

**DUE TO THE STATE'S COVID-19 PANDEMIC
THIS MEETING WILL BE HELD VIA ZOOM.
PLEASE REFER TO PAGE 4 FOR PARTICIPATION INSTRUCTIONS.**



Town of Chino Valley

MEETING NOTICE TOWN COUNCIL

**REGULAR MEETING
TUESDAY, JANUARY 12, 2021
6:00 P.M.**

**Council Chambers
202 N. State Route 89
Chino Valley, Arizona**

A majority of the Councilmembers may attend a private invocation in the Council Conference Room immediately prior to the Council meeting. No Town business will be discussed.

AGENDA

- 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE; ROLL CALL**
- 2. INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS**
- 3. CALL TO THE PUBLIC**

Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.

- 4. CURRENT EVENT SUMMARIES AND REPORTS**

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events. If listed below, there may also be a presentation on information requested by the Mayor and Council and questions may be answered. No action will be taken.

- a. Status reports by Mayor and Council regarding current events.**

- b. Status report by Town Manager Cecilia Gritman regarding Town accomplishments, and current or upcoming projects.

5. CONSENT AGENDA

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

- a. p.7 Consideration and possible action to approve Resolution No. 2021-1179 authorizing the Town Manager, Town Clerk, Human Resources Director and the Police Chief to execute checks and other items for, and on behalf of the Town of Chino Valley. (Joe Duffy, Administrative Services Director)
- b. p.11 Consideration and possible action to approve the December 8, 2020, regular meeting minutes. (Erin N. Deskins, Town Clerk)

6. ACTION ITEMS

The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.

- a. p.27 Consideration and possible action to adopt ORD No. 2021-893 amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 2.1 Meanings of Words and Terms and Section 4.9 Outdoor Storage, by adding the definition and regulations of a Metal Storage Container. (Will Dingee, Assistant Planner)

Recommended Action: Adopt ORD No. 2021-893 amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 2.1 Meanings of Words and Terms and Section 4.9 Outdoor Storage, by adding the definition and regulations of a Metal Storage Container.

- b. p.39 Consideration and possible action to adopt ORD No. 2021-894 amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 4.28 Front Yard And Street Side Yard Building Setbacks When Adjacent To A Street, by amending setback requirements and how setbacks are measured and the addition of language for alleviations and exemptions. (Will Dingee, Assistant Planner)

Recommended Action: Adopt ORD No. 2021-894 amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 4.28 Front Yard And Street Side Yard Building Setbacks When Adjacent To A Street, by amending setback requirements and how setbacks are measured and the addition of language for alleviations and exemptions.

- c. **p.49** Consideration and possible action to approve the Assured Water Supply Credit Purchase Agreement with Laverne D. and Linda R. Wallace Trust, for 375 acre feet of Extinguishment Credits in the amount of \$90,000.00 plus administrative fees. (Frank Marbury, Public Works Director/Town Engineer)

Recommended Action: Approve the purchase agreement with Laverne D. and Linda R. Wallace Trust, for 375 acre feet of Extinguishment Credits in the amount of \$90,000.00 plus administrative fees.

- d. **p.57** Consideration and possible action to approve the Partnership Agreement with The Nature Conservancy, and accept the grant award of \$75,000 for use in cost sharing for updates to the Northern Arizona Regional Groundwater Flow Model. (Frank Marbury, Public Works Director/Town Engineer)

Recommended Action: Approve the Partnership Agreement with The Nature Conservancy and accept the grant award of \$75,000 for use in cost sharing for updates to the Northern Arizona Regional Groundwater Flow Model.

- e. **p.73** Consideration and possible action to approve the Professional Services Agreement with EHS Support, LLC for completion of the updates to the Northern Arizona Groundwater Flow Model in an amount not to exceed \$153,883.00. (Frank Marbury, Public Works Director/Town Engineer)

Recommended Action: Approve the Professional Services Agreement with EHS Support, LLC for completion of the updates to the Northern Arizona Groundwater Flow Model in an amount not to exceed \$153,883.00.

- f. **p.97** Consideration and possible action to approve emergency authorization for replacement of the permeate piping system at the Wastewater Treatment Plant. The cost for the work totaled \$77,965.00 and was performed by Double Down Construction. (Frank Marbury, Public Works Director/Town Engineer)

Recommended Action: Approve emergency authorization for replacement of the permeate piping system at the Wastewater Treatment Plant. The cost for the work totaled \$77,965.00 and was performed by Double Down Construction.

- g. **p.107** Consideration and possible action to award a construction contract to VSS International, Inc. for the FY 21 Slurry Seal Project in the amount of \$1,093,000. (Frank Marbury, Public Works Director/Town Engineer)

Recommended Action: Award a construction contract to VSS International, Inc. for the FY 21 Slurry Seal Project in the amount of \$1,093,000.

- h. p.109** Consideration and possible action to authorize staff to purchase +/- 3 acres referred to as 2590 Tree Farm Lane, Chino Valley in an amount of \$85,000.00 with additional fees and commission of \$4,600.00, for a total of \$89,600.00. (Frank Marbury, Public Works Director/Town Engineer)

Recommended Action: Authorize staff to purchase +/- 3 acres referred to as 2590 Tree Farm Lane, Chino Valley in an amount of \$85,000.00 with additional fees and commission of \$4,600.00 for a total of \$89,600.00.

7. **ADJOURNMENT**

Dated this 7th day of January, 2021.

By: *Erin N. Deskins, Town Clerk*

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 636-2646 (voice) or 711 (Telecommunications Arizona Relay Service) 48 hours prior to the meeting to request reasonable accommodation to participate in this meeting.

Supporting documentation and staff reports furnished to the Council with this agenda are available for review on the Town website at <http://www.chinoaz.net/agendacenter>, and in the Public Library and Town Clerk's Office.

JANUARY 12, 2021, COUNCIL MEETING COVID-19 ATTENDANCE PROCEDURE

The Chino Valley Town Council is committed to social distancing to slow the potential spread of COVID-19 Coronavirus or other communicable diseases, as well as continue to abide by the Open Meeting Laws.

Meeting Attendance Options

Video and telephonic attendance options for public only meetings are as follows:

1. Watch and listen by joining the Zoom Webinar on the internet using your computer or mobile device (instructions below)
2. Listen only by dialing in by phone to the Zoom Webinar (instructions below)

Call to the Public participation

Submit your comments via email to clerks@chinoaz.net or drop off your typed or hand-written note in the Utility Payment Drop Box outside the Town Hall lobby, 202 N. State Route 89, no later than Tuesday, January 12, 2021, at noon.

Remote Attendance

Council meetings are live-streamed on Town of Chino Valley Facebook page, and Zoom.

Join Zoom Webinar: <https://us02web.zoom.us/j/88089355589>

Telephone: 877 853 5247 (toll free) or 888 788 0099 (toll free)

iPhone one-tap: US: +13462487799,,88089355589# or +16699009128,,88089355589#

Webinar ID: 880 8935 5589

CERTIFICATION OF POSTING

The undersigned hereby certifies that a copy of this notice was duly posted at Chino Valley South Campus, Chino Valley Post Office, and Chino Valley North Campus in accordance with the statement filed by the Town Council with the Town Clerk.

Date: _____ Time: _____ By: _____
Erin N. Deskins, Town Clerk

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

5. a.

Meeting Date: 01/12/2021
Contact Person: Joe Duffy, Finance Director
 Phone: 928-636-2646 x-1211
Department: Finance
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to approve Resolution No. 2021-1179 authorizing the Town Manager, Town Clerk, Human Resources Director and the Police Chief to execute checks and other items for, and on behalf of the Town of Chino Valley. (Joe Duffy, Administrative Services Director)

RECOMMENDED ACTION:

Approve Resolution No. 2021-1179 authorizing the Town Manager, Town Clerk, Human Resources Director and the Police Chief to execute checks and other items for, and on behalf of the Town of Chino Valley.

Fiscal Impact

Fiscal Impact?: No
If Yes, Budget Code:
Available:
Funding Source:

Attachments

RES 2021-1179 - Bank Signatories

RESOLUTION NO. 2021-1179

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AUTHORIZING THE TOWN MANAGER, THE TOWN CLERK, THE HUMAN RESOURCES DIRECTOR AND THE POLICE CHIEF TO EXECUTE CHECKS AND OTHER ITEMS FOR AND ON BEHALF OF THE TOWN OF CHINO VALLEY; AUTHORIZING THE TOWN MANAGER TO AUTHORIZE CERTAIN ELECTRONIC PAYMENTS AND TRANSFERS OF FUNDS; AND DECLARING AN EMERGENCY.

WHEREAS, it is necessary that officers of the Town of Chino Valley (the "Town") be duly authorized to execute checks, electronic payments, transfers and other items relating to certain bank accounts of the Town; and

WHEREAS, the Town Council desires to repeal any prior authorization and to adopt this Resolution to reflect the current authorized Town officers.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Town Council of the Town of Chino Valley, as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. Effective January 12, 2021, through and including January 31, 2021, the current Town Manager of the Town, Cecilia Gritman, or her authorized designee, is hereby authorized to: (i) execute checks and other items for and on behalf of the Town and is further authorized to endorse checks and other items payable to the Town for deposit; and (ii) execute ACH (or other electronic means) and wire transfers for and on behalf of the Town relating to the Town's investments, other Town accounts or any other account as directed by the Town Council.

SECTION 3. Effective February 1, 2021, the new Town Manager of the Town, Cindy Blackmore, or her authorized designee, is hereby authorized to: (i) execute checks and other items for and on behalf of the Town and is further authorized to endorse checks and other items payable to the Town for deposit; and (ii) execute ACH (or other electronic means) and wire transfers for and on behalf of the Town relating to the Town's investments, other Town accounts or any other account as directed by the Town Council.

SECTION 4. Effective January 12, 2021, the Town Clerk of the Town, Erin Deskins, is hereby authorized to execute checks and other items for and on behalf of the Town and is further authorized to endorse checks and other items payable to the Town for deposit.

SECTION 5. Effective January 12, 2021, the Human Resources Director of the Town, Laura Ann Kyriakakis, is hereby authorized to execute checks and other items for and on behalf of the Town and is further authorized to endorse checks and other items payable to the Town for deposit.

SECTION 6. Effective January 12, 2021, the Police Chief of the Town, Chuck Wynn, is hereby authorized to execute checks and other items for and on behalf of the Town and is further authorized to endorse checks and other items payable to the Town for deposit.

SECTION 7. This Resolution applies to all Town bank accounts held in any bank or other financial institution.

SECTION 8. Checks drawn upon the Town accounts shall bear signatures from two of the following: the Town Manager, the Town Clerk, the Human Resources Director or the Police Chief.

SECTION 9. The immediate operation of this Resolution is necessary for the preservation of the public peace and welfare by ensuring Town operations continue uninterrupted. An emergency is hereby declared to exist and this Resolution shall be in full force and effect from and after passage by the Town Council.

SECTION 10. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 12th day of January, 2021.

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

I hereby certify the above foregoing Resolution No. 2021-1179 was duly passed by the Council of the Town of Chino Valley, Arizona, at a special meeting held on January 12, 2021, and that quorum was present thereat and that the vote thereon was ____ ayes and ____ nays and ____ abstentions. ____ Council members were absent or excused.

Erin Deskins, Town Clerk

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

5. b.

Meeting Date: 01/12/2021

Contact Person: Erin Deskins, Town Clerk
Phone: 928-636-2646 x-1208

Department: Town Clerk

Item Type: Consent

AGENDA ITEM TITLE:

Consideration and possible action to approve the December 8, 2020, regular meeting minutes. (Erin N. Deskins, Town Clerk)

RECOMMENDED ACTION:

Approve the December 8, 2020, regular meeting minutes.

Attachments

12-8-20 draft minutes

DRAFT

MINUTES OF THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

**TUESDAY, DECEMBER 8, 2020
6:00 P.M.**

CHINO VALLEY COUNCIL CHAMBERS 202 N. STATE ROUTE 89, CHINO VALLEY, AZ

Present: Mayor Darryl Croft; Vice - Mayor Jack Miller; Councilmember Corey Mendoza; Councilmember Mike Best; Councilmember Cloyce Kelly; Councilmember Annie Perkins; Councilmember Lon Turner; Councilmember Eric Granillo; Councilmember Tom Armstrong

Staff Present: Town Manager Cecilia Grittman; Town Attorney Andrew McGuire (remotely); Administrative Services Director Joe Duffy; Human Resources Director Laura Kyriakakis; Police Chief Chuck Wynn; Senior Planner Kristina Tranel; Public Works Director/Town Engineer Frank Marbury; Development Services Director Joshua Cook; Assistant Planner Will Dingee; Town Clerk Erin Deskins; Deputy Town Clerk Traci Lavelle (recorder); Officer Fernando Silva (Sgt. at Arms); IT Manager Spencer Guest (videographer); Administrative Technician Kathy Frohock (videographer)

1) CALL TO ORDER, PLEDGE OF ALLEGIANCE; ROLL CALL

Mayor Croft called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

- a)** Presentation by Cathy Heath from LASER (Large Animals Shelter Rescue) regarding their organization and the rescue missions they perform. (Cecilia Grittman, Town Manager)

Cathy Heath presented the following:

- LASER was a new 501(c)3 all volunteer nonprofit organization that worked with Yavapai County's Office of Emergency Management in times of disaster to shelter barn animals for area communities in times of evacuations.
- Wildfire was the biggest area of concern for the upcoming summer, especially with the lack of monsoons for the past two summers. LASER was already preparing.
- FEMA recognized people would not leave home without their animals, so this was about the safety of the animals and their owners.
- LASER's mission was to provide safe shelter for barn animals and to provide emergency preparedness information to the public. The goal was to make sure all barn animals had a safe haven in disasters.

- They had a seat in the office of the Emergency Operations Center during disasters, which helped them. The six person board of directors was made up of all volunteers. With the help of the community, they operated with a strategic plan, fundraising, and outreach.
- They did not accept herds of cattle as a rule, but they would not turn down a backyard 4-H project.
- During an emergency, they were open 24 hours a day, until the evacuation was lifted.
- Volunteers were trained in caring for the animals and overseeing the operation, and had to pass a background check.
- Applications for volunteers are available on their website.
- They had several shelter sites throughout the area to use. They were also working with the Equestrian Center and Humane Society to have locations in Town. They were working to have additional areas throughout the County.
- They launched a campaign to raise approximately \$40,000 in funds to build the local shelter that would include 80 stalls and 12 small animal pens. They would need lighting, signing, and a generator as well. Stalls could be sponsored for \$500 and small animal pens were \$400. Plaques would show the names of sponsors. They had received a grant from the Arizona Community Foundation and already had 21 stalls with another 15 stalls that would be built from the funds collected through fundraising. People could donate on the website or through Facebook.
- They hoped the Town Council would endorse them and help spread the word about LASER.

b) Presentation of Chino Valley Police Officer of the Year by the Chino Valley Elks Lodge.

Beverly Swanty, representing the Chino Valley Elks presented the following:

- It was the Elk Club's tenth year giving out the Police Officer of the Year award. Normally there would be a banquet, but it was smaller than normal due to the current pandemic.
- This year the award would be given to a team instead of one officer. The team solved a double homicide.
- The plaque would hang in the Police Station.

Chief Wynn presented the following:

- The double homicide crime had been the most complicated crime during his 30 years as an officer. His team of officers were assisted by the Sheriff's office and other departments. His team coordinated all the teams working together and were able to apprehend the suspect and locate the bodies, which had been buried in Iowa.
- He thought the whole group of officers deserved to get the award for the amount of time and effort given to the crime and because everyone had contributed something to solving the crime.
- The award was presented to Officer Jeff Pizzi, Crime Scene Technician Vicky Ferguson, Detectives Mark Garcia and Amy Chamberlin, and Sergeant Pereda.
- Chief Wynn read and presented the plaque to the team of officers.

c) Recognition of Jack Miller for his service as Vice-Mayor from December 2018 until November 2020. (Mayor Darryl Croft)

Mayor Croft recognized Vice-Mayor Miller for the great job he had done and for helping him in the last couple of years.

d) Recognition of elected officials for the following years of service:

Cecilia Grittmann recognized the following Council Members:

- Darryl Croft-two years as Councilmember, 3.5 years as Vice-Mayor, and four years as Mayor; and
- Mike Best-8.5 years as Councilmember and one year as Vice-Mayor; and
- Jack Miller-three years as Councilmember and two years as Vice-Mayor.

3) CALL TO THE PUBLIC

Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.

- Edward Albus – He had asked the Council to consider an 18 month moratorium on the use of RV's for the purpose of people who did not have somewhere to stay during the current times. He had not been contacted, so he wanted to see if they had a chance to discuss the topic. The Town Manager explained that it had been delegated to staff, and staff had just reported that they had not had a chance to get back to him, but they would be in touch soon.

4) CURRENT EVENT SUMMARIES AND REPORTS

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events. If listed below, there may also be a presentation on information requested by the Mayor and Council and questions may be answered. No action will be taken.

a) Status reports by Mayor and Council regarding current events.

- Councilmember Best reported that bids were going out for the traffic light on Road 1 North.

b) Status report by Town Manager Cecilia Grittmann regarding Town accomplishments, and current or upcoming projects.

- Josh McIntire had been promoted to Lieutenant.
- There would not be a study session for the month of December and this would be their only meeting unless a special meeting was called.

5) **CONSENT AGENDA**

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

MOVED by Vice-Mayor Jack Miller, seconded by Councilmember Cloyce Kelly to approve Consent Agenda Items 5 (a), (b) and (c) as written.

AYE: Mayor Darryl Croft, Vice-Mayor Jack Miller, Councilmember Corey Mendoza, Councilmember Mike Best, Councilmember Cloyce Kelly, Councilmember Annie Perkins, Councilmember Lon Turner

7 - 0 PASSED - Unanimously

- a) Consideration and possible action to approve the November 10, 2020, regular meeting minutes. (Erin N. Deskins, Town Clerk)
- b) Consideration and possible action to approve the November 17, 2020, special meeting minutes. (Erin N. Deskins, Town Clerk)
- c) Consideration and possible action to approve the November 23, 2020, special meeting minutes. (Erin N. Deskins, Town Clerk)

6) **ACTION ITEMS**

The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.

- a) Consideration and possible action to (i) approve the 70% Police Building Design, (ii) approve the First Amendment to Professional Services Agreement with Stroh Architecture, Inc. for completion of construction plans and (iii) authorize and direct staff to arrange for financing options and to solicit bids for construction. (Chuck Wynn, Police Chief)

Recommended Action: (i) Approve the 70% Police Building Design, (ii) approve the First Amendment to Professional Services Agreement with Stroh Architecture, Inc. for completion of construction plans and (iii) authorize and direct staff to arrange for financing options and to solicit bids for construction.

