

A G E N D A

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, TO BE HELD AUGUST 3, 2010, AT 4:00 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 TO THE FLAG.
- IV. BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER—THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION.
- V. CALL TO THE PUBLIC—This portion of the agenda is set aside for the public to address the Council regarding an item that is not listed on the agenda for discussion. However, the Council cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02.(A.)(H).) Comments are limited to a 5 minute time period.
- VI. PRESENTATION OF CERTIFICATE OF APPRECIATION TO MRS. RICHARD KEVIN FOR MR. KEVIN'S SERVICE AS A MEMBER OF THE PLANNING & ZONING COMMISSION.
- VII. APPROVAL OF MINUTES—SPECIAL WORK SESSION OF JULY 8, 2010, REGULAR MEETINGS OF JULY 6 AND JULY 20, 2010.

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

- VIII. OLD BUSINESS
 1. ORDINANCE NUMBER 565—AMENDING THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD BY REPEALING SECTION 2.88.020, CONTRACT PROCEDURES FOR PROFESSIONAL SERVICES; SECOND & FINAL READING.
 2. ORDINANCE NUMBER 566—AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 2.108, HISTORIC PRESERVATION COMMISSION, TO TITLE 2, ADMINISTRATION AND PERSONNEL; SECOND & FINAL READING.
- IX. CONSENT AGENDA
 1. RESOLUTION NUMBER 2528—APPROVING THE SUBMITTAL OF AN APPLICATION TO THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR ARIZONA TRANSPORTATION ENHANCEMENT PROGRAM ROUND 18 GRANT FUNDING TO CONSTRUCT A SIDEWALK ALONG THE EAST SIDE OF STATE ROUTE 260 BETWEEN FIR STREET AND DEL RIO DRIVE.

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- X. NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.
 - 1. DEMONSTRATION OF CrimeReports, A CRIME MAPPING NETWORK.
 - 2. CONSENT OF ASSIGNMENT OF TENANT RIGHTS FROM BACKUS FAMILY INVESTMENTS, LLC, TO HIGH FIVE HANGARS OWNERS ASSOCIATION, INC., AND DECLARATION OF LEASEHOLD CONDOMINIUM FOR LOT 135 AT COTTONWOOD AIRPARK.
 - 3. RESOLUTION NUMBER 2529—APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND THE NORTHERN ARIZONA INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY (NAIPTA).
- XI. CLAIMS & ADJUSTMENTS.
- XII. ADJOURNMENT.

Pursuant to A.R.S. § 38-431.02(B) 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.

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: August 3, 2010

Subject: **Ordinance Number 565 – Repealing Section 2.88.020 of the Cottonwood Municipal Code**

Department: Legal

From: Steve Horton, City Attorney

REQUESTED ACTION

Approval of Ordinance Number 565, repealing Section 2.88.020 of the Cottonwood Municipal Code.

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

“I move to approve Ordinance Number 565 repealing Section 2.88.020 of the Cottonwood Municipal Code”.

BACKGROUND

The first reading of this ordinance was conducted at the regular Council meeting July 20, 2010. This would be the second and final reading of the ordinance, which if passed would become effective September 2, 2010.

JUSTIFICATION/BENEFIT/ISSUES

Section 2.88.020 of the Cottonwood Municipal Code sets forth procedures for procuring professional services. However, these procedures - which include soliciting and maintaining multiple lists of qualified and interested professional service providers across the several City departments - have proven cumbersome and unworkable. In fact, although the City was ultimately relieved of liability by the Arizona Court of Appeals for not following the procedures set forth in this section in its re-engagement of Mangum, Wall, Stoops and Warden to provide prosecution services in 2008 (subject to review by the Arizona Supreme Court on

September 21, 2010), it was this section of the Code that the plaintiff relied on in his claim against the City.

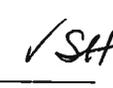
In connection with the first reading of this Ordinance, Council approved revisions to Section 4 of the City's Financial Operations Guide, which sets forth a comprehensive and efficient set of procedures for procuring various types of goods, equipment, supplies and services for the City, including professional services. It is the Financial Operations Guide that City staff generally refers to in conducting City procurements.

COST/FUNDING SOURCE

N/A

REVIEWED BY

City Manager: 

City Attorney: 

ATTACHMENTS

Ordinance Number 565

ORDINANCE NUMBER 565

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA AMENDING THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD BY REPEALING SECTION 2.88.020, CONTRACT PROCEDURES FOR PROFESSIONAL SERVICES.

WHEREAS, the City Council finds that is in the city's interests to update and set forth the city's procedures for procuring professional services in Section 4 of that certain document entitled City of Cottonwood Financial Operations Guide; and

WHEREAS, Section 2.88.020 of the Cottonwood Municipal Code is inconsistent with current practice, and with the procedures for procuring professional services set forth in Section 4 of the City's Financial Operations Guide.

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

Section 1. That Section 2.88.020 of the Cottonwood City Code is hereby repealed.

Section 2. In the event of a conflict between the Financial Operations Guide and any other ordinance, resolution, policy, procedure or provision of the City Code in effect as of the effective date of this Ordinance, the provisions of the Financial Operations Guide shall control.

Section 3. 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, ARIZONA, THIS 3RD DAY OF AUGUST 2010.

ORDINANCE NUMBER 565

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Diane Joens, Mayor

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: August 3, 2010

Subject: Ordinance Number 566--Establishment of the Cottonwood Historic Preservation Commission

Department: Community Development

From: Kyla Allen, Executive Assistant to the City Manager

REQUESTED ACTION

Council consideration of Ordinance Number 566 which will create a Historic Preservation Commission for the City of Cottonwood.

ACTION

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

"I move to approve Ordinance Number 566, creating a Cottonwood Historic Preservation Commission".

BACKGROUND

Council was provided with a draft ordinance at the June 1, 2010 regular Council Meeting and is now provided with the final ordinance, second reading, per their direction.

Further background information if needed is as follows: Last year during the Council's annual retreat, Council created a list of strategic initiatives. Among these was *Strategic Initiative #3 - Build and retain a strong diversified economy* which included the goal "Develop a plan for the historic preservation of buildings in Cottonwood."

On October 13, 2009, Charles Scully, AICP, long-range planner for the City of Cottonwood, gave a presentation to the City Council regarding historic preservation. Council gave direction for Council Member Elinski and City Manager Mr. Bartosh to form a citizens group to solicit citizen input and opinion to determine if sufficient community interest exists to

warrant further action. This citizen's group was established, met several times and determined the need for a more official commission in order to proceed further to participate with the State Historic Preservation Office (SHPO) and to apply for funding sources. Once established, this commission will work on updating our Historic Property Survey and form a Historic Preservation Ordinance which will allow the City to become a *Certified Local Government (CLG)*, and move forward with preservation education and action within our community.

The first reading of the proposed ordinance was held at the July 20, 2010 Council meeting. This would represent the second and final reading, which if approved, would make the ordinance effective September 2, 2010.

JUSTIFICATION/BENEFITS/ISSUES

As tangible links to its past, the community's historic buildings and districts reflect the unique character of its neighborhoods, businesses, and gathering places. Preserving history has its own inherent value to the community and this should be the primary basis for deciding to participate in program development for historic preservation. Additionally, there are other incentives to consider, especially with respect to participation with the Certified Local Government (CLG) Program, which offers access to increased funding opportunities and additional technical assistance on a range of program issues. Preserving local history is of great interest and strongly supported by many residents of Cottonwood so strong support for participating in a new historic preservation commission would be anticipated.

COST/FUNDING SOURCE

Establishment of a CLG historic preservation program would require a certain amount of staff time to be prioritized for coordinating the program, including the management of a historic preservation commission. Staff review, public outreach, file management, website postings, minutes taking and other costs typical for coordinating a citizen commission with monthly meetings would be anticipated. Existing staff could be assigned to the program so no additional staff position costs would be anticipated to initiate this type of program. Other funding sources are the Arizona State Grants Program, Federal Historic Preservation Funding

The Arizona State Parks Grants Section administers eight grant programs, one of which is the Historic Preservation Grant Program that comes from the Arizona Heritage Fund. Currently that program is on hold due to the state budget crisis; however, the public voted to support the heritage fund program and it is likely to come back at some point. Participation in CLG programs provides additional points in the criteria system for grant selection so there tends to be more state-level funding available for communities that participate in the CLG program.

Over the years, the National Park Service has provided funding for a variety of historic preservation grants, low interest loans, and tax credit programs. The status of any of these programs is subject to change due to the current economic conditions. Typically, the funding has been passed along for administration through the SHPOs. Federal Historic Preservation Tax Credits have been available for rehabilitation of commercial historic properties. Major federal grants have usually been reserved for nationally significant landmark properties;

however, a percentage of federal funding to states is typically set aside for Certified Local Governments. The level of federal program support has varied in recent years so current availability should be checked at the time of project development.

REVIEWED BY:

City Manager: AB

City Attorney: VSH

ATTACHMENTS

Ordinance Number 566

ORDINANCE NUMBER 566

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 2.108, HISTORIC PRESERVATION COMMISSION, TO TITLE 2, ADMINISTRATION AND PERSONNEL.

WHEREAS, the City Council desires to create a Historic Preservation Commission for the City of Cottonwood for the identification, evaluation, protection, preservation, and enhancement of historic properties that have significance for the City of Cottonwood.

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

Section 1. That a new Chapter 2.108, Historic Preservation Commission, is hereby added to Title 2, Administration and Personnel, of the Municipal Code as follows:

Chapter 2.108

HISTORIC PRESERVATION COMMISSION

Sections:

- 2.108.010 Creation.
- 2.108.030 Powers and duties.
- 2.108.040 Membership.
- 2.108.050 Officers.
- 2.108.060 Meetings.
- 2.108.070 Advisory Committees.

2.108.010 Creation.

There is hereby created a Historic Preservation Commission for the identification, evaluation, protection, preservation, and enhancement of historic properties that have significance for the City of Cottonwood.

2.108.030 Powers and duties.

The City of Cottonwood Historic Preservation Commission shall make recommendations to the city council and have the authority to implement recommendations adopted by the city council. The Historic Preservation Commission shall exercise the following powers and duties:

The responsibility of the commission is to promote the purposes and objectives of the article and shall include, but not be limited to the following:

- A. Initially create, for approval by the city council, and maintain, and periodically update as needed, a plan for historic preservation of historic properties within the City of Cottonwood.
- B. Maintain review criteria contained in the historic preservation plan to assure fair and impartial evaluation and designation of properties as landmarks and historic districts. The commission shall periodically review these criteria, and make such adjustments or updates as may be required with approval of the city council.
- C. Maintain criteria to assure fair and impartial review of applications for certificate of appropriateness. Such criteria shall be subject to review by the planning and zoning commission and ratification by the city council.
- D. Review properties proposed for designation as historic sites, historic structures or historic landmarks, explain to the owners thereof the potential effects of such designation, as known to the commission at that time, and make recommendations to designate, conditionally designate, or deny designation based on criteria and facts as stated.
- E. Review property nominations for designation as a historic district, explain to the owners of all such properties therein the potential effects of designation, as known to the commission at that time; and make recommendations to the planning and zoning commission and city council regarding any proposed rezoning within a historic district.
- F. Propose design guidelines appropriate to individual historic districts.
- G. Review and approve, conditionally approve or deny applications for a certificate of appropriateness.
- H. Maintain and periodically review and update the local Historic Resources Inventory and consider the inclusion of any properties, which may have come to meet the requirements herein, and the deletion of any properties which may no longer exist or no longer meet the criteria for inclusion.
- I. Conduct detailed studies and surveys of properties and areas and assess their potential for designation as historic properties or historic districts.

ORDINANCE NUMBER 566

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- J. Determine and cause to be created a system of markers for designated properties.
- K. Recognize the owners of designated properties. Issue commendations or other forms of recognition to owners of historical properties who have rehabilitated their property in an exemplary manner.
- L. Make recommendations to the city council regarding the acquisition of property suitable for preservation. Such acquisition may include the purchase or acceptance of donated property.
- M. Make recommendations to the city council regarding the use of federal, state, city or private funds to promote historic preservation.
- N. Make recommendations to city council to accept gifts, grants, funds, contributions, and bequests from individuals and public and private entities, agencies, foundations, trusts, corporations, and other organizations or institutions
- O. Cooperate with and enlist the assistance of persons, organizations, foundations and public agencies in matters involving historic preservation, renovation, rehabilitation and reuse, with city council approval as appropriate.
- P. Increase public awareness of the values of historic, cultural, archaeological and architectural preservation, by developing and participating in public education programs.
- Q. Annually prepare written reports of commission activities; submit such reports to the city council and the State Historic Preservation Office (SHPO). These reports shall be available for public review.
- R. Work with and assist departments of the city in matters affecting historic preservation.
- S. Assist property owners, upon request, by providing advice, recommendations or direction on matters regarding the restoration, rehabilitation, alteration, decoration, landscaping, or maintenance of any historic property.
- T. Encourage and assist property owners of historic properties on procedures for inclusion on state historic listings and the National Register of Historic Places. At the request of property owners, the commission may provide recommendations to appropriate state and federal agencies in support of applications for historic designation on specific properties.
- U. Carry out such other duties as may be determined by the city council, and present other such recommendations as may be deemed pertinent.

2.108.040 Membership.

A. The commission shall consist of seven members, five of whom shall be residents of the city, and two of whom need not be residents of the city, provided that the city council finds at the time of their appointment that they have substantial ties within the corporate limits of the city, such as owning real property, owning a business, being employed within the city limits, or based on any other factors deemed relevant by the city council.

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

C. The members of the commission shall serve for three years, except as provided in this chapter. The members of the first commission shall serve for the following terms: two members shall be appointed for a term of one year, two members shall be appointed for a term of two years, and three members shall be appointed for a term of three years. In the event of a death, resignation, or removal from the commission, the vacancy shall be filled by the council for the unexpired term.

D. A member absent from four consecutive regular meetings or a cumulative total of five regular or special meetings within a calendar year shall constitute the constructive resignation of that member, and said vacancy shall be filled by the city council, with the option that said member may apply in writing to the city council for consideration of reinstatement. The Council may remove any member of the commission by a majority vote of the council, or as otherwise provided by this Code.

E. All members shall serve without pay. However, members of the commission may be reimbursed for actual expenses incurred in connection with their duties upon authorization or ratification by the commission and approval of such expenditures by the city council.

2.108.050 Officers.

The commission shall elect a chairman and vice-chairman from among its members, who shall serve for one year and until their successors are elected and qualified. The chairman shall preside at all meetings and exercise all the usual rights, duties and prerogatives of the head of any similar organization. The vice-chairman shall perform the duties of the chairman in the latter's absence. Vacancies created by any cause shall be filled for the unexpired term by a new election.

2.108.060 Meetings.

The commission shall hold meetings open to the public with notification of the time and place posted in accordance with applicable state statutes at least on a quarterly basis or as needed.

A. The commission shall make rules and regulations to govern its proceedings and to provide for its meetings. All meetings of the commission shall be open to the public. The minutes and records of all commission proceedings shall be kept and filed as public record in accordance with applicable state statutes.

B. A quorum shall consist of at least four members present. Passage of all motions shall require a simple majority of the members present.

2.108.070 Advisory Committees.

Advisory committees may be created by the commission to study and report on pertinent matters. Such committees may include citizens who are not members of the commission, but shall include at least one commission member who shall serve as chair of the committee. Committees appointed for a specific task shall dissolve when the task is completed and its report has been presented to the commission. Such advisory committees shall be subject to applicable state statutes regarding conduct of meetings, records keeping and public notification.

Section 2. That if any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions hereof.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 3RD DAY OF AUGUST 2010.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

Steven B. Horton, Esq.
City Attorney

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: August 3rd, 2010

Subject: ADOT Transportation Enhancement Grant Application

Department: Engineering

From: Morgan Scott

REQUESTED ACTION

By resolution, authorize the mayor, or vice mayor in the mayor's absence, to sign the grant application for a transportation enhancement grant and enact a resolution to meet the requirements of the grant.

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

I move to approve resolution number 2528 committing the city to the requirements below and direct city staff to apply for the 2010 Transportation Enhancement Grant sponsored by ADOT and FHWA.

BACKGROUND

Annually, local agencies have been allowed to apply for transportation enhancement grants from ADOT. The grants are competitive in nature and funded by the Federal Highway Department and distributed through ADOT. The maximum amount of the grant is \$1,000,000. We have previously received three of these grants to complete the streetscape work on Main Street in Old Town. The last two years we have applied for an enhancement grant to construct sidewalk along the Clarkdale-Cottonwood portion of SR 89A but were not selected. The Clarkdale portion of SR 89A was selected and ADOT will be adding additional funds to support a continuous sidewalk on both sides along the entire newly constructed portion of SR 89A from Blackhills to Clarkdale Parkway.

This year we wish to apply for a grant to construct sidewalk on SR 260 between Fir Street and Del Rio Drive. The project would construct a 6' wide sidewalk along the East side of SR 260 along with necessary retaining walls and hand rail. This sidewalk will connect the existing city sidewalk system which currently ends at Fir Street to the Verde Villages and thereby attaching the city's sidewalk system to the more than 10,000 residents in the Verde Villages (Census, 2000)¹.

JUSTIFICATION/BENEFIT/ISSUES

The proposed sidewalk would connect the many residents of the Verde Manor and the Verde Villages to the existing sidewalk system within the City of Cottonwood. The proposed corridor would allow for multi-modal transportation from a highly populated residential area into the main commercial and

¹ <http://censtats.census.gov/data/AZ/1600416485.pdf>

business districts of town. In addition the sidewalk will add to the beautification of SR 260 as travelers enter into Cottonwood.

As with all other sidewalks in ADOT right-of-way the City will be required to maintain this sidewalk.

