Healthways shall compensate Facility **\$2.50** per Program Visit, up to a maximum of **\$20.00** per Program Participant per month. Program Visit shall mean one distinct occasion, recorded and reported by Facility in accordance with procedures specified in the Reference Guide, during which a Member enters Facility to enroll in or use the Program. Healthways shall not compensate Facility for more than one Program Visit per day. Program Participant shall mean a Member, who, after completing the Program Enrollment Process, has used the Program at a facility in the Healthways Network at least once in a given month.
- b) Minimum Payment Guarantee. With the exception of the month in which Program Rollout occurs, Facility is guaranteed the greater of (1) the Program Utilization Payment above, or (2) a minimum monthly payment of \$250.00 per location of Facility identified in Exhibit A. For the month in which Program Rollout occurs, the Minimum Payment Guarantee will be pro-rated based on the number of days remaining in the month beginning with the Program Rollout Date.
- c) Payment Schedule. Payment shall be either mailed or processed for direct deposit by Healthways by the last day of the month following the month in which Program Visits occurred ("following month"), provided Healthways receives Facility's monthly utilization data by the fifth (5th) day of the following month. In the event utilization data is not received in a timely manner, payment may be delayed. Payment for monthly utilization received after the last day of the following month will be denied for non-timely filing and will not be eligible for reimbursement or appeal. Appeals must be brought to the attention of Healthways within thirty (30) days of receipt of payment or remittance report; appeals brought at a later date will not be eligible for review.

ADDENDUM

Facility hereby agrees to provide the Affinity product to commercial members under the terms and conditions set forth in this Agreement, and as described below.

Product Description: The Affinity product is a discount cash payment arrangement whereby Facility agrees to provide to individuals eligible for Affinity access to Facility services at a specific discount percent off Facility's published fee schedule.

Affinity Discount: Facility agrees to extend to individuals eligible for the Healthways Affinity product discounted services as follows. The following discounts represent a **minimum of 10% off at least one of the rates:**

Standard Initiation Rate: _____ % Discount

Monthly Membership Rate: _____ % Discount

Confidential

EXHIBIT A-1

FACILITY INFORMATION

The information in the box below is intended for distribution to Members. Please confirm that it is accurate.

Facility Name: Cottonwood Recreation Center
Physical Address: 150 S. 6th Street
Cottonwood, AZ 86326
Phone Number: (928) 639-3200
Web Site Address: (928) 634-8437

Please check the following amenities offered by Facility:

Amenity/Program	<input checked="" type="checkbox"/> Offered as part of basic membership at no additional cost to Members	<input checked="" type="checkbox"/> Not offered as part of basic membership - additional cost to Members
Cardiovascular Equipment	X	
Group Exercise/Aerobics Area	X	
Hot Tub/Whirlpool	X	
Resistance Training Equipment	X	
Steam and/or Sauna	X	
Swimming Pool – Seasonal (not available throughout the year)	X	
Swimming Pool – Year-Round	X	
Acupuncture		
Child Care		X
Chiropractic Services		X
Group Cycling		
Indoor Track	X	
Massage		
Nutritional Services		
Personal Training		X
Physical Therapy		X
Pilates		

Fax: (928) 634-8437 Direct Fax Need to call first

General Email: _____

Who is responsible for daily Facility operations (i.e., owner, general manager)?

Contact Person: Taron Little

Contact Title: Recreation Manager

Contact Phone: (928) 639-3200 #. 3208

Contact Fax: (928) 634-8437

Contact Email: little@cottonwood92.gov

Confidential

Mailing Address (if not the same as Physical Address):

Mailing Address: _____

Shipping Address (if not the same as Physical Address):

Shipping Address: _____

Staffed Hours of Operation

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Open	9:00 a.m.	6:00 a.m.	8:00 a.m.				
Closed	5:00 p.m.	9:00 p.m.	9:00 p.m.	9:00 p.m.	9:00 p.m.	7:00 p.m.	6:00 p.m.