Joe Duffy reported on the following:

- In August Council approved the 30% design schematics from Stroh Architecture.
- There were many meetings with staff and the public to come up with design concept. The department staff also had determined what was needed and the necessary square footage.
- Staff was requesting approval of the Stroh Architecture 70% design and prepare the construction plan, authorize staff to arrange financing, and then eventually solicit bids for construction. If approved, the next time staff would come back for bid approval.
- Staff overviewed the area where the new building would be and how it could look.
- The final design, bid and construction services would cost an additional \$294,000. The estimated cost of completion was \$5.4 million dollars, with approximately \$500,000 for furnishings. The total project cost would be \$6.4 million. Town funds would make up \$940,000, which would pay for the design and furniture. Staff was recommending a 25 year, \$6 million loan to pay the balance of the project.
- Staff reviewed the construction timeline. The project could be completed by May 2022.

MOVED by Councilmember Lon Turner, seconded by Councilmember Corey Mendoza to table the item for a later date to allow for further discussion and possibly an additional study session.

AYE: Mayor Darryl Croft, Vice-Mayor Jack Miller, Councilmember Corey Mendoza, Councilmember Mike Best, Councilmember Annie Perkins, Councilmember Lon Turner

NAY: Councilmember Cloyce Kelly

6 - 1 PASSED

- b)** Administer Oaths of Office to Mayor-Elect Jack Miller and Councilmembers-Elect Tom Armstrong, Eric Granillo, and Annie Perkins. (Cecilia Grittman, Town Manager)

Cecilia Grittman administered the Oath to Mayor-Elect Jack Miller and Councilmembers-Elect Tom Armstrong, Eric Granillo and Annie Perkins.

Change of seating happened. New Councilmembers Eric Granillo and Tom Armstrong took their seats in place of Councilmember Best and Councilmember Mendoza. Vice-Mayor Miller replaced Mayor Croft's seat as the new Mayor.

Mayor Croft officially passed the gavel to Mayor Miller.

Recess at 6:39 p.m. Meeting reconvened at 6:43 p.m.

- c)** Consideration and possible action to nominate and elect a Councilmember to serve as Vice-Mayor. (Erin Deskins, Town Clerk)

Recommended Action: The new Mayor shall nominate, and the new Council shall elect, a Councilmember to serve as Vice-Mayor.

MOVED by Mayor Jack Miller, seconded by Councilmember Tom Armstrong to appoint Councilmember Mendoza as new Vice-Mayor

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- d) Consideration and possible action to rezone approximately 3.18 acres of real property from the dual zoning of AR-5 (Agricultural Residential 5-acre Minimum) and SR-2 (Single-Family Residential 2-acre Minimum) zoning districts to the SR-1 (Single-Family Residential 1-acre Minimum) zoning district to bring the property located on the east side of Kachina approximately 600 feet north of Red Cinder Road into conformance with the UDO. (Will Dingee, Assistant Planner)

Recommended Action: Approve rezone of approximately 3.18 acres of real property from the dual zoning of AR-5 (Agricultural Residential 5-acre Minimum) and SR-2 (Single-Family Residential 2-acre Minimum) zoning districts to the SR-1 (Single-Family Residential 1-acre Minimum) zoning district to bring the property located on the east side of Kachina approximately 600 feet north of Red Cinder Road into conformance with the UDO.

Will Dingee reported on the following:

- An overview of the property location was provided. The property was surrounded by properties developed through the land split process.
- The property was 3.18 acres and was used as a single family residence constructed in 2019. It also had an accessory structure constructed in 1989.
- The General Plan designated the subject property as medium density residential. The surrounding property designations and zoning were reviewed.
- The dual zoning categories on the property were AR-5 for the northern property portion and SR-2 on the southern portion.
- Prior to 2018 the property was 3.18 acres and was split without going through the Town process, resulting in the creation of two properties that were non-conforming by Town standards; the properties were deemed unbuildable. The applicant purchased the property and rezoned the southern portion and constructed a single family residence. He purchased the northern parcel, and in 2020 combined the two properties under staff direction.
- The applicant intended to rezone and subdivide the property into two roughly equal sizes to construct a new residence on the easternmost parcel.
- The item went to Planning & Zoning on November 3. The only question was if there were already two residences, which there was not. A member of the public questioned the access and utilities, and it was explained that access was through a flag lot for the newly created lot and utilities were well and septic. The item was unanimously approved by the Commission.
- The applicant wants the dual lot to be rezoned to SR-1 in order to bring the property into conformance. This met the intent of the General Plan designation of Medium Density Residential.
- Staff recommended the item be approved by Council.

Council and staff discussed the following:

- Staff confirmed the new zoning would be SR-1.

The Town Attorney confirmed that there was no conflict of interest for Councilmember Armstrong to vote on the item due to his prior vote to recommend approval as a member of the Planning Commission.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Cloyce Kelly to approve rezone of approximately 3.18 acres of real property from the dual zoning of AR-5 (Agricultural Residential 5-acre Minimum) and SR-2 (Single-Family Residential 2-acre Minimum) zoning districts to the SR-1 (Single-Family Residential 1-acre Minimum) zoning district to bring the property into conformance located on the East side of Kachina approximately 600 feet North of Red Cinder Road.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- e) Consideration and possible action to approve the Heritage Point Final Plat to record the first of four (4) phases in subdividing approximately 89.9 acres into 75 1-acre lots located approximately 1,700 feet West of the Southwest corner of West Road 4 North and North Road 1 West. (Will Dingee, Assistant Planner)

Recommended Action: Approve the Heritage Point Final Plat to record the first of four (4) phases in subdividing approximately 89.9 acres into 75 1-acre lots located approximately 1,700 feet west of the southwest corner of West Road 4 North and North Road 1 West with the following stipulations:

- Drainage report needs to be modified to the Town Engineer's specifications and comments as follows:
 1. The drainage reports shall quantify the overtopping depth and velocity at Road 4 North.
 2. Provide water modeling of the outlet structures at 4 North to show that velocities are low enough to prevent erosion.
 3. Provide drainage summary map as requested.
 4. Address miscellaneous comments as required by the Town Engineer.
- Prior to recordation of Final Plat a Letter of Credit shall be submitted to the Town in the amounts required by Section 5 of the Subdivision Regulations.

Kristina Tranel reported the following:

- This would record the first of four phases in subdividing 89.9 acres into 75 one acre lots at Heritage Point.
- A review of the property location was provided.
- The zoning would be SR-1, with a General Plan designation of medium density residential 2 acres or less.
- Council approved Heritage Point preliminary plat in September 2019. After approval, the project went through technical review with Town staff.
- Phase one of the final plat would subdivide the first 20 lots in the NW portion of the proposed development.

- Town staff determined the final plat met Town standards for SR-1 zoning for setbacks, minimum lot area and lot frontage.
- The main access point would be off West Road 4 North, with all streets dedicated to the Town, and improvements completed as required.
- All lots would be served by onsite wells and septic systems.
- The Planning Commission held a public hearing, and several residents gave public comments. Comments and questions were regarding increased traffic through Appaloosa Meadows through Talia Place to access Road 3 North instead of using the designated access point. Residents were also concerned about the impact of more wells and septic systems in the area. These comments were addressed by the commission, staff and the project engineer. It was noted that Appaloosa Phase Two was designed to connect to Heritage Point through Talia Place. Heritage Point was previously part of the Appaloosa development. Arizona Department of Water Resources had approved the water for the development and Town sewer was not close enough to feasibly require connection to Town utilities.
- The commission voted unanimously to forward a recommendation of approval to the Council with the following stipulations:
- Drainage report needs to be modified to the Town Engineer's specifications and comments as follows:
 1. The drainage reports shall quantify the overtopping depth and velocity at Road 4 North.
 2. Provide water modeling of the outlet structures at 4 North to show that velocities are low enough to prevent erosion.
 3. Provide drainage summary map as requested.
 4. Address miscellaneous comments as required by the Town Engineer.
- Prior to recordation of Final Plat a Letter of Credit shall be submitted to the Town in the amounts required by Section 5 of the Subdivision Regulations.

Council and staff discussed the following:

- There had been a petition submitted and people were in attendance that wanted to speak about the matter. The petition was regarding access to the subdivision.

Public Comments:

- Lou Figoni – He was asking the Town to require the developer of Heritage Point to provide additional access on the south edge of the development out to Road 3 via Cochise or Mojave. He was currently working with Dave Burgman-PEPTOE, Randy Ditenburner-PEPTOE, and Paul Gusick of Lee Engineering, which was a specialized traffic engineering and transportation planning firm. Their initial assessment confirmed the neighborhoods beliefs regarding traffic accessing Heritage Point and driving through Appaloosa Meadows based on maps and information provided surrounding the development. An official report would be received soon that would support the belief that basic human nature would make people living in the development take the more direct route on Talia Place and drive through their quiet neighborhood instead of driving north to Road 4. A comment at the Planning Commission meeting that Talia Place would have less people inconvenienced than the number of people on the alternative route was not accurate because the potential traffic would also filter through all of Appaloosa Meadows, affecting 70 homes. At the Commission meeting, they showed up to be heard, and they did not feel they were heard, and a comment was made that Public Works Director Frank Marbury held more sway because he held an

engineering stamp, intimating that there was no expertise amongst the neighborhood members, and they felt what they had to say was no less important or valid than that of Mr. Marbury.

- Lindsey Mills – She had property that backed up to Talia Place and Road 1. When the tract of property was approved for the zoning, everyone that moved in after knew about it. Things had changed since that time; the community was growing, and the police department was stretched to the maximum for speed enforcement. They would like to see more speed limit signs on Road 1 to control the speed. She thought the Talia way access would result in slower response times for fire and ambulances and a second access point would speed up response time. More access would also spread out the impact to the surrounding areas. She had a background in planning for the City of Las Vegas. The quality of the neighborhood should be maintained.

Council and staff discussed the following:

- There would be ingress and egress from Road 4 North, and it seemed like they were moving the issue from Talia to Cochise or Mojave, who would face a similar issue. Those roads were also narrow, and it would take a lot of money to improve those roads. If a traffic report came in, Councilmembers would like to see it.
- A Councilmember pointed out that the petition talked about the complete closure of the Talia Place entrance, and did not talk about it being primary or secondary. When purchasing property, it was encouraged to look at the surrounding zoning, and the Talia Place road was constructed to a higher standard because it was known all along it would be used as an access road. Buyer beware.
- Mr. Marbury explained that he did not state anything about an engineering stamp or that he was more important than anyone else. He never said he was above anyone else or intimated that, and he did not make those comments.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Cloyce Kelly to approve the Heritage Point Final Plat to record the first of four (4) phases in subdividing approximately 89.9 acres into 75 1-acre lots located approximately 1,700 feet West of the Southwest corner of West Road 4 North and North Road 1 West with the following stipulations:

- Drainage report needs to be modified to the Town Engineer's specifications and comments as follows:
 1. The drainage reports shall quantify the overtopping depth and velocity at Road 4 North.
 2. Provide water modeling of the outlet structures at 4 North to show that velocities are low enough to prevent erosion.
 3. Provide drainage summary map as requested.
 4. Address miscellaneous comments as required by the Town Engineer.
- Prior to recordation of Final Plat a Letter of Credit shall be submitted to the Town in the amounts required by Section 5 of the Subdivision Regulations.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- f) Consideration and possible action to reduce the stipulated right-of-way dedication under Ordinance 2019-872 from 25 feet to 15 feet in accordance with the new subdivision regulations and to subsequently accept the dedication of the reduced right-of-way located 490 feet East of the Northeast corner of West Center Street and Sycamore Vista Drive at 1370 West Center Street. (Will Dingee, Assistant Planner)

Recommended Action: Approve to reduce the stipulated right-of-way under Ordinance 2019-872 from 25 feet to 15 feet in accordance with the new subdivision regulations and to subsequently accept the dedication of the reduced right-of-way.

Will Dingee reported the following:

- In September of 2019, Council approved rezone of Parcel 306-21-010T under Ord. 2019-872. The stipulation of the rezone was the dedication of 25 feet of right-of-way along Center Street in accordance with Town Code at that time. The right-of-way was never dedicated.
- When Council approved the new subdivision regulations in September 2020, the right-of-way requirements were reduced from 100 feet to 80 feet.
- Staff was asking Council to approve a reduction in right-of-way required from 25 feet to 15 feet, and the subsequent acceptance of the reduced right-of-way.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Cloyce Kelly to approve to reduce the stipulated right-of-way under Ordinance 2019-872 from 25 feet to 15 feet in accordance with the new subdivision regulations and subsequently accept the dedication of the reduced right-of-way.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- g) Consideration and possible action to approve the Cooperative Purchasing Agreement with San Tan Auto Partners, L.L.C. for the purchase of a 2021 Police Interceptor Utility AWD Vehicle in the amount of \$35,555.28 and the outfitting of the vehicle through MHQ of Arizona in the amount of \$21,247.03 for the total purchase of \$56,802.31. (Chuck Wynn, Police Chief)

Recommended Action: Approve the Cooperative Purchasing Agreement with San Tan Auto Partners, L.L.C. for the purchase of a 2021 Police Interceptor Utility AWD Vehicle in the amount of \$35,555.28 and the outfitting of the vehicle through MHQ of Arizona in the amount of \$21,247.03 for the total purchase of \$56,802.31.

Lieutenant Chapman reported the following:

- It would add one additional vehicle to their fleet and retire another older vehicle.
- To outfit the vehicle was as expensive as it was to purchase the vehicle.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Cloyce Kelly to approve the purchase of a 2021 Police Interceptor Utility AWD Vehicle from San Tan Ford in the amount of \$35,555.28 and the outfitting of the vehicle through MHQ of Arizona in the amount of \$21,247.03 for the total purchase of \$56,802.31.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- h)** Consideration and possible action to approve the Professional Services Agreement with Willdan Financial Services, Inc regarding an Impact Fee Study in the amount of \$58,900. (Joe Duffy, Administrative Services Director)

Recommended Action: Approve the Professional Services Agreement with Willdan Financial Services regarding an Impact Fee Study in the amount of \$58,900.

Joe Duffy reported following:

- This item was presented at a study session in early 2020, but was postponed due to Covid and was brought back to Council at the last study session. Council recommended it be brought to Council for a vote.
- Town used to charge impact fees, but then the law changed the rules regarding how impact fees could be used, and for what they could be charged. The fees were generally more specific and focused on the impact new developments caused to the Town.
- Part of the stipulations were that there had to be a study that linked to the General Plan, and a consultant had to be hired to put the study together. At the study session, it was thought that with the new Town Manager, it was not a bad exercise to go through because it would force the Town to do Capital Project Planning and long range planning.
- They were considering park impact fees, road impact fees and police impact fees.
- The process was about a yearlong and it would be about 18 months before impact fees could be charged. This study would determine the amount and how it could be charged.

Council and staff discussed the following:

- The fees would be for new construction.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Cloyce Kelly to approve the Professional Services Agreement with Willdan Financial Services regarding an Impact Fee Study in the amount of \$58,900.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- i) Consideration and possible action to approve the Town's participation with and authorize the Mayor to sign the One Arizona Opioid Settlement Memorandum of Understanding. (Joe Duffy, Administrative Services Director)

Recommended Action: Approve the Town's participation with and authorize the Mayor to sign the One Arizona Opioid Settlement Memorandum of Understanding.

Joe Duffy reported on the following:

- The Attorney General's Office was asking all Cities, Towns and Counties to execute a Memorandum of Understanding for a statewide Opioid Settlement.
- The amount of the settlement would be approximately \$300-400 million. There was a complicated formula that determined what the Town would receive which would be between \$49,000-65,000. That money would go into a grant fund, which had many stipulations on how the money could be used. It could be used for treatment, prevention, and it had to be opioid related.
- Staff was not sure how the Town would use the funds or the exact amount. Upon receipt, staff will report the details to Council.

Council and staff discussed the following:

- The Town would get a fraction of the State's amount of \$300-400 million.
- Communities had to sign on and if they opted out, their portion of the funds would go back into the overall pool to then be distributed to other communities according to the formula. If a Town opted out, they could try and reach their own settlement, but that was an expensive process.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Cloyce Kelly to approve the Town's participation with and authorize the Mayor to sign the One Arizona Opioid Settlement Memorandum of Understanding.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- j) Consideration and possible action to approve the purchase of a HUBER Screw Press Q-PRESS 440.2 for the wastewater treatment plant in the amount of \$242,230.64. (Frank Marbury, Public Works Director/Town Engineer)

Recommended Action: Approve purchase of a Huber Screw Press Q-PRESS 440.2 for the wastewater treatment plant in the amount of \$242,230.64 and approve Addendum to Scope of Supply and Terms and Conditions.

Frank Marbury reported the following:

- Under the current plant operation, the final part of the process before disposal was to dewater the sludge.
- Since the beginning of the plant operation, a belt press was used. The system had aged and needed replacement.
- The newer technology used a screw type press, which should reduce the disposal charges \$10,000-15,000 per month because they would not be paying to haul water off.
- Staff recommended the Huber product because the brand was already being used and it helped with unified maintenance.
- The unit was compact, and staff could do the installation.
- The unit was \$219,000 plus extra parts and sales tax.

Council and staff discussed the following:

- The equipment should last approximately 15 years with regular maintenance.
- The Town had budgeted \$230,000. The cost was coming out of the WIFA repair and replacement fund, which were meant for repairs and replacements of this type of equipment. This project was in the five-year capital plan.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Cloyce Kelly to approve purchase of a Huber Screw Press Q-PRESS 440.2 for the wastewater treatment plant in the amount of \$242,230.64 and approve Addendum to Scope of Supply and Terms and Conditions.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- k) Consideration and possible action to approve the Town Manager's Separation, Release and Temporary Assignment Agreement regarding Town Manager Cecilia Grittmann. (Laura Kyriakakis, Human Resources Director)

Recommended Action: Approve the Town Manager's Separation, Release and Temporary Assignment Agreement.

Laura Kyriakakis reported on the following:

- The proposed agreement was reviewed by Ms. Grittmann and she had agreed to the provisions in the agreement.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Annie Perkins to approve the Town Manager's Separation, Release and Temporary Assignment Agreement

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- l)** Consideration and possible action to amend the prior appointment of Councilmember Kelly as an alternate to the League of Arizona Cities and Towns Resolutions Committee and appoint the alternate position to Councilmember Perkins. (Erin Deskins, Town Clerk)

Recommended Action: Appoint Councilmember Perkins as alternate to the League of Arizona Cities and Towns Resolutions Committee.

This was a formality and there was no presentation.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Cloyce Kelly to appoint Councilmember Perkins as alternate to the League of Arizona Cities and Towns Resolutions Committee.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

- m)** Consideration and possible action to adopt the 2021 Base Council Meeting Schedule. (Erin Deskins, Town Clerk)

Recommended Action: Adopt the 2021 Base Council Meeting Schedule.