The resolution will commit the City to the following:

- a. Commitment to 5.7% of total grant amount (\$1,000,000) match and any overmatch (anticipated to be \$57,000)
- b. Commitment that the project will be ready for advertisement in 3 YEARS
- c. Commitment to pay for all cost overruns
- d. Commitment to reimburse ADOT/FHWA for all federal funds used, if the project is cancelled by the sponsor.
- e. Commitment to ADOT review fee. (Currently \$5,000)
- f. Commitment to JPA (Joint Project Agreement) maintenance agreement.

COST/FUNDING SOURCE

HURF fund

REVIEWED BY

City Manager: 

City Attorney: 

ATTACHMENTS

-Grant application

RESOLUTION NUMBER 2528

**ARIZONA TRANSPORTATION
ENHANCEMENT PROGRAM
ROUND 18**

**STATE ROUTE 260
SIDEWALK PROJECT
FIR STREET TO DEL RIO DRIVE**



**Sponsored by Arizona Dept of Transportation with support from
U.S. Dept of Transportation, Federal Highway Administration**

TRANSPORTATION ENHANCEMENT ROUND 18 APPLICATION
INSTRUCTIONS and CHECK LIST

The Transportation Enhancement Review Committee (TERC) has endeavored to provide you with a simple, yet efficient application. Applicants must adhere to the instructions below, and provide your application pages in the order requested for the Transportation Enhancement Review Committee to properly and fairly evaluate your application.

In an effort to ensure applications adhere to guidelines provided, ADOT Transportation Enhancement Section Staff will conduct a review of applications prior to TERC member distribution to ensure that applicants have:

- Filled all appropriate items as outlined
- Adhered to space and page length guidance
- Included all costs and reasonable costs are conveyed

What's New for Round 18?

- The Round 18 application cycle will be a pilot for a two-year cycle; the Round 19 cycle will begin in the year 2012.
- The federal cap for local projects has been raised to \$750,000.
- State projects cannot exceed \$1,000,000 without another source to fund the overage.
- Federal reimbursement is now available for scoping and environmental costs.

Application Limits per Metropolitan Planning Organizations (MPOs) and Councils of Governments (COGs):

Each MPO/COG may submit to ADOT no more than \$12,000,000 total in local application federal aid requests and no more than \$8,000,000 total in state application federal aid requests.

- A. Applications are limited to 20 SINGLE SIDED 8 ½ x 11 pages (including Appendix):**
Submit your application in the order provided below:
(No tabs or dividers, no clear plastic covers, no fold-out pages, no binding – STAPLE ONLY)

REQUIRED PAGES

- Cover Page (Include Sponsor name, Project name, Round.)
- Application form – Fill in every box and answer every question
- Cost estimate pages (counts as one page) – Double check your figures
Cost must provide for scoping, environmental and design
- Local Government Resolution **for local projects only** – MUST BE SIGNED
(not counted as a page)
- If State Project, MUST have the signature and support of the ADOT District Engineer
If State Project, also include local contact as the alternate.
State Projects shall not exceed the federal cap, unless another agency provides an overmatch.
A resolution MUST be included in the application to indicate overmatch responsibility.

- State and Vicinity Maps 8 1/2 x 11 PAPER SIZE ONLY. Designate the project location on each map. Vicinity map must have a north arrow, clearly designate the project location, and contain enough detail to allow for locating the project in the field.
- Letters of Support (require at least one, no more than 5)

OPTIONAL PAGES as an Appendix
Appendix Not to Exceed 8 pages single sided 8 1/2 x 11, and will be included in the 20-page limit

- Site Plan, and/or profile
- Before and After Photos: *RECOMMENDED*
 - No more than 6 color photos with captions, minimum 3" x 5", maximum 4" x 6"
 - No more than 3 pages
- Artistic Renderings (Optional)
- Newspaper Articles (Optional)
- Other information (Optional)

B. Local Government Resolution MUST include all of the following:

- a. Commitment to 5.7% match and any overmatch- if not included, APPLICATION WILL BE ELIMINATED FROM TERC REVIEW
- b. Commitment to funding project scoping document, environmental, right-of-way and utility clearances and design, if applicable
- c. Commitment that the project will be ready for advertisement in 3 YEARS
- d. Commitment to pay for all cost overruns
- e. Commitment to reimburse ADOT/FHWA for all federal funds used, if the project is cancelled by the sponsor.
- f. Commitment to ADOT review fee.
- g. Commitment to JPA maintenance agreement.

C. Research costs thoroughly; Under budgeted projects will be deemed non-constructible

Some resources are: Local government public works departments and materials suppliers; ADOT historical costs (which are available online at www.adotenhancement.com); ADOT project managers and ADOT district engineers can provide guidance.

D. Further Notes and Information

Historic Significance:

- a. State Historic Preservation Office (SHPO) review is recommended prior to submittal of the application to the COG/MPO for the following types of projects:

Projects that involve or are adjacent to historic buildings or structures

Projects that are within or adjacent to historic districts

Cultural resources information is available at:

<http://www.azdot.gov/highways/EPG/cultural.asp>

b. Public Art:

For projects that involve public art, sponsors are encouraged to contact the Arizona Commission on the Arts during the application process.

Statewide Applications:

A statewide project can be implemented in any location in the state. Project applications which propose a statewide project shall be submitted directly to ADOT (not through a MPO/COG) and shall be presented by ADOT staff at the annual TERC ranking meeting.

Federal Real Estate Uniform Act of 1970:

The Federal Real Estate Uniform Act must be followed for all real estate purchases (past or future). (Uniform Act information available at:

<http://www.fhwa.dot.gov/realestate/ua/index.htm>;

Acquiring Real Property for Federal and Federal-aid Programs and Projects:

<http://www.fhwa.dot.gov/realestate/realprop/index.html>)

E. Ensure your project fits the basic criteria:

1. Project is eligible under one or two of the 11 Transportation Enhancement Activities.
2. Proposed project is related to Surface Transportation.
3. Project is over and above normal transportation project.
(Typical mitigation type activities such as landscape restoration and permanent erosion control are a normal part of a transportation projects and are ineligible.)
4. Project must be sponsored by a government entity.
5. The local government entity agrees to provide maintenance for the completed project and to sign the agreement in the form of a Joint Project Agreement (JPA), indicated in the resolution.
6. Project is consistent with sponsoring agency's plans.
7. Project will be scheduled to go to bid within 3 years of State Transportation Board Approval.
8. Project matching funds are available (Minimum 5.7% hard cash).
9. **Sponsoring agency agrees to pay ADOT administrative cost prior for any formal review** (estimated at \$144,000).
10. Project sponsor has the resources available to develop the project (Including local project management) in a timely manner.
11. Completed project will meet applicable Federal, state and local requirements.
The completed project will be open to the public during normal business hours at no charge and meet the accessibility standards of the Americans with Disabilities Act (ADA Accessibility Guidelines for Buildings and Facilities (ADAAG):
<http://www.access-board.gov/adaag/html/adaag.htm>; Accessible Rights-of-Way Design Guide: <http://www.access-board.gov/provac/guide/PROWGuide.htm>;
FHWA Office of Civil Rights FAQ: http://www.fhwa.dot.gov/civilrights/ada_qa.htm)
12. Local project federal funding cap will not exceed \$750,000.
13. State project federal funding cap will not exceed \$943,000.

**TRANSPORTATION ENHANCEMENT APPLICATION
APPLICANT INFORMATION**

1. APPLICANT AND SPONSOR (Must be ADOT if on ADOT right of way) ADOT-Prescott District		1a. MPO / COG NACOG	2. DATE July 16, 2010
3. PROJECT NAME & LIMITS The State Route 260 Sidewalk Project will install a 6' wide sidewalk on State Route (SR) 260 between Fir Street (milepost (MP) 207.2) and Del Rio Drive (MP 209.6) in Cottonwood, AZ.			
4. Contact Person-Name and Title. For State project, provide ADOT District contact information here. Greg Gentsch		4a. Mailing Address 1109 Commerce Drive Prescott, Arizona 86305 Phone: 928.777.5861 Fax: 928.771.0058	
4b. CITY Prescott	4c. ZIP CODE 86305	5. COUNTY Yavapai	6. CONGRESSIONAL DISTRICT 1
4d. PHONE NO:	928.777.5861		
4e. FAX NO:	928.771.0058		
4f. EMAIL: ggentsch@azdot.gov			
7. ALTERNATE Contact-Name and Title. For State project, provide local entity contact information here. Morgan Scott		7b. PHONE NO: 928-634-0186	
7a. Mailing Address: 111 N Main St, Cottonwood, AZ 86326		7c. FAX NO: 928-634-4254	
		7d. EMAIL: msscott@cottonwoodaz.gov	
8. List eligible activity(ies) by number and title:		1) Provision of Facilities for Pedestrians and Bicycles	
9. List requested federal amount: (Must match amount in cost estimate)		\$942,069.00	
10. List total cost of project: (scoping, design and construction including federal funds, and ADOT review fees) (Must match amount in cost estimate)		\$1,004,013	

Please fill in all requested information for Items 1 through 10

CHECK ONE or TWO BOXES THAT APPLY

11. Circle primary activity in which you wish to be evaluated

1.	<input checked="" type="checkbox"/>	PROVISION OF FACILITIES FOR PEDESTRIANS AND BICYCLES. This does not include typical construction elements of a roadway such as; travel lanes, traffic signals, crosswalks, etc.
2.	<input type="checkbox"/>	PROVISION OF SAFETY AND EDUCATIONAL ACTIVITIES FOR PEDESTRIANS AND BICYCLISTS Activities must have a broad and preferably regional target audience
	<input type="checkbox"/>	ACQUISITION OF SCENIC EASEMENTS OR HISTORIC SITES – <i>NOT ELIGIBLE IN ARIZONA</i>
4.	<input type="checkbox"/>	SCENIC OR HISTORIC HIGHWAY PROGRAMS (INCLUDING THE PROVISION OF TOURIST AND WELCOME CENTER FACILITIES) ADOT does have in place a Parkways, Historic, and Scenic Roads Program. This program does have a separate grant program for projects on those routes that have been designated by the State/ADOT. <u>Must be on or within 2 miles of a State designated Scenic or Historic road.</u>
5.	<input type="checkbox"/>	LANDSCAPING AND OTHER SCENIC BEAUTIFICATION This is for primarily plant landscaping activities. You can include site furniture such as benches, trash receptacles, etc. Stand-alone public art is not considered scenic beautification. You can include some art as part of a project but it is not eligible as a separate category under Transportation Enhancements. Maintenance of landscaping does not qualify under this program.
6.	<input type="checkbox"/>	HISTORIC PRESERVATION Any work under this category must have a strong surface transportation link either past, present or future.
7.	<input type="checkbox"/>	REHABILITATION OF HISTORIC TRANSPORTATION BUILDINGS, STRUCTURES, OR FACILITIES (INCLUDING HISTORIC RAILROAD FACILITIES AND BRIDGES)
8.	<input type="checkbox"/>	PRESERVATION OF ABANDONED RAILWAY CORRIDORS (INCLUDING THE CONVERSION AND USE THEREOF FOR PEDESTRIAN OR BICYCLE TRAILS)
9.	<input type="checkbox"/>	CONTROL AND REMOVAL OF OUTDOOR ADVERTISING
10.	<input type="checkbox"/>	ARCHEOLOGICAL PLANNING AND RESEARCH
11.	<input type="checkbox"/>	ENVIRONMENTAL MITIGATION TO ADDRESS WATER POLLUTION DUE TO HIGHWAY RUNOFF OR REDUCE VEHICLE-CAUSED WILDLIFE MORTALITY WHILE MAINTAINING HABITAT CONNECTIVITY
12.	<input type="checkbox"/>	ESTABLISHMENT OF TRANSPORTATION MUSEUMS Please be aware that there are specific requirements for this category. Please contact your MPO, COG representative or ADOT TE Section staff for additional information.

12. PROJECT SPECIFIC DESCRIPTION: LIST ALL KEY ELEMENTS OF THE PROJECT SCOPE. INCLUDE PROJECT CONCEPT, LENGTH, MILEPOSTS, NUMBER OF ACRES, etc. (e.g., construct .5 miles of 10 foot wide asphalt multi-use pathway along north side of X Rd)

Word Count Maximum: 200

Construct 1.8 miles of 6' wide sidewalk from Mile post 207.2 to 209.6 in addition to necessary retaining walls and handrail along the East side of SR 260 in Cottonwood, AZ. The project will cover approximately 2.2 acres.

13. Describe the project. Please answer all questions.

A. Where is the project located?

- Describe actual physical location
- Attach state and vicinity map in appendix
- For State projects, include the route and beginning and ending mileposts

The sidewalk will be installed along the east side of SR 260 between Fir Street (MP 207.2) and Del Rio Drive (209.6) in Cottonwood.

B. Is the project on:

- Planned transportation corridor?
- Corridor under construction?
- Existing transportation corridor?

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
X	<input type="checkbox"/>

Estimated Completion Date:
Scheduled Completion Date:

C. What major construction, design, and right-of-way work does the project entail? Describe any need for major land modification, retaining walls, etc. and include in cost estimate.

The project includes the construction of a 6 foot wide sidewalk along SR 260. The sidewalk will be attached to the existing back of curb in most locations, but will meander away from the curb when topography and existing right-of-way allow. 2,700 feet of the 1.8 miles of sidewalk is along a steep slope that will require a retaining wall and hand rail. There will not be a need for additional right-of-way or major cut slopes. The retaining wall and handicap accessibility will be the major design focuses for this project.

D. Can the project be constructed entirely within the project right-of-way?
Who owns the proposed project ROW?
Are any private landowners involved? If so, list below.
What percent of the project area is on ADOT ROW?

Yes
ADOT
No
100%

E. Are there drainage issues to consider?
 Describe any potential impacts to Waters of the U.S.
 The project does not cross any Waters of the U.S. washes as can be seen in Appendix B. A drainage study will be conducted during the design to prevent local flooding.

F. Are utility relocations necessary? No

G. What is the proposed time frame for completion of the project?
 A project meeting with all stakeholders will be held within 3 months from the date of the award of the grant. Project scoping and design will begin less than 6 months after the first stakeholders meeting. An Environmental clearance will be held within the following 6 months and design will not proceed past 30% until the environmental clearance has been received. A final stakeholder's and public meeting will be held at the 60% design phase and design will be completed 9 months after beginning (18 months after the award of the contract). Construction will begin within 4 months of the design completion and is expected to take 4 months to complete. Placing the grand opening of the new sidewalk 26 months after the grant award date.

H. Will the project be ADA accessible? Yes
 Yes, and the project will enhance the ADA accessibility of the current ADOT corridor.

14. How will the project be maintained? Prior to project construction, all projects will require a signed Joint Project Agreement (JPA) with the government sponsoring entity. If the project is a State project, the local government sponsor/applicant will be responsible for long term maintenance. If agreement is not signed the project will be terminated. The following information is required for completing the JPA. Please answer all questions listed by describing how the project will be maintained and repaired after completion.

A. Organization(s) responsible for on-going maintenance and repairs of the TE project.
 The City of Cottonwood Public Works Department will be responsible for maintenance of the elements of the enhancement grant. Under a 1991 IGA with ADOT, the City has maintained 11 miles of public sidewalks in the rights-of-way of SR 89A and SR 260 and the city will participate in a Joint Project Agreement with ADOT to maintain this new sidewalk.

B. Proposed on-going maintenance and repair program
 The project will be fit into the existing program for maintaining streetscapes in the city.

C. Source of funds for on-going maintenance and repairs

The funding for the maintenance of the enhancements is from local General Fund revenues and HURF.

15. If you are a local government, do you anticipate requesting self bid and administration based on the FHWA guidelines? (See TE Handbook, revised 2008, for clarification - available at www.adotenhancement.com)

YES NO

16. Does the proposed project involve or is it adjacent to a historic property or historic district?

YES NO

A. If yes, has the SHPO been allowed to review, comment and provide direction on the proposed project?"

YES NO

If so, please identify the specific designation(s) and limits and briefly describe why the proposed project qualifies. If this is a rail corridor project is the corridor "rail banked" or is the abandonment authorized by or proceeding before the Interstate Rail Commission?

Word Count Maximum: 100

17. Describe how the community was or will be involved in this project. Please include the following: Community involvement in the planning, scoping process, design process, or implementation. Is the project listed in any planning documents that had extensive public participation?

Word Count Maximum: 200

The evaluation will be conducted by the stakeholder's team made up of City and County staff, Health Department Staff, local politicians, The Verde Valley Cyclists Coalition and will always be open to concerned citizens. There will also be advertised public meetings run by the design consultant during stages of the design.

The Cottonwood General Plan, overwhelmingly approved by the voters in 2005, and the Cottonwood Area Transportation Plan support multimodal transportation including provisions for bicycles and pedestrians.

18. Describe why the project is an enhancement and how it relates to the transportation infrastructure of the community, region and/or state. Describe how this project will benefit the community and improve existing conditions. Why should this project be funded? (Answer all three parts in detail).

Word Count Maximum: 250

In addition to the 10,000+ residents in the Verde Villages the new sidewalk will also open pedestrian access to the more than 250 senior citizens living in the Verde Valley Manor Retirement Center. Currently the residents cross the four lane highway to access the sidewalk on the west side of SR 260. A sidewalk on the east side of the highway will allow senior citizens, children and all residents to remain on the east side of the highway until they reach a signalized cross walk at either Rodeo Drive or Fir Street. Providing access along the east side of SR 260 for pedestrians will not only make the pedestrian movement safer but safer for vehicles as well as pedestrians will no longer be crossing at any location other than a signalized cross walk.

19. Approval of Authorized Official (Sponsor)

This project has the concurrence of the sponsoring agency, is consistent with the agency's plans and meets all of the basic criteria listed above, which are required by the state of Arizona's Transportation Enhancement Program. **State applications MUST be signed by the appropriate ADOT District Engineer.**

Sponsor Representative (Type in name and title)	
Signature of Rep	
Date Signed	

20. Local applications MUST have Endorsement of Metropolitan Planning Organization - Council of Governments, unless a statewide application.