Are Members able to access Facility during unstaffed hours? No Yes

What non-English languages does staff speak fluently? Please list:

Please select one category that best describes Facility:

- Commercial
- JCC
- Medical/hospital
- Municipal
- YMCA
- YWCA
- Other not-for-profit

Please select one location type:

- Men and women
- Women only
- Men only

Confidential

EXHIBIT A-2

TAXPAYER IDENTIFICATION NUMBER (TIN) CERTIFICATION AND BUSINESS LICENSE

Employer identification number

8	6	6	0	0	7	8	7	7
---	---	---	---	---	---	---	---	---

OR
Social Security number

--	--	--	--	--	--	--	--	--

Business Name: City of Cottonwood

- Individual/sole proprietor Partnership
 Corporation Exempt from backup withholding
 Other municipality

Business License No.: _____

Licensing Authority (i.e., County/State): _____

By signing this Agreement, under penalty of perjury I certify that: 1) all information provided above is true and correct to the best of my knowledge, 2) all Facilities in Exhibit A-1 to this Agreement are providing services under the above TIN, and 3) in the event that the Business Name above differs from a Facility Name in Exhibit A-1 to this Agreement, then Facility is operating as a d/b/a of the above Business Name.

Payment Address: _____

Attention: Accounts Receivable

Who should Healthways contact to coordinate the technical aspects of monthly utilization data reporting?
Name: Rabin Babbitt
Phone: (928) 639-3288-2267
Email: rbabbitt@cottonwood.az.gov

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011

**Subject: Richardson's LLC - Request for Contract Extension/Option for Renewal
- Approving City-wide Custodial Services (5th and Final Year)**

Department: Parks & Recreation Department

From: Richard Faust, Community Services General Manager

REQUESTED ACTION

Council consideration of request to extend Contract Services with "Richardson's LLC", which approves the "Option for Renewal" of the contract agreement for an additional one (1) year period beginning July 20th, 2011 through July 20th, 2012. The current Agreement with the contractor provides for an additional two year contract clause for Custodial Services (in one year increments) at the same contract price as requested in 2007. Please note that the contract price has fluctuated over the past several years in order to comply with budget reductions requested by the City pertaining to overall service reductions. Price includes the cost originally outlined with the contractor pertaining to square footage price and not per unit cost. (In 2010/11 Budget year, the City reduced the number of days involved for cleaning at each specified facility over the past year thereby decreasing the actual total annual cost of the contract). Currently, staff has requested increases to the budget for the 2011/12 budget cycle in order to increase days for cleaning of City facilities thereby also increasing higher levels of sanitation.

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

I make a motion to approve the "Option for Renewal" with "Richardson's LLC", for an additional one year period from July 20th 2011 through July 20th 2012.

BACKGROUND

In 2007, staff advertised a request for "Custodial/Janitorial Services" pertaining to city wide cleaning and sanitizing of public buildings and parks facilities throughout the City of Cottonwood. The City of Cottonwood awarded the contract to "Richardson's LLC" due to the

low bid and the local Company's prior experience with cleaning large scale buildings and facilities including safety records and compliance with all State and Federal regulations associated with the industry. This company has continued to provide good services for both staff and the citizens of Cottonwood. Monthly ratings for the company continue to be at levels of approximately 7 out of a total monthly score value of 0 to 10 for each department (10 being the highest level). These rating levels have fallen somewhat over the past year; however, primarily it is felt that it has been due to the reduction of days of cleaning requirements from original levels requested. It should be mentioned that the contractor continues to respond to needs and requests by staff in a very timely manner and continues to mitigate problems within 1 to 2 hours as identified in the contract document.

Section 9. Contract Period of the agreement document states the following: *Contract shall not exceed three (3) years beginning July 19th, 2007, to and including the 19th day of July 2010 (to be reviewed on an annual basis). This contract agreement may be extended under the following conditions:*

Pursuant to an "option for renewal" for a fourth (4th) and fifth (5th) year, whereby the CONTRACTOR advises the Parks and Recreation Director, not less than sixty (60) days before the end of the existing yearly term, that the CONTRACTOR requests to renew its services; upon approval by the City Council, this agreement shall be renewed for an additional year upon the same terms and conditions. There may be no increase in fees for the services hereunder except pursuant to a new public bid proposal process.