Town Clerk Deskins stated the calendar was provided in the packets.

MOVED by Vice-Mayor Corey Mendoza, seconded by Councilmember Cloyce Kelly to adopt the 2021 Base Council Meeting Schedule.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

7) ADJOURNMENT

MOVED by Councilmember Lon Turner, seconded by Councilmember Annie Perkins to adjourn the regular meeting at 7:26 and go into Executive Session.

AYE: Mayor Jack Miller, Vice-Mayor Corey Mendoza, Councilmember Lon Turner, Councilmember Annie Perkins, Councilmember Cloyce Kelly, Councilmember Eric Granillo, Councilmember Tom Armstrong

7 - 0 PASSED - Unanimously

**EXECUTIVE SESSION
TUESDAY, DECEMBER 8, 2020
7:00 P.M.**

**Council Chambers
202 N. State Route 89
Chino Valley, Arizona**

AGENDA

- 1) **CALL TO ORDER; ROLL CALL**

- 2) An executive session pursuant to A.R.S. § 38-431.03(A)(3) for discussion or consultation for legal advice with the Town Attorney regarding possible purchase of three acres at the lift station. (Cecilia Grittman, Town Manager)

- 3) **ADJOURNMENT**

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Town Council of the Town of Chino Valley, Arizona held on the _____ day of _____, 2020. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2021.

Erin N. Deskins, Town Clerk



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. a.

Meeting Date: 01/12/2021
Contact Person: Will Dingee, GIS Tech
 Phone: 928-636-4427 x-1233
Department: Development Services
Estimated length of staff presentation: 5 minutes
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to adopt ORD No. 2021-893 amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 2.1 Meanings of Words and Terms and Section 4.9 Outdoor Storage, by adding the definition and regulations of a Metal Storage Container. (Will Dingee, Assistant Planner)

RECOMMENDED ACTION:

Adopt ORD No. 2021-893 amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 2.1 Meanings of Words and Terms and Section 4.9 Outdoor Storage, by adding the definition and regulations of a Metal Storage Container.

SITUATION AND ANALYSIS:

See attached Staff Report

Fiscal Impact

Fiscal Impact?: N/A
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Staff Report - Shipping Containers
 ORD 2021-893 - Conex Boxes



TOWN OF CHINO VALLEY

Town Council

Staff Report January 12, 2020

APPLICATION SUMMARY

File Number:	T-05-20
Applicant:	Town of Chino Valley
Request:	Request to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 2.1 Meanings of Words and Terms and Section 4.9 Outdoor Storage, by adding the definition and regulations of a Metal Storage Container.

SUMMARY

DISCUSSION

Under current Town Code, there are no provisions to allow staff to permit a steel shipping container (commonly referred to as a Conex Box) within in the Town of Chino Valley limits. Prior staff had instituted a policy that allowed for the placement of these containers however, the creation of this policy is not something that can be done solely at the discretion of Town staff.

On February 26, 2020, staff met with the UDO Update Subcommittee to ask for direction regarding shipping containers. The subcommittee member gave staff the go ahead to draft language that would address this issue. Unfortunately, due to COVID and the subdivision regulations text amendment this language was placed on hold.

Staff met with the UDO Update Subcommittee on October 28, 2020 and presented draft language in response to the February meeting. The subcommittee gave direction to proceed with the text amendment so long as certain changes were reflected in the language. The changes involve screening requirements, conversion of the containers to a use other than storage, electrical service and allowed quantity.

Staff has attached a copy of the proposed language to this staff report (**See Attachment 1: Proposed Text Amendment Language**).

CITIZENS OUTREACH

Staff has notified all residents within Chino Valley through public notification. The draft text amendment has been uploaded to the Town of Chino Valley's homepage and can be accessed by citizens by going to the news flash section. Staff has encouraged the citizens to send comments to the Development Service Department. To date, staff has not received any comments or emails from residents.

PLANNING AND ZONING COMMISSION

The item was presented before the Planning and Zoning Commission on December 1, 2020. The Commission discussed colors of the shipping containers, physical modifications to the containers and the permitting process for the containers. There was no public input during the meeting however, staff has had two conversations at the customer service counter with members of the public asking for an increase in the numbers of containers allowed on residential properties.

APPROVED 7-0**STAFF RECOMMENDATION**

Staff and the Planning and Zoning Commission forward a recommendation of approval to Town Council to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 2.1 Meanings of Words and Terms and Section 4.9 Outdoor Storage, by adding the definition and regulations of a Metal Storage Container.

Attachment 1: Proposed Text Amendment Language

2.1 MEANINGS OF WORDS AND TERMS

Metal Storage Container – A steel or other metal storage container sometimes referred to as a cargo container or CONEX box, which is independent of any trailer or axles, and is commercially produced and designed for the purposes of storage of personal or commercial belongings/products. This does not include tractor-trailers, boxcars, or vehicle cargo box/body.

4.9 OUTDOOR STORAGE

- A. Residential Zoning. Outdoor Storage of objects and materials shall be permitted as accessory uses when a primary use on the property has been established.
1. No **travel trailer**, motor home, **recreational vehicle (including park trailers)**, or boat stored on residentially zoned parcels or **lots** shall be made suitable for on-site occupancy unless permitted in the specific zoning regulation. Evidence of an on-site residency shall consist of at least three (3) of the following conditions:
 - a. Connection to a source of power.
 - b. Connection to a source of water.
 - c. Connection to sewer or septic system.
 - d. Raising or leveling by means of jacks, stands or **blocks**.
 - e. Having a mailbox.
 - f. Having any attached or **adjacent structure** or improvement, which enhances on-site livability and/or decreases the mobility of the vehicle.
 - g. Removal of wheels, axles or hitches on a vehicle normally fitted with wheels, axles and/or hitches. All vehicles shall be kept in reasonable repair and neatly arranged to resemble a parked position.
 2. The installation or placement of a metal storage container is allowed as an accessory use, solely for the storage of personal items owned by the property owner or occupant with the following provisions:
 - a. Properties located within the SR-1 up to SR-2.5 zoning districts are limited to a maximum of one 20-foot metal storage container. A smaller container may be placed on the property. However, properties are limited to a maximum of one container regardless of size.
 - b. Properties located within the AR-4 and AR-5 zoning districts are limited to two (2) 40-foot metal storage containers. Smaller containers may be placed on the property. However, properties are limited to a maximum of two containers regardless of size.
 - c. A land use permit shall be obtained prior to placement of the unit(s). Metal storage containers under 200 square feet are exempt from building permits but require a land use permit. Metal storage containers over 200 square feet may require a building permit.

- d. All containers shall be placed in the rear yard area and shall meet the Property Development Standards of the respective zoning districts.
 - e. All containers shall be painted and maintained to a single color within fifteen (15) days of placement. Graffiti left on the container is not permissible. It is encouraged that the containers color be either the primary structure's color or an earth tone consistent with the surrounding terrain.
 - f. Any physical modifications made to the container will need to comply with applicable Town Codes and come through the permitting process prior to the work being done.
 - g. Electrical service may be run to the container for lighting only. This will need to come through the permitting process and comply with applicable Town Codes.
 - h. Placement of the metal storage container is subject to drainage and building safety requirements.
 - i. Temporary uses of such containers can be administratively approved in conjunction with a Town issued building permit.
- B2. Commercial, manufacturing and industrial zone. Outdoor storage** of objects and materials shall be permitted as **accessory use** when a primary **use** has been established in **commercial**, manufacturing and **industrial zones**, providing the following conditions are met:
- a.1.** All **outdoor storage** must be stored at least thirty-five (35) feet from the edge of the pavement or other prepared **street** subject to:
 - a.i.** Storage may not occur within ten (10) feet from any **street** or property line.
 - b.ii.** Any material or objects stored within the required front or **street** side **yard** shall not exceed eight (8) feet in height.
 - b.2.** Flammables stored outdoors must be a minimum of ten (10) feet from any property line or such storage must be previously approved by the local fire department.
 - c.3.** No **travel trailer**, motor home, **recreational vehicle** or boat stored on **commercial**, manufacturing or **industrial** zoned parcels or **lots** shall be made suitable for on-site occupancy unless permitted in the specific zoning regulation. Evidence of an on-site residency shall consist of at least three of the following conditions:
 - a.i.** Connection to a source of power.
 - b.ii.** Connection to a source of water.
 - c.iii.** Connection to sewer or septic or sewer system.
 - d.iv.** Raising or leveling by means of jacks, stands or **blocks**.
 - e.v.** Having a mailbox.
 - f.vi.** Having any attached or **adjacent structure** or improvement, which enhances on-site livability and/or decreases the mobility of the vehicle.
 - g.vii.** Removal of wheels, axles or hitches on a vehicle normally fitted with wheels, axles and/or hitches.

~~4d.~~ All **outdoor storage** shall be arranged in a neat and orderly manner or screened from the view of neighboring properties.

~~5E.~~ The placement of metal storage containers on commercial and industrial property within the Town of Chino Valley shall be regulated as follows:

- ~~a.~~ A land use permit is obtained prior to placement of the unit(s). Units under 160 square feet are exempt from building permits. Units over 160 square feet may require a building permit.
- ~~b.~~ All containers shall be placed at the rear of the business and meet all other Property Development Standards of the respective zoning districts. Those containers that can't be placed in the rear of the building must be screened.
- ~~c.~~ All containers shall be painted and maintained to a single color within fifteen (15) days of placement. Graffiti left on the container is not permissible. It is encouraged that the containers color be either the primary commercial or industrial structure's color or an earth tone consistent with the surrounding terrain.
- ~~d.~~ Electrical service may be run to the container for lighting only. This will need to come through the permitting process and comply with applicable Town Codes.
- ~~e.~~ Commercial and industrial properties are allowed one (1) 20-foot metal container for every 1000 square feet of commercial or industrial building on site.
- ~~f.~~ Placement of the metal storage container is subject to drainage and building safety requirements.
- ~~g.~~ Placement of metal storage containers related to a temporary use (i.e. onsite construction) may be administratively approved in conjunction with a Town issued building permit.

(Ord. 06-678, passed 11-9-2006)

ORDINANCE NO. 2021-893

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING THE CHINO VALLEY TOWN CODE TITLE XV, LAND USAGE, CHAPTER 154, UNIFIED DEVELOPMENT ORDINANCE, BY AMENDING THE PROVISIONS RELATING TO MEANINGS OF WORDS AND TERMS AND OUTDOOR STORAGE.

WHEREAS, the Mayor and Common Council of the Town of Chino Valley (the “Town Council”) desires to amend the Chino Valley Town Code, Title XV, Land Usage, Chapter 154, Unified Development Ordinance of the Town of Chino Valley (the “UDO”), by modifying the provisions relating to outdoor storage (the “Text Amendment”); and

WHEREAS, the Town Council has determined that the Text Amendment conforms with the Town of Chino Valley General Plan and any applicable specific area plan, neighborhood plan, or other plan; and

WHEREAS, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws; and

WHEREAS, the Planning and Zoning Commission recommended approval of the Text Amendment; and

WHEREAS, in accordance with Article II, Sections 1 and 2 of the Arizona Constitution, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The recitals above are incorporated as if fully set forth herein.

Section 2. The UDO, Section 2.1 (Meanings of Words and Terms), is hereby amended to add the definition of “metal storage containers” as follows (deleted text is shown in strikethrough, and new text is shown in ALL CAPS):

METAL STORAGE CONTAINER. A STEEL OR OTHER METAL STORAGE CONTAINER SOMETIMES REFERRED TO AS A CARGO CONTAINER OR CONEX BOX, WHICH IS INDEPENDENT OF ANY TRAILER OR AXLES, AND IS COMMERCIALY PRODUCED AND DESIGNED FOR THE PURPOSES OF STORAGE OF PERSONAL OR COMMERCIAL BELONGINGS/PRODUCTS. THIS DOES NOT INCLUDE TRACTOR-TRAILERS, BOXCARS, OR VEHICLE CARGO BOX/BODY.

Section 3. The UDO, Section 4.9 (Outdoor Storage), is hereby amended as follows (deleted text is shown in strikethrough, and new text is shown in ALL CAPS):

4.9 OUTDOOR STORAGE

A. IN RESIDENTIAL ZONING DISTRICTS. OUTDOOR STORAGE OF OBJECTS AND MATERIALS SHALL BE PERMITTED AS AN ACCESSORY USE ONLY IF A PRIMARY USE ON THE PROPERTY HAS BEEN ESTABLISHED, AND SUBJECT TO THE FOLLOWING:

1. No **travel trailer**, motor home, **recreational vehicle (INCLUDING PARK TRAILERS)**, or boat stored on residentially zoned parcels or **lots** shall be made suitable for on-site occupancy unless permitted in the specific zoning regulation. ~~Evidence of an on-site residency shall consist of~~ "SUITABLE FOR ON-SITE OCCUPANCY" MEANS at least three (3) of the following conditions ARE PRESENT:
 - a. Connection to a source of power.
 - b. Connection to a source of water.
 - c. Connection to sewer or septic system.
 - d. Raising or leveling by means of jacks, stands or **blocks**.
 - e. Having a mailbox.
 - f. Having any attached or ~~adjacent structure~~ **ADJACENT STRUCTURE** or improvement, ~~which~~ THAT enhances on-site livability and/or decreases the mobility of the vehicle.
 - g. Removal of wheels, axles or hitches on a vehicle normally fitted with wheels, axles and/or hitches. All vehicles shall be kept in reasonable repair and neatly arranged to resemble a parked position.
2. THE INSTALLATION OR PLACEMENT OF A METAL STORAGE CONTAINER IS ALLOWED AS AN ACCESSORY USE, SOLELY FOR THE STORAGE OF PERSONAL ITEMS OWNED BY THE PROPERTY OWNER OR OCCUPANT SUBJECT TO THE FOLLOWING ADDITIONAL CONDITIONS:
 - a. PROPERTIES LOCATED WITHIN THE SR-1 UP TO SR-2.5 ZONING DISTRICTS ARE LIMITED TO A MAXIMUM OF ONE 20-FOOT METAL STORAGE CONTAINER. A SMALLER CONTAINER MAY BE PLACED ON THE PROPERTY. HOWEVER, PROPERTIES ARE LIMITED TO A MAXIMUM OF ONE CONTAINER REGARDLESS OF SIZE.

- b. PROPERTIES LOCATED WITHIN THE AR-4 AND AR-5 ZONING DISTRICTS ARE LIMITED TO TWO (2) 40-FOOT METAL STORAGE CONTAINERS. SMALLER CONTAINERS MAY BE PLACED ON THE PROPERTY. HOWEVER, PROPERTIES ARE LIMITED TO A MAXIMUM OF TWO CONTAINERS REGARDLESS OF SIZE.
- c. A LAND USE PERMIT SHALL BE OBTAINED PRIOR TO PLACEMENT OF THE METAL STORAGE CONTAINER. METAL STORAGE CONTAINERS WITH A FOOTPRINT UNDER 200 SQUARE FEET ARE EXEMPT FROM BUILDING PERMITS, BUT REQUIRE A LAND USE PERMIT. METAL STORAGE CONTAINERS WITH A FOOTPRINT OVER 200 SQUARE FEET MAY REQUIRE A BUILDING PERMIT.
- d. ALL METAL STORAGE CONTAINERS SHALL BE PLACED IN THE REAR YARD AREA AND SHALL MEET THE PROPERTY DEVELOPMENT STANDARDS OF THE RESPECTIVE ZONING DISTRICTS.
- e. ALL METAL STORAGE CONTAINERS SHALL BE PAINTED A SINGLE COLOR WITHIN FIFTEEN (15) DAYS OF PLACEMENT, AND SHOULD BE MAINTAINED IN SUCH CONDITION AT ALL TIMES WHILE ON THE PROPERTY. GRAFFITI LEFT ON THE METAL STORAGE CONTAINER IS NOT PERMISSIBLE. IT IS ENCOURAGED THAT THE METAL STORAGE CONTAINERS COLOR BE EITHER THE PRIMARY STRUCTURE'S COLOR OR AN EARTH TONE CONSISTENT WITH THE SURROUNDING TERRAIN.
- f. ANY PHYSICAL MODIFICATIONS MADE TO THE METAL STORAGE CONTAINER MUST COMPLY WITH APPLICABLE TOWN CODES AND MUST RECEIVE APPROVAL FROM THE TOWN PRIOR TO THE WORK BEING DONE.
- g. ELECTRICAL SERVICE MAY BE RUN TO THE METAL STORAGE CONTAINER FOR LIGHTING ONLY. SUCH ELECTRICAL SERVICE MUST COMPLY WITH APPLICABLE TOWN CODES AND MUST RECEIVE APPROVAL FROM THE TOWN PRIOR TO THE WORK BEING DONE.
- h. PLACEMENT OF THE METAL STORAGE CONTAINER IS SUBJECT TO DRAINAGE AND BUILDING SAFETY REQUIREMENTS.
- i. TEMPORARY USES OF SUCH METAL STORAGE CONTAINERS CAN BE ADMINISTRATIVELY APPROVED IN CONJUNCTION WITH A TOWN ISSUED BUILDING PERMIT.