This project has been reviewed and endorsed by:

MPO or COG	
Name and Title	
Signature	
Date Signed	

21. Cost Estimate review – include for State and Local projects.

The project cost estimate included in this application has been reviewed by:

Organization	ASK TROY
Name and Title	
Signature	
Date Signed	

**ARIZONA TRANSPORTATION ENHANCEMENT PROGRAM
ROUND 18 (2010) COST ESTIMATE**

IMPORTANT CONSIDERATIONS

- List all items necessary to develop and construct or implement your project.
- The applicant is responsible for verifying all costs and their accuracy.
- Unit prices must be a reasonable representation of the work to be performed.
- The use of federal funds for project Scoping and Design is optional.
- All federal funds must have FHWA authorization prior to incurring any costs to be reimbursed.
- Funds paid for reimbursement of costs incurred shall be returned if project is not constructed.

LOCAL PROJECTS: The amount of federal funds requested for project scoping and design should not exceed 30% of the total amount of federal aid requested. Cost overruns will be the responsibility of the Local sponsoring agency.

STATE PROJECTS: To be eligible for State designation, the project must be on, adjacent to, or associated with the State Highway System, must be located on a minimum of 75% of ADOT right-of-way, and must have the signature and support of the appropriate ADOT District Engineer. State Projects shall not exceed \$1,000,000 in total project cost (including the State match) unless another source for the additional funding is available to cover the overage. The source of this additional funding shall be identified in the application submitted for the State project.

NON-INFRASTRUCTURE PROJECTS (No ground disturbing activities): Address only parts A.2 (Workplan), C.4 (Itemized Costs), D (ADOT Review Fee), E (Total Project Cost), and F (Funding Breakdown). ADOT will issue the environmental clearance memo base on the final project description defined in the sponsor's detailed Workplan.

Enter values into GREEN CELLS.

The program will automatically calculate the Totals and Federal Share at 94.3%, but manual overriding entries may be necessary where noted.

ITEM DESCRIPTION	UNIT	QUAN.	UNIT PRICE	TOTAL	FEDERAL TE FUNDS @ 94.3%	SPONSOR MATCHING FUNDS @ 5.7%
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A. SCOPING - Stage 1 (15% Conceptual Design)

All projects must include these costs regardless if the application is for a State or Local project.
(Non-infrastructure projects: Only #2 applies).

1. SITE TOPOGRAPHIC SURVEY (2%-5% of constr. cost) <i>(Enter \$0 in Unit Price column if none required)</i>	LS	1	\$20,000.00	\$20,000.00	\$18,860.00	\$1,140.00
2. PROJECT ASSESSMENT REPORT (Infrastructure projects) or DETAILED WORKPLAN INCLUDING SCHEDULE AND COSTS (non-infrastructure projects) (About 5% of construction or implementation cost)	LS	1	\$15,000.00	\$15,000.00	\$14,145.00	\$855.00
3. ENVIRONMENTAL DETERMINATION for infrastructure projects, including technical supporting documents. (Anticipate \$20,000 to \$40,000)	LS	1	\$40,000.00	\$40,000.00	\$37,720.00	\$2,280.00
4. HAZARDOUS MATERIALS ASSESSMENT including heavy metals & asbestos <i>(If an assessment is necessary, about \$1,500. Enter \$0 in Unit Price column if none required)</i>	LS	1	\$0.00	\$0.00	\$0.00	\$0.00

SUBTOTAL – PROJECT SCOPING COSTS

Federal funds for scoping are calculated at 94.3% of the total scoping cost. If requesting less than 94.3% federal funds, enter new total or 0 in the Federal column.

\$ 75,000	\$70,725	\$4,275
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B. DESIGN - Stages II, III, IV (30%, 60%, 95%-100% Preliminary Design) (Pre-engineering)

Not applicable to non-infrastructure projects. All infrastructure projects must include these costs regardless if the application is for a State or Local project. If federal funds are used for design, the project shall not advance beyond Stage II (30%) until it has received environmental clearance.

1. PS&E's - Plans, Special Provisions, Cost Estimates & Schedules. Anticipate 18%-20% of constr. costs.	LS	1	\$80,000.00	\$80,000.00	\$75,440.00	\$4,560.00
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ITEM DESCRIPTION	UNIT	QUAN.	UNIT PRICE	TOTAL	FEDERAL TE FUNDS @ 94.3%	SPONSOR MATCHING FUNDS @ 5.7%
2. GEOTECHNICAL INVESTIGATION (If a report is necessary, about 5% of construction cost) includes testing, Geotech Report, Materials & Pavement Design Report) Enter \$0 in Unit Price column if none required.	LS	1	\$20,000.00	\$20,000.00	\$18,860.00	\$1,140.00
3. DRAINAGE REPORT (If a report is necessary, about 5% of construction cost) Enter \$0 in Unit Price column if none required)	LS	1	\$10,000.00	\$10,000.00	\$9,430.00	\$570.00
4. STORM WATER POLLUTION PREVENTION PLAN (Required if there is over 1 acre of total disturbance, about 1% of construction cost) Enter \$0 in Unit Price column if none required.	LS	1	\$1,500.00	\$1,500.00	\$1,414.50	\$85.50
SUBTOTAL - PROJECT DESIGN COSTS						
Federal Funds for design are calculated at 94.3% of the total design cost. If requesting less than 94.3% Federal Funds for design, enter new total or 0 in the Federal column.				\$ 111,500	\$105,145	\$6,356
C. CONSTRUCTION OR IMPLEMENTATION - Stage V						
For non-infrastructure projects (no ground disturbing activities), address only parts 4, D and F.						
1. SITE ACQUISITION & HARDSCAPE CONSTRUCTION						
RIGHT-OF-WAY ACQUISITION (if necessary)	LS	1	\$0.00	\$0.00	\$0.00	\$0.00
INSTALLATION OF STORMWATER POLLUTION PREVENTION MEASURES (If over 1 acre of disturbance, about 5% of constr. costs) Enter \$0 in Unit Price column if area of disturbance is less than one acre.	LS	1	\$5,000.00	\$5,000.00	\$4,715.00	\$285.00
SITE PREPARATION (Clearing and grubbing, plant salvage)	LS	1	\$11,000.00	\$11,000.00	\$10,373.00	\$627.00
DEMOLITION						
Sawcut	LF	200	\$2.15	\$430.00	\$405.49	\$24.51
Remove Structures and Obstructions	LS	1	\$5,000.00	\$5,000.00	\$4,715.00	\$285.00
Remove Fencing	LF	0		\$0.00	\$0.00	\$0.00
Remove Structural Concrete		0		\$0.00	\$0.00	\$0.00
Remove Asphaltic Concrete Pavement	CY	0		\$0.00	\$0.00	\$0.00
Remove Concrete Sidewalks, Slabs		0		\$0.00	\$0.00	\$0.00
HAZARDOUS MATERIALS ABATEMENT (If applicable; include heavy metals & asbestos; about 5% of construction cost) Enter \$0 in Unit Price column if none required.	LS	1	\$0.00	\$0.00	\$0.00	\$0.00
UTILITY RELOCATION. Only the cost of utilities needing relocation as a direct result of the enhancement project are eligible for federal reimbursement. Because of the costs involved, the undergrounding of overhead utilities is not eligible. Enter \$0 in Unit Price column if none required.	LS	1	\$0.00	\$0.00	\$0.00	\$0.00
RETAINING WALL (Concrete; SF of face above the footing)	SF	70,600	\$25.00	\$265,000.00	\$249,895.00	\$15,105.00
EARTHWORK						
General Excavation				\$0.00	\$0.00	\$0.00
Drainage Excavation				\$0.00	\$0.00	\$0.00
Structural Excavation	CY			\$0.00	\$0.00	\$0.00
Structural Backfill		2,000	\$5.00	\$10,000.00	\$9,430.00	\$570.00
Borrow (In Place)				\$0.00	\$0.00	\$0.00
CURB & GUTTER	LF	200	\$15.00	\$3,000.00	\$2,829.00	\$171.00
AGGREGATE BASE	CY	19,380	\$1.35	\$26,163.00	\$24,671.71	\$1,491.29
PATHWAY OR SIDEWALK MATERIALS						
Concrete		58,200	\$4.36	\$253,170.00	\$238,739.31	\$14,430.69
Colored Concrete	SF			\$0.00	\$0.00	\$0.00
Stamped Color Concrete				\$0.00	\$0.00	\$0.00

ITEM DESCRIPTION	UNIT	QUAN.	UNIT PRICE	TOTAL	FEDERAL TE FUNDS @ 94.3%	SPONSOR MATCHING FUNDS @ 5.7%
Precast Concrete Pavers				\$0.00	\$0.00	\$0.00
Asphaltic Concrete	Ton			\$0.00	\$0.00	\$0.00
Polymer or Resin Stabilized Surface	SF			\$0.00	\$0.00	\$0.00
CROSSWALK ENHANCEMENT						
Concrete Pavers				\$0.00	\$0.00	\$0.00
Stamped Asphalt				\$0.00	\$0.00	\$0.00
Stamped Concrete	SF			\$0.00	\$0.00	\$0.00
Concrete				\$0.00	\$0.00	\$0.00
Integral Color Concrete				\$0.00	\$0.00	\$0.00
PEDESTRIAN ADA RAMP	SF			\$0.00	\$0.00	\$0.00
CULVERT EXTENSIONS	LF			\$0.00	\$0.00	\$0.00
PEDESTRIAN LIGHTING (Includes conduit and trenching) Street lighting is not eligible for federal reimbursement.	Each			\$0.00	\$0.00	\$0.00
HANDRAIL						
Standard	LF	2,750	\$17.00	\$46,750.00	\$44,085.25	\$2,664.75
Decorative				\$0.00	\$0.00	\$0.00
SUBTOTAL - SITE ACQUISITION & HARDSCAPE CONSTRUCTION				\$ 625,513	\$589,859	\$35,654
2. LANDSCAPING & IRRIGATION ITEMS						
TREES (Above 15 gallon in size as required per Local code or special design requirements)	Each			\$0.00	\$0.00	\$0.00
TREES (15 GALLON SIZE)	Each			\$0.00	\$0.00	\$0.00
TREES (5 GALLON SIZE)	Each			\$0.00	\$0.00	\$0.00
SHRUBS (5 GALLON SIZE)	Each			\$0.00	\$0.00	\$0.00
SHRUBS (1 GALLON SIZE)	Each			\$0.00	\$0.00	\$0.00
CACTUS (5 GALLON SIZE)	Each			\$0.00	\$0.00	\$0.00
MULCH						
Decomposed Granite	CY			\$0.00	\$0.00	\$0.00
Organic				\$0.00	\$0.00	\$0.00
TOPSOIL	CY			\$0.00	\$0.00	\$0.00
SEEDING	Acre			\$0.00	\$0.00	\$0.00
TURF SOD	SY			\$0.00	\$0.00	\$0.00
BOULDERS	Each			\$0.00	\$0.00	\$0.00
IRRIGATION SYSTEM						
Drip	SF			\$0.00	\$0.00	\$0.00
Turf				\$0.00	\$0.00	\$0.00
SLEEVING FOR IRRIGATION SYSTEM						
Directional Bore	LF			\$0.00	\$0.00	\$0.00
Cut and Patch				\$0.00	\$0.00	\$0.00
LANDSCAPE HEADER CURB	LF			\$0.00	\$0.00	\$0.00
LANDSCAPE ESTABLISHMENT (Typically about 4.5% of the cost of landscaping)	LS			\$0.00	\$0.00	\$0.00
SUBTOTAL - LANDSCAPING & IRRIGATION ITEMS				\$ -	\$0	\$0
3. SITE FURNISHINGS						
BENCHES	Each			\$0.00	\$0.00	\$0.00
SEATWALLS	LF			\$0.00	\$0.00	\$0.00
BIKE RACKS	Each			\$0.00	\$0.00	\$0.00
TRASH RECEPTACLES	Each			\$0.00	\$0.00	\$0.00
DRINKING FOUNTAINS	Each			\$0.00	\$0.00	\$0.00
SIGNAGE (Standard Traffic Control)	Each			\$0.00	\$0.00	\$0.00
TREE GRATES	Each			\$0.00	\$0.00	\$0.00
SUBTOTAL - SITE FURNISHINGS				\$ -	\$0	\$0
4. OTHER CONSTRUCTION ITEMS ALSO, ITEMIZED LINE ITEMS FOR NON-INFRASTRUCTURE PROJECTS. (Insert additional rows if necessary)						
				\$0.00	\$0.00	\$0.00

ITEM DESCRIPTION	UNIT	QUAN.	UNIT PRICE	TOTAL	FEDERAL TE FUNDS @ 94.3%	SPONSOR MATCHING FUNDS @ 5.7%
				\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00
SUBTOTAL - OTHER CONSTRUCTION LINE ITEMS				\$ -	\$0	\$0
5. MOBILIZATION AND ADMINISTRATION COSTS						
CONTRACTOR MOBILIZATION (Typically about 8% of construction cost)	LS	1	\$8,000.00	\$8,000.00	\$7,544.00	\$456.00
TRAFFIC CONTROL (0-8% of construction cost)	LS	1	\$5,000.00	\$5,000.00	\$4,715.00	\$285.00
CONSTRUCTION SURVEY & LAYOUT (Typically about 1% of constr. cost)	LS	1	\$8,000.00	\$8,000.00	\$7,544.00	\$456.00
CONSTRUCTION CONTINGENCIES (Typically about 5% of constr. cost)	LS	1	\$22,000.00	\$22,000.00	\$20,746.00	\$1,254.00
CONSTRUCTION ADMINISTRATION (Averaging 18% of construction cost)	LS	1	\$144,000.00	\$144,000.00	\$135,792.00	\$8,208.00
SUBTOTAL - MOBILIZATION & ADMINISTRATION COSTS				\$ 187,000	\$176,341.00	\$10,659.00
TOTAL CONSTRUCTION OR IMPLEMENTATION COST (STAGE V) (Enter this amount in Box A below.)				\$ 812,513	\$766,199.76	\$46,313.24
D. ADOT REVIEW FEE (Not applicable to State projects. Cannot be applied to the federal participation or the Local match. On Local Certification Acceptance or Self-administration projects, manually change the amount in the green cell to \$3,000. Change the amount to \$0 for State projects.)						
	LS	1	\$5,000.00	\$5,000.00	NO ENTRY	
E. TOTAL PROJECT COST (All subtotals + ADOT local projects review fee)				\$ 1,004,013	NO ENTRY	
F. SUMMARY OF FEDERAL AND NON-FEDERAL FUNDS Caution: Follow the instructions in the notes provided.						
TOTAL CONSTRUCTION OR IMPLEMENTATION COST (STAGE V) FROM THE ESTIMATE ABOVE. ALSO ADD IN THE TOTAL COST FOR SCOPING AND DESIGN (STAGES I THRU IV) IF REQUESTING FEDERAL FUNDS FOR REIMBURSEMENT OF THOSE COSTS.					BOX A	\$ 999,013
TOTAL FEDERAL FUNDS CAPPED@ 94.3% (.943 x amount shown in Box A above). Note: For Local projects, the maximum amount that can be requested is \$750,000 (\$943,000 for State projects) If the amount automatically calculated by this program exceeds the maximum amount allowed for a State or Local project, manually input the maximum allowed amount of federal funds					BOX B	\$ 942,069
TOTAL SPONSOR MATCHING FUNDS(.057 x cost shown in Box A above). Note: The maximum amount that should be shown on this line is \$45,334 for Local projects (\$57,000 for State projects). If the amount automatically calculated by this program exceeds the appropriate amount for a State or Local project, manually input the appropriate amount					BOX C	\$ 56,944
TOTAL ADDITIONAL FUNDS (OVERMATCH) Note: Enter the amount in Box A in excess, if any, of \$795,334 for Local projects or \$1,000,000 for State projects					BOX D	\$ 0
TOTAL NON-FEDERAL FUNDS (Note: This is the sum of Box C and Box D)					BOX E	\$ 56,944

**APPENDIX A:
SUPPORTING DOCUMENTS**

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: August 3rd, 2010

Subject: ADOT Transportation Enhancement Grant Application

Department: Engineering

From: Morgan Scott

REQUESTED ACTION

By resolution, authorize the mayor, or vice mayor in the mayor's absence, to sign the grant application for a transportation enhancement grant and enact a resolution to meet the requirements of the grant.

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

I move to approve resolution number 2528 committing the city to the requirements below and direct city staff to apply for the 2010 Transportation Enhancement Grant sponsored by ADOT and FHWA.

BACKGROUND

Annually, local agencies have been allowed to apply for transportation enhancement grants from ADOT. The grants are competitive in nature and funded by the Federal Highway Department and distributed through ADOT. The maximum amount of the grant is \$1,000,000. We have previously received three of these grants to complete the streetscape work on Main Street in Old Town. The last two years we have applied for an enhancement grant to construct sidewalk along the Clarkdale-Cottonwood portion of SR 89A but were not selected. The Clarkdale portion of SR 89A was selected and ADOT will be adding additional funds to support a continuous sidewalk on both sides along the entire newly constructed portion of SR 89A from Blackhills to Clarkdale Parkway.

This year we wish to apply for a grant to construct sidewalk on SR 260 between Fir Street and Del Rio Drive. The project would construct a 6' wide sidewalk along the East side of SR 260 along with necessary retaining walls and hand rail. This sidewalk will connect the existing city sidewalk system which currently ends at Fir Street to the Verde Villages and thereby attaching the city's sidewalk system to the more than 10,000 residents in the Verde Villages (Census, 2000)¹.