Otherwise, award for continuation of services under this contract would be at the pleasure of the City Council and would be accomplished in one-year increments based upon said services as outlined in the contract document.

JUSTIFICATION/BENEFITS/ISSUES

The City of Cottonwood has had a positive and safe working relationship with the contractor for over the past four (4) years. This includes Parks & Recreation, Public Safety, Library, Public Works, Airport, Waste Water, Community Development, City Hall, and the Court/Council facilities. "Richardson's LLC" is a local business and hires local residents throughout the Cottonwood and upper Verde Valley area.

COST/FUNDING SOURCE

Funding shall continue to come from the General fund as a dedicated line item.

REVIEWED BY:

City Manager: _____

City Attorney: _____

ATTACHMENTS

- Letter from Richardson's LLC - Request for Contract Extension/Option for Renewal - dated May 18, 2011

- Contract Agreement Document

RICHARDSON'S LLC
FOR DEPENDABLE OFFICE CLEANING

To Whom It May Concern,

May 18, 2011

Richardson's LLC has been providing quality services for the City of Cottonwood for the past Four years and we would like to continue to provide these services for the optional last year on our five year contract.

Sincerely,



Chuck Richardson
Business Owner
Richardson's LLC



"CUSTODIAL/JANITORIAL SERVICES" CONTRACT AGREEMENT

THIS AGREEMENT, made and entered into this 19th day of July, 2007 by and between the CITY OF COTTONWOOD, ARIZONA, a municipal corporation, hereinafter called "CITY," and Richardson's LLC, hereinafter called "CONTRACTOR."

R E C E I T A L S :

WHEREAS, it is in the best interest of COTTONWOOD to provide custodial maintenance services for facilities throughout land areas and buildings owned and operated by the City through contractual agreement; and,

WHEREAS CONTRACTOR has provided a bid for said services in response to CITY'S request for bids, and

WHEREAS CITY has accepted CONTRACTOR'S bid.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. **Purpose:**
This agreement is made to provide custodial/janitorial services throughout city buildings and facilities and other areas as specified in the bid document.
2. **Scope of Service:**
Furnish overall custodial contract services to public owned and operated facilities within the City of Cottonwood. Contractor shall provide all personnel, equipment, tools, materials, supervision, and other items and services necessary to perform custodial service as defined in contract document (performance work statement). This would include all vacuum sweepers, floor scrubbers, polishers/buffers/extractors, etc. Supplies and materials shall include all paper products, plastic waste receptacle liners, soaps, sanitizers, cleaners, polishes and other such incidental items as deemed necessary.

3. Public Health Standards:
All services and cleaning/disinfecting shall be accomplished within the conformance of industry standards and federal, state, county and municipal regulations/statues.
4. Insurance:
The CONTRACTOR must attach a copy of **Commercial General Liability Certificate of Insurance** in the minimal amount of **\$2,000,000** combined single limit for bodily injury and property damage per occurrence. Coverage must include broad form contractual, broad form property damage and personal injury, premises operations, and independent contractors and sub-contractors coverage. Plus, there must be attached, a copy of the Certificate of Insurance on **Auto Liability** for all owned, non-owned and hired vehicles in the amount of **\$1,000,000** combined single limit for bodily injury and property damage per occurrence.

Inclusive of this request are **fire and extended casualty coverage** for all improvements, equipment and fixtures of the Property, in an amount not less than the full replacement value thereof, to the extent such coverage is available.

Products liability shall be maintained in the amount of **\$500,000.00** with Workers Compensation and employer's liability coverage in the amounts required by law.