B. ~~2. IN Commercial, manufacturing and industrial zone~~ **INDUSTRIAL ZONING DISTRICTS. Outdoor storage** of objects and materials shall be permitted as AN

accessory use when a primary **use** has been established in **commercial**, manufacturing and industrial zones—**INDUSTRIAL ZONING DISTRICTS**, providing the following conditions are met:

1. ~~a. All outdoor storage must be stored~~ OCCUR at least thirty-five (35) feet from the edge of the ~~pavement or other prepared~~ **street**—ROADWAY subject to:
 - a. ~~i. Storage may not occur within ten (10) feet from any~~ **street** or property line.
 - b. ~~ii. Any material or objects stored within the required front or~~ **street** side **yard** shall not exceed eight (8) feet in height.
2. ~~b. Flammables stored outdoors must be a minimum of ten (10) feet from any property line or such storage must be previously approved by the local fire department.~~
3. ~~c. No travel trailer, motor home, recreational vehicle (INCLUDING PARK TRAILERS), or boat stored on commercial, manufacturing or industrial zoned parcels or lots shall be made suitable for on-site occupancy unless permitted in the specific zoning regulation. Evidence of an on-site residency shall consist of "SUITABLE FOR ON-SITE OCCUPANCY" MEANS at least three (3) of the following conditions ARE PRESENT:~~
 - a. ~~i. Connection to a source of power.~~
 - b. ~~ii. Connection to a source of water.~~
 - c. ~~iii. Connection to sewer or septic or sewer system.~~
 - d. ~~iv. Raising or leveling by means of jacks, stands or~~ **blocks**.
 - e. ~~v. Having a mailbox.~~
 - f. ~~vi. Having any attached or adjacent structure—ADJACENT STRUCTURE or improvement, which THAT enhances on-site livability and/or decreases the mobility of the vehicle.~~
 - g. ~~vii. Removal of wheels, axles or hitches on a vehicle normally fitted with wheels, axles and/or hitches.~~
4. ~~d. All outdoor storage shall be arranged in a neat and orderly manner or screened from the view of neighboring properties.~~
5. THE INSTALLATION OR PLACEMENT OF A METAL STORAGE CONTAINER IS ALLOWED ON COMMERCIAL AND INDUSTRIAL PROPERTY AS AN ACCESSORY USE, SOLELY FOR THE STORAGE OF

ITEMS OWNED BY THE BUSINESS OWNER OR OCCUPANT SUBJECT TO THE FOLLOWING ADDITIONAL CONDITIONS:

- a. A LAND USE PERMIT SHALL BE OBTAINED PRIOR TO PLACEMENT OF THE METAL STORAGE CONTAINER. METAL STORAGE CONTAINERS WITH A FOOTPRINT UNDER 160 SQUARE FEET ARE EXEMPT FROM BUILDING PERMITS, BUT REQUIRE A LAND USE PERMIT. METAL STORAGE CONTAINERS WITH A FOOTPRINT OVER 160 SQUARE FEET MAY REQUIRE A BUILDING PERMIT.
- b. ALL METAL STORAGE CONTAINERS SHALL BE PLACED AT THE REAR OF THE BUSINESS AND SHALL MEET THE PROPERTY DEVELOPMENT STANDARDS OF THE RESPECTIVE ZONING DISTRICTS. THOSE METAL STORAGE CONTAINERS THAT CAN'T BE PLACED IN THE REAR OF THE BUILDING MUST BE SCREENED.
- c. ALL METAL STORAGE CONTAINERS SHALL BE PAINTED A SINGLE COLOR WITHIN FIFTEEN (15) DAYS OF PLACEMENT, AND SHOULD BE MAINTAINED IN SUCH CONDITION AT ALL TIMES WHILE ON THE PROPERTY. GRAFFITI LEFT ON THE METAL STORAGE CONTAINER IS NOT PERMISSIBLE. IT IS ENCOURAGED THAT THE METAL STORAGE CONTAINERS COLOR BE EITHER THE PRIMARY COMMERCIAL OR INDUSTRIAL STRUCTURE'S COLOR OR AN EARTH TONE CONSISTENT WITH THE SURROUNDING TERRAIN.
- d. ELECTRICAL SERVICE MAY BE RUN TO THE METAL STORAGE CONTAINER FOR LIGHTING ONLY. SUCH ELECTRICAL SERVICE MUST COMPLY WITH APPLICABLE TOWN CODES AND MUST RECEIVE APPROVAL FROM THE TOWN PRIOR TO THE WORK BEING DONE.
- e. COMMERCIAL AND INDUSTRIAL PROPERTIES ARE ALLOWED ONE (1) 20-FOOT METAL STORAGE CONTAINER FOR EVERY 1000 SQUARE FEET OF COMMERCIAL OR INDUSTRIAL BUILDING ON SITE.
- f. PLACEMENT OF THE METAL STORAGE CONTAINER IS SUBJECT TO DRAINAGE AND BUILDING SAFETY REQUIREMENTS.
- g. TEMPORARY USES OF SUCH METAL STORAGE CONTAINERS (I.E. ONSITE CONSTRUCTION) CAN BE ADMINISTRATIVELY APPROVED IN CONJUNCTION WITH A TOWN ISSUED BUILDING PERMIT.

Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. If any section, subsection, sentence, 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 portions of this Ordinance.

Section 6. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this _____ day of _____, 2021.

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Gust Rosenfeld PLC, Town Attorney
By: Andrew J. McGuire

I hereby certify the above foregoing Ordinance No. 2021-893 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on _____, and that quorum was present, and that the vote thereon was _____ ayes and _____ nays and _____ abstentions. _____ Council members were absent or excused.

Erin N. Deskins, Town Clerk



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. b.

Meeting Date: 01/12/2021
Contact Person: Will Dingee, GIS Tech
 Phone: 928-636-4427 x-1233
Department: Development Services
Estimated length of staff presentation: 5 minutes
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to adopt ORD No. 2021-894 amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 4.28 Front Yard And Street Side Yard Building Setbacks When Adjacent To A Street, by amending setback requirements and how setbacks are measured and the addition of language for alleviations and exemptions. (Will Dingee, Assistant Planner)

RECOMMENDED ACTION:

Adopt ORD No. 2021-894 amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 4.28 Front Yard And Street Side Yard Building Setbacks When Adjacent To A Street, by amending setback requirements and how setbacks are measured and the addition of language for alleviations and exemptions.

SITUATION AND ANALYSIS:

See attached Staff Report

Fiscal Impact

Fiscal Impact?: N/A
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Staff Report - Setbacks
 ORD 2021-884 - Setback Reductions



TOWN OF CHINO VALLEY Town Council Staff Report January 12, 2021

APPLICATION SUMMARY

File Number:	T-06-20
Applicant:	Town of Chino Valley
Request:	Request to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 4.28 Front Yard And Street Side Yard Building Setbacks When Adjacent To A Street, by amending setback requirements and how setbacks are measured and the addition of language for alleviations and exemptions.

SUMMARY

DISCUSSION

On September 8, 2020, Town Council adopted Ordinance 2020-885 which amended the Town's subdivision regulations. Part of this amendment included the reduction in right-of-way width requirements. This reduction was unfortunately not retroactive and as a result, developments that were constructed prior to the adoption are left with an abundance of right-of-way.

Staff met with the UDO Update Subcommittee on October 28, 2020 and presented this issue and a draft of the proposed language. The language outlined a suggested alleviation and exemption in the form of a reduced setback for developments that were constructed under the language prior to Ordinance 2020-885. The proposed language also cleaned up the existing language in Section 4.28. The subcommittee directed staff to proceed in taking this item to the Planning and Zoning Commission.

Staff has attached a copy of the proposed text amendment to this staff report (**See Attachment 1: Proposed Text Amendment Language**).

CITIZENS OUTREACH

Staff has notified all residents within Chino Valley through public notification. The draft text amendment has been uploaded to the Town of Chino Valley's homepage and can be accessed by citizens by going to the news flash section. Staff has encouraged the citizens to send comments to the Development Service Department. Staff has received public input in favor of this amendment, as it would allow for a greater buildable area on their property.

PLANNING AND ZONING COMMISSION

The item was presented before the Planning and Zoning Commission on December 1, 2020. The Commission discussed the definitions for street classifications and how setbacks were measured. There was no public comment at the meeting however, staff has received several calls in support of this amendment as it allows for greater building areas private property.

APPROVED 7-0**STAFF RECOMMENDATION**

Staff and the Planning and Zoning Commission forward a recommendation of approval to Town Council to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Section 4.28 Front Yard And Street Side Yard Building Setbacks When Adjacent To A Street, by amending setback requirements and how setbacks are measured and the addition of language for alleviations and exemptions.

Attachment 1: Proposed Text Amendment Language

4.28 FRONT YARD AND STREET SIDE YARD BUILDING SETBACKS WHEN ADJACENT TO A STREET

- A. Intent: Define where front and street sideyard setbacks shall be measured in anticipation of future required right-of-way dedications. ~~allow for the acquisition of future right of way dedications and leave a reasonable building setback remaining for the existing structure.~~
- B. Setback requirement: all of the setbacks shall be measured from the subject parcel's front or street side yard property line. If additional right-of-way is required along the parcel's front and street side property line, then the setback shall be measured from the anticipated property line after dedication of required right-of-way. ~~presumed dedication of twenty-five (25) feet from the section, mid-section, or presumed street center line, which ever applies; whether or not the dedication has actually occurred at this time.~~

~~Under special circumstances a reduction in the setback requirement may be granted by the Zoning Administrator.~~

C. Arterial Roadways

1. **Arterial Roadway Building setbacks** shall be 20-feet from the property line. If additional right-of-way is needed to obtain the total 80-foot right-of-way width required for arterial roadways, then the setback shall be 20-feet from the anticipated property line after all necessary right-of-way dedications are made. ~~a minimum of fifty (50) feet from all one (1) mile streets/arterial.~~
2. **State Route 89 Building setbacks** shall be 50-feet, measured from the property line. If additional right-of-way is needed along State Route 89 then the setback shall be 50-feet from the anticipated property line after all necessary right-of-way dedications are made. ~~In addition, building setbacks shall be fifty (50) feet from State Route 89 rights of way.~~
3. **Streets Classified as Arterial** **ONE (1) MILE STREETS/ARTERIAL:**
 - a. Road 6 North
 - b. Road 5 North
 - c. Road 4 North
 - d. Road 3 North
 - e. Road 2 North
 - f. Center Street
 - g. Road 2 South
 - h. Outer Loop Road/ Road 4 South
 - i. Road 5 South
 - j. Road 1 East
 - k. Road 1 West
 - l. The East Side of Reed Road; and
 - m. Perkinsville Road

D. Collector Roadways

1. **Building setbacks** shall be 20-feet from the property line. If additional right-of-way is needed to obtain the total 80-foot right-of-way width required for arterial roadways, then the setback shall be 20-feet from the anticipated property line after all necessary right-of-way dedications are made. ~~a minimum of forty (40) feet from all one half (1/2) mile streets/ collector.~~
2. **Streets Classified as Collectors** ~~ONE HALF (1/2) MILE STREETS/ COLLECTOR:~~
 - a. Road 4 1/2 North
 - b. Road 3 1/2 North
 - c. Road 1 North
 - d. Road 1 South
 - e. Road 3 South

E. Local Roadways

- ~~1.~~ Building setbacks shall be 20-feet from the property line. If additional right-of-way is needed to obtain the total 50-foot right-of-way width required for arterial roadways, then the setback shall be 20-feet from the anticipated property line after all necessary right-of-way dedications are made. ~~be a minimum of twenty (20) feet from all other streets/local streets.~~

F. Street Side Yard Setback Alleviation and Exemptions

Some properties front or have street side yards on roadways that have been developed to previous code standards requiring a total 100-foot or 50-foot half-street right-of-way dedication and improvements. Properties that have a property line on roads that have completed the required 50-foot half-street improvements shall have a 10-foot reduced setback. Distance from the front of a garage to the street shall still be required to maintain a 20-foot setback from existing roadway.

ORDINANCE NO. 2021-894

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING THE CHINO VALLEY TOWN CODE TITLE XV, LAND USAGE, CHAPTER 154, UNIFIED DEVELOPMENT ORDINANCE, BY AMENDING THE PROVISIONS RELATING TO BUILDING SETBACKS WHEN ADJACENT TO A STREET.

WHEREAS, the Mayor and Common Council of the Town of Chino Valley (the "Town Council") desires to amend the Chino Valley Town Code, Title XV, Land Usage, Chapter 154, Unified Development Ordinance of the Town of Chino Valley (the "UDO"), by modifying the provisions relating to building setbacks when adjacent to a street (the "Text Amendment"); and

WHEREAS, the Town Council has determined that the Text Amendment conforms with the Town of Chino Valley General Plan and any applicable specific area plan, neighborhood plan, or other plan; and

WHEREAS, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws; and

WHEREAS, the Planning and Zoning Commission recommended approval of the Text Amendment; and

WHEREAS, in accordance with Article II, Sections 1 and 2 of the Arizona Constitution, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The recitals above are incorporated as if fully set forth herein.

Section 2. The UDO, Section 4.28 (Building Setbacks When Adjacent to a Street), is hereby amended as follows (deleted text is shown in ~~strikethrough~~, and new text is shown in ALL CAPS):

4.28 **FRONT YARD AND STREET SIDE YARD BUILDING SETBACKS WHEN ADJACENT TO A STREET**

- A. Intent: DEFINE WHERE FRONT AND STREET SIDE YARD SETBACKS SHALL BE MEASURED IN ANTICIPATION OF FUTURE REQUIRED RIGHT-OF-WAY DEDICATIONS. ~~allow for the acquisition of future right of way dedications and leave a reasonable building setback remaining for the existing structure.~~
- B. Setback requirement: all of the setbacks shall be measured from the SUBJECT PARCEL'S FRONT OR STREET SIDE YARD PROPERTY LINE. IF ADDITIONAL RIGHT-OF-WAY IS REQUIRED ALONG THE PARCEL'S FRONT OR STREET SIDE PROPERTY LINE, THEN THE SETBACK SHALL BE MEASURED FROM THE ANTICIPATED PROPERTY LINE AFTER DEDICATION OF REQUIRED RIGHT-OF-WAY. ~~presumed dedication of twenty five (25) feet from the section, mid-section, or~~

~~presumed street center line, which ever applies; whether or not the dedication has actually occurred at this time.~~

~~Under special circumstances a reduction in the setback requirement may be granted by the Zoning Administrator.~~

C. ARTERIAL STEETS

1. **ARTERIAL STREET Building setbacks** shall be 20 FEET FROM THE PROPERTY LINE. IF ADDITIONAL RIGHT-OF-WAY IS NEEDED TO OBTAIN THE TOTAL 80-FOOT RIGHT-OF-WAY WIDTH REQUIRED FOR ARTERIAL STREETS, THEN THE SETBACK SHALL BE 20 FEET FROM THE ANTICIPATED PROPERTYLINE AFTER ALL NECESSARY RIGHT-OF-WAY DEDICATIONS ARE MADE. ~~a minimum of fifty (50) feet from all one (1) mile streets/arterial.~~
2. **STATE ROUTE 89 BUILDING SETBACKS** SHALL BE 50 FEET, MEASURED FROM THE PROPERTY LINE. IF ADDITIONAL RIGHT-OF-WAY IS NEEDED ALONG STATE ROUTE 89 THEN THE SETBACK SHALL BE 50 FEET FROM THE ANTICIPATED PROPERTY LINE AFTER ALL NECESSARY RIGHT-OF-WAY DEDICATIONS ARE MADE.
3. **STREETS CLASSIFIED AS ARTERIAL STREETS: ~~ONE (1) MILE STREETS/ARTERIAL:~~**
 - a. Road 6 North
 - b. Road 5 North
 - c. Road 4 North
 - d. Road 3 North
 - e. Road 2 North
 - f. Center Street
 - g. Road 2 South
 - h. Outer Loop Road/ Road 4 South
 - i. Road 5 South
 - j. Road 1 East
 - k. Road 1 West
 - l. The East Side of Reed Road; and
 - m. Perkinsville Road

~~In addition, building setbacks shall be fifty (50) feet from State Route 89 rights of way.~~

~~Building setbacks shall be a minimum of forty (40) feet from all one half (½) mile streets/collector.~~

D. COLLECTOR STREETS

1. **BUILDING SETBACKS** SHALL BE 20 FEET FROM THE PROPERTY LINE. IF ADDITIONAL RIGHT-OF-WAY IS NEEDED TO OBTAIN THE TOTAL 80-FOOT RIGHT-OF-WAY WIDTH REQUIRED FOR COLLECTOR STREETS, THEN THE SETBACK SHALL BE 20 FEET FROM THE ANTICIPATED PROPERTYLINE AFTER ALL NECESSARY RIGHT-OF-WAY DEDICATIONS ARE MADE.

2. **STREETS CLASSIFIED AS COLLECTOR STREETS: ~~ONE HALF (1/2) MILE~~**
STREETS/COLLECTOR:

- a. Road 4 1/2 North
- b. Road 3 1/2 North
- c. Road 1 North
- d. Road 1 South
- e. Road 3 South

E. LOCAL STREETS

Building setbacks shall be 20 FEET FROM THE PROPERTY LINE. IF ADDITIONAL RIGHT-OF-WAY IS NEEDED TO OBTAIN THE TOTAL 50-FOOT RIGHT-OF-WAY WIDTH REQUIRED FOR LOCAL STREETS, THEN THE SETBACK SHALL BE 20 FEET FROM THE ANTICIPATED PROPERTY LINE AFTER ALL NECESSARY RIGHT-OF-WAY DEDICATIONS ARE MADE. ~~be a minimum of twenty (20) feet from all other streets/local streets.~~

F. ARTERIAL STREET SIDE YARD SETBACK EXEMPTIONS

PROPERTIES SHALL BE PERMITTED TO UTILIZE A 10-FOOT REDUCED ARTERIAL STREET-SIDE SETBACK IF THE FOLLOWING CONDITIONS HAVE BEEN MET:

1. THE ARTERIAL STREET ADJACENT TO THE PROPERTY WAS PREVIOUSLY REQUIRED TO HAVE 50-FOOT HALF STREET IMPROVEMENTS, BUT FOR WHICH THE REQUIREMENT IS NOW 40-FOOT HALF STREET IMPROVEMENTS.
2. THE REQUIRED 50-FOOT HALF-STREET IMPROVEMENTS WERE PROVIDED PRIOR TO THE REDUCTION TO THE 40-FOOT REQUIRED HALF STREET IMPROVEMENTS.
3. THE MINIMUM SETBACK FROM THE FRONT OF A GARAGE TO THE STREET IS MAINTAINED AT NOT LESS THAN A 20-FOOT SETBACK FROM AN EXISTING STREET.

Section 3. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. If any section, subsection, sentence, 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 portions of this Ordinance.

Section 5. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 12th day of January, 2021.

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Gust Rosenfeld PLC, Town Attorney
By: Andrew J. McGuire

I hereby certify the above foregoing Ordinance No. 2021-894 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on January 12, 2021, and that quorum was present, and that the vote thereon was _____ ayes and _____ nays and _____ abstentions. Council members were absent or excused.

Erin N. Deskins, Town Clerk

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. c.

Meeting Date: 01/12/2021

Contact Person: Frank Marbury, Public Works Director/Town Engineer
Phone: 928-636-7140 x-1226

Department: Public Works

Estimated length 10 minutes

of staff presentation:

Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to approve the Assured Water Supply Credit Purchase Agreement with Laverne D. and Linda R. Wallace Trust, for 375 acre feet of Extinguishment Credits in the amount of \$90,000.00 plus administrative fees. (Frank Marbury, Public Works Director/Town Engineer)

RECOMMENDED ACTION:

Approve the purchase agreement with Laverne D. and Linda R. Wallace Trust, for 375 acre feet of Extinguishment Credits in the amount of \$90,000.00 plus administrative fees.

SITUATION AND ANALYSIS:

Mr. Russell Wallace, on behalf of his parents, Laverne D. and Linda R. Wallace approached the Town to sell 375 Acre Feet of extinguishment credits. These credits can be added to the Town portfolio of water supply to potentially be made available for development with the Town limits and the Prescott Active Management Area. By ordinance, if the Town sells the credits, the current selling price would be \$93,750.00. Staff recommends entering into an agreement with the Wallace Trust to purchase the credits for a total price of \$90,000.00 plus administrative fees.