JUSTIFICATION/BENEFIT/ISSUES

The proposed sidewalk would connect the many residents of the Verde Manor and the Verde Villages to the existing sidewalk system within the City of Cottonwood. The proposed corridor would allow for multi-modal transportation from a highly populated residential area into the main commercial and

¹ <http://censtats.census.gov/data/AZ/1600416485.pdf>

business districts of town. In addition the sidewalk will add to the beautification of SR 260 as travelers enter into Cottonwood.

As with all other sidewalks in ADOT right-of-way the City will be required to maintain this sidewalk.

The resolution will commit the City to the following:

- a. Commitment to 5.7% of total grant amount (\$1,000,000) match and any overmatch (anticipated to be \$57,000)
- b. Commitment that the project will be ready for advertisement in 3 YEARS
- c. Commitment to pay for all cost overruns
- d. Commitment to reimburse ADOT/FHWA for all federal funds used, if the project is cancelled by the sponsor.
- e. Commitment to ADOT review fee. (Currently \$5,000)
- f. Commitment to JPA (Joint Project Agreement) maintenance agreement.

COST/FUNDING SOURCE

HURF fund

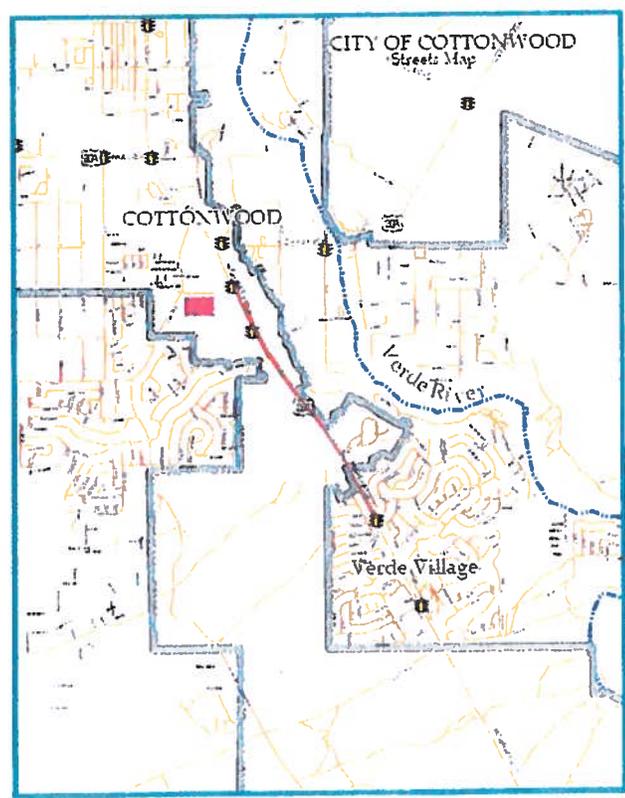
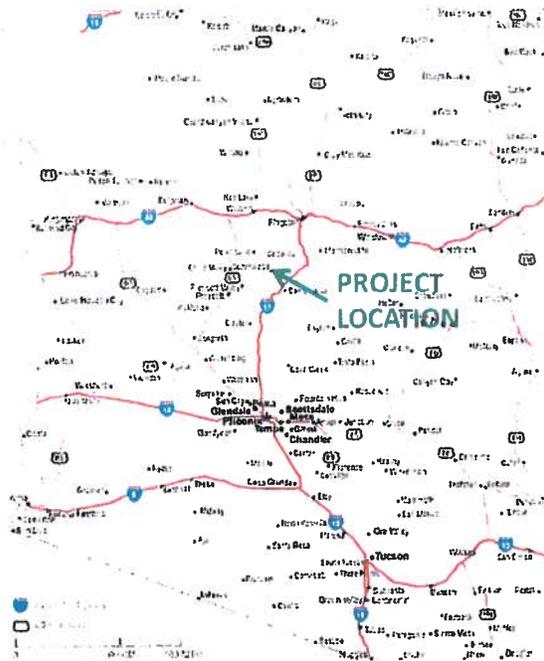
REVIEWED BY

City Manager: _____

City Attorney: _____

ATTACHMENTS

-Grant application



State Route 260 Sidewalk Project
 Scale 1:70,000

- Legend**
-  Proposed Sidewalk
 -  Cottonwood City Boundary



Board of Supervisors District 3



A.G. "CHIP" DAVIS
Supervisor, District 3

10 S. Sixth Street
Cottonwood, AZ 86326
(928) 639-8110

July 13, 2010

Morgan Scott
City of Cottonwood
Public Works Department
1490 W. Mingus Ave.
Cottonwood, AZ 86326

Re: ADOT Transportation Enhancement Grant for a Multi-use Path

Dear Mr. Scott:

Thank you for sharing information that the City of Cottonwood is applying for an ADOT Transportation Enhancement Grant to install a multi-use path along State Route 260 in Cottonwood. It is our understanding that the path would extend from the intersection of SR89A and SR260 to the intersection of Western Drive and SR260. Yavapai County District 3 Supervisor and staff support this project one hundred percent.

The anticipated project covers a portion of the county's jurisdiction whose residents will benefit considerably from a multi-use path. This area is populated with families that I am sure would appreciate and use this multi-use path as a safe way to travel.

Yavapai County supports making transportation routes safer for all. Recently, keeping our children in mind, our District 3 roads crew widened shoulders by 2 to 3 feet and added crosswalks at Warriors Run and Del Rio off SR260 near Tavasci Elementary School. These improvements are just in time for a new school year and will allow the students a much safer route to and from school.

We strongly support the City of Cottonwood's efforts to obtain this Transportation Enhancement Grant to help make all residents safer in their day-to-day travels.

Best regards,

A handwritten signature in black ink, appearing to be "A.G. Davis", with a long horizontal flourish extending to the right.

A.G. "Chip" Davis
District 3 Supervisor

APPENDIX B:
FIRM MAP



NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP
 YAVAPAI COUNTY,
 ARIZONA AND
 INCORPORATED AREAS

PANEL 1805 OF 3925
 (SEE MAP INDEX FOR PANELS NOT PRINTED)

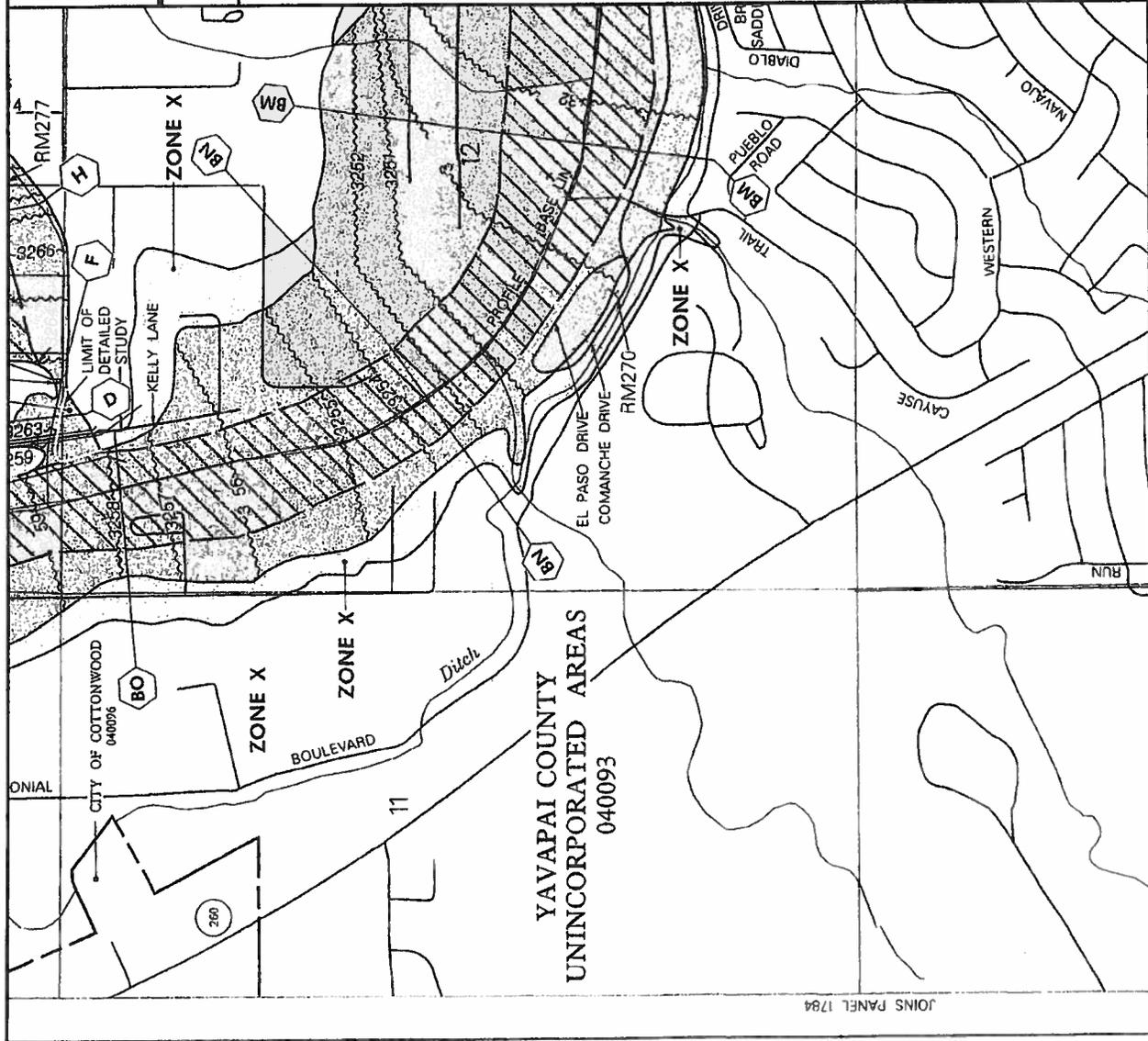
CONTAINS	COMMUNITY	NUMBER	PANEL	SUFFIX
CITY OF COTTONWOOD	UNINCORPORATED AREAS	040093	1805	F
		040093	1806	F

MAP NUMBER
 04025C1805 F

EFFECTIVE DATE:
 JUNE 6, 2001

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.fema.gov



RESOLUTION NUMBER 2528

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, APPROVING THE SUBMITTAL OF AN APPLICATION TO THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR ARIZONA TRANSPORTATION ENHANCEMENT PROGRAM ROUND 18 GRANT FUNDING TO CONSTRUCT A SIDEWALK ALONG THE EAST SIDE OF STATE ROUTE 260 BETWEEN FIR STREET AND DEL RIO DRIVE.

WHEREAS, the City of Cottonwood intends to submit a Transportation Enhancement Grant application for landscaping and other scenic beautification for the State Route 89A intersection with Blackhills Drive and Verde Heights Drive in Cottonwood; and

WHEREAS, the Arizona Department of Transportation offers grant funding through the Transportation Enhancement Act to enable the development of such projects.

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

THAT staff is authorized to submit an application to the Arizona Department of Transportation, Arizona Transportation Enhancement Program Round 18 grant funding to construct a sidewalk along the east side of State Route 260 between Fir Street and Del Rio Drive.

THAT the city commits to a 5.7 percent match and any overmatch.

THAT the project will be ready for advertisement in 3 years.

THAT the city commits to all cost overruns.

THAT the city commits to reimburse ADOT/FHWA for all federal funds used, if the project is cancelled.

THAT the city commits to the ADOT review fee.

RESOLUTION NUMBER 2528

Page 2

THAT the city commits to the JPA maintenance agreement.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 3RD DAY OF AUGUST 2010.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

Steven B. Horton, Esq.
City Attorney

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: August 03, 2010

Subject: Presentation/Demonstration of Crime Reports

Department: Police

From: Chief Jody Fanning

REQUESTED ACTION N/A

ACTION N/A

BACKGROUND

For many years the Cottonwood Police Department has been looking for a crime mapping program that would meet the needs of the department. This program would have to meet criteria such as functionality, cost effectiveness, ease of use, and analytic capabilities. A crime mapping program allows us to map, visualize, and analyze potential crime incident patterns. With mapping information we are better equipped to make decisions, target resources, and formulate strategies. We can also measure effectiveness of crime reduction programs.

Cottonwood Police Department was introduced to CrimeReports through training offered by the Rural Law Enforcement Technology Institute. CrimeReports meets the needs of the department and goes a step further by allowing the public to access this information on-line. Anyone can access the data from any computer with an internet connection. CrimeReports standardizes crime reporting through 15 crime types based on Universal Crime Reporting (UCR) definitions. Addresses are limited to the block level to protect victim and suspect identity.

The maps allow the department and citizens to be informed as to what is occurring within our community. It also provides simple analytics that give us a snapshot of crime in our community. CrimeReports has the additional feature of sending email alerts that let people know when a crime has occurred near their home or place of work.

CrimeReports is a tremendous tool to get the public involved and keep them informed of what is going on in their neighborhood. Crime-Free Multi Housing participants and Neighborhood Watch organizations can research information which may be of concern to them. Officers can utilize this information to update themselves on what has occurred during their time off. They can check the site for crime trends or possible follow-up to ongoing cases.

CrimeReports is a comprehensive crime-mapping network that effectively meets our needs and that of the community. It can be accessed simply by going to www.crimereports.com, clicking on the map of Arizona, and then clicking on Cottonwood in the drop-down list.

JUSTIFICATION/BENEFIT/ISSUES

As listed above.

COST/FUNDING SOURCE N/A

REVIEWED BY

City Manager: ARB

City Attorney: VS

ATTACHMENTS N/A

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: August 3, 2010

Subject: **Declaration of Leasehold Condominium and Consent of Assignment of Tenant Rights from Backus Family Investments, LLC, to High Five Hangars Owners Association, Inc.**

Department: Legal; Community Development; Administration

From: Steve Horton, City Attorney

REQUESTED ACTION

Council consideration of a proposed Declaration of Leasehold Condominium for Lot 135 of Cottonwood Airpark Tract One, Parts B and C, and a revised Consent of Assignment of Leasehold Rights in the "Common Areas" of the 5-Unit Condominium Development known as High Five Hangars Condominiums, from Backus Family Investments, LLC to the High Five Hangars Owners Association.

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

"I move to approve the proposed Declaration of Leasehold Condominium for Lot 135 of Cottonwood Airpark Tract One, Parts B and C, and the revised Consent of Assignment of Leasehold Rights as to the "Common Areas" of the High Five Hangars Condominium Development from Backus Family Investments, LLC, to High Five Hangars Owners Association, Inc."

BACKGROUND

Both the Council and the Planning and Zoning Commission have previously approved the plat to allow for the conversion of a 5-unit airplane hangar development located on Lot 135 of Cottonwood Airpark Tract One, Parts B and C into a condominium-style project. Under this arrangement, the current Lessee, Backus Family Investments ("BFI"), will transfer its leasehold rights to the common areas of the development (which is everything but the interior space of the individual units) to a newly formed entity known as the High Five Condominium Association, which will have a Board of Directors that will manage the development; and will

sell its remaining rights in the individual condominium units to subsequent purchasers, who will then become members of the Association.

Arizona law provides for the creation of condominium-style developments when the underlying land is leased rather than owned. See, Arizona Horizontal Property Regimes Act, A.R.S. Section 33-1201 et seq. In order to make this arrangement work in this case, in addition to recording the plat that the Planning and Zoning Commission and Council have previously approved, the City, as Owner and Lessor of the property on which the development sits, must approve the Declaration of Leasehold Condominium, and must also consent to the assignment of BFI's leasehold rights in the designated common areas of the development to the Association.

In accordance with the Council's previous direction, the documents have been drafted so as to require Council approval of all transfers of individual condominium units, both from BFI to the initial purchasers, and from those purchasers to subsequent purchasers throughout the Term of the Lease.

JUSTIFICATION/BENEFIT/ISSUES

Both the Council and the Planning and Zoning Commission have previously expressed their approval and support for the conversion of this development to a condominium form of ownership, and these documents will allow the Lessee to effect that conversion and sell the individual hangar units, subject to the City's rights as Owner and Lessor of the real property on which the development sits.

COST/FUNDING SOURCE

N/A

REVIEWED BY

City Manager: 

City Attorney: 

ATTACHMENTS

Proposed Declaration of Leasehold Condominium
Proposed Consent of Assignment

WHEN RECORDED RETURN TO:

Craig Backus
P.O. Box 789
Cottonwood, AZ 86326

DECLARATION OF LEASE HOLD CONDOMINIUM

HIGH FIVE HANGARS OWNERS ASSOCIATION, INC.

INFORMATION REQUIRED BY A.R.S. § 33-1216(A)

1. The recording data for the lease is stated in Section 1.1, below.
2. The date on which the lease is scheduled to expire is December 31, 2083.
3. A legal description of the real estate subject to the lease is provided on Exhibit A, attached hereto.
4. Unit owners are acquiring rights in the Lease and do not have the right to acquire title to their units free of the lease.
5. Unit owners do not have the right to remove any improvements from the property after the expiration or termination of the lease.
6. Unit owners may renew their leases under the following terms and conditions: as stipulated in the original ground lease recorded January 4th, 1984, Book 1597, Pages 576-581.

THIS DECLARATION is made and executed by Backus Family Investments LLC, an Arizona Limited liability Company (“Declarant”), pursuant to the provisions of the Arizona Horizontal Property Regimes Act, A.R.S. § 33-1201, *et seq.*, hereinafter referred to as the “Act.”