5. Equal Opportunity:
CONTRACTOR and any sub-contractors shall meet all requirements of the State of Arizona Executive Order 99-4, dated January 28, 1998, relating to equal opportunity and shall meet the requirements of the Americans with Disabilities Act, both of which are incorporated herein by reference.
6. Drug Free Workplace:
CONTRACTOR shall maintain a drug free workplace policy in accordance with the Controlled Substances Act (21 U.S.C. Subsection 812).
7. Permits, Licenses, Bonding and Inspection:
CONTRACTOR shall have a contractors license to conduct business within the city of Cottonwood. CONTRACTOR shall be bonded and be required to obtain and pay for all permits, licenses and inspections that are required to perform this work by all laws, ordinances, rules , regulations or orders of any body lawfully empowered to make or issue same, having jurisdiction.
8. Compensation:
CITY shall pay a sum of **ten thousand, eight hundred dollars and sixty-three cents (\$10,800.63) per month** payable on the first of the month following services rendered. Payment shall be made by City within fifteen (15) days from invoicing. For emergency services or additional requests for services by the Director of Parks and Recreation, invoicing shall reflect the additional charge for

such services and will be included into the normal payment for services rendered. For services which do not meet the quality requirements of the specifications and obligations as identified in the contract under Section 3.0 Performance Evaluation/Level of Performance and Section 4.0 Contractor Payment, a maximum deduction of 4% shall be made against the total monthly payment due to CONTRACTOR. Where services have not been rendered at all in accordance with the contract, as documented by staff personnel, a cost deduction of the number of "non-service" days shall be made by CITY. This deduction amount shall be assessed against the monthly amount per building agreement as identified in the "Request for Bid" document. CITY shall identify the number of cleaning days in that given month and shall divide the monthly building agreement by the non-serviced days. This figure shall be identified and subtracted from the monthly total.

Example: Parks and Recreation Building monthly total for cleaning = \$2,500.00
Non-Serviced days = 4
Service Days @ 5 times a week = 22 days total for that month
\$2,500.00 divided by 22 work days = \$113.64 per day rate
\$113.64 x 4 delinquent (non-serviced) days = \$454.56 subtracted from monthly service fees

9. **Contract Period:**

Contract shall not exceed three years beginning July 19th, 2007, to and including the 19th day of July, 2010 (to be reviewed on an annual basis). This contract agreement may be extended under the following conditions:

Pursuant to an "option for renewal" for a fourth (4th) and fifth (5th) year, whereby the CONTRACTOR advises the Parks and Recreation Director, not less than sixty (60) days before the end of the existing yearly term, that the CONTRACTOR requests to renew its services; upon approval by the City Council, this agreement shall be renewed for an additional year upon the same terms and conditions. There may be no increase in fees for the services hereunder except pursuant to a new public bid proposal process.

Otherwise, award for continuation of services under this contract would be at the pleasure of the City Council and would be accomplished in one-year increments over the three year period and will be based upon said services as outlined in the contract document. Service indicators observed under "option for renewal" shall be identified under Quality Assurance, Section 1.4.3; Quality Assurance Standards under Section 2.0; and Performance Requirements under Technical Exhibit 1 of this contract.

10. A. **Contract Termination:**

This contract may be terminated by either party, without cause, upon 60 days written notice.

B. Termination by the City

- 1) The failure of CONTRACTOR to perform any of its obligations under this Contract, provided that CONTRACTOR fails to cure its default within a sixty-day period following written notice.
- 2) The CITY may terminate this Contract immediately, if CONTRACTOR abandons custodial operations at CITY facilities. For purposes of this contract, CONTRACTOR shall be conclusively deemed to have abandoned said services required by this contract if services are not performed by CONTRACTOR for a period of seven (7) consecutive days without written consent of the CITY. The CITY may also terminate this contract immediately in the event the CONTRACTOR has failed to perform services satisfactorily over a previous sixty (60) day period of time or that the CONTRACTOR has not performed in accordance with this contract either two thirds of the time or as to two thirds of City Departments outlined in this agreement. Within this sixty (60) day period, CITY shall produce documentation that CONTRACTOR was repeatedly in violation due to unacceptable performance as documented over two thirds for the departments within the CITY operations. In the event of CONTRACTOR abandonment or chronic failure to provide satisfactory service, termination by the CITY will be effective immediately upon delivery of written notice of the termination to CONTRACTOR.
- 3) If CONTRACTOR at **any time** fails to maintain all insurance required by this contract, the CITY shall have the right, to immediately terminate this Contract or to secure the required insurance at the CONTRACTOR'S expense, and thereafter give CONTRACTOR written notice of the same.
- 4) Upon termination of this Contract for any reason, all rights of CONTRACTOR shall terminate including all rights of CONTRACTOR'S creditors, trustees and assigns and all others similarly situated.
- 5) Failure by the CITY to take any authorized action upon default by CONTRACTOR of any of their obligations under this Contract shall not constitute a waiver of said default or of any subsequent default by CONTRACTOR.