Fiscal Impact

Fiscal Impact?: Yes

If Yes, Budget Code: 05-90-5542

Available: 90000

Funding Source:

The purchase will be paid from the Capital Improvement Fund.

Attachments

Conveyance Application

Wallace AWSC Purchase



Arizona Department of Water Resources
 Office of Assured and Adequate Water Supply
 1110 W Washington St, Ste 310
 Phoenix, Arizona 85007-2954
 (602) 771-8599
 Web: www.azwater.gov

**Conveyance
 of Extinguishment Credits**
 A.A.C. R12-15-723

DATE RECEIVED

- ❖ The Credit holder's signature on this form must be notarized.
- ❖ **FEES: The fee for a Conveyance of Extinguishment Credits is \$250.00.** Payment may be made by cash, check, or credit card (if you wish to pay by credit card, please contact the Office of Assured and Adequate Water Supply at 602-771-8599). Checks should be made payable to the Arizona Department of Water Resources. **Failure to enclose the fee will cause the form to be returned. Fees for a Conveyance of Extinguishment Credits are authorized by A.R.S. § 45-113 and A.A.C. R12-15-104.**
- ❖ The effective date of this conveyance is the date of Notarization.
- ❖ Enclose the original extinguishment document for the first conveyance. If the original document has been lost, a notarized statement to this effect must be submitted.
- ❖ Once extinguishment credits are pledged to a Certificate of Assured Water Supply, they may not be re-conveyed.
- ❖ In the case of a change in ownership of the subdivision, use this form to re-convey the credits to the same subdivision. You may choose to withdraw the pledged credits in the case of a change in ownership, but only if no lots have been sold.
- ❖ Extinguishment credits may not be transferred or pledged outside of the active management area in which they originated.

**The undersigned party hereby notifies the Arizona Department of Water Resources of the
 Conveyance of the following extinguishment credits:**

EXTINGUISHMENT DOCUMENT NUMBER 58 -	ACTIVE MANAGEMENT AREA (CHECK ONE) ☐ Phoenix ☐ Pinal ☐ Prescott ☐ Tucson
AMOUNT OF CREDITS ON CURRENT EXTINGUISHMENT DOCUMENT Acre-Feet	CREDITS ARE BEING PLEDGED TO (CHECK ONE):
AMOUNT OF CREDITS TO BE CONVEYED Acre-Feet	☐ DESIGNATED WATER PROVIDER DWR NO. 26- ☐ CERTIFICATE OF ASSURED WATER SUPPLY DWR NO. 27- ☐ CREDITS ARE NOT BEING PLEDGED AT THIS TIME

Creditholder	If credits are not being pledged at this time, convey to:
FULL NAME OF COMPANY, ORGANIZATION, OR INDIVIDUAL	FULL NAME OF COMPANY, ORGANIZATION, OR INDIVIDUAL
MAILING ADDRESS	MAILING ADDRESS
CITY / STATE / ZIP CODE	CITY / STATE / ZIP CODE
CONTACT PERSON NAME AND TITLE	CONTACT PERSON NAME AND TITLE
TELEPHONE NUMBER FAX	TELEPHONE NUMBER FAX
Sign in the presence of a Notary Public	
SIGNATURE OF CREDITHOLDER	DATE

ASSURED WATER SUPPLY CREDITS PURCHASE AGREEMENT

This Agreement is effective January 12, 2021, by and between **LAVERNE D. WALLACE and LINDA R. WALLACE**, as **Trustees of the LAVERNE D. & LINDA R. WALLACE TRUST**, under **Trust Agreement dated June 11, 2002** (“**Seller**”), and **TOWN OF CHINO VALLEY**, an Arizona municipal corporation (“**Buyer**”).

RECITALS:

A. Seller owns 375 acre-feet of merchantable and valid assured extinguished water supply credits (the “**Credits**”) per Irrigation Grandfathered Right No. 58-105220.0005 in the Prescott Active Management Area.

B. Buyer desires to purchase the Credits under the terms and conditions contained herein.

AGREEMENT:

1. Agreement to Sell and Purchase Water Rights. Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase and acquire from Seller, the Seller’s right, title and interest in and to the Credits subject to the terms of this Agreement to the extent the transfer of the Credits is approved by the Arizona Department of Water Resources (“ADWR”).

2. Purchase Price and Terms. Buyer shall pay Seller \$90,000.00 (\$240.00/acre-foot x 375 acre feet) for the Credits. Buyer agrees to pay the cost of executing a Conveyance of Extinguishment Credits (the “**Conveyance**”) to transfer the Credits to the Buyer.

3. Warranties of Seller. Seller does hereby represent, covenant and warrant to Buyer that the following are true now and will be at closing.

(a) Authority. Seller has the right and authority to enter into this Agreement and to consummate the transactions intended in this Agreement.

(b) Title to the Credits. Seller has, or at closing will have, good and merchantable, fee simple title to the Credits. The Credits will be free and clear of all liens, security interests, mortgages, pledges, encumbrances, ditch fees, taxes and assessments, and charges or claims of whatever nature. The Credits are in good standing with the ADWR, and have not been forfeited or abandoned, and are not subject to judgment, suit, lien, receivership, or any other encumbrance whatsoever.

(c) Judgments or Litigation. Seller has no knowledge of any outstanding judgments against Seller that would in any manner affect the consummation of this transaction or constitute any cloud upon the title to the Credits. Seller has no knowledge of any pending litigation, proceedings, or investigations, or any threats of litigation, proceedings or investigations that might result in any cloud upon the title to the Credits, or any other material change in the value of the Credits.

(d) Continued Cooperation. Seller shall, within reason, cooperate with Buyer before, during and after closing to effectuate the transactions contemplated in this Agreement including, without limitation, the execution of any documents or the taking of any action (or the restraining from taking of any action) necessary or desirable to achieve the intended results herein.

4. Conditions Precedent. All obligations of Buyer to close this transaction are subject to the fulfillment of each of the following conditions before or at closing:

(a) Seller's Compliance. Seller will have performed and complied with all agreements and conditions required herein. Seller understands and agrees that it is necessary to execute and file the Conveyance with the ADWR.

(b) Proof of Title. Seller shall take the action necessary to provide documentation reasonably requested by Buyer to prove or support the free and clear title and validity of the Credits. The sale is subject to Seller being able to provide a letter from the ADWR evidencing the approval and processing of the Conveyance with free and clear title for the Credits.

5. Fulfillment of Conditions Precedent. Upon fulfillment of the conditions precedent, the total purchase price of \$90,000.00 shall be paid to Seller.

6. Miscellaneous Provisions.

(a) Additional Documentation. Any other documentation that may be required to close and consummate the transaction after the signing of this Agreement shall be made and delivered by the parties as required.

(b) Indemnification. Seller and Buyer shall each, to the extent permitted by law, indemnify and hold the other harmless from and against any and all claims, demands, causes of action, debts or liabilities arising out of this transaction.

(c) Notices. All notices and other communications, required or permitted to be given hereunder, shall be in writing and shall be deemed to have been duly given and delivered, if mailed, certified postage prepaid:

If to Seller(s): Laverne D. Wallace and Linda R. Wallace, as Trustees
of the Laverne D. Wallace and Linda R. Wallace Trust,
under Trust Agreement dated June 11, 2002
P.O. Box 256
Prescott Arizona 86302

If to Buyer: Town of Chino Valley
202 North State Route 89
Chino Valley, Arizona 86323
Attn: Town Manager

Copied to: Gust Rosenfeld, PLC
 One East Washington Street, Suite 1600
 Phoenix, Arizona 85004
 Attn: Andrew J. McGuire

(d) Binding Effect. All of the agreements between the parties shall be binding upon and inure to the benefit of the parties, their successors, personal representative, heirs or assigns.

(e) Captions. The captions of any articles, paragraphs or sections hereof are made for convenience only and not control or affect the meaning or construction of any other provisions hereof.

(f) Attorney's Fees. Buyer and Seller shall be responsible for any fees or costs of their respective attorneys and consultants, and for any attorney's and consultant's fees incurred by them in the enforcement of any of the terms and provisions of this Agreement, or in connection with the Credits described herein.

(g) Entire Agreement. This Agreement merges all previous negotiations between the parties hereto and constitutes the entire Agreement and understanding between the parties with respect to the subject matter hereof. No alteration, modification, or amendment hereto shall be valid except in writing and when signed by the parties.

7. Representations. All statements contained in this Agreement or any other instrument delivered by or on behalf of Seller as provided in this Agreement, or in connection with this transaction, will be deemed representations and warranties by Seller as provided in this Agreement. All representations, warranties, indemnities, and agreements made by Seller or Buyer in this Agreement shall survive closing.

8. Assignment. This Agreement may be assigned by the Buyer in the Buyer's sole discretion without the consent of the Seller.

[Signatures on following page.]

SELLER:

**LAVERNE D. & LINDA R. WALLACE TRUST,
under Trust Agreement dated June 11, 2002**

Laverne D. Wallace, Trustee

Linda R. Wallace, Trustee

BUYER:

TOWN OF CHINO VALLEY, an Arizona
municipal corporation

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. d.

Meeting Date: 01/12/2021

Contact Person: Frank Marbury, Public Works Director/Town Engineer
Phone: 928-636-7140 x-1226

Department: Public Works

Estimated length 10 minutes

of staff presentation:

Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to approve the Partnership Agreement with The Nature Conservancy, and accept the grant award of \$75,000 for use in cost sharing for updates to the Northern Arizona Regional Groundwater Flow Model. (Frank Marbury, Public Works Director/Town Engineer)

RECOMMENDED ACTION:

Approve the Partnership Agreement with The Nature Conservancy and accept the grant award of \$75,000 for use in cost sharing for updates to the Northern Arizona Regional Groundwater Flow Model.

SITUATION AND ANALYSIS:

As part of Chino Valleys effort to solidify the ability to use its water resources, the Arizona Department of Water Resources (ADWR) is requiring the update of the Northern Arizona Regional Groundwater Flow Model (NARGFM). This model serves the areas outside the Prescott Active Management Area. An update to this model is required if the Town ever imports water from the properties it owns in this area. The Nature Conservancy (TNC) also has interests in updates to this model. In order to share resources and costs, staff proposes entering into a partnership agreement with TNC. This also includes a grant from TNC in the amount of \$75,000.00. This amount represents approximately half the monies needed to complete the updated model. The Town would be required to provide matching funds in order to complete the work.

Agenda Item 3229 is related to this item. Item 3229 details the contract with EHS Group, Inc., the consultant chosen to complete the model updates.

Fiscal Impact

Fiscal Impact?: Yes

If Yes, Budget Code: 07-63-5221

Available: 75000

Funding Source:

Funds will be accounted for in the Grant Fund

Attachments

TNC Grant

AGR - Nature Conservancy



Contract Number:	AZFO-201123
Accounting Information –	
Project Name:	AZ 1 Verde River
Project-Award-Activity Number:	P118309; F105936 P118572; F105596
Source of funds:	Private Foundation ☒ Private ☐

GRANT BY TNC TO GRANTEE – PRIVATE FUNDS – SHORT FORM

The Nature Conservancy (the “Conservancy” or “TNC”) has agreed to make a grant to the **Town of Chino Valley** (“Grantee” or “Town”) in the amount of **\$75,000** (“the Grant”). If indicated above, this Grant is made under a Grant (“Prime Grant”) made to the Conservancy by the Nina Mason Pulliam Charitable Trust (“Trust”). The Grant is also subject to the “Standard Grant Conditions” set out on the attached form (Attachment A).

Purpose of this Grant.

This Grant will provide funds for the Grantee’s **Groundwater Modeling** (“Program”). Specifically, Grantee shall:

Develop a fully calibrated and Arizona Department of Water Resources (“ADWR”) peer-reviewed, Northern Arizona Regional Groundwater Flow Model (“NARGFM”) with the capabilities to perform an analysis of assured water supply (“AAWS”) permit application for the Town along with the capabilities to perform several additional modeling scenarios beyond the scope of the AAWS application that could be carried out through future collaboration between the Town and The Conservancy or by each party independently. The AAWS is intended to demonstrate the physical availability of groundwater over the next 100 years from the Town’s property known as the Wineglass Ranch located within the Big Chino sub-basin and near the headwaters of the Verde River, for future importation. The AAWS will be accomplished via numerical modeling in accordance with the ADWR Substantive Policy Statement titled *Hydrologic Studies Demonstrating Physical Availability of Groundwater for Assured and Adequate Water Supply Applications* and applicable rules governing the determination of availability.

The Town will engage and manage a qualified groundwater modeling consultant to provide the groundwater modeling services described in the preceding paragraph. For the duration of this Grant, through regular meetings, the Town and TNC will collaborate on the development of the groundwater model. The meeting schedule will be agreed upon within two weeks of the start of this Grant. The Town will provide TNC access to model reports related to function and assumptions to develop the NARGFM Model and use of the model in the future to be able to develop modeling scenarios. Future modeling scenarios and analysis of these scenarios will be funded by future agreements or by each party independently.

In accordance with the terms of the Prime Grant, this Grant is subject to the following conditions:

PUBLICITY. Until such time as the Trust notifies the Grantee that the Trust’s identity as the grantor of the Prime Grant may be released publicly, the grantor of the Prime Grant shall be identified as anonymous and the Grantee shall not make any public reference to the Trust or to Mrs. Pulliam. At such time as the Trust approves a public release, the Grant shall be recognized in publications and announcements as being awarded by the Nina Mason Pulliam Charitable Trust. If the Grantee wishes to issue a news release concerning the Grant, the text of the proposed release must be submitted to the Trust for review prior to the release date. No release shall be made without the Trust’s approval.

Term.

This Grant shall start upon final signature and shall expire on January 11, 2022.

Reporting and Due Dates.

The Grantee shall submit the following reports using the attached formats ("Attachment B"):

Programmatic reports

- March 15, 2021, interim programmatic report (may be satisfied by providing signed copies of the contract with the selected consultant for groundwater modeling)
- June 15, 2021, interim programmatic report
- October 1, 2021, final programmatic report

Financial reports

- March 15, 2021, interim financial report
- June 15, 2021, interim financial report
- October 1, 2021, final financial report

Financial reports shall be submitted to Kimberly Schonek, Verde River Project Director, kschonek@tnc.org, and Tom Stitt, Conservation Financial Specialist, thomas.stitt@tnc.org.

Programmatic reports shall be submitted to Kimberly Schonek, Verde River Project Director, kschonek@tnc.org, and Tom Stitt, Conservation Financial Specialist, thomas.stitt@tnc.org.

Payment Amount and Schedule.

- a. For all of the activities described above, the Conservancy shall pay the Grantee up to **\$75,000** for reimbursement of project expenses.
 - (i) An initial disbursement of **\$25,000** will be made upon final signature of this Grant.
 - (ii) Subsequent disbursements may be requested based upon submission and acceptance of the interim financial and programmatic reports in accordance with the schedule above.
 - (iii) The final remaining amount will be made upon submission and acceptance of the final financial and programmatic reports.

- b. Payments will be sent to the Grantee:

- (i) ***By check payable to the Grantee.***

CODE OF CONDUCT/HELPLINE

TNC expects itself and everyone with whom it does business to conduct themselves in ways that are consistent with its TNC's Code of Conduct found at www.nature.org/codeofconduct. Anyone (whether a part of TNC or not) may contact the TNC Helpline (anonymously, if desired) with questions, concerns, or suspected violations at www.nature.org/tnchelpline.

Accepted and agreed to by:

The Nature Conservancy

By: _____
(signature)

Print Name: _____

Title: _____

Date: _____

Town of Chino Valley

By: _____
(signature)

Print Name: _____

Title: _____

Date: _____

Attest:

Erin N. Deskins, Town Clerk

Attachment A
Standard Grant Conditions

I. PROVIDING FUNDS TO OTHERS

The Grantee is prohibited from using the Conservancy's funds and/or assets for grants or contracts to others without the Conservancy's written permission. In addition, this Grant may not be assigned by the Grantee in whole or in part without the prior written consent of the Conservancy.

II. NO AGENCY

No legal partnership or agency is established by this Grant. Neither party is authorized or empowered to act as an agent, employee or representative of the other, nor transact business or incur obligations in the name of the other party or for the account of the other party. Neither party shall be bound by any acts, representations or conduct of the other.

III. TERMINATION AND REMEDIES

The Conservancy shall have the right to terminate this Grant by giving 30 (thirty) days' written notice to the Grantee of intent to terminate. Should this occur, payment for work satisfactorily completed will be adjusted accordingly. In addition, if in the judgment of the Conservancy, (a) the Grantee defaults in performance of Grantee duties under this Grant, whether for circumstances within or beyond the control of the Grantee, or (b) the action or inactions of Grantee or its officers or directors could tarnish or damage the reputation of the Conservancy or affect its legal standing, the Conservancy may immediately terminate this Grant by written notice to the Grantee. Upon receipt of the termination notice from the Conservancy, the Grantee shall take all necessary action to cancel outstanding commitments relating to the work under this Grant. In the event of termination prior to the originally agreed upon expiration, the Conservancy shall pay any obligations incurred by the Grantee that could not reasonably be canceled. Any Grant funds not expended or committed at the time of termination must be returned to the Conservancy. If at any time the Prime Grant is terminated, this Grant shall also be automatically terminated as of the termination date of the Prime Grant.

IV. LOBBYING AND POLITICAL CAMPAIGNING

The Grantee shall not use any portion of funds transferred under this Grant to engage in any lobbying activities unless the parties specifically agree to such lobbying activities in this Grant. Should Grantee and the Conservancy agree to such lobbying activities, Grantee shall comply with all local, state, and federal laws related to lobbying, including but not limited to registration with regulating agencies, public reporting and disclosures, fundraising and expenditure activities, media and advertising, tax obligations, elections and campaigns.

The Grantee shall not use any portion of funds transferred under this Grant to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to induce or encourage violations of the law or public policy, to cause any private inurement or improper private benefit to occur or to take any other action inconsistent with Section 501(c)(3) of the U.S. Internal Revenue Code.

V. COMPLIANCE WITH LAWS

Grantee represents, warrants and covenants as follows, wherever applicable to the performance of the Services:

(a) Grantee can lawfully work in the United States; (b) Grantee will obtain, at its own expense (except to the extent otherwise explicitly stated in this Contract) any permits or licenses required to perform the Services; and (c) Grantee will comply with all U.S. federal, state and local statutes, laws, executive orders, and other governmental requirements

of the state(s) in which the activities under this Agreement are performed (and the state in which the TNC Business Unit set forth on the first page of this agreement is located, if different), and any other U.S. jurisdiction(s) in which Grantee is organized or authorized to do business (collectively, "Applicable Law"). Grantee must not take any actions that might cause TNC to be in violation of Applicable Law.