1. **RECITALS**

1.1 Declarant is the current lessee of the real property and improvements (“property”) located in Cottonwood, Arizona, hereinafter more particularly described. The following documents related to the Lease have been recorded:

- a. A copy of the Lease is recorded in Book 4356 Page 473, Yavapai County Recorder’s Office.
- b. A memorandum of the Ground Lease dated May 23, 1983, was recorded January 4, 1984 in Book 1597, pages 576-581 and thereafter corrected by an

instrument recorded July 1, 1985 in Book 1734, pages 11-15 of the records of the Yavapai County Recorder (the "Memorandum of Ground Lease").

c. The Ground Lease Agreement was amended by the First Amendment dated November 30, 1983; the Second Amendment dated March 12, 1985; the Fourth Amendment dated February 7, 1989; and the Fifth Amendment dated January 1, 1993; the Sixth Amendment dated July 5, 1994; the Seventh Amendment dated September 16, 1997; the Eighth Amendment recorded December 22, 1998, in Book 3626, Page 140; the Ninth Amendment recorded October 1, 2001, in Book 3867, Page 214; the Tenth Amendment recorded March 17, 2003, in Book 4011, Page 367; the Eleventh Amendment recorded July 20, 2005, in Book 4288, Page 640; the Twelfth Amendment recorded July 20, 2005, in Book 4288, Page 644; the Thirteenth Amendment recorded July 20, 2005, in Book 4288, Page 649; the Fourteenth Amendment recorded January 20, 2006, in Book 4356, Page 475; the Fifteenth Amendment recorded August 21, 2006, in Book 4427, Page 538; the Sixteenth Amendment which was recorded on February 27, 2009, in Book B-4651, Page 879.

d. Thereafter by Assignment, recorded January 20, 2006, in Book 4356, Page 473 of Official Records, CALC assigned an interest as tenant under the Ground Lease of approximately 8.91 acres located south of Lot # 122 of the Replat of Cottonwood Airpark Tract One Parts A & B described on the Results of Survey performed by SEC dated June 16, 2005, together with all rights, privileges, easements, appurtenances and improvements thereon to Backus Family Investments, L.L.C. an Arizona Limited Liability Company.

e. The City of Cottonwood and Backus Family Family Investments thereafter subdivided the above mentioned parcel of land which is now legally described as Cottonwood Airpark Tract One-Parts B & C, recorded in the office of the Yavapai County Recorder in Book 59, Page 57, dated March 13, 2007.

1.2 Declarant, by recording of this Declaration, submits the Lease to the provisions of the Act.

1.3 The covenants, conditions and restrictions contained in this Declaration and in the Exhibits hereto shall be enforceable equitable servitudes and shall run with the land for so long as the Lease remains in effect.

1.4 The property shall be known as the High Five Hangars condominium. The name of the condominium association shall be "High Five Hangars Owners Association, Inc." The address of the property is: 668 South Airpark Road, Cottonwood, Arizona, 86326. The Property is identified on Exhibit A, attached hereto and lies entirely within the County of Yavapai and within the municipal limits of the City of Cottonwood.

1.5 Attached hereto as Exhibit A and by this reference made a part hereof is a condominium plat of the High Five Hangars Owners Association, Inc., depicting:

- a. The location and dimensions of the submitted land;
- b. The location and dimensions of the structures which contain all of the units;
- c. The approximate boundaries of each unit including each units identifying number;
- d. Unit owners have no right to acquire title to the property free of the Lease,
- e. Unit owners may not remove any attached improvements from the property after the termination of the lease.
- f. Unit owners may renew their leases under the following terms and conditions: as stipulated in the original ground lease recorded January 4th, 1984, Book 1597, Pages 576-581.

2. DEFINITIONS

The terms used herein shall have the same meaning as set forth in the Act and as follows, unless the context otherwise requires:

- a. "Association of Unit Owners" – All of the unit owners acting as a group in accordance with the Bylaws and Declaration to govern the affairs of the High Five Hangars.
- b. "Building" – A structure containing one or more units that has been or shall hereafter be constructed on the land.
- c. "Common Areas and Facilities" – All parts of the property other than the units, including, without limitation, the limited common areas and facilities and the following:
 - i. The land identified as Common Areas on the condominium plat attached hereto as Exhibit A;
 - ii. Taxi lanes identified as Common Area on the condominium plat;
 - iii. Any foundations, columns, girders, beams, supports, main walls, interior load bearing walls, and pillars which are utilized for or serve more than one unit;
 - iv. Central and appurtenant installations for power, light, and all pipes, fire suppression systems, wires, conduits, ducts, vents, and other service and utility lines which are utilized for or serve more than one unit;

- v. The tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;
- vi. Sidewalk areas and lawns and landscaped areas, if any;
- vii. Parking areas, lighting and driveways, but only to the extent shown as common elements on the condominium plat;
- viii. All other spaces and facilities shown as common elements on the condominium plat; and
- ix. All other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use, except to the extent specifically included in the units and all areas and facilities designated as common areas and facilities in the Act.

Each owner of a unit may use the common areas and facilities in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other unit owners, subject always to the exclusive use of the limited common areas and facilities as provided in this Declaration.

d. “Common Expense” -- All expenditures lawfully made or incurred by or on behalf of the unit owners association, together with all funds lawfully assessed for the creation and/or maintenance of reserves.

e. “Common Profits” – All income collected or accrued by or on behalf of the unit owners association, other than income derived from assessments.

f. “Condominium Unit” – A unit together with the undivided interest in the common areas and facilities appertaining to that unit.

g. “Declarant” – The entity which executes the Declaration or on whose behalf the Declaration is executed. Any successors of the entity referred to in this subsection which come to stand in the same relation to the condominium as their predecessors did shall also come within this definition.

h. “Declaration” – The instrument by which the property is submitted to the provisions of the Horizontal Property Regimes Act and its lawful amendments.

i. “Limited Common Areas and Facilities” – Common areas and facilities, if any, designated in the Declaration as reserved for use of certain units to the exclusion of others.

j. “Majority” or “majority of unit owners” – The owners of that percent of interest in the building irrespective of the total number of owners.

k. "Property" – The land, the buildings, improvements, structures, all easements, servitudes, rights and appurtenances belonging thereto, and all chattels intended for use in connection therewith, which have been or are intended to be submitted to the provisions of the Horizontal Property Regimes Act.

1. "Unit" – A portion of the condominium designed and intended for individual ownership and use of the Leasehold rights. No fee title to any unit or portion thereof is transferred by the purchase of a unit.

3. DESCRIPTION OF THE CONDOMINIUM

3.1 Description of the Land

The land on which the buildings and other improvements are to be located is in Cottonwood, Yavapai County, Arizona, and is more particularly described as follows, to wit:

SEE EXHIBIT B ATTACHED HERETO AND BY THIS REFERENCE MADE
A PART HEREOF.

3.2 Description of the Building and Other Improvements

The High Five Hangars will be a 10,000 square foot Engineered steel building with metal roof and walls. The building will be divided into 5 separate condominium units of approximately 2000 square feet each. Each unit will include a 48'X14' bi-fold door, 2 ea. 3'x7' personnel doors, a 10'x 8' sectional overhead door, rough-in plumbing for one bathroom and one electrical panel.

4. CONDOMINIUM UNITS

The condominium plat attached hereto as Exhibit A contains a list of all condominium units, with the number of each unit, its location, approximate area and immediate common elements to which it has access, together with the percentage of undivided interest in the common elements appertaining to each unit and its owner for all purposes, including voting.

There are no limited common elements, including porches, balconies, patios or entryways, other than those described in A.R.S. § 33-1212(2)&(4).

5. DIMENSIONS OF CONDOMINIUM UNITS

Each unit consists of that part of the building in containing the unit which lies within the boundaries of the unit, exclusive of interior load bearing walls and pillars, and any pipes, wires, conduits, ducts, vents and other service and utility lines which are utilized for or serve more than one condominium unit. The vertical boundaries of each unit shall be the boundaries as shown on said condominium plat and plans. Where the unit is bound by a wall, the wall shall be considered to include any door, window or other closure therein in the closed position, and the

boundary shall be the unfinished surface of such wall on the unit side, to the effect that the unit shall include the paint, wallpaper, enamel, stain or other finishing on such surface. Where the unit consists in whole or in part of unenclosed space, the boundary defining such space is the boundary as shown on said condominium plat. The horizontal boundaries of each unit shall be the unfinished surface of the top of the concrete floor, and the unfinished surface of the bottom of the roof, except that where there is a stairway or other opening in the floor or ceiling, the boundary shall be the surface resulting from extensions of the nearest adjacent unfinished surfaces of the top of the floor or the bottom of the ceiling, as the case may be.

6. USE OF UNITS

The buildings, common areas and each of the units are restricted as to use and shall be used only for the maintenance, storage and movement of aircraft, personal and business related activities. No unit shall be used for purposes inconsistent with the then-current zoning for the property or with the lease.

In addition to the above, the buildings, common areas and units, shall be occupied and used as follows:

6.1 There shall be no obstruction of the common areas and facilities, including taxi lanes, roads and parking lots. Except in the case of designated storage areas, nothing shall be stored in the common areas and facilities without the prior written consent of the Board of Directors.

6.2 Nothing shall be kept or done in any unit or the general or limited common areas and facilities which shall increase the rate of insurance on the general or limited common areas and facilities without the prior written consent of the Board of Directors. No owner shall permit anything to be done or kept in his unit in the general or limited common areas and facilities which will result in the cancellation of insurance of any unit or any part of the general or limited common areas and facilities, which would be in violation of any law. No waste will be committed of the general common areas and facilities or limited common areas and facilities.

6.3 No owner of a unit shall, without the written approval and consent of the Board of Directors, place or suffer to be placed or maintained (i) on any exterior door, wall or window of the unit, or upon any door, wall or window of the common elements, any sign, awning or canopy, or advertising matter or other things of any kind, or (ii) any decoration, lettering or advertising matter on the glass of any window or door of the unit or (iii) any advertising matter within the unit which shall be visible from the exterior thereof; provided, that the Board of Directors shall establish reasonable and uniform regulations permitting the placement and maintenance by each owner of identifying signs and insignias of such sizes and materials and in such locations as shall be architecturally suitable and appropriate to the design and function of the project.

6.4 No animals, livestock or poultry of any kind shall be raised, bred or kept in any unit or in the general or limited common areas and facilities.

6.5 No noxious, dangerous or offensive activity shall be carried on in any unit or in the general or limited common areas and facilities, nor shall anything be done therein which may be or become an annoyance or nuisance to other owners. Reasonable maintenance and operation of aircraft, aircraft engines and related equipment shall not be considered a noxious, dangerous or offensive activity or be deemed an annoyance or nuisance as long as done in accordance with Federal Aviation Administration laws and the rules of the High Five Hangars Owners Association.

6.6 Nothing shall be altered or constructed in or removed from the general or limited common areas and facilities, and prescribe penalties for any violation thereof, and shall furnish such rules in writing to the owners, who shall be bound thereby.

6.7 The Board of Directors is authorized to adopt rules for the use of the general or limited common areas and facilities, and prescribe penalties for any violation thereof, and shall furnish such rules in writing to the owners, who shall be bound thereby.

6.8 None of the rights and obligations of the owners created herein, or by the deeds conveying the condominium units, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. If any portion of the common elements now encroaches upon any unit, or if any unit now encroaches upon any portion of the common elements, as a result of the construction of the buildings, or if any such encroachment shall occur hereafter as a result of settling or shifting of any building, a valid easement shall exist for the encroachment and for the maintenance of the same so long as the building stands in which the unit is situated. In the event such building, the unit any adjoining unit, or any adjoining common element shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit, or of any unit upon any other unit or upon any portion of the common elements due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as such building shall stand.

6.9 Each unit owner shall have an easement in common with the owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, wires, ducts, cables, conduits, public utility lines and other common elements serving such other units and located in such unit. The Board of Directors shall have a right of access to each unit to inspect the same, to remove violations there from and to maintain, repair or replace the common elements contained therein or elsewhere in the building.

7. RESERVATION OF EASEMENT TO FACILITATE CREATION OF IMPROVEMENTS OF LAND WITHIN PROJECT

Consistent with A.R.S. § 33-1226, Declarant, and persons it may select, shall have the right of ingress and egress over, upon and across the general and limited common areas and facilities, and the right to store materials thereon and make such other use thereof as may be

reasonably necessary incident to construction, development and sales of the condominium units and operation of the units and common areas and facilities in connection with the High Five Hangars. Declarant and its agents shall retain the right to use the sales office and model units and the general and limited common areas and facilities in connection therewith during the period of development and sale of the High Five Hangars.

8. BOARD OF DIRECTORS

9.1 The governing board of the High Five Hangars shall be the Board of Directors of the High Five Hangars Owners Association, Inc., a nonprofit corporation, which shall manage and maintain the property and business of the project pursuant to the provisions of this Declaration, its Articles of Incorporation, Exhibit C attached hereto, and its Bylaws, Exhibit D attached hereto.

9.2 Until the earlier of four years after the Declarant has ceased to offer units for sale in the ordinary course of business, all rights, duties and functions of the Board of Directors shall, at Declarant's option, be exercised by Declarant. Declarant shall have the option at any time after the date of the filing of this Declaration to turn the responsibility of electing all of the members of the Board of Directors to the High Five Hangars Owners Association, Inc.

9. UNITS SUBJECT TO DECLARATION AND BYLAWS

As long as the Lease remains in effect all present and future owners, tenants and occupants of units shall be subject to and shall comply with the provisions of this Declaration and the Bylaws of the High Five Hangars Owners Association, Inc., as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into a lease or occupancy of any unit shall constitute an agreement that the provisions of this Declaration and the Bylaws as they may be amended from time to time are accepted and ratified by such owner, tenant, or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit, as though such provision were recited and stipulated at length in each and every deed or conveyance or lease thereof.

10. EASEMENTS

The Board of Directors shall be authorized to give, convey, transfer, cancel, relocate and otherwise deal with utility and other easements located on or affecting property only to the extent allowed by the Lease or approved by the lessor.

11. MAINTENANCE, ALTERATION AND IMPROVEMENT

12.1 The maintenance, replacement and repair of the common areas and facilities shall be the responsibility of the Board of Directors and the cost thereof shall be a common expense. The Board of Directors shall replace and repair all conduits, ducts, plumbing and wiring and other facilities for the furnishing of heat, light, power, air conditioning, water and septic contained in the portions of the units that service part or parts of the property other than the unit

in which they are contained. All incidental damages caused to a unit by the maintenance, repair and replacement of the common areas and facilities or utility services shall be repaired promptly at the expense of the Board of Directors.

12.2 The unit owners shall have the responsibility to maintain, repair, replace and keep in a clean and sanitary condition, at the unit owner's expense, HVAC equipment appertaining to the owner's unit, together with all portions of the unit, except those portions to be maintained, repaired and replaced by the Board of Directors. The unit owners shall keep clean and in a sanitary condition their storage areas and other limited areas, if any.

The percentage of cost of maintaining such common areas and facilities established for each unit are as follows:

Unit 1: 20%
Unit 2: 20%
Unit 3: 20%
Unit 4: 20%
Unit 5: 20%

12. SEPARATE REAL ESTATE TAXES

It is understood that real estate taxes are to be separately taxed to each unit owner for his unit and his corresponding percentage of ownership of the Leasehold interest in the common elements. In the event that for any years such taxes are not separately taxed to each unit owner, but are taxed on the property as a whole, then each unit owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership interest in the common elements.

13. DESTRUCTION OR DAMAGE

13.1 In case of fire or any other disaster which causes damage or destruction to all or part of the property, the Board of Directors, with the help of an independent appraisal, shall determine the percentage of the property that was destroyed or substantially damaged. If less than two-thirds (2/3) of the total property was destroyed or substantially damaged, the Board of Directors shall arrange for the prompt repair and restoration of said property using the proceeds of the insurance on the same for that purpose, and the unit owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentages of undivided interest in the common areas and facilities. Reconstruction of the property shall mean the restoring of the buildings to substantially the same condition they were in prior to the damage or destruction, with each unit and the common areas and facilities having the same vertical and horizontal boundaries as before, unless the destruction or damage is by reason of eminent domain, in which the provisions of Paragraph 16 hereof shall apply.

13.2 If two-thirds (2/3) or more of the total property is destroyed or substantially damaged, the Board of Directors shall, within one hundred (100) days after such destruction or damage, call a special meeting of the unit owners for the purpose of deciding whether or not the

property shall be repaired and restored. If at least three-fourths (3/4) of the unit owners, in person or by proxy, vote to repair or restore the building or buildings, the Board of Directors shall promptly arrange for the reconstruction of the same using the proceeds of insurance on the building for that purpose, and the unit owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentage of undivided interest in the common areas and facilities. If the destruction or damage is by reason of eminent domain, the provisions of Paragraph 16 hereof shall apply. However, in the event at least two-thirds (2/3) of the total property is destroyed or substantially damaged, and less than three-fourths (3/4) of the unit owners vote to make provisions for reconstruction, the Board of Directors shall record, with the County Recorder, a notice setting forth such facts; and upon the recording of such notices: (i) the property shall be deemed to be owned in common by the unit owners; (ii) the undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities; (iii) any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the unit owner in the property; and (iv) the property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, shall be considered as one fund and shall be divided among all unit owners in a percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the unit owners, to the extent sufficient for such purposes, all sums necessary to satisfy liens on the undivided interest in the property owned by each unit owner.

13.3 For purposes of this Paragraph 13, the terms “disaster” “destruction” or “substantial damage” shall mean and include a temporary or permanent taking, injury or destruction of all or part of the common areas and facilities or one or more units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation.

14. INSURANCE

14.1 The Board of Directors shall obtain and maintain at all times insurance coverage to carry out the purpose of Paragraph 13 of the Declaration. Such coverage shall be of the type and kind as provided herein and include insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other properties similar to the property in construction, design and use. The Board of Directors shall make every reasonable effort to obtain insurance with the following provisions or endorsements:

14.1.1 Exclusive authority to adjust losses shall be vested in the Board of Directors as the insurance trustee;

14.1.2 The insurance coverage shall not be brought into contribution with insurance purchased by individual unit owners or their respective mortgages;

14.1.3 Each unit owner may obtain additional insurance covering his real property interest at his own expense;

14.1.4 The insurer waives its right of subrogation as to any claims against each unit owner;

14.1.5 The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any one or more individual unit owners or their respective lessees, employees, agents, contractors, and guests;

14.1.6 The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any officer or employee of the association or Board of Directors or their employees, agents or contractors, without prior demand in writing that the Board of Directors cure the defect and then only if the defect is not cured within fifteen (15) days;

14.2 The Board of Directors, for the benefit of the property and the unit owners, shall maintain a policy or policies of casualty and multiperil, "all risk" insurance on the property, with the provisions and endorsements as set forth in Paragraph 13.1 above, if obtainable, also with extended coverage endorsements for the full insurance replacement value of the units, common areas and facilities, items of common personal property and fixtures, payable to the Board of Directors as insurance trustee to be disbursed in accordance with the terms of this Declaration. The limits and coverage of said insurance shall be reviewed at least annually by the Board of Directors and shall include an appraisal of the property by property qualified representative of the insurance company writing the master policy on the property. Said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgage or mortgages, if any, of each unit.