C. Termination By CONTRACTOR:

CONTRACTOR may terminate its contract at any given time provided that it is not in default in or any of its obligations by giving the CITY sixty (60) days written notice after the happening of any of the following events:

- Issuance by a court of competent jurisdiction of an injunction in any way preventing or retaining CONTRACTOR'S use of any substantial portion of the Property and the remaining in force of such injunction for a period of sixty (60) consecutive days; or
- The inability of CONTRACTOR to service any substantial portion of the Property for a period of sixty (60) consecutive days, due to the enactment or enforcement of any law or regulation or because of fire, earthquake or similar casualty, or Act of God or the public enemy.

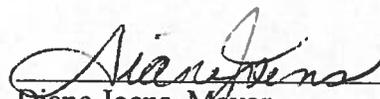
- D. In the event of termination by the CITY, with or without cause, there shall be no penalty and the Contractor shall not be entitled to damages. The CONTRACTOR shall only be entitled to any outstanding payment in accordance with the contract.

11. **Indemnification:**
The CONTRACTOR shall, and hereby expressly agrees, to hold harmless and indemnify the CITY, its officers, employees, agents, and representatives, against all losses, claims, actions, judgments, and all liability for injuries to persons, including wrongful death, damage to property, or both, occurring during or in consequence of the performance of this contract where such injury or damage is related to or arises out of any mistakes or defect in service delivery or to the actions or negligence of the CONTRACTOR, CONTRACTOR'S employees, subcontractors, or agents of the CONTRACTOR.
12. CONTRACTOR understands and agrees that the parks and recreation director ("DIRECTOR") for the CITY OF COTTONWOOD has been designated the AGENT of CITY for the purpose of carrying out the terms and provisions of this agreement to DIRECTOR and shall otherwise deal with the DIRECTOR in all matters arising here-from.
13. Sanitation and disinfecting of facilities open to the public shall conform to all applicable public health rules and regulations applicable as enforced by federal, state and county health department guidelines.
14. CONTRACTOR shall, at its own expense, obtain all permits and licenses that are required by law or ordinance in connection with the operation of this contract and its business generally.
15. CONTRACTOR shall pay, when due, all taxes upon personal property on the premises belonging to CONTRACTOR, and all taxes levied upon the operation hereunder.
16. CONTRACTOR shall observe and comply with all laws, statutes, ordinances, rules, and regulations of the United States Government, the State of Arizona, the County of Yavapai, and the City of Cottonwood, or any department or agency thereof.
17. CONTRACTOR shall so conduct his activities upon the premises so as not to endanger or interfere with the rights of any person lawfully thereon. The CONTRACTOR shall, at all times, be regarded as an **independent contractor** and shall not, at any time, act or purport to act as agent for or employee of the CITY.
18. CONTRACTOR shall not assign or otherwise contract out the whole or any part of this agreement or the janitorial services hereunder without the prior written consent of the DIRECTOR. The terms and conditions herein, shall apply to and bind the successors and assigns of the parties.
19. Any modification to this agreement shall be in writing and signed by the parties in order to be effective.