VI. PREVENTING TERRORIST FINANCING – IMPLEMENTATION OF E.O. 13224

Grantee certifies that, to the best of its knowledge, Grantee and its subsidiaries, principals and beneficial owners, if any (referred to collectively in this Section as "Grantee Parties"):

- A. are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any government agency;
- B. (i) are not included on the Specially Designated Nationals and Blocked Persons lists maintained by the U.S. Treasury's Office of Foreign Assets Control, the United Nations Security Council Consolidated List, or similar lists of proscribed entities identified as associated with terrorism, and (ii) will not engage in transactions with, or provide resources or support to, any such individuals or organizations or anyone else associated with terrorism;
- C. are not a person or entity with whom transacting is prohibited by any trade embargo, economic sanction, or other prohibition of law or regulation; and
- D. have not conducted, and will not conduct, their operations in violation of applicable Money Laundering Laws, including but not limited to, the U.S. Bank Secrecy Act and the money laundering statutes of any and all jurisdictions to which the Grantee Parties, or any one of them, is subject, and no action or inquiry concerning money laundering by or before any authority involving any Grantee Party is pending.

Should Grantee become aware that Grantee or any other Grantee Party is subject to any of the above conditions during the term of this Contract, Grantee must notify TNC immediately. If TNC determines that Grantee or any Grantee Party is subject to any of the above conditions, TNC may terminate this Grant effective immediately, with no further obligation hereunder, including payment. The terms of this Section must be included in all permitted subgrants and subcontracts.

VII. EXPENDITURE LIMITED TO DESIGNATED PURPOSES

Grant funds may be spent only in accordance with the provisions of the Grantee's funding request and budget submitted to the Conservancy. Expenditure of Grant funds is subject to modification only with the Conservancy's prior written approval. Any Grant funds not expended or committed for the purposes of this Grant must be returned to the Conservancy.

VIII. BINDING EFFECT/AMENDMENTS

This Grant shall become binding when signed by the parties. This Grant supersedes all prior or contemporaneous communications and negotiations, both oral and written, and constitutes the entire Grant between the parties relating to the work set out above. No amendment shall be effective except in writing signed by both parties.

IX. INTELLECTUAL PROPERTY LICENSE AND USE OF CONSERVANCY NAME/LOGO

Title to any Materials developed with Grant funds vests in the Grantee, with the Conservancy getting free irrevocable license to use, publish or distribute all such copyrighted, trademarked, patented Materials or inventions, trade secrets or other intellectual property rights. The word "Materials" may include, but is not limited to reports, studies, photographs (and negatives), computer programs, drawings, writings or other similar works or documents, along with

all supporting data and material, produced under this Grant. The Grantee agrees to provide the Conservancy, and, if applicable with copies of the Materials at no cost.

The Grantee may not use the Conservancy's name and/or logo in any way without prior written consent from the Conservancy.

X. LIABILITY/INSURANCE

The work to be performed under this Grant shall be performed entirely at the Grantee's risk. The Grantee agrees to indemnify and hold the Conservancy harmless from any and all liability or loss arising in any way out of the performance of this Grant. The Grantee shall carry appropriate workers' compensation, hazard, and liability insurance coverage written on an occurrence basis during the term of this Grant.

**PARTNERSHIP AGREEMENT BETWEEN THE
TOWN OF CHINO VALLEY
AND
THE NATURE CONSERVANCY**

THIS PARTNERSHIP AGREEMENT (this “AGREEMENT”) is entered into January 12, 2021, between the Town of Chino Valley (“TOWN”), a municipal corporation of the State of Arizona, and The Nature Conservancy (“TNC”), incorporated as a nonprofit corporation under the laws of the District of Columbia. TOWN and TNC are referred to herein individually as a “PARTY” and collectively as “PARTIES.”

RECITALS

A. TOWN has purchased lands and/or water rights since 2000, at a considerable expense, within the Big Chino Sub-Basin that have been identified as Historically Irrigated Acres (“HIA”) with the intent to import this water supply into the Town for beneficial uses; and

B. TOWN has developed a regional plan for the importation of this HIA water supply with an understanding it would develop a mitigation strategy in concert with other stakeholders; and

C. TOWN has met with local, regional, and Statewide stakeholders to discuss the regional plan and welcomed new ideas, concepts, and opinions regarding changes to this plan; and

D. TOWN has signed an agreement with the U.S. Fish & Wildlife Service to collaboratively develop a cohesive mitigation strategy; and

E. TOWN has met historically with Salt River Project to discuss the regional plan for its importation of Big Chino Sub-Basin water and mitigation strategies; and

F. The mission of TNC is to conserve the lands and waters on which all life depends and achieve these goals with the help of its many partners, from individuals and governments to local nonprofits and corporations; and

G. TNC will demonstrate respect by committing to local, on-the-ground involvement with people, communities, and cultures, and with awareness and sensitivity to their economic realities; and

H. TNC will contribute to development of science-based tools and use the best available science to inform priorities, make decisions, act, and measure results; and

I. TOWN and TNC have been focused on preserving the baseflows of the Upper Verde River; and

J. TOWN and TNC desire to collaborate on updating the State's Northern Regional Groundwater Flow Model ("NARGFM") to ensure this one groundwater model is acknowledged and accepted by both PARTIES; and

K. TOWN and TNC desire to collaborate with the development of this unified groundwater model, accept its calibration and work with the TOWN'S consultant (the "CONSULTANT"), and work with Arizona Department of Water Resources ("ADWR") acceptance of this model to create each PARTY'S desired scenarios and modeling outputs; and

L. TOWN and TNC agree to share proprietary data, work product, and conceptual ideas and concepts that will benefit the groundwater modeling efforts for both PARTIES; and

M. TOWN and TNC have indicated the desire to work collaboratively with an approximately 50/50 cost share towards the development, updating, and calibration of the NARGFM and each PARTY'S desired outputs. TNC shall convey funding to this project through a grant to the TOWN in a separate agreement (the "GRANT AGREEMENT"). The TOWN'S obligations in this AGREEMENT are conditioned upon approval of the GRANT AGREEMENT by the PARTIES.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following covenants and agreements, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the PARTIES agree as follows:

1. **Effective Date.** This AGREEMENT shall be effective as of the date it is (i) approved by the Town Council authorizing the execution of this AGREEMENT by a representative of the Town and (ii) fully executed by authorized representative(s) of the TOWN and TNC. This AGREEMENT will remain in effect for two years after the date first set forth above.

2. **Project Management.**

A. **Project Managers.** Each PARTY shall appoint a Project Manager that shall meet and confer at an agreed-upon regular interval to discuss, coordinate, and carry out this AGREEMENT.

B. **Consultant Scope of Work.** The TOWN will manage the CONSULTANT to complete the groundwater modeling work. The TOWN will seek and incorporate input from TNC as appropriate. The TOWN will develop final scope of work for the CONSULTANT, and monitor the schedule and fees accordingly.

3. **Project Administration.** The TOWN shall develop the contract with the CONSULTANT performing the work in accordance with the TOWN'S procurement

requirements. The TOWN shall be responsible for administration of the contract, invoicing, and communication with the CONSULTANT.

4. **Cost Sharing.**

A. **Funding and Cost Share.** Each PARTY acknowledges it has the appropriate funding for its portion of the project. The PARTIES agree to share equally the CONSULTANT'S fees for this project, including any proposed modifications in accordance to Section 2 herein; provided that TNC'S contribution shall not exceed the amount of the GRANT AGREEMENT or subsequent grants allocated to this project by TNC.

B. **Funding Agreements.** TNC will provide the TOWN an initial grant for the groundwater modeling project to accomplish the objectives described in the GRANT AGREEMENT. Additional grants may be made at the discretion of TNC based on funding availability and need for additional deliverables that can be mutually accomplished.

C. **Modifications.** The TOWN, in consultation with TNC, will be responsible for any modifications to the approved CONSULTANT scope of work and fees.

5. **Cooperation with ADWR.** Both PARTIES agree to work cooperatively and collaboratively and in good faith with ADWR to ensure the NARGFM is ultimately acknowledged and accepted by ADWR for each PARTY'S specific uses. Each PARTY agrees to meet, if needed, with ADWR to address NARGFM questions and/or modeling review issues, and/or other pertinent discussions in support of each PARTY'S work and deliverables.

6. **Deliverables.** There are not specific deliverables set forth in this AGREEMENT. Specific deliverables will be identified with specific grant agreements.

7. **Miscellaneous.**

A. **Incorporation of Recitals.** The recitals set forth above are incorporated here by this reference as if fully set forth and are acknowledged and agreed to by TNC.

B. **Cancellation.** Notice is hereby given of the provisions of A.R.S. § 38-511, as amended. By this reference, the provisions of that statute are incorporated in this AGREEMENT to the extent of their applicability to contracts of the nature of this AGREEMENT under the laws of the State of Arizona.

C. **Successors and Assigns.** All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of TNC and the TOWN. TNC shall not assign its rights and obligations under this AGREEMENT to any other entity or person without the express written consent of the TOWN, which consent shall not be unreasonably withheld.

D. **No Third Party Beneficiaries.** Nothing in this AGREEMENT, express or implied, is intended to confer any rights or remedies under or by reason of this AGREEMENT on any persons other than TNC. Nothing in this AGREEMENT is intended to relieve or discharge

the obligation or liability of any third person to TNC. This AGREEMENT does not create any duty, liability, or standard of care to any person not a PARTY.

E. Governing Law. The laws of the State of Arizona shall govern the interpretation and performance of this AGREEMENT.

F. Notice. Any notices, demands, or other communications required or permitted to be given hereunder shall be given in writing and shall be delivered (i) in person; (ii) by certified mail, postage prepaid, return receipt requested; or (iii) by U.S. Express Mail or a commercial overnight courier that guarantees delivery within the next two business days, and shall be effective when hand delivered, against written receipt, or two days after delivery by U.S. Express Mail or commercial overnight delivery, or five days after delivery by certified mail. **No notice of any type shall be by telecopy, facsimile, or e-mail.** Such notices shall be addressed to the PARTIES as set forth below:

The Town: Town Manager
Town of Chino Valley
1020 West Palomino Road
P.O. Box 406
Chino Valley, Arizona 86323

with a copy to: Gust Rosenfeld P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004
Attention: Andrew J. McGuire

TNC: The Nature Conservancy

with a copy to:

G. No Joint Venture or Partnership. The PARTIES expressly agree that this AGREEMENT is not intended to create, and nothing contained in this AGREEMENT shall be construed as creating, any partnership, joint venture, or other similar arrangement between TNC and the Town.

H. Headings. Section headings used in this AGREEMENT are for convenience and reference only and do not define, limit, or describe the scope or intent of any provision of this AGREEMENT.

I. Remedies Cumulative. Subject to the limitations set forth in this AGREEMENT, the rights and remedies provided in this AGREEMENT are cumulative and not exclusive of any other rights or remedies that a PARTY would otherwise have at law or in equity.

J. Attorneys' Fees. If any claim arising out of this AGREEMENT is brought by a PARTY against another PARTY in a court of law, including any action for declaratory or injunctive relief, the prevailing PARTY shall be entitled to reasonable attorneys' fees and costs and expenses of litigation and investigation, and any judgment or decree rendered in any such action or proceedings shall include an award of reasonable attorneys' fees, costs, and expenses.

K. No Waiver. No waiver of any violation of this AGREEMENT shall be implied from any failure by any PARTY to take any action with respect thereto, nor shall any such failure constitute a waiver of the same or any other provision hereof with respect to any future violation.

L. Severability. If any part of this AGREEMENT proves to be unenforceable for any reason, the PARTIES shall seek to resolve all issues raised in a manner consistent with the purpose of this AGREEMENT. The remaining provisions of this AGREEMENT shall continue in full force and effect and shall be binding on the PARTIES so long as the primary purposes for entering into this AGREEMENT are not defeated.

M. Entire Agreement. This AGREEMENT constitutes the entire agreement between the PARTIES pertaining to the subject matter hereof, and supersedes all prior discussions and agreements of the PARTIES with respect to the subject matter of this AGREEMENT.

N. Amendment and Modification. This AGREEMENT may be amended only by a written agreement fully executed by the PARTIES. No modification of this AGREEMENT shall be effective unless it is in writing and signed by both PARTIES.

O. Further Assurances. If a PARTY determines in its reasonable discretion that any further instruments, assurances, or actions are necessary or desirable to carry out the terms of this AGREEMENT, the other PARTY shall execute and deliver all instruments and assurances and do all things reasonably necessary or desirable to carry out the terms of this AGREEMENT, including using its best efforts to negotiate and enter into any agreements that may become necessary and appropriate.

P. Counterparts. This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

Q. Authorizations. The signatories to this AGREEMENT represent that they have been appropriately authorized to enter into this AGREEMENT on behalf of the PARTY for which they sign, and that no further action or approvals are necessary before execution of this AGREEMENT.

R. Subject to Appropriation. The TOWN is obligated only to pay its obligations set forth in this AGREEMENT as may lawfully be made from funds appropriated and budgeted for that purpose during the TOWN'S then-current fiscal year. The TOWN'S obligations under this AGREEMENT are current expenses subject to the "budget law" and the unfettered

legislative discretion of the TOWN concerning budgeted purposes and appropriation of funds. Should the TOWN elect not to appropriate and budget funds to pay its AGREEMENT obligations, this AGREEMENT shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the TOWN shall be relieved of any subsequent obligation under this AGREEMENT. The PARTIES agree that the TOWN has no obligation or duty of good faith to budget or appropriate the payment of the TOWN'S obligations set forth in this AGREEMENT in any budget in any fiscal year other than the fiscal year in which the AGREEMENT is executed and delivered. The TOWN shall be the sole judge and authority in determining the availability of funds for its obligations under this AGREEMENT. The TOWN shall keep TNC informed as to the availability of funds for this AGREEMENT. The obligation of the TOWN to make any payment pursuant to this AGREEMENT is not a general obligation or indebtedness of the TOWN. TNC hereby waives any and all rights to bring any claim against the TOWN from or relating in any way to the TOWN'S termination of this AGREEMENT pursuant to this subsection.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT by and through their authorized representatives the day and year first above written.

Town of Chino Valley,
an Arizona municipal corporation (TOWN)

Jack W. Miller, Mayor

ATTEST

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney

The Nature Conservancy
Nonprofit Corporation
Under the Laws of the District of Columbia (TNC)

Name _____
Title _____

APPROVED AS TO FORM:

Name _____
Attorney for The Nature Conservancy

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. e.

Meeting Date: 01/12/2021
Contact Person: Frank Marbury, Public Works Director/Town Engineer
 Phone: 928-636-7140 x-1226
Department: Public Works
Estimated length of staff presentation: 10 minutes
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to approve the Professional Services Agreement with EHS Support, LLC for completion of the updates to the Northern Arizona Groundwater Flow Model in an amount not to exceed \$153,883.00. (Frank Marbury, Public Works Director/Town Engineer)

RECOMMENDED ACTION:

Approve the Professional Services Agreement with EHS Support, LLC for completion of the updates to the Northern Arizona Groundwater Flow Model in an amount not to exceed \$153,883.00.

SITUATION AND ANALYSIS:

In 2008 the Town completed a physical availability analysis of groundwater for approximately 8,000 acre-feet of water per year. ADWR issued a permit for importation of this water, which expired in 2018. In order to renew the permit, ADWR is requiring updates to the Northern Arizona Regional Groundwater Flow Model (NARGFM). EHS Group has completed Phase I of the updates. Phase I consists primarily of the pre-application coordination with ADWR. This contract is for Phase II and III of the Model Work Plan Revision. Phase II consists primarily of research, data review, and model work plan revision. Phase III consists of developing and calibrating the model and submitting it to ADWR for review and comment. The tasks are described in detail within the attached contract document.

EHS Group has provided within the contract a proposed scope and fee. The fee is estimated to not exceed \$153,883.00. The Town will utilize the \$75,000.00 grant from the Nature Conservancy to share costs for this work.

Fiscal Impact

Fiscal Impact?: Yes
If Yes, Budget Code: 05-90-5543
Available: 153883
Funding Source:
 Project will be paid from the Capital Improvement Fund.

Attachments

Professional Services Agreement

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EHS SUPPORT LLC**

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is entered into as of January 12, 2021, between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and EHS Support LLC, a Pennsylvania limited liability company (the “Consultant”).

RECITALS

- A. The Town is in need of an assured and adequate water supply analysis and application for the Arizona Department of Water Resources (the “Services”).
- B. Consultant possesses the skill and experience required to provide the Services.
- C. The Mayor and Town Council have determined it is in the Town’s best interest to enter into an Agreement with the Consultant to provide the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Consultant hereby agree as follows:

1. **Term of Agreement.** This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until January 11, 2022, unless terminated as otherwise provided in this Agreement.
2. **Scope of Work.** Consultant shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit A and incorporated herein by reference. Consultant shall (i) provide the Services required by this Agreement, (ii) be responsible for all means, methods, techniques, sequences and proceedings associated with the Services and (iii) be responsible for the acts and omissions of its employees, agents and other persons performing any of the Services under a contract with Consultant.
3. **Compensation.** The Town shall pay Consultant an amount not to exceed \$153,883.00 for the Services at the rates set forth in the Fee Proposal, attached hereto as a part of Exhibit A.
4. **Payments.** The Town shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Consultant shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration (“OSHA”), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Consultant’s sole determination, the Services to be provided do not require a safety plan, Consultant shall notify the Town, in writing, describing the reasons a safety plan is unnecessary. The Town reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the Town pursuant to this Agreement shall be the property of the Town. The Town may use such documents for other purposes without further compensation to the Consultant; however, any reuse without written verification or adaptation by Consultant for the specific purpose intended will be at the Town’s sole risk and without liability or legal exposure to Consultant.

7. Consultant Personnel. Consultant shall provide experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. If deemed qualified, the Consultant is encouraged to hire Town residents to fill vacant positions at all levels. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel will not be removed or replaced without prior written notice to the Town. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the Town at reasonable times during Consultant’s performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the Town.

9. Licenses. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The Town has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement.

10. Materials; Equipment. Consultant shall provide, pay for and insure under the requisite laws and regulations all labor, materials, equipment, tools, transportation and other facilities and services necessary for the proper execution and completion of the Services.