14.3 The Board of Directors shall obtain a policy or policies of insurance insuring the Board of Directors and its employees, including the manager, if any, the unit owners and their respective lessees, agents, employees or guests against any liability to the public or to the owners of the units, their respective lessees, agents, invitees or employees, incident to the ownership and/or use of the property, and including the personal liability exposure to the unit owners, incident to the ownership and/or use of the property. Limits of liability under such insurance shall not be less than One Million and no/100 Dollars (\$1,000,000.) for any one person injured, Three Million and no/100 Dollars (\$3,000,000.) for all persons injured in any one occurrence, and shall not be less than Five Hundred Thousand and no/100 Dollars (\$500,000.) for property damage in each occurrence. The limits in coverage of said liability policy or policies shall be reviewed at least annually by the Board of Directors and increased at its discretion. Said policy or policies shall be issued on a comprehensive liability basis and, if possible, shall provide cross-liability endorsements for possible claims for any one or more or group of insured against any one or more or group of insured, without prejudice to the right of a named insured under the policies to maintain an action against another named insured.

14.4 Each unit owner shall be required to notify the Board of Directors, in writing, of, and shall be liable for, any increased insurance premium for insurance maintained by the Board of Directors on all improvements made by the unit owner to his unit, the value of which is in excess of One Thousand and no/100 Dollars (\$1,000.). Each unit owner shall bear the risk of loss for all improvements made to his unit that were not the subject of prior written notice to the Board of Directors.

14.5 Any unit owner who obtains individual insurance coverage covering any portion of the property, other than personal property belonging to such unit owner, shall be required to file a copy of such individual policy or policies with the Board of Directors within thirty (30) days after obtaining such insurance coverage.

14.6 No unit owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount that the Board of Directors, on behalf of all the unit owners, may realize under any insurance policy that the Board of Directors may have in force covering the property or any part thereof at any time.

15. TERMINATION

15.1 In the event two-thirds (2/3) of the property is destroyed or substantially damaged, and if the unit owners vote not to reconstruct the buildings, the property shall be removed from the provisions of the Act without further agreement one hundred and one (101) days after such destruction or damage in accordance with provisions of Paragraph 13.2 hereof.

15.2 If all of the unit owners in person or by proxy, and by the Lessor, vote to remove the property from the provisions of the Act, the property shall be removed from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the units, if any, consent or agree by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owners in the property.

15.3 After removal of the property from the Act, the unit owners shall own the property and all assets of the association as tenants in common and the respective mortgages and lienors shall have mortgages and liens upon the respective undivided interests of the unit owners. Such undivided interests of the unit owners shall be the same as the percentage of undivided interest in the common areas and facilities appurtenant to the owners' units prior to removal from the Act.

15.4 This Paragraph 15 cannot be amended without consent of all unit owners and all record owners or mortgages on units.

16. EMINENT DOMAIN

16.1 Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the common areas and facilities or one or more units or portions thereof, or the Leasehold interest therein, by the exercise of the power or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Board of Directors and each unit owner shall be entitled to notice thereof and the Board of Directors shall and the unit owners at their respective expense may participate in the proceedings incident thereto.

16.2 With respect to common areas and facilities, damages or awards shall be determined for such taking, injury or destruction as a whole and not for each unit owners'

interest therein. After such determination, each unit owner shall be entitled to a share in the damages in the same proportion as his percentage of undivided interest in the Leasehold interest in common areas and facilities. This provision does not prohibit a majority of unit owners from authorizing the Board of Directors to use such damages or awards for replacing or restoring the common areas and facilities so taken on the remaining land, or on other acquired land, provided that this Declaration and floor plans are duly amended.

16.3 With respect to one or more units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of damage or destruction, pursuant to Paragraph 13 hereof and shall be deposited with the Board of Directors as trustee. Even though the damages or awards may be payable directly to one or more unit owners, the unit owners shall deposit the damages or awards with the Board of Directors as trustee, and in the event of failure to do so, at the option of the Board of Directors, either a special assessment shall be made against a defaulting unit owner in his unit in the amount of this award or the amount of such award shall be set off against the sums hereafter made payable to such unit owner. The proceeds of the damages or awards shall be distributed or used in a manner and the unit owners of affected units shall have the rights provided in Paragraph 13 for insurance proceeds provided the property is not removed from the provisions of the Act. If the property is not removed from the provisions of the Act, and one or more units are taken, in whole or in part, the taking shall have the following effects:

16.3.1 If the taking reduces the size of the unit and the remaining portion of the unit may be made tenantable, the unit shall be made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the unit owner. The balance of the award, if any, shall be distributed to the unit to the extent of the unpaid balance of its mortgage and the excess if any, shall be distributed to the unit owner. If there is a balancer of the award distributed to the unit owner or mortgage, the unit owners' percentage of undivided interest in the common areas and facilities shall be equitably reduced. This shall be done by reducing such interest in the proportion by which the floor area of the unit is reduced by the taking, and then recomputing the percentages of undivided interests of all unit owners in the common areas and facilities.

16.3.2 If the taking destroys or so reduces the size of a unit so that it cannot be made tenantable, the award shall be paid to the mortgage of the unit to the extent of the unpaid balance of its mortgage and the excess, if any, shall be distributed to the unit owner. The remainder of the unit, if any, shall become part of the common areas and facilities and shall be placed in condition for use by all unit owners in the manner approved by the Board of Directors. If the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be done only if approved by a majority of the unit owners. The percentages of undivided interest in the common areas and facilities appurtenant to the units that continue as part of the property shall be equitably adjusted to distribute the ownership of the common areas and facilities among the reduced number of unit owners.

17. MORTGAGE PROTECTION

17.1 The term "mortgage" as used herein shall mean any recorded mortgage having priority over other mortgages and shall include a recorded deed of trust. The term "mortgage" shall mean the owner and holder of a mortgage and shall include a beneficiary under a deed of trust.

18. CONVEYANCES AND EASEMENTS

18.1 Every deed, lease, mortgage or other instrument may describe a unit by its identifying number set forth in Exhibit A. Every such description shall be deemed good and sufficient for all purposes and shall be deemed to convey, transfer, encumber or otherwise effect the unit owner's corresponding percentage of undivided ownership in the common areas and facilities, as a tenant in common, as set forth in Exhibit A, even though the same is not exactly mentioned or described.

18.2 Every deed, lease, mortgage or other similar instrument shall be deemed to:

18.2.1 Except and reserve with respect to a unit: (i) any portion of the common areas and facilities lying within said unit; (ii) easements through said unit, appurtenant to the common areas and facilities and all other units, for support and repair of the common areas and facilities, the limited common areas and facilities, and all other units; (iii) easements, appurtenant to the common areas and facilities for encroachment upon the air space of said unit by those portions of the common areas and facilities located within said unit.

18.2.2 Include with respect to a unit, non-exclusive easements for repairs, maintenance and support of said unit through the common areas and facilities, and through all other units to the extent necessary to access common areas that may run through such other units.

19. ASSESSMENTS

19.1 Agreement to Pay Assessments

Each owner of a unit by the acceptance of a deed or contract therefore, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with each other and with the Board of Directors to pay his proportionate share of the common expenses and special assessments for capital improvements and other matters in such amount and at such times as determined by the Board of Directors in accordance with the terms of the Bylaws attached hereto.

19.2 Lien for Unpaid Assessments

All sums assessed to any unit together with interest thereon, shall be secured by a lien on such unit in favor of the Association pursuant to A.R.S. § 33-1256 or other applicable statutes. Such lien shall be superior to all other liens and encumbrances, except as provided for in the Bylaws, and foreclosure and collection shall be as therein provided for.

20. AMENDMENT

Except as provided regarding the combination of units, and except as prohibited by the Act, or otherwise herein, the provisions of this Declaration may be amended only by an instrument in writing signed and acknowledged by owners who own undivided percentage interests of not less than seventy-five percent (75%) of the High Five Hangars Owners Association, Inc., which amendment shall be effective upon recording.

21. ALTERATION OF COMMON ELEMENTS

Subject to reasonable regulations as shall be established by the Board of Directors, the owner of any two (2) units which shall be separated only by a common element which is a wall or a floor (including a common element which constitutes a floor of one of the units and a ceiling of the other) may alter or remove all or portions of the intervening wall or floor, if the structural integrity of the building is not thereby affected and if the finish of the common element then remaining is restored to a condition substantially comparable to that of the common element prior to such alteration. The owner of such adjacent units may install in and attach to such opening or openings such service devices, if any he deems appropriate and may remove and retain ownership of the installed equipment. Upon the termination of the common ownership of such adjacent units, if the intervening wall or floor shall have been altered or removed pursuant to the foregoing provisions, each of the owners of such units shall be obligated to restore such intervening wall or floor to substantially the same condition in which the same existed prior to such alteration or removal.

22. ENFORCEMENT

Each unit owner shall strictly comply with the provisions of the Declaration, the Bylaws, the community rules and regulations and decisions issued pursuant thereto. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Board of Directors or its design on behalf of the unit owners, or in an appropriate case, by an aggrieved owner.

23. SEVERABILITY

The provisions of this Declaration shall be deemed independent and severable, and the invalidity of partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

24. CAPTIONS

The captions to this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Declaration or the intent of any provision hereof.

25. LAW CONTROLLING

This Declaration, the condominium plat and plans, and Bylaws shall be construed and controlled by and under the laws of the State of Arizona.

26. EFFECTIVE DATE

This Declaration shall take effect when recorded.

IN WITNESS WHEREOF, the undersigned have executed this instrument the ____ day of _____, 2010.

BACKUS FAMILY INVESTMENTS, LLC, an Arizona Limited liability company

By _____
Craig D. Backus
Managing Member

By _____
Kent R. Backus
Member

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

On this ____ day of _____, 2010, before me, the undersigned Notary Public, personally appeared Craig D. Backus and Kent R. Backus.

In witness whereof, I here unto set my hand and official seal:

NOTARY PUBLIC

“CONSENT”

**CONSENT OF CITY OF COTTONWOOD TO
ASSIGNMENT OF TENANT RIGHTS IN
LOT #135, REPLAT OF COTTONWOOD AIRPARK TRACT ONE
PARTS B & C**

When recorded return to:
City Clerk
City of Cottonwood
827 North Main Street
Cottonwood, AZ 86362

CONSENT OF CITY OF COTTONWOOD TO
ASSIGNMENT OF TENANT RIGHTS IN
LOT #135 REPLAT OF COTTONWOOD AIRPARK TRACT ONE
PARTS B & C

Once fully executed, this Consent is legally binding as of _____, 2010
(the "Effective Date").

BACKGROUND

The Ground Lease

- A. The City of Cottonwood, formerly known as the Town of Cottonwood, an Arizona municipality, is the "Landlord" under a Ground Lease Agreement dated May 5, 1983, which seeks to serve the public interest by providing opportunities for industrial development, and by promoting economic development and the creation of new employment opportunities.
- B. Cottonwood Airpark L.C. ("CALC") is the successor in interest to Cottonwood Airpark I, L.C. as successor in interest to Cottonwood Airpark, Inc., which was originally named as "Tenant" under the Ground Lease Agreement.
- C. A memorandum of the Ground Lease dated May 23, 1983, was recorded January 4, 1984 in Book 1597, pages 576-581 and thereafter corrected by an instrument recorded July 1, 1985 in Book 1734, pages 11-15 of the records of the Yavapai County Recorder (the "Memorandum of Ground Lease").
- D. The Ground Lease Agreement was amended by the First Amendment dated November 30, 1983; the Second Amendment dated March 12, 1985; the Third Amendment dated August 21, 1985; the Fourth Amendment dated February 7, 1989; and the Fifth Amendment dated January 1, 1993; the Sixth Amendment dated July 5, 1994; the Seventh Amendment dated September 16, 1997; the Eighth Amendment recorded December 22, 1998, in Book 3626, Page 140; the Ninth Amendment recorded October 1, 2001, in Book 3867, Page 214; the Tenth Amendment recorded March 17, 2003, in Book 4011, Page 367; the Eleventh Amendment recorded July 20, 2005, in Book 4288, Page 640; the Twelfth Amendment recorded July 20, 2005, in

Book 4288, Page 644; the Thirteenth Amendment recorded July 20, 2005, in Book 4288, Page 649; the Fourteenth Amendment recorded January 20, 2006, in Book 4356, Page 475; the Fifteenth Amendment recorded August 21, 2006, in Book 4427, Page 538; the Sixteenth Amendment which was recorded September 3, 2008, in Book 4619, Page 633; and the Seventeenth Amendment which was recorded on February 27, 2009, in Book B-4651, Page 879. The Ground Lease Agreement and all Amendments are collectively referred to as the "Ground Lease".

- E. Thereafter by Assignment, recorded January 20, 2006, in Book 4356, Page 473 of Official Records, CALC assigned an interest as tenant under the Ground Lease of approximately 8.91 acres located south of Lot #122 of the Replat of Cottonwood Airpark Tract One Parts A & B described on the Results of Survey performed by SEC dated June 16, 2005, together with all rights, privileges, easements, appurtenances and improvements thereon to Backus Family Investments, L.L.C. an Arizona Limited Liability Company.
- F. The City of Cottonwood and Backus Family Family Investments thereafter subdivided the above mentioned parcel of land which is now legally described as Cottonwood Airpark Tract One-Parts B & C, recorded in the office of the Yavapai County Recorder in Book 59, Page 57, dated March 13, 2007.
- G. Backus Family Investments, L.L.C. ("BFI") now wishes to submit the Lease to the condominium form of ownership, as a Leasehold Condominium, pursuant to A.R.S. § 33-1216, *et seq.*, and to submit the Lease to the terms and conditions of the Declaration of Leasehold Condominium, attached hereto as Exhibit A. Specifically, the Lease of the Common Areas designated in the Plat attached to the Declaration of Leasehold Condominium shall be assigned to High Five Hangar Association, Inc. ("ASSIGNEE"). It is contemplated that in the future, Units 1 through 5, designated in said Plat, shall be transferred to purchasers of said Units from BFI; however, it is specifically understood and agreed that the City of Cottonwood must consent to each of said transfers, and all subsequent transfers.
- H. The Ground Lease requires the written consent of the City of Cottonwood to the assignment by BFI of its rights as Tenant under the Ground Lease to ASSIGNEE. The City of Cottonwood has indicated that it will grant its consent to this transaction by execution and delivery of this Consent, in consideration for and subject to the covenants and conditions recited below.
- I. Landlord, BFI and ASSIGNEE hereby specifically reaffirm the following language from the First Amended Ground Lease dated May 5, 1983:

a. The Town of Cottonwood ("Landlord") is an Arizona municipality which seeks to serve the public interest by providing opportunities for industrial development, and by promoting economic development and the creation of new employment opportunities.

b. Landlord and Tenant jointly will serve the public interest by providing residents of Cottonwood with access to improved job opportunities on the property.