20. **CONTRACTOR shall understand that addendum to this contract document shall be the inclusion of the "REQUEST FOR BID" Document and parts thereof as an inclusion pertaining to reference of CONTRACTOR'S responsibilities. All Sections and definitions of the "REQUEST FOR BID" shall be inclusionary as it pertains to the Contract Agreement (pages 1 through 24 respectively).**

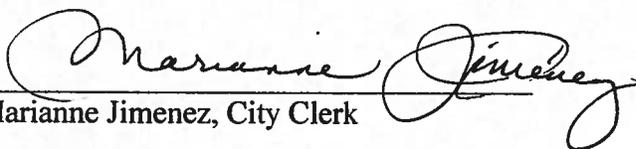
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

CITY OF COTTONWOOD



Diane Joens, Mayor
City of Cottonwood

ATTEST:



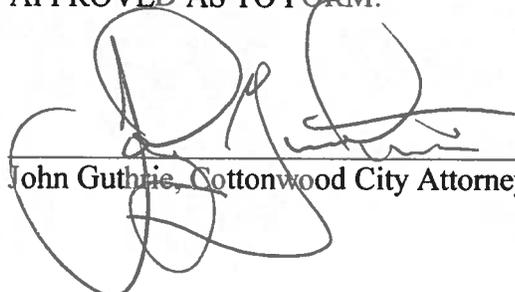
Marianne Jimenez, City Clerk

CONTRACTOR



Contractor

APPROVED AS TO FORM:



John Guthrie, Cottonwood City Attorney

DATE: 7-19-07



THE COTTONWOOD CITY COUNCIL
CIVILITY ACCORD
June 7, 2011

On the morning of January 8, 2011, gunshots fired in one of our nation's great cities reverberated through all of America. A federal judge and a nine-year old girl were among the six people killed that day in Tucson, and Congresswoman Gabrielle Giffords, the target of the shooting rampage, was among the 13 more who were wounded. The pain inflicted on them, their families, and the entire Tucson community is shared by people across our nation.

Regardless of what the motives behind the tragedy in Tucson might have been, it occurred in an atmosphere in which public discourse is often confrontational and lacking in civility. We should use this event as a point of departure, to recommit ourselves to building a more civil society in which each person is respected and public and political discourse are aimed at the betterment of our nation and its people and not the destruction of those with whom we disagree. As President Barack Obama said in the January 12 memorial service, "only a more civil and honest public discourse can help us face up to our challenges as a nation."

Because mayors and council members are the elected leaders closest to the people, restoration of civility must begin with us. We are in a unique position to have a positive impact on behavior - individual and collective - and to lead by example. While the tragedy in Tucson is the impetus for this Accord, it represents a commitment that must live on in every mayor and council member in our nation from this day forward.

In order to restore civility to our communities and through them to our nation, we pledge our commitment to the following principles for civility:

- ❖ Respect the right of all Americans to hold different opinions;
- ❖ Avoid rhetoric intended to humiliate, de-legitimatize, or question the patriotism of those whose opinions are different from ours;
- ❖ Strive to understand differing perspectives;
- ❖ Choose words carefully;
- ❖ Speak truthfully without accusation, and avoid distortion;
- ❖ Speak out against violence, prejudice, and incivility in all of their forms, whenever and wherever they occur.

We further pledge to exhibit and encourage the kinds of personal qualities that are emblematic of a civil society; gratitude, humility, openness, passion for service to others, propriety, kindness, caring, faith, sense of duty, and a commitment to doing what is right.

Diane Joens, Mayor

Karen Pfeifer, Vice Mayor

Jesse Dowling, Council Member

Tim Elinski, Council Member

Ruben Jauregui, Council Member

Linda Norman, Council Member

Terence Pratt, Council Member



THE UNITED STATES CONFERENCE OF MAYORS
CIVILITY ACCORD
January 19, 2011

On the morning of January 8, 2011, gunshots fired in one of our nation's great cities reverberated through all of America. A federal judge and a nine-year-old girl were among the six people killed that day in Tucson, and Congresswoman Gabrielle Giffords, the target of the shooting rampage, was among the 13 more who were wounded. The pain inflicted on them, their families, and the entire Tucson community is shared by people across our nation.

Regardless of what the motives behind the tragedy in Tucson might have been, it occurred in an atmosphere in which public discourse is often confrontational and lacking in civility. We should use this event as a point of departure, to recommit ourselves to building a more civil society in which each person is respected and public and political discourse are aimed at the betterment of our nation and its people and not the destruction of those with whom we disagree. As President Barack Obama said in the January 12 memorial service, "only a more civil and honest public discourse can help us face up to our challenges as a nation."