11. Performance Warranty. In addition to any specific obligations set forth in Exhibit A, Consultant warrants that the Services rendered will conform to the requirements of this Agreement and shall be carried out with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

12. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an “Indemnified Party”), for, from

and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims") to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts, recklessness or intentional misconduct of the Consultant, its officers, employees, agents, or any tier of subcontractor in connection with Consultant's work or services in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

13. Insurance.

13.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Town's option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the Town does not represent that coverage and limits will be adequate to protect Consultant. The Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees as Additional Named Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the Town, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the Town as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a “claims made” basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance and necessary endorsements citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers’ Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Town, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Consultant. Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the Town and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the Town with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant’s insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Town shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant’s responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate reference to this Agreement. Additionally, certificates of insurance and declaration

page(s) of the insurance policies submitted without referencing this Agreement will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The Town, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 04 13 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(2) Consultant’s insurance shall be primary insurance with respect to performance of this Agreement.

(3) All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against Town, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Consultant under this Agreement.

ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

K. Endorsements. Consultant shall provide the Town with the necessary endorsements to ensure Town is provided the insurance coverage set forth in this Section 13.

13.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20

10 04 13, or equivalent, which shall read “Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of “your work” for that insured by or for you.” If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant’s owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant’s work or services under this Agreement. Coverage will be at least as broad as ISO coverage code “1” “any auto” policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work in any way related to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers’ Compensation Insurance. If Consultant employs anyone who is required by law to be covered by workers’ compensation insurance, Consultant shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant’s employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

13.3 Cancellation and Expiration Notice. Consultant shall provide at least 30 days prior written notice to the Town before insurance required herein expires, is canceled, or is materially changed.

14. Termination; Cancellation. The Town may, by written notice to Consultant as set forth in this Section, terminate this Agreement in whole or in part.

14.1 For Town’s Convenience. This Agreement is for the convenience of the Town and, as such, may be terminated without cause after receipt by Consultant of written notice by the Town. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

14.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

14.3 Due to Work Stoppage. This Agreement may be terminated by the Town upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. If Consultant abandons the Services without the consent of the Town, Consultant shall be liable for all actual, incidental and consequential damages arising from or related to said abandonment, including, but not limited to: (A) the difference between the cost of a replacement Consultant to complete the Services and the contract price for Consultant under this Agreement; and (B) any additional charges, costs, fees or expenses for labor, materials or professional services incurred by the Town as a result of delays caused by abandonment of the Services by Consultant. The Town shall use its best efforts to replace Consultant within a reasonable time.

14.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Agreement without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Town or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

14.5 Gratuities. The Town may, by written notice to the Consultant, cancel this Agreement if it is found by the Town that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

14.6 Agreement Subject to Appropriation. The Town is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds.

Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. Consultant hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

14.7 Obligations Upon Receipt of Termination Notice. Upon receipt of a notice of termination as set forth above, Consultant shall (A) immediately discontinue all Services affected (unless the notice directs otherwise), and (B) deliver to the Town copies of all data, reports, calculations, drawings, specifications and estimates entirely or partially completed, together with all unused materials supplied by the Town, related to the Services including any completed divisible part of the Services which can be deemed to stand alone (the completed divisible parts of the Services will be determined by both parties at the time of termination). Such termination shall not relieve Consultant of liability for errors and omissions. Any use of incomplete documents for the Services or for any other project without the specific written authorization by Consultant will be without liability or legal exposure to Consultant. Consultant shall appraise the work it has completed and submit the appraisal to the Town for evaluation.

15. Suspension of Work.

15.1 Order to Suspend. The Town may, for its convenience, order the Consultant, in writing, to suspend all or any part of the Services for such period of time as it may determine to be appropriate.

15.2 Adjustment to Contract Sum. If the performance of all or any part of the Services is, for any unreasonable period of time, suspended or delayed by an act of the Town in the administration of this Agreement, or by its failure to act within the time specified in this Agreement (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this Agreement necessarily caused by such unreasonable suspension or modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay (A) to the extent that performance was suspended or delayed for any other cause, including the fault or negligence of the Consultant, or (B) for which a change order is executed.

16. Miscellaneous.

16.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee

or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the Town. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the Town, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above and in Exhibit A. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Consultant do not intend to nor will they combine business operations under this Agreement.

16.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Yavapai County, Arizona.

16.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future Town and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

16.4 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and the Consultant.

16.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

16.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

16.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting this Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

16.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the Town, signed by the Town Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

16.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the Town. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

16.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the Town to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the Town's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of this Agreement.

16.11 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

16.12 Liens. All materials or services shall be free of all liens and, if the Town requests, a formal release of all liens shall be delivered to the Town.

16.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for damages that have been reduced to a judgment resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

16.14 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S.

Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Chino Valley
202 North State Route 89
Chino Valley, Arizona 86323
Attn: Cecilia Grittmann, Town Manager

With copy to: GUST ROSENFELD P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Attn: Andrew J. McGuire

If to Consultant: EHS Support LLC
4885 McKnight Road, Suite 188
Pittsburgh, Pennsylvania 15237
Attn: Ernie Marks

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

16.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the Town for the purpose of ensuring that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the Town. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

16.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 16.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead

allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 16.17 below. To the extent necessary for the Town to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

16.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

16.18 Israel. To the extent ARIZ. REV. STAT. § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of this Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in ARIZ. REV. STAT. § 35-393.

16.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any Town-approved Purchase Order, or the Fee Proposal, the documents shall govern in the order listed herein.

16.20 Time is of the Essence. The timely completion of the Services is of critical importance to the economic circumstances of the Town.

16.21 Meaning of Terms. References made in the singular shall include the plural and the masculine shall include the feminine or the neuter.

16.22 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the Town. The Town reserves the right to obtain like goods and services from another source when necessary.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF CHINO VALLEY,
an Arizona municipal corporation

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

“Consultant”

EHS SUPPORT LLC,
a Pennsylvania limited liability company

By: _____

Name: _____

Title: _____

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EHS SUPPORT LLC

[Scope of Work and Fee Proposal]

See following pages.

November 3, 2020

Cecilia J. Grittman
Town Manager
Town of Chino Valley
202 N. State Route 89
Chino Valley, AZ 86323

Subject: Proposal to Revise the Phase I Model Work Plan and Provide Modeling Services to Complete an Assured and Adequate Water Supply Analysis for the Town of Chino Valley, Yavapai County, Arizona.

Dear Ms. Grittman:

EHS Support LLC (EHS Support) has prepared this scope of work and proposal for your consideration to complete the Research, Data Review and Model Work Plan Revision necessary to perform an analysis of assured and adequate water supply (AAWS) for the Town of Chino Valley (Town) along with several additional modeling scenarios beyond the scope of the AAWS application. The AAWS is intended to demonstrate the physical availability of groundwater over the next 100 years from the Town's property known as the Wineglass Ranch (Site; study area) located within the Big Chino sub-basin and near the headwaters of the Verde River, for future importation. The AAWS will be accomplished via numerical modeling in accordance with Arizona Department of Water Resources (ADWR) Substantive Policy Statement titled *Hydrologic Studies Demonstrating Physical Availability of Groundwater for Assured and Adequate Water Supply Applications*¹ and applicable rules governing the determination of availability.

EHS Support has completed Phase I: Conceptual Model Development as outlined in the *Proposal to Complete an Analysis of Assured and Adequate Water Supply for the Town of Chino Valley, Yavapai County, Arizona*, dated December 11, 2019. Following completion of Phase I and receipt of the ADWR letter dated October 8, 2020, EHS Support has prepared this proposal for the continued effort in two phases (i.e., Phase II through Phase III). Phase II consists of completing the research, data review, and model work plan addendum resulting from the ADWR letter. Phase III consists of the importation of data and completing modeling efforts necessary to support the AAWS permit application for the Town.

The Town has recently entered a collaboration with The Nature Conservancy (TNC) to support the modeling efforts necessary to provide a better understanding of proposed water use on baseflows of the upper Verde River. The Town and TNC propose to collaborate throughout the efforts identified herein. It is EHS Support's understanding that a service agreement between the Town and EHS Support will be executed to complete the activities described herein and in the Model Work Plan. Therefore, it is expected that coordination and collaboration between EHS Support and TNC will be through the Town unless directed otherwise.

¹ ADWR. 2007. Substantive Policy Statement. *Hydrologic Studies Demonstrating Physical Availability of Groundwater for Assured and Adequate Water Supply Applications*. August 31.



Background

In 2008, the Town completed a physical availability analysis of groundwater using an analytical model and was issued an AAWS permit by ADWR for approximately 8,000 acre-feet per year (AFY). ADWR rescinded the permit in 2018 and is requiring the Town to use the Northern Arizona Regional Groundwater Flow Model (NARGFM), a numerical groundwater flow model, for the reapplication process for the AAWS permit. Given the considerations expressed by ADWR, and after evaluating future water needs, the Town has renewed interest in completing an AAWS application. The Town has identified the need for a study supporting an AAWS application.

The NARGFM was developed by the United States Geological Survey (USGS). ADWR's use of the USGS groundwater modeling code "MODFLOW" provides an acceptable tool for water managers and others to best manage water supplies for their respective service areas within northern Arizona. The NARGFM models groundwater flow within the primary aquifers in northern Arizona and was developed to simulate interactions between the aquifers, perennial streams, and springs for predevelopment and transient conditions from 1910 through 2005. While the NARGFM is a very large and complex model, the focus study area for the purposes of the subject assessment would be the Big Chino sub-basin. The NARGFM will evaluate the aquifer(s) and associated upper Verde River flows to identify and evaluate potential impacts to the aquifer, river system, and other groundwater users in the vicinity as a result of prospective groundwater withdrawals, if any.

Key Assumptions

The primary tool for the proposed study is the USGS NARGFM. The numerical model and documentation were published in 2010 (revised in 2011) and are available at the USGS online publications warehouse. It is anticipated that most of the proposed interpretive work will be influenced by assumptions, artifacts, and uncertainties that are inherent in NARGFM. This includes outstanding ADWR technical comments related to NARGFM at the conclusion of its development and initial release in 2010.

The following assumptions were used to develop the modeling work plan (Phase I) and will be relied upon as part of this proposed study:

- The study will be, to some extent, influenced by applicable assumptions and uncertainties within NARGFM and outstanding technical issues.
- To eliminate duplication (and streamline model completion), the regional background information related to geology and aquifer characterizations will be derived from and referenced to NARGFM and USGS/ADWR conceptualizations. This includes maps, historical climatic conditions, groundwater-surface water hydrology, water-use, and associated recharge/discharge characterizations.
- It is anticipated that NARGFM, which relies on a 1910 through 2005 simulation period, will require limited updates. Expected updates include:
 - Local refinements to address model resolution of proposed groundwater pumping and capture local surface water feature(s).
 - Continuation of model simulation from circa 2006 to current conditions. Conditions will be limited to recharge and regional water use in the Big Chino sub-basin since 2005.
- The AAWS will be completed on the same property (i.e., Wine Glass Ranch area) as previously analyzed by E.L. Montgomery & Associates during the 2007 AAWS application.



- Much of the local regional information will be derived from and referenced to the previous AAWS submitted by the Town to the ADWR by Montgomery & Associates, as part of the 2007 AAWS application. This includes all hydrogeologic analysis including aquifer tests and local water-use that were performed as part of the original AAWS submittal.
- The assumed updates to the original AAWS will primarily focus on water-use in the area and applicable hydrologic conditions that may have changed since 2005.
- Field activities regarding groundwater and surface water surveys, installation of groundwater wells (i.e., piezometers, test wells, etc.), field data acquisition from existing wells or re-analysis of data acquired in the 2007/2008 AAWS effort are not part of this proposal.

Scope of Work and Schedule

As described above, the initial proposal, dated December 11, 2019, included Phase I: Task 1 through Task 3, which EHS Support has completed. EHS Support proposes to initiate efforts on a revised Phase II and Phase III considering ADWR's response to the pre-application questions submitted by EHS Support. EHS Support proposes to further Phase II and Phase III efforts once it receives the Town's written authorization to proceed. The following tasks and schedules are contingent on the Town and ADWR requests, review and approval timelines and completeness/timeliness of client provided data.

Phase II: Research, Data Review and Model Work Plan Revision (3 weeks)

- Task 5: Initial data acquisition and model calibration efforts. These efforts include model updates and model integration efforts based on the initial model efforts.
- Task 6: Review applicable reports and data in the context of the ADWR letter to the Town with regard to the Big Chino and Little Chino Valley to determine the level of existing information available for model calibration.
- Task 7: Determine data gaps and acquisition efforts.
- Task 8: Develop method(s) for obtaining/integrating required data which may or may not be readily available.
- Task 9: Develop a revised Model Work Plan for calibrating the model to ADWR's requested form.

Phase III: Numerical Model Development and Application (5 months)

- Task 10: Calibrate and perform AAWS Modeling and conduct Model Review meetings.
- Task 11: AAWS Application (allow up to 18 months; includes application prep, statutory agency review timeframe, and public comment period).

All tasks are described in further detail below.



Phase II: Research, Data Review, and Model Work Plan Revision

Task 5: Initial Data Acquisition and Model Calibration

This work included the acquisition of Big Chino Valley Sub-basin pumping data from the ADWR Wells 55 database, assessment and development of non-exempt well pump volumes based on other regional data due to ADWR lack of recordkeeping, and downloading and setting up the model domain, model calibration, and baseline model runs for the original model period (through 2005).

Task 6: Review Applicable Existing Data

This effort expands upon the original scope of data review and evaluation based on the comments received from ADWR in their letter dated October 8, 2020, to include the Little Chino Valley Sub-basin and the three surface water gages. The additional activities are necessary to identify available information necessary to establish baseline hydrologic and water use databases for calibrating to surface water baseflows including the Del Rio Springs and the upper Verde River near Paulden.

Hydrologic data include, but may not be limited to, daily mean surface water flows from existing USGS gages, recent precipitation (2005 to current), evapotranspiration and potential net recharge (i.e., PRISM climate data) in the expanded study areas, and data made available from third parties in an effort to limit future costs associated with future phases.

Water use evaluation will primarily focus on information required to update the NARGFM from 2005 to the present as part of the new ADWR requirements. The primary sources of water use will be ADWR's databases for exempt and non-exempt wells, the USGS annual water reports, and the Prescott Active Management Area (AMA) report produced for the Town of Chino Valley and the Arizona Corporation Commission. If available and applicable, data sets from third-party efforts will be incorporated.

Task 7: Determine Data Gaps and Acquisition Efforts

The primary focus of the task is to identify potential data gaps. Potential data gaps may include the availability of field data for model calibration such as surface water flows. This important task presents an objective basis to evaluate the efficacy and quality of the calibration effort as well as uncertainties in future projections. For instance, model calibration error may be affected by an inadequate insight to baseflow that contributes to the Williamson Valley Wash due to incomplete or little measured data.

Task 8: Develop Methods for Obtaining/Integrating Data

This effort is primarily dedicated to identifying and testing means to set up input files that update the NARGFM. Future model updates will include but are not be limited to, aquifer recharge/ evapotranspiration, expanded NARGFM pumping (water use), and incorporation of additional calibration datasets (heads and surface water flows).



Task 9: Revised Model Work Plan

Based on the findings of the previous tasks (Tasks 5 to 8), the model work plan will be revised. The primary additions include descriptions and technical methods to calibrate NARGFM in both the Big Chino and the Little Chino Sub-basins.

Phase III: Numerical Model Development and Application

Task 10: AAWS Modeling and Model Review Meetings

The AAWS modeling will be completed using the newly calibrated NARGFM model which is consistent with the revised Model Workplan and in accordance with ADWR² and applicable AAWS requirements. There are six major activities in this task:

1. NARGFM grid refinements in the study area. Anticipated grid refinements will focus on locations of potential pumping wells, similar to the 2007/2008 AAWS effort.
2. Hydrologic updates in the study area and vicinity. Updates include incorporation of ADWR required gage data and any absent surface water bodies in NARGFM that are applicable to this study. Furthermore, updates that continue the recharge trends from 2005 to present and applicable water-use within this timeframe are required.
3. Steady-state analysis. This presents the hydrologic “end-point” from induced conditions such as groundwater pumping. No timeframe is associated from a steady-state analysis but it presents an insight to potential maximum impacts when groundwater conditions have reached an equilibrium with all recharge and discharge conditions. Therefore, it forms an important baseline with which to compare the transient results over time. A minimal calibration effort is anticipated to check the modeled results.
4. Transient analysis. A transient analysis is one application requirement for the AAWS effort. It forms the basis for impact analysis and resource sustainability within the analysis duration (100 years). A minimal calibration effort is anticipated to check the modeled results.
5. Impact analysis. The impact analysis identifies applicable changes from induced conditions that may potentially affect other users and surrounding ecosystems, as defined by ADWR.
6. Deliverable/Modeling Report. Key components of the Model Report include:
 - Executive summary
 - Description of model code and applicable standards
 - Description of the existing model that was used and summary of historical model calibrations
 - Justification for any refinements to the input parameters and conceptual model presented in the Model Workplan
 - Conceptual water budget for the study area
 - Model construction
 - Description of conceptual pumping well(s)
 - Model calibration, sensitivity analysis, and potential sources of uncertainty

² ADWR. 2007. Substantive Policy Statement. *Hydrologic Studies Demonstrating Physical Availability of Groundwater for Assured and Adequate Water Supply Applications*. August 31.



- Impact analysis of current study area demands (natural and anthropogenic) and demands for proposed project for 100 years
- Opportunities for model improvement
- Relevant figures, maps, and supporting information
- References

During development of the draft model report, one-hour monthly status update calls are proposed to keep the Town apprised of the modeling progress. Following development of the draft model report, an in-person model review meeting is recommended between the Town and EHS Support to present and discuss the results of the model and any significant areas of uncertainty that may need to be further evaluated. Prior to completion of the final Model Report and preparation of the AAWS application, a second meeting with ADWR has been considered, although ADWR may not grant a second meeting based on staff constraints.

Task 11: AAWS Application

Following the modeling review process, the Town will complete an AAWS permit application. The task includes time to support technical components of the application regarding the Physical Availability Determination (PAD) analysis and figure generation. Whereas we expect to complete a technically robust deliverable that will meet the AAWS requirements outlined in this proposal, the recent pre-application meeting with ADWR, resulting ADWR comments, and response letter generated by the Town of Chino Valley concerned several out of scope comments (i.e., comments that were inconsistent with AAWS requirements). Should ADWR require additional efforts above and beyond the normal application process, a separate scoping effort may be required.

Proposal

Based on existing information, Phase II and Phase III costs are not expected to exceed \$153,883 (**Table 1**). All costs are based on the effort identified and described within this proposal and the Model Work Plan. Should out-of-scope items materialize after submittal of the AAWS application or at the request of the Town, EHS Support reserves the right to consult with the Town to address these items and any additional costs.