AGREEMENT

Now, therefore, for valuable consideration received, The City of Cottonwood agrees that:

1. Consent. The City of Cottonwood hereby consents to the Assignment by BFI to ASSIGNEE of its rights under the Ground Lease to the "Common Areas" of the Lot as designated in the Condominium Plat and Declaration of Leasehold Condominium. Such consent to be effective upon execution of this instrument by ASSIGNEE, provided, however, that during the entire Term of the Lease and any extensions thereof, any and all transfers of individual condominium units shall be subject to review and approval by the Cottonwood City Council.
2. Acceptance of Assignment and Promise to Perform. By its signature below, ASSIGNEE hereby accepts, reaffirms and agrees to faithfully perform all of BFI's duties, obligations and undertakings with respect to the Lot.
3. Release. In exchange for ASSIGNEE's faithful performance hereunder, and as of Effective Date of this Agreement, the City as Landlord under the Ground Lease, hereby:
 - 3.1 Certifies that formal approval of the Assignment to ASSIGNEE is hereby granted by the City;
 - 3.2 Acknowledges and agrees that BFI has assigned its rights, duties and obligations to the Common Areas of the Lot as designated in the Condominium Plat and Declaration of Leasehold Condominium Lot to ASSIGNEE. Landlord agrees to look solely to ASSIGNEE for collection of all rents and other amounts arising from the Ground Lease for the Lot after the Effective Date of this Consent and releases BFI (and its predecessors) as Tenant from all obligations or duties arising under the Ground Lease relative to the Lot;

- 3.3 Acknowledges receipt of all rent and other amounts owed by Tenant to Landlord under the Ground Lease with respect to the Lot as of the Effective Date;
- 3.4 Ratifies, affirms and confirms the validity of all other terms and conditions of the Ground Lease;
- 3.5 Confirms that, to Landlord's knowledge, there are no uncured defaults or breaches by Tenant under the Ground Lease;
- 3.6 Agrees that the "Rent" for the Lot, which total 1.02 acres, or 44,569 square feet, is \$0.01 per square foot of area within the Improved Lot per year, as set forth in Sections 4B.2&3 of the Ground Lease Agreement dated May 5, 1983 per year with the next payment due on January 1, 2011;
- 3.7 Agrees that the property taxes for the Lots shall be separately assessed and paid by ASSIGNEE;
- 3.8 Agrees that the failure of ASSIGNEE to pay rent and/or property taxes, or to otherwise fully comply with the terms of the Ground Lease shall be considered a default by ASSIGNEE only as to the Lot and shall not be considered a default by Tenant under the Ground Lease affecting any of the other rights of BFI or affecting any other right of BFI or affecting any other property leased by BFI;
- 3.9 Agrees that in the event of a default by BFI under the Ground Lease, Landlord will exercise its rights solely against BFI and will not construe a default by BFI as a default by ASSIGNEE so long as ASSIGNEE pays its rent and timely performs all other obligations as required under the Ground Lease with respect to the Lot, such that any default by BFI regarding its other obligations under the Ground Lease shall not be construed as a default by ASSIGNEE;
- 3.10 Acknowledges that ASSIGNEE may encumber its leasehold interest in the Lot to construct certain improvements which may be subject to an encumbrance in favor of a Lender. Landlord agrees to provide notice to the Lender and to BFI in the event of a default by ASSIGNEE under the Ground Lease pertaining to the Lot if requested by such Lender, and will execute a separate instrument to that effect if asked to do so.
- 3.11 Acknowledges that it shall look solely to ASSIGNEE for compliance with the insurance requirements of the Landlord under the Ground Lease with respect to the Lot;

- 3.12 Acknowledges that pursuant to Section 20 of the Ground Lease the address for the Tenant under the Lot is: P.O. Box 789, Cottonwood, AZ 86326;
- 3.13 NAME OF ASSIGNEE: High Five Hangar Owners Association, Inc., a tax exempt Arizona non-profit corporation.
- 3.14 Affirms that the Term of the Lease to the Lot runs until December 31, 2033.
4. Ratification of Ground Lease with Respect to the Lot. Except as modified herein, the terms and conditions contained in the Ground Lease with respect to the Lot are hereby ratified, confirmed and continue in full force and effect. The Term Commencement date of December 1983 began a 25-year term as to certain portions of the Lease and a 50- year Term as to certain other portions. The Lease also granted options for renewal. The parties intend to ratify and affirm the length of the Term and of all other rights and obligations under the Ground Lease with respect to the Lot. The parties represent that to the best of their knowledge and belief, there are no other amendments, modifications, supplements or other agreements or understandings with respect to the subject matter of this Consent (i.e., the Lot) except for those identified herein. The City as Landlord further acknowledges (i) that BFI as Tenant has paid all rent due with respect to the Lot, and (ii) that, to the City's knowledge, BFI has fully performed all of its obligations and is in good standing under the Ground Lease with respect to the Lot.
5. Further Documentation. The City agrees in good faith to execute such further or additional documents as become necessary or appropriate to carry out the intent and purpose of this Consent.
6. Counterparts and Facsimiles. This Consent may be executed by facsimile or in any number of counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

This Consent is legally binding as of the Effective Date regardless of the actual date of signing, provided that it shall not take effect until it is fully executed by both the City and ASSIGNEE.

The undersigned Representatives of the City of Cottonwood hereby personally affirm and certify that there has been full compliance with all requirements for approval of the Assignment by the City and do further affirm and certify that this Consent is hereby approved, ratified and accepted by the City of Cottonwood.

THE CITY OF COTTONWOOD:

Diane Joens, Mayor

Approved as to Form:

Attest:

Steve Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

The undersigned ASSIGNEE hereby personally affirms and accepts the duties of ASSIGNEE as outlined above.

NAME OF ASSIGNEE: High Five Hangar Owners' Association, an Arizona non-profit Corporation.

By: _____
Craig D. Backus, President

By: _____
Kent R. Backus, Secretary

Date: _____

State of Arizona)
) ss.
County of Yavapai)

On this the _____ of _____, 2010, before me, the undersigned Notary Public, personally appeared Craig D. Backus and Kent R. Backus, who are personally known to me or satisfactorily proved himself to be the person who executed the foregoing Consent, acknowledging that he executed the same for the purposes therein contained, being authorized so to do.

Notary Public

My Commission Expires:

City of Cottonwood, Arizona
City Council Agenda Communication



Meeting Date: August 3, 2010

Subject: **Resolution Number 2529 – Approving an Intergovernmental Agreement with Northern Arizona Intergovernmental Public Transportation Authority (NAIPTA)**

Department: Administration

From: Doug Bartosh, City Manager

REQUESTED ACTION

NAIPTA and staff are requesting the City Council's approval of a new Intergovernmental Agreement between the City of Cottonwood and NAIPTA through Resolution 2529.

If the Council desires to approve this item the suggested motion is: I move to approve Resolution 2529 authorizing a new Intergovernmental Agreement between the City of Cottonwood and NAIPTA.

BACKGROUND

During previous council meetings, the City Council has approved a delay of the merger of CAT under the management of NAIPTA. Such a merger has been a long standing goal of both the City of Cottonwood and NAIPTA and the respective staffs worked diligently to complete that merger. Unfortunately, primarily due to the economy, staff recommended to the City Council that merger efforts be delayed until the economy improves. The City Council agreed with that recommendation and in furtherance of that direction by the City Council the respective staffs have developed an intergovernmental agreement (IGA) revising the roles that both entities will play in the management of CAT, the use of the transit facility, access to technology, use of equipment, and grant management.

JUSTIFICATION/BENEFITS/ISSUES

While merging of CAT into NAIPTA has been a long standing goal, the economy has made this goal difficult and it is recommended that the merger be postponed until the economy

improves. The loss of LTAF funds from the state also played a role in the decision to postpone the merger.

COST/FUNDING SOURCE

Per the IGA, the City will reimburse NAIPTA for the use of their computer system at \$30,000 annually and \$7,725 for grant management for the remainder of this federal fiscal year. These funds will be absorbed by the General Fund with hopes that we can recapture this expense through grant funding.

REVIEWED BY:

City Manager: ORB

City Attorney: JH

ATTACHMENTS

Resolution 2529
Intergovernmental Agreement

RESOLUTION NUMBER 2529

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA ("CITY"), APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND THE NORTHERN ARIZONA INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY (NAIPTA).

WHEREAS, the City and the Northern Arizona Intergovernmental Transportation Authority ("NAIPTA") have entered into and are bound by several agreements, including a Master Intergovernmental Agreement ("Master IGA") dated as of March 14, 2006; a Lease Agreement dated as of February 1, 2007 (as amended); and a Service Intergovernmental Agreement; and

WHEREAS, the City and NAIPTA have been in discussions regarding a possible merger of the Cottonwood Area Transit ("CAT") system into the NAIPTA system; and

WHEREAS, during this period, NAIPTA has performed certain services for and on behalf of the City, in anticipation of a merger; and

WHEREAS, for economic reasons the parties have agreed to postpone any possible merger of their systems; and

WHEREAS, it is therefore necessary to clarify and revise the respective rights, duties and responsibilities of the parties with respect to current and future grants management, system operations, shared use of facilities, and other matters.

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

THAT, the Intergovernmental Agreement referred to as "Service IGA II" between the City of Cottonwood and the Northern Arizona Intergovernmental Public Transportation Authority is hereby approved.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 3RD DAY OF AUGUST 2010.

RESOLUTION 2529
Page 2

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

Steven B. Horton, Esq.
City Attorney

CITY OF COTTONWOOD/NORTHERN ARIZONA INTERGOVERNMENTAL PUBLIC
TRANSPORTATION AUTHORITY

SERVICE IGA II

This Service IGA (this "IGA") is made and entered into effective as of the ___ day of _____, 2010 (the "Effective Date"), by and between the Northern Arizona Intergovernmental Public Transportation Authority, a body politic and corporate of the State of Arizona ("NAIPTA"), and the City of Cottonwood, an Arizona municipal corporation ("Cottonwood"). NAIPTA and Cottonwood may be referred to in this IGA collectively as the Parties, and each individually as a Party.

RECITALS

A. NAIPTA is an intergovernmental public transportation authority formed pursuant to Arizona Revised Statutes ("A.R.S.") Section 28-9101 et seq. (the "Authorizing Legislation"), and that certain Master IGA dated March 14, 2006 by and between Coconino County; Yavapai County; the City of Flagstaff; the City of Sedona; Northern Arizona University; and Cottonwood.

B. On or about March 1, 2008, the Parties entered into a Service IGA ("Service IGA I") pursuant to which NAIPTA agreed to provide certain grant administration, planning and management services to Cottonwood; and to lease certain real property from Cottonwood (the "Cottonwood Property") for the purpose of constructing a Joint Transit Facility. On or about August 22, 2007, the Parties entered into a lease for the Cottonwood Property (the "Ground Lease"), and NAIPTA has constructed, furnished and is maintaining the Joint Transit Facility on the Cottonwood Property. The original Term of the Ground Lease was twenty-five (25) years, commencing February 1, 2007 and ending January 31, 2032. On or about October 7, 2008, the Ground Lease Term was extended for an additional twenty-five (25) years and will end on January 31, 2057 (the "Final Expiration Date").

C. The Ground Lease provides that upon the Final Expiration Date, the Joint Transit Facility shall become the property of Cottonwood, at no further cost to Cottonwood. In the event that the Ground Lease is terminated prior to the Final Expiration Date, NAIPTA shall be compensated as set forth in the Ground Lease.

D. Pursuant to the terms of the Authorizing Legislation, the Master IGA and Service IGA I, the Parties anticipated that Cottonwood's municipal transit system, Cottonwood Area Transit ("CAT"), would eventually be merged into the NAIPTA system for the purpose of achieving fiscal, operational and administrative efficiencies, and carried out discussions concerning the eventual merger. However, due to unanticipated economic circumstances, the anticipated merger has been postponed.

E. NAIPTA is the recipient of certain federal grants for the benefit of Cottonwood (the "Grant Funds"), as more specifically set forth on Exhibit "A" and described in this IGA, and NAIPTA and Cottonwood wish to set forth each Party's responsibilities for the continued management of the Grant Funds.

F. The Parties desire to enter into this IGA to clarify responsibilities for administration of the Grant Funds, to set forth each Party's responsibilities in regard to the

operation of the CAT System and the Joint Transit Facility, and to memorialize their intent to continue the merger discussions.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Grant Funds.

1.1. ARRA Funds. NAIPTA is the Grantee of no-match/100 percent (100%) American Recovery and Reinvestment Act ("ARRA") Funds in the amount of \$181,423.00 for new bus shelters. ARRA Funds are paid to NAIPTA through the Arizona Department of Transportation ("ADOT"), upon submittal of invoices for work performed, as further set forth in this IGA. NAIPTA has also secured ARRA Funds in the amount of \$30,000.00 for a park and ride facility in Clarkdale to be constructed pursuant to an IGA between NAIPTA and Clarkdale.

1.2. 5311 Funds. NAIPTA is the Grantee of Rural Transportation Funding for the CAT System, in the amount shown on Exhibit "A".

1.3 5316 and 5317 Funds. NAIPTA, Cottonwood and Sedona jointly applied for and were awarded Job Access Reverse Commute Funds ("5316 Funds") and New Freedom Funds ("5317 Funds") to pay for security cameras, automatic vehicle locators, and mobile data terminals, to be used to support the CAT System, Sedona Roadrunner and Verde Lynx (the "5316/17 Projects"). The 5316 Funds and 5317 Funds require a twenty percent (20%) local match (the "Local Match Funds"). Cottonwood and Sedona will each pay a pro-rata share of the Local Match Funds.

2. Grant Obligations. As the grantee of the Grant Funds, NAIPTA has made commitments to the Federal Transportation Administration ("FTA") and to the Arizona Department of Transportation ("ADOT") that the Grant Funds will be used for specific purposes and in accordance with the requirements of the state and federal governments, and the Policies and Programs set forth in Section 3 of this IGA. The Parties understand and agree that failure to comply with these requirements may result in the loss of funds and the imposition of sanctions, and may jeopardize the Parties' ability to receive future federal funds.

2.1. Cottonwood Responsibilities. Cottonwood will include NAIPTA in all communications with ADOT concerning all grants that NAIPTA is responsible for managing including ARRA, 5311, 5316, and 5317, until such grants are closed out by NAIPTA and ADOT. These communications are necessary for NAIPTA to comply with its responsibilities as the Grantee of Grant Funds.

2.1.1 ARRA Funds

2.1.1.1. Install or contract for the installation of the bus shelters, including solar panels, at Cottonwood's expense, subject to reimbursement from ARRA Funds. Cottonwood understands that under ARRA guidelines, the bus shelters may

not be stockpiled and therefore must be installed when received by Cottonwood, and that installation of bus shelters and solar panels must be complete no later than 120 days after delivery.

2.1.1.2. Submit monthly invoices for installation costs to NAIPTA.

2.1.1.3. Manage and maintain the bus shelters, including trash removal, graffiti removal, repairs and replacement of landscaping and physical repair of infrastructure as needed to maintain safe functionality.

2.1.1. 4. Comply with all applicable federal requirements as provided in the certification attached hereto as Exhibit "B," and including, but not limited to, the requirements of Davis-Bacon Act as provided in Exhibit "C."

2.1.1 5311 Funds.

2.1.1.1 Comply with NAIPTA procurement practices, ridership tabulations requirements, accident reporting, recordkeeping, vehicle maintenance, and drug testing requirements set forth in Section 3 of this IGA (the "Policies and Programs") until all Cottonwood Grant AZ 18 X041 funds have been expended. (After September 30, 2010, the Policies and Programs are applicable only to the expenditure of the Grant Funds.)

2.1.1.2 Assume responsibility for management of all future 5311 CAT grants, including compliance with all applicable ADOT and FTA requirements.

2.1.1.3 Notify ADOT in writing on or before August 10, 2010, that Cottonwood will assume administration of and all responsibility for 5311 Funding commencing October 1 2010, which is the beginning of Federal Fiscal Year 2011.

2.1.2 5316 Funds. Provide its share of the Local Matching Funds to NAIPTA in the amount shown on Exhibit "A" for the purchase and implementation of Mobile Data Terminals ("MDT") automatic vehicle locators ("AVL") and security cameras for CAT vehicles.

2.1.3 5317 Funds. Provide its share of the Local Matching Funds to NAIPTA in the amount shown on Exhibit "A" for the purchase of MDT, AVL and security cameras for CAT vehicles.

2.2 NAIPTA Responsibilities.

2.2.1 ARRA Funds.

2.2.2 Contract for and purchase passenger shelters and solar panels for the CAT System by July 31, 2010.

2.2.3 Submit monthly invoices for installation costs to ADOT upon receipt from Cottonwood, and reimburse Cottonwood from ARRA Funds upon receipt of such Funds from ADOT.

2.2.4 Contract for and coordinate with the Town of Clarkdale for construction of the Clarkdale Park and Ride, to be completed by December 31, 2010.

2.2.5 Report to ADOT and FTA on project status and close out ARRA grant by documenting expenditure of funds or by returning any unexpended funds by December 31, 2010, unless this date is extended in writing by the granting agency.

2.2.6 5311 Funds.

2.2.6.1 Manage the 5311 Grant referenced on Exhibit "A" until all capital funds have been spent or returned to ADOT.

2.2.6.2 NAIPTA has notified ADOT in writing, that Cottonwood will assume administration of and all responsibility for 5311 Funding commencing October 1 2010, except as otherwise provided in Section 2.2.21.

2.2.7 5316 Funds. Contract for, purchase and install MDT, AVL and security cameras for all CAT vehicles.

2.2.8 5317 Funds. Contract for, purchase and install MDT, AVL and security cameras for all CAT vehicles.

3 Policies, Procedures and Programs.

3.1 NAIPTA Procedures. NAIPTA will provide and post the required policies, standard operating procedures, and Preventative Maintenance manuals that are applicable to the Joint Transfer Facility and Computer Equipment and Network (the "NAIPTA Policies and Programs").

3.2 Changes to Policies, Procedures and Programs. Notice of proposed changes to any policy, program, or procedure will be sent to Cottonwood for review and will be distributed to Cottonwood staff approximately 48 hours before the effective date, or with such other notice as is reasonable in the circumstances.

4 Joint Transit Facility and NAIPTA Personal Property. NAIPTA has constructed, furnished, and will maintain the Joint Transit Facility on the Cottonwood Property, pursuant to the terms of this IGA, the Ground Lease, and a future lease between NAIPTA as Lessor and Cottonwood as Lessee of the Joint Transit Facility (the "Premises Lease"). The Joint Transfer Facility provides facilities for CAT staff and vehicles as required for the operation and maintenance of the CAT System, which includes fixed route and demand response services in and around the City of Cottonwood and other areas of the Verde Valley. The Joint Transit Facility includes furniture, computer and network equipment provided by NAIPTA (the "NAIPTA Personal Property"), and requires utility services and janitorial and maintenance services (the "Services") necessary to support the CAT System.

4.1 Cottonwood Responsibilities.

4.1.1 Joint Transit Facility.

4.1.1.1 Enter into the Premises Lease which will provide that Cottonwood may improve, extend or otherwise modify the Joint Transit Facility at Cottonwood sole expense and only upon NAIPTA's prior written approval (the "JTFC Improvements"). On the Final Expiration Date, or such later expiration date as is agreed to by the Parties in writing, the Joint Transit Facility, including the JTFC Improvements, shall become the property of Cottonwood, at no further cost to Cottonwood, and Cottonwood shall assume full responsibility for the maintenance, repair, upkeep of, and any and all costs associated with, the Joint Transit Facility.

4.1.1.2 Observe all NAIPTA Policies and Procedures regarding use of the Joint Transit Facility for the term of the Ground Lease and the Premises Lease, and any extensions thereto.

4.1.2 Computer Equipment and Networks. Observe all NAIPTA Policies and Procedures regarding use of NAIPTA Computer Equipment and Networks for so long as they are located in and used in conjunction with the operation of the Joint Transit Facility.