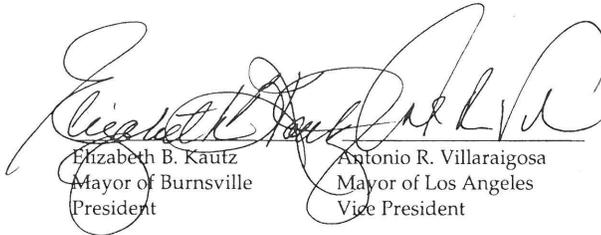
We believe that because mayors are the elected leaders closest to the people, restoration of civility must begin with us. We are in a unique position to have a positive impact on behavior – individual and collective – and to lead by example. While the tragedy in Tucson is the impetus for this Accord, it represents a commitment that must live on in every mayor in our nation from this day forward.

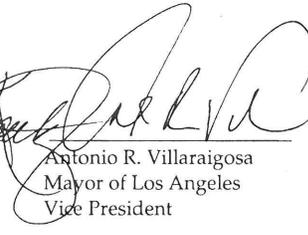
Through The U.S. Conference of Mayors, we, the mayors of America's cities, in order to restore civility to our communities and through them to our nation, pledge our commitment to the following principles for civility:

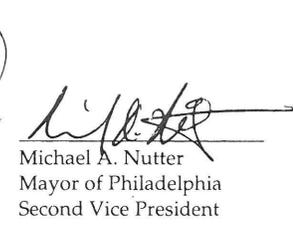
- Respect the right of all Americans to hold different opinions;
- Avoid rhetoric intended to humiliate, de-legitimize, or question the patriotism of those whose opinions are different from ours;
- Strive to understand differing perspectives;
- Choose words carefully;
- Speak truthfully without accusation, and avoid distortion;
- Speak out against violence, prejudice, and incivility in all of their forms, whenever and wherever they occur.

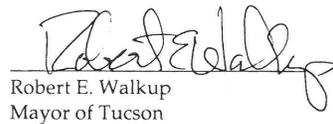
We further pledge to exhibit and encourage the kinds of personal qualities that are emblematic of a civil society: gratitude, humility, openness, passion for service to others, propriety, kindness, caring, faith, sense of duty, and a commitment to doing what is right.

The immediate need is to help our citizens through this difficult period. Our long term responsibility is to work with them to build that civil society.


Elizabeth B. Kautz
Mayor of Burnsville
President


Antonio R. Villaraigosa
Mayor of Los Angeles
Vice President


Michael A. Nutter
Mayor of Philadelphia
Second Vice President


Robert E. Walkup
Mayor of Tucson


Tom Cochran
CEO and Executive Director

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011

Subject: Annual Consideration of Appointment of a Vice Mayor.

Department: City Clerk

From: Marianne Jiménez, City Clerk

REQUESTED ACTION

Council consideration of appointment of a Vice Mayor to serve at the pleasure of the City Council.

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

I move to appoint _____ to serve as the Vice Mayor of the City.

BACKGROUND

When Mayor Joens was elected Mayor she suggested the position of Vice Mayor be considered annually to ensure the council has an appropriate chance to provide input and choose whether to give rotating Council Members a chance to serve as Vice Mayor,

The Municipal Code provides for the designation of the Vice Mayor by the City Council as follows:

Section 2.04.020 Vice mayor. The council shall designate one of its members as Vice Mayor, who shall serve at the pleasure of the council. The vice mayor shall assume the powers and duties of the mayor during the absence or disability of the mayor.

JUSTIFICATION/BENEFITS/ISSUES

N/A

COST/FUNDING SOURCE

N/A

REVIEWED BY:

City Manager: _____

City Attorney: _____

ATTACHMENTS

None.

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: June 7, 2011

Subject: Council Representative Appointments to Various Committees Related to Intergovernmental Matters.

Department: City Clerk

From: Marianne Jiménez, City Clerk

REQUESTED ACTION

Council consideration of appointing Council representatives to represent the city on various committees related to intergovernmental/regional matters.