Item Description	Phase II					Phase III		Totals
	Task 5 Initial Data Acquisition and Model Calibration Efforts	Task 6 Review of Acquired Data	Task 7 Determine Data Gaps	Task 8 Develop Methods for Obtain/Integrate Data	Task 9 Revise Model Work Plan	Task 10 Calibrate and Perform AAWS Modeling	Task 11 AAWS Application	
Labor	\$24,350	\$3,370	\$1,580	\$2,220	\$5,515	\$80,000	\$32,130	\$149,165
Expenses							\$4,718	\$4,718
Subtotals:	\$24,350	\$3,370	\$1,580	\$2,220	\$5,515	\$80,000	\$36,848	\$153,883
Project Total:	\$153,883							



The performance of the services by EHS Support shall be governed by a service agreement exclusively between the Town of Chino Valley and EHS Support LLC. It is understood that any proposed service agreement will be forthcoming from the Town.

Limitations

We are relying on existing publicly available information and/or information provided by the client and/or their collaborators. To the extent that the services require judgment, there can be no assurance that fully definitive or desired results will be obtained, or if any results are obtained, that they will be supportive of any given course of action. The services may include the application of judgment to scientific principles; to that extent, certain results of this work may be based on subjective interpretation.

We appreciate the opportunity to provide these services to the Town of Chino Valley. We look forward to working with you on this project. Should you have any questions or require additional information, please feel free to contact me at 850-284-5629.

Sincerely,

Ernie Marks
Director, U.S. Water Resources

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. f.

Meeting Date: 01/12/2021

Contact Person: Frank Marbury, Public Works Director/Town Engineer
Phone: 928-636-7140 x-1226

Department: Public Works

Estimated length 10 minutes

of staff presentation:

Physical location of item: Wastewater Treatment Plant

AGENDA ITEM TITLE:

Consideration and possible action to approve emergency authorization for replacement of the permeate piping system at the Wastewater Treatment Plant. The cost for the work totaled \$77,965.00 and was performed by Double Down Construction. (Frank Marbury, Public Works Director/Town Engineer)

RECOMMENDED ACTION:

Approve emergency authorization for replacement of the permeate piping system at the Wastewater Treatment Plant. The cost for the work totaled \$77,965.00 and was performed by Double Down Construction.

SITUATION AND ANALYSIS:

In November, one of the PVC permeate pipes cracked, requiring the need for approximately 30 hours of overtime to diagnose, locate, and repair the crack. The permeate system draws the treated effluent through the MBR filters and then sends it to the UV system for disinfection. Because the permeate piping operates under suction, the leak was very difficult to find. Once it was found, repair tape was used to seal the leak until a more permanent solution could be found.

After examining the system, it was determined that due to the approximate 15 years of age and sunlight exposure, the entire pipe system was at risk of failure and should be replaced in its entirety. Several contractors in the local area and Phoenix area were contacted. The only contractor with the availability of manpower, knowledge, and time available to respond was Double Down Construction. The quote of \$77,965.00 included as materials, equipment, and labor to perform the task within the 5-hour window of low flow (1 am to 6 am). This price also included putting septage haulers on standby in case the work took longer or flows required the hauling of septage in order to prevent an overflow while the work was being performed.

Other quotes were requested, but other contractors could not provide the manpower needed to perform the work in the timeframe. Other contractors that had the manpower but could not stop their current jobs and mobilize to Chino Valley for a one night job. The work began on Tuesday, Jan 5, 2021.

Fiscal Impact

Fiscal Impact?: Yes

If Yes, Budget Code: 06-83-5600

Available: 77,965

Funding Source:

The project will be paid out of the Sewer Enterprise Fund Contingency line item.

Attachments

Double Down Construction Contract

Addendum to Double Down Construction Contract

PVC Pipe and Valve Replacement Contract

Double Down Construction Inc. ROC #327322, Chino Valley Business Lic. # BL20-000037

THIS AGREEMENT made this day by and between Double Down Construction, Inc., hereinafter referred to as "Builder", and Town of Chino Valley hereinafter referred to as "the Town". Builder and the Town, for the considerations hereinafter named, agree as follows:

Scope of the Agreement: This Agreement provides that Builder shall furnish to the Town all labor and material required to remove and replace the 4" and 2" PVC vacuum effluent line and various valves attached to the vacuum effluent circuit. The location of the work to be performed under this Agreement is Town of Chino Valley Wastewater Management Facility located at 2190 Rodeo Drive, Chino Valley, AZ 86323, ("Wastewater Facility"). The work to be performed under this Agreement shall be governed by the plans and specifications enumerated below which shall become a part of this Agreement, subject only to tolerances and deviations customary in the building industry. Builder agrees to perform all work in a workmanlike manner with quality recognized by the construction industry standards as "good to excellent." Builder shall provide and pay for all materials and labor needed to complete the PVC pipe and valve replacement at the Wastewater Facility, unless otherwise stated herein. Original sketches, drawings and specifications were prepared by Klint Wilson and were provided to Builder prior to the execution of this Agreement. In the event Builder is unable to procure from its usual or ordinary sources of supply the exact materials specified in said plans and specifications, Builder shall have the right to substitute said materials with materials of similar pattern, design and quality with the prior written consent of the Town.

Fixed Contract Agreement and Payment: This is a Fixed Contract Agreement. It is a binding legal contract between the parties. The Town agrees to pay Builder a fixed fee of **\$77,965.00**. The fixed contract fee is for all of the work to be completed under this Agreement for the construction at Wastewater Facility. All labor, materials and taxes shall be paid for by Builder and reported to the Yavapai County Tax Assessor's office and the Arizona Department of Revenue for sales tax purposes. The fixed price total shall be fully paid by the Town through an initial deposit and final payment as set forth in Table 1.

Exclusions: Once all work has been bid, contracted and commenced, any deviations to the final cost due to inflation or an unforeseen rise in the cost of materials will be added to the total job cost accordingly.

Payments: The Town shall be responsible for providing payment for the PVC pipe and valve replacement at the Wastewater Facility. All payments shall be in the form of either bank wired transfer into Builder's bank account and or a business check from the Town. Below is narrative of the deposit of **\$31,186** and a final disbursement payment. This disbursement schedule shall commence on the day materials are delivered to the work site. The final payment is due within two weeks after all work is completed and all necessary criteria have been satisfied. Builder shall properly notify the Town prior to final payment due date and provide progress lien waivers for

the payment amount. The payment schedule's total amount of **\$77,965.00** is defined and disbursed as follows:

Table 1

<i>Deposit</i>	40%	<i>\$31,186.00</i>	<i>Deposit for pre-construction material costs and job site setup.</i>
Final Payment	60%	\$46,779.00	To be disbursed upon the completion of work.

Start of Construction and Completion Dates: Builder shall commence the PVC pipe and valve replacement at the Wastewater Facility as soon as practical after signing this Agreement and upon Builder's confirmation that the Town has approved such commencement. Builder shall complete the work as expeditiously as possible, provided that nothing contained herein shall render Builder liable for any delay caused by acts of arbitration, failure of any Subcontractor or material man, fire, strikes, legal acts of public authorities, war, inclement weather, allocation of materials or material priorities, delays or defaults by public or private carriers, shortages of material or labor, acts of the Town or persons employed or hired by the Town, Acts of God, or other work stoppages, casualties, or other causes beyond the control of Builder. The foregoing list is illustrative of causes for delay in construction and is not intended to be all inclusive. An estimated time period of **four (4) Weeks** for completion of construction is set forth in this Agreement. The time period calendar begins when materials have been delivered to site. Completion of the construction of Wastewater Facility, for the purpose of this Agreement, is satisfied when Klint Wilson or his superior at the Town is satisfied with work completed and effluent basin is operating in a normal manner.

Supervision of Work: The Town agrees that the direction and supervision of the working force, including subcontractors, rests exclusively with Builder or his duly designated agent, and the Town agrees not to issue any instructions to, or otherwise interfere with same. The Town further agrees not to negotiate for additional work with Builder's subcontractors nor to engage other builders or subcontractors except with Builder's consent and in such manner as will not interfere with Builder's completion of work under this Agreement. Builder has exclusive control and decision making power regarding which Subcontractors perform work on the project, however, use of any Subcontractor not already listed herein is permissible only after mutual written agreement of both Builder and the Town. Builder shall utilize and employ persons and Subcontractors who are competent in the tasks assigned. Discipline and accountability shall be maintained by Builder.

Changes, Alterations, and Extras: All changes in or departures from the sketches, plans and/or specifications that exceed \$5,000 (five thousand dollars) may be in writing and/or electronic mail format (E-mail). Written change orders shall be executed by Builder and the Town in writing. Electronic e-mail responses ordering or agreeing to a change order are binding. Where changes, in or departure from, plans and specifications requested in writing by the Town, result in the need for additional labor and materials, the Town shall pay Builder for such change orders at a price

agreed upon in writing before commencement of said change. Where such change results in the omission of any labor or materials, Builder shall allow the Town a credit at a price agreed to in writing before commencement of work for said change. Any change, alterations or extras required by any public body or inspector shall constitute a Change Order, and the resulting costs shall be paid for in the same manner as any other Change Order as provided in this paragraph. Any change order request under \$5,000 may be verbally authorized by the Town and accompanied with either a written authorization or by an electronic e-mail. All change orders shall be paid for at the time of signing before work associated with a change order is started.

Stoppage of Work and Late Charge on Delinquent Payments: Should the Town unreasonably fail to authorize or fund any payment, when due as agreed to herein, or fail to pay for any change order before commencement of the work as provided herein, Builder reserves the right to stop all construction work until payment is received. All delinquent payments or any unpaid portion thereof, shall be subject to a late charge calculated at the rate of twelve and one-half (8%) percent per month until paid, and the Town agrees to pay said late charge to Builder.

Resolution of Disputes and Exit Clause: Should a dispute or disagreement arise during or after the construction of the project, which is unable to be resolved, a mutually agreed upon third party mediation and or arbitration service shall be contracted. All fees associated with these services shall be split by both the Town and Builder. Any decisions rendered from these services shall be binding. Should any unreasonable dispute arise during the course of construction both parties have the right to execute the Exit Clause. This clause is executable when both parties fully disagree and a dispute arises that is unable to be resolved. This clause may also apply to unreasonable expectations and or extreme dissatisfaction with either party. The clause may only be applied only after a phase of construction is completed.

Governance: This Agreement shall be governed by the Laws of the State of Arizona

Correction or Repair of Work and Builder's Warranty: Builder shall promptly correct or repair any work defective or failing to conform to the Sketches, Plans and Specification documents. The governing body that governs over licensed contractor in the state of Arizona is the Registrar of Contractors (ROC). A copy of the ROC "Workmanship Standards for Licensed Contractors." can be obtained from the Registrar's website, www.azroc.gov. All complaints and/or problems with items in Wastewater Facility shall be in written form and addressed to Builder.

Insurance Obtained by Builder: All liability and workman compensation insurances shall be the responsibility of Builder and Subcontractors. It is Builder's sole responsibility to collect and provide all liability and Workman Compensation certificates of insurance from all Subcontractors for this project. Builder shall be responsible for purchasing and maintaining a liability insurance policy during the course of construction under Double Down Construction, Inc. as will protect it against claims which may arise from operations under this Agreement.

Termination of Agreement: Should the work be stopped by any public authority for a period of thirty days or more through no fault of the Builder, or should the work be stopped through act or neglect of the Town for a period of five days, or should the Town fail to pay the builder any

payment within five days after it is due, then the Builder shall provide written notice to the Town, may stop work or terminate the contract and recover from the Town payment for all work executed and completed and any loss sustained and reasonable profit and damages.

Severability: In the event any provision of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

The Town and Builder acknowledge they have read and fully understand the provisions of this Agreement. This Agreement shall constitute the sole and entire agreement between Builder and the Town.

IN WITNESS WHEREOF, Builder and the Town have hereto set their hands this day.

Toby Butterworth

BUILDER, Double Down Construction, Inc.
Toby Butterworth, ROC# 327322

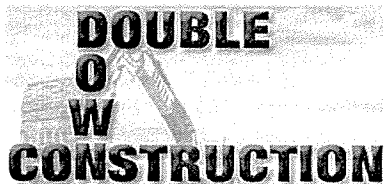
11/30/2020

Date

Cecilia J. Hman

Town of Chino Valley, Authorized Signatory

Date



Double Down Construction, Inc.

Toby Butterworth

GST # BL20-000037

2950 W. Eagle Ridge Dr.

Chino Valley, AZ 86323

(928) 350-5611

toby@doubledownconstruction.com

ESTIMATE

EST0459

DATE

Nov 30, 2020

TOTAL

USD \$77,965.00

TO

Town of Chino Valley

1982 Voss Drive, #202

Chino Valley, AZ 86323

(928) 636-7140 ext. 1313

kwilson@chinoaz.net

DESCRIPTION	RATE	QTY	AMOUNT
Includes removal of PVC piping and valves at effluent basin and replacement of the following items pursuant to specification:	\$77,965.00	1	\$77,965.00
1. 220' of 4" schedule 80 PVC pipe.			
2. 80' of 2" schedule 80 PVC pipe.			
3. (13) 4" schedule 80 PVC ball valve.			
4. (62) 2" schedule 80 PVC ball valve.			
5. (7) 4" schedule 80 PVC tee coupling.			
6. (42) 2" schedule 80 PVC tee coupling.			
7. (3) 4" 45° schedule 80 PVC coupling.			
8. (3) 4" schedule 80 "Y" coupling.			
9. (24) 4" to 2" schedule 80 PVC tee coupling.			
10. (4) 4" schedule 80 cap.			
11. (4) 4" 90° schedule 80 PVC coupling.			
12. (5) 4" to 3" schedule 80 PVC reducer coupling.			
13. (5) 3" schedule 80 PVC flange.			
14. (22) 2" to 1/2" schedule 80 PVC reducer coupling (1/2" female thread).			
15. (22) 1/2 PVC threaded plug.			
16. (21) 6" to 2" schedule 80 reducer coupling.			
17. (20) 4" schedule 80 PVC straight coupling.			
18. (20) 2" schedule 80 PVC straight coupling.			
19. Miscellaneous mounting hardware.			
TOTAL			USD \$77,965.00

**ADDENDUM TO
PVC PIPE AND VALVE REPLACEMENT CONTRACT
BETWEEN
DOUBLE DOWN CONSTRUCTION INC.
AND
THE TOWN OF CHINO VALLEY**

This ADDENDUM ("Addendum") dated December 10, 2020, modifies the PVC Pipe and Valve Replacement Contract dated December 10, 2020 (the "Original Agreement"), entered into between Double Down Construction Inc., an Arizona corporation ("Builder"), and the Town of Chino Valley, an Arizona municipal corporation ("Town"). All of the capitalized terms not otherwise defined in this Addendum have the same meanings as contained in the Original Agreement. The following provisions add additional sections to the Original Agreement. The sections of the Original Agreement that are not expressly modified, replaced or deleted by this Addendum shall remain in effect pursuant to their terms. The Original Agreement and this Addendum are collectively referred to herein as the "Agreement."

AGREEMENT

1. **A new Section, Conflict of Interest, is hereby added to the Original Agreement to read as follows:**

Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. Town may cancel this Agreement without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Town or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee or agent of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

2. **A new Section, E-Verify Requirements, is hereby added to the Original Agreement to read as follows:**

E-Verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, Builder and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Builder's or its subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town. The Town retains the legal right to randomly inspect the papers and records of Builder and its subcontractors who work on this Agreement to ensure that Builder and its subcontractors are complying with the above-mentioned warranty.

3. A new Section, Israel, is hereby added to the Original Agreement to read as follows:

Israel. To the extent ARIZ. REV. STAT. § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of this Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in ARIZ. REV. STAT. § 35-393.

4. A new Section, Conflicting Terms, is hereby added to the Original Agreement to read as follows:

Conflicting Terms. In the event of any inconsistency, conflict or ambiguity between this Addendum and the Original Agreement, this Addendum shall govern.

5. A new Section, Counterparts, is hereby added to the Original Agreement to read as follows:

Counterparts. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date and year first set forth above.

“Builder”

Double Down Construction Inc.,
An Arizona corporation

By: Toby Butterworth

Name: Toby Butterworth

Title: President

“Town”

TOWN OF CHINO VALLEY,
an Arizona municipal corporation

Jack Miller, Mayor

ATTEST:

Erin Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. g.

Meeting Date: 01/12/2021

Contact Person: Frank Marbury, Public Works Director/Town Engineer
Phone: 928-636-7140 x-1226

Department: Public Works

Estimated length 5 minutes

of staff presentation:

Physical location of item: Various

AGENDA ITEM TITLE:

Consideration and possible action to award a construction contract to VSS International, Inc. for the FY 21 Slurry Seal Project in the amount of \$1,093,000. (Frank Marbury, Public Works Director/Town Engineer)

RECOMMENDED ACTION:

Award a construction contract to VSS International, Inc. for the FY 21 Slurry Seal Project in the amount of \$1,093,000.

SITUATION AND ANALYSIS:

The Town's Engineering Division advertised FY 21 Slurry Seal Project on November 24, 2020, for the supply and installation of crack seal / crack fill and Type II and Type III Slurry Seal in the following subdivisions:

- Appaloosa Meadows
- Highlands Ranch
- Bright Star
- Mesa View
- Mollie Rae
- Parkside Village

On December 22, 2020, the Town received one bid from VSS International, Inc. in the amount of \$1,093,000. The amount budgeted for this project was \$1,675,000 utilizing HURF Funds.

Other Pertinent Documents Available Upon Request:

Appendix 6g.-A The complete construction contract with VSS International, Inc. may be viewed online at www.chinoaz.net/agendacenter with the January 12, 2021, Council Meeting Documents.

Fiscal Impact

Fiscal Impact?: \$1,093,000

If Yes, Budget Code: 02-78-5398

Available: \$1,093,000

Funding Source:

The Town transferred \$1,420,731 from the General Fund to the HURF Fund to fund this and other road improvement projects.

Attachments

No file(s) attached.



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. h.

Meeting Date: 01/12/2021
Contact Person: Cecilia Grittmann, Town Manager
Department: Public Works
Estimated length of staff presentation: 5 minutes
Physical location of item: 2590 Tree Farm Lane, Chino Valley, AZ

AGENDA ITEM TITLE:

Consideration and possible action to authorize staff to purchase +/- 3 acres referred to as 2590 Tree Farm Lane, Chino Valley in an amount of \$85,000.00 with additional fees and commission of \$4,600.00, for a total of \$89,600.00. (Frank Marbury, Public Works Director/Town Engineer)

RECOMMENDED ACTION:

Authorize staff to purchase +/- 3 acres referred to as 2590 Tree Farm Lane, Chino Valley in an amount of \$85,000.00 with additional fees and commission of \$4,600.00 for a total of \$89,600.00.

SITUATION AND ANALYSIS:

The +/- three acres at the intersection of Jerome Junction / Tree Farm Lane is adjacent to the Town's Lift station for the Waste