4.2 NAIPTA Responsibilities.

4.2.1 Premises Lease. Enter into the Premises Lease. Upon the Final Expiration Date, or such later expiration date as is agreed to by the Parties in writing, NAIPTA shall convey the Joint Transit Facility, including the JTFC Improvements, to Cottonwood, at no further cost to Cottonwood.

4.2.2 Policies. Provide policies and direction for the operation of the Joint Transfer Facility.

4.2.3 Computer Equipment and Network. Provide adequate telephone, computer, server, and network connection for the normal activities related to operation of CAT System. This includes antivirus, back-ups, email, storage for electronic files, workstations, printers, and other similar computer equipment and services. Computer equipment and connectivity will be maintained and replaced by NAIPTA.

4.2.4 Utilities. Maintain the facility, including all utilities.

5 Additional Financial Obligations.

5.1 Cottonwood Responsibilities.

5.1.1 Pay the Local Match to operate three (3) of eight (8) daily Verde Lynx trips between Cottonwood and Sedona, pursuant to the budget attached hereto as Exhibit "A". Pay a pro-rata share of the utility and technology expenses pursuant to the budget attached hereto as Exhibit "D".

5.1.2 Pay NAIPTA for grant management services through September 30, 2010, as set forth on Exhibit "D".

5.1.3 Pay NAIPTA the sum of \$1.00 annually for Cottonwood's use of the Joint Transit Facility, Personal Property and Services, no later than July 30 of each year.

6 Reporting Responsibilities. Cottonwood shall promptly report to NAIPTA:

6.1 Accidents. Any incidents involving NAIPTA vehicles in which there is damage or injury to any individual, vehicle belonging to another party, or NAIPTA vehicle. Such incidents shall be reported in writing no later than 24 hours after the occurrence.

6.2 Damages. Any damage occurring to the Joint Transit Facility, any NAIPTA vehicle, NAIPTA Personal Property, or any other property belonging to NAIPTA, whether or not a third party was involved in causing such damage. Damages shall be reported to NAIPTA in writing, no later than 24 hours following the incident.

7 Continued Discussions Regarding Merger. During the term of this Amendment, the Parties and their representatives will continue to participate in regular and ongoing meetings and discussions regarding the prospect of merging CAT into NAIPTA. Such discussions may include, but are not limited to personnel/staffing issues; budgeting; policies and procedures; capital and operational expenditures; facility/fleet maintenance; Cottonwood's future representation, rights and responsibilities on NAIPTA's Board of Directors in the event of merger; and other administrative and operational issues.

8 Term and Termination. This Amendment shall be effective from and after the Effective Date, and shall be for an initial term of one (1) year, and shall automatically renew for two (2) additional one (1) year terms, unless one Party notifies the other Party at least 90 days prior to the expiration of a Term, of that Party's intention to terminate this IGA at the end of that Term. At least ___ days prior to the commencement of each Term, the Parties shall agree on and approve budgets for on-going expense for the new Term, which, once approved by both Parties, shall be considered to be incorporated into this IGA by reference.

9 Records and Audit Rights. Each Party's work and accounting records (hard copy, as well as computer readable data, and any other supporting evidence deemed necessary by the other Party to substantiate charges and claims related to this IGA shall be open to inspection and subject to audit and/or reproduction by authorized representatives of the other Party, to adequately permit evaluation and verification of the performance and cost of the work, and to conduct and prepare all audits and reports required by law. Representatives of each Party shall be afforded access, at all reasonable times and places, to all of the other Party's records and personnel, pursuant to the provisions of this Section, throughout the term of this IGA (including Renewal Terms), and for a period of five (5) years after last or final payment.

10 General Provisions.

10.1 Incorporation of Recitals and Exhibits. The Recitals are acknowledged by the Parties to be substantially true and correct, and hereby incorporated as agreements of the Parties. All exhibits referenced herein and attached hereto, are hereby incorporated into this IGA.

10.2 Entire Agreement. This IGA constitutes the entire understanding of the Parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This IGA may not be modified or amended, except by written documents, signed by authorized representatives of each Party.

10.8 Advertising. No advertising or publicity concerning NAIPTA using any contractor's or subcontractor's services shall be undertaken without prior written approval of such advertising or publicity by NAIPTA's Executive Director.

10.9 Counterparts. This IGA may be executed in one or more counterparts, and each originally executed duplicate counterpart of this IGA shall be deemed to possess the full force and effect of the original.

10.10 Severability. If any term or provision of this IGA shall be found to be illegal or unenforceable, then notwithstanding such illegality or unenforceability, this IGA shall remain in full force and effect, and such term or provision shall be deemed to be deleted.

10.11 Filing. Upon execution this IGA shall be filed with the Arizona Secretary of State.

10.12 Conflict of Interest. This IGA may be terminated for conflict of interest pursuant to A.R.S. § 38-511.

10.13 Authority. Each Party hereby warrants and represents that it has full power and authority to enter into and perform this IGA, and that that person signing on behalf of each has been properly authorized and empowered to enter this IGA. Each Party further acknowledges that it has read this IGA, understands it, and agrees to be bound by it.

10.14 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 subconsultants 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 subconsultants is a material breach of this IGA subject to penalties up to and including termination of this IGA or any subcontract. Each Party retains the legal right to inspect the papers of any employee of the other Party or any subconsultant who works on this IGA to ensure compliance with this warranty.

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

A Party will not consider the other Party or any of its subconsultants in material breach of the foregoing warranty if the warranting Party and its subconsultants 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 subconsultants who provide services under this IGA 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.

10.15 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 IGA and exercise other remedies as provided by law, in accordance with A.R.S. §§35-391.06 and 35-393-06.

[Signatures on Next Page]

IN WITNESS WHEREOF, the Parties have executed this Amendment effective as of the Effective Date set forth above.

CITY OF COTTONWOOD:

NAIPTA:

By: _____
Its: _____

By: _____
Its: _____

ATTEST:

Cottonwood City Clerk

Date _____

PROPER FORM AND AUTHORITY

This First Amendment has, prior to its execution, been submitted to the attorney for each Party, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this state to such Party.

Dated this ___ day of _____, 2010

Dated this ___ day of _____, 2010

By: _____
City of Cottonwood Attorney

By: _____
NAIPTA General Counsel

Cottonwood Open Grants

06.24.10

Type	Date/Year	Identifying Number	Use	Federal Funds	CAT Portion	Anticipated Completion
5311	FY2010	AZ18-038/041	Capital-Data Server Capital- Bike Racks Capital- Office Supplies	\$6,000 2,003.42 \$4,116.09	\$1,200 2,003.42 \$4,116.09	6/1/2010 balance after purch 9/30/2010
5311 ARRA	FY2010	AZ18-X042	Capital- Shelters Capital- vehicles Capital- transfer center Capital- park friends	\$181,423 \$5,554 \$170,000 \$30,000	\$181,423 \$5,554 \$170,000 \$30,000	unknown balance after purch unknown unknown
5317NF	FY07 Award	AZ57-X007-T08-165	Request to move from Vans to AVL/ITS	\$40,000	\$23,829	Contract Executed- All change pending CAT Portion of Grant
5316 JARC	FY08 Award	AZ37-X018-T09-293	Request to move from Vans to one ARBOC for COTTONWOOD	\$108,000		Contract and All change pending
5316 JARC	FY09 Award	AZ37-X013-T09-430-611	MDT's/AVL	\$125,000	\$73,529	Contract pending CAT portion of Grant
5317 NF	FY09 Award	AZ57-X007-T09-441-711	MDT's/AVL equipment	\$45,000	\$26,471	Contract pending CAT portion of Grant

AVL/MDT's	
10	CAT vehicles
7	Sedona Vehicles
17	total VV vehicles
59%	% CAT
41%	% Sedona

**EXHIBIT "A" TO
SERVICE IGA**

DBE Exhibit DBE.2

Disadvantaged Business Enterprises Certification

Prime Contractors:

Please indicate your DBE status, and declare any DBE subcontractors you may use. All declared DBE businesses involved in this contract must complete Attachment DBE.5 and return to NAIPTA. All primary contracts must provide a completed DBE.2 compliance certification.

DBE COMPLIANCE CERTIFICATION

I hereby certify that the Offeror has complied with the requirements of 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in DOT Programs.

Signature of the Bidder or Offeror's Authorized Official

Name & Title of the Bidder or Offeror's Authorized Official

Date

DBE Exhibit DBE.4

NAIPTA (Overall) Intended Participation Affidavit

DISADVANTAGED BUSINESS ENTERPRISE
INTENDED PARTICIPATION AFFIDAVIT

BID NUMBER _____

PROJECT NUMBER _____

Directions:

1. This form must reflect the information included on the individual affidavit attachment for each DBE.
2. The form must be signed by an officer of the contractor(s).
3. The form must be notarized.
4. The affidavits must be submitted at the time of bid.

Proposed DBE Subcontractors	Type of Work	DBE Credit (\$)
	(1) Total Value of DBE Commitments	\$
	(2) Total Bid Amount	\$
	Percent DBE Participation (Divide Line 1 by Line 2)	\$

Company Name: _____
Officer Signature: _____
Officer Title: _____

Notary Seal:
Subscribed and sworn to
Before me this _____ day of
_____, 20____

DBE Certification

3

DBE Exhibit DBE.5

DBE Certification – Complete this section only if it applies to your firm

AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed), swear or affirm under penalty of law that I am

_____ (title) of applicant firm _____ (firm name) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its places(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

DBE Certification

4

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change [e.g., ownership, address, telephone number, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise (DBE). In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s) (circle all that apply):

Female Black American Hispanic American Native American
Asian-Pacific American Subcontinent Asian American
Other (specify) _____

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed \$750,000, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Executed on _____
(Date)

Signature _____
(DBE Applicant)

NOTARY CERTIFICATE:

DBE Compliance Exhibit DBE.1

DISADVANTAGED BUSINESS ENTERPRISES – Compliance Requirement

Policy:

NAIPTA has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26 and Arizona Department of Transportation (ADOT). NAIPTA has received Federal financial assistance from the Department of Transportation and as a condition of receiving this assistance, NAIPTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of NAIPTA to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the policy of NAIPTA:

1. To ensure nondiscrimination in the award and administration of DOT assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts; and
6. To assist in the development of firms that can compete successfully in the market place outside the DBE program.

Assurances of Non-Discrimination:

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the state deems appropriate.

Race Neutral DBE Participation:

NAIPTA has adopted the ADOT annual DBE goal of 10.5 percent, pursuant to an agreement to operate under the ADOT DBE program. NAIPTA is using a race neutral program to work towards meeting this goal. Race neutral participation occurs where (1) a firm's DBE status is not considered when awarding subcontracts, or (2) a DBE is the prime contractor.

EPRISE - 1/7

EXHIBIT "C" TO INTERGOVERNMENTAL AGREEMENT

Reporting:

NAIPTA is required to collect data on DBE participation to report to FHWA. Therefore, accurate reporting is needed to track DBE participation. The contractor shall submit a report electronically on a monthly basis indicating the amounts earned by and paid to all DBEs working on the project.

Definitions:

- (A) **Disadvantaged Business Enterprise DBE:** a for-profit small business concern which meets both of the following requirements:
- (1) Is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more such individuals; and
 - (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- (B) **Socially and Economically Disadvantaged Individuals:** any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:
- (1) Any individual who is found to be a socially and economically disadvantaged individual on a case-by-case basis.
 - (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

EPRISE - 2/7

- (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka,
- (vi) "Women;"
- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA) at such time as the SBA designation becomes effective.

(C) **Joint Venture:** an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Working with DBEs:

NAIPTA works with DBEs and assists them in their efforts to participate transit programs. All bidders may contact the Civil Rights Office at the address shown below for assistance in their efforts to use DBEs in the construction programs of NAIPTA:

Arizona Department of Transportation
Civil Rights Office
1135 N. 22nd Avenue (second floor), Mail Drop 154A
Phoenix, AZ 85009
Phone (602) 712-7761
FAX (602) 712-8429

Applicability:

The provisions are applicable to all bidders including DBE bidders. As a prime contractor, a DBE shall perform a significant portion of the contract work with its own work force in accordance with normal industry practices and Subsection 108.01 - Subletting of Contract of the Standard Specifications.

Certification:

Certification as a DBE shall be predicated on:

- (1) The completion and execution of an application for certification as a "Disadvantaged Business Enterprise".
- (2) The submission of documents pertaining to the firm(s) as stated in the application(s), including but not limited to a statement of social disadvantage and a personal financial statement.

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- (3) The submission of any additional information which ADOT may require to determine the firm's eligibility to participate in the DBE program.

Applications for certification may be filed with ADOT at any time

Applications for certification are available at the ADOT's Civil Rights Office, 1135 N. 22nd Avenue (second floor), mail drop 154A, Phoenix, Arizona 85009, phone (602) 712-7761, or from the internet at www.azdbe.org.

DBE firms and firms seeking DBE certification shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for denial or removal of certification.

Arizona is a member of the AZ Unified Certification Program (AZUCP). Only DBE firms that are certified by the AZUCP are eligible for credit on ADOT projects. A list of DBE firms certified by AZUCP is available on the internet at www.azdbe.org. The list will indicate contact information and specialty for each DBE firm, and may be sorted in a variety of ways. However, ADOT does not guarantee the accuracy and/or completeness of this information, nor does ADOT represent that any licenses or registrations are appropriate for the work to be done.

The contractor bears the responsibility to determine whether the DBE possesses the proper contractor's license(s) to perform the work. If a DBE cannot complete its work due to failure to obtain or maintain its licensing, the contractor bears the responsibility to immediately replace the DBE with another DBE and notify NAIPTA.

The AZUCP certification is not a representation of qualifications and/or abilities. The contractor bears all risks that the DBE may not be able to perform its work for any reason.

General:

Each contractor shall establish a program that will ensure nondiscrimination in the award and administration of contracts and subcontracts. Each contractor shall also designate a full time employee who shall be responsible for the administration of the contractor's DBE program.

Agreements between the bidder and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders are prohibited.

DBE Participation:

A DBE may participate as a prime contractor, subcontractor, joint venture partner with either a prime contractor or a subcontractor, or as a vendor of materials or supplies. A DBE joint venture partner shall be responsible for a clearly defined portion of the work to be performed, in addition to meeting the requirements for ownership and control.

The contractor may not credit second-tier subcontracts issued to DBEs by non-DBE subcontractors.

Crediting DBE Participation:

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General:

Once a firm is determined to be an eligible DBE in accordance with 49 CFR Part 26, only the value of the work actually performed by the DBE can be credited toward DBE participation. Credit is given only after the DBE has been paid for the work performed.

The dollar amount of work to be accomplished by DBEs, including partial amount of a lump sum or other similar item, shall be on the basis of subcontract, purchase order, hourly rate, rate per ton, etc., as agreed to between parties.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated in the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

When a DBE performs as a partner in a joint venture, only that portion of the total dollar value of the contract which is clearly and distinctly performed by the DBE's own forces can be credited.

The contractor may not credit second-tier subcontracts issued to DBEs by non-DBE subcontractors.

A prime contractor may credit the entire amount of that portion of a construction contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime contractor or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards DBE participation only if the DBE's subcontractor is itself a DBE and performs the work with its own forces. Work that a DBE subcontracts to a non-DBE firm does not count towards DBE participation.

A prime contractor may credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

Commercially Useful Function:

A prime contractor can credit expenditures to a DBE subcontractor only if the DBE performs a commercially useful function on the contract. A DBE performs a commercially useful function when it is responsible for execution of the work of a contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material

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itself. To determine whether a DBE is performing a commercially useful function, NAIPTA will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, NAIPTA will examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, NAIPTA will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. Decisions on commercially useful function matters are subject to review by FHWA, but are not administratively appealable to U.S. DOT.

Trucking:

NAIPTA will use the following factors in determining whether a DBE trucking company is performing a commercially useful function: the DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract on every day that credit is to be given for trucking.

The contractor will receive credit for the total value of transportation services provided by the DBE using trucks it owns, insures and operates, and using drivers it employs.

The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services.

The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of the transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees results in credit only for the fee or commission paid to the DBE as a result of the lease agreement.

Example: DBE Firm X uses two of its own trucks on contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE firm Z. DBE credit would only be awarded for the total

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value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

Materials and Supplies:

NAIPTA will credit expenditures with DBEs for material and supplies as follows. If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies is credited. A manufacturer is defined as a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract, and of the general character described by the specifications.

If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost of the materials or supplies is credited. A DBE regular dealer is defined as a firm that owns, operates, or maintains a store or warehouse or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A firm may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, stone or asphalt without owning, operating, or maintaining a place of business, as provided above, if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement, and not on an ad-hoc or contract-by-contract basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph and the paragraph above.

With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, NAIPTA will credit the entire amount of the fees or commissions charged by the DBE for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the materials and supplies themselves may not be counted toward the DBE goal.

DBE credit for supplying paving grade asphalt and other asphalt products will only be permitted for reasonable hauling costs, and only if the DBE is owner or lessee of the equipment and trucks. Leases for trucks must be long term (extending for a fixed time period and not related to time for contract performance) and must include all attendant responsibilities such as insurance, titling, hazardous waste requirements, and payment of drivers.

City of Cottonwood
Revised Request, FY2011: Jul 1, 2010 thru Jun 30, 2011
June 16, 2010 - updated to include Grant Management as identified in FY10 5311 application

Service Agreement Fee		Budget
Operating		
Facilities and IT Fees	\$	30,000
Grant Admin (last federal qtr FY10)	\$	7,725

Local Match needed for existing grant funded projects		Budget
Operating		
Verde Lyrix	\$	52,613
total		\$ 50,338

Facilities and IT fees includes:
 phones and IT support as the network exists today
 annual maintenance agreement on copier
 annual licensing and maintenance on NOVUS
 current phone lines and internet
 email and website
 utilities
 janitorial services
 general maintenance and landscaping of facility

addition of equipment or services could trigger:
 fee for implementation - to be determined
 additional maintenance fee