BACKGROUND

City Council members are requested to represent the City of Cottonwood on a number of committees that deal with regional matters that may affect the city. Several committees request formal appointment of the city's representatives.

The following is a list of the current appointed Council representatives to the committees and organizations requiring a city representative:

Northern Arizona Council of Governments (NACOG)--Council Member Kirby with Mayor Joens as alternate. **Mayor Joens respectfully requests the Council's consideration for their appointment to NACOG.**

Northern Arizona Municipal Water Users' Association (NAMWUA)--Vice Mayor Pfeifer with Mayor Joens as alternate.

Yavapai County Water Advisory Committee (WAC)--Mayor Joens with Council Member Elinski as alternate.

Northern Arizona Intergovernmental Public Transportation Authority (NAIPTA)--Council Member Norman with Council Member Kirby as alternate.

Verde Valley Transportation Planning Organization (VVTPO)--Council Member Pratt with Mayor Joens as alternate.

Coconino/Yavapai County Resource Conservation--Mayor Joens with Council Member Norman as alternate.

Verde River Basin Partnership--Mayor Joens with Council Member Pratt as alternate.

Cottonwood Personnel Board--Vice Mayor Pfeifer.

Verde Valley Land Preservation Institute (VVLPI)--Council Member Smith with Council Member Elinski as alternate.

Verde Valley Regional Organization (VVREO)--Council Member Norman with Vice Mayor Pfeifer as alternate.

JUSTIFICATION/BENEFITS/ISSUES

Council representative appointments are reviewed annually and/or following the election of new Council Members.

COST/FUNDING SOURCE

N/A

REVIEWED BY:

City Manager: _____

City Attorney: _____

ATTACHMENTS

None.

CLAIMS REPORT OF JUNE 7, 2011			
FUND	VENDOR NAME	DESCRIPTION	TOTAL
TOTAL			\$0.00
CLAIMS EXCEPTIONS REPORT OF JUNE 7, 2011			
FUND	VENDOR NAME	DESCRIPTION	TOTAL
All	City of Cottonwood	Payroll 05/27/2011	\$353,255.63
Utilities	APS	PO 18942 Extend electrical lines	\$10,800.85
Utilities	Allstate Elecrtic Motor Co. Inc.	PO 18929 Inspection & Repair	\$15,100.80
Library	City of Prescott	Yavapai County Library Network	\$11,078.72
All	CDW Govt.	Computers, Phones and Fire Wall Upgrades	\$8,740.28
Utilities	D&K Farming	Sludge Disposal	\$5,159.43
Utilities	Environgen Technologies	Arsenic Remediation Maintenance	\$32,569.87
Gen	Mobile Concepts Technologies	Consulting for Feb - April	\$12,680.00
Gen	Scottsdale Gun Club	PO 18917 Swat Supplies	\$5,112.40
Gen	Tamiami International Equip, Inc.	PO 18938 Delta Force Helmets	\$13,008.40
All	United Fuel	Fuel	\$10,763.58
All	APS	Utilities	\$12,998.65
All	Arizona Public Employers Health Pool	May Insurance premiums	\$130,892.50
Utilities	Town of Clarkdale	Bulk Water Purchase	\$6,354.60
Utilities	US Postmaster	Postage Meter	\$5,350.00
Gen	VV Humane Society	May & partial March Payment for contractual services	\$5,138.10
All	APS	Utilities	\$7,741.65
Airport	Ascent Aviation	Fuel	\$33,839.01
Gen Utilities	Coe & Van Loo Consultants	Trust Land PO 18521	\$8,151.95
Utilities	HD Supply Waterworks	Supplies	\$20,565.46
Utilities	Ferguson	Supplies	\$9,750.98
Gen	Richardsons LLC	Custodial Rec Center and Gen	\$17,307.67
Gen	Sutton Law	Prosecuting Atty Fees	\$7,000.00
Gen	Waddel Kennel	Deposit for new K9 dog	\$5,000.00
Gen	Yavapai County Elections	Ballot Processing	\$9,782.00
TOTAL			\$758,142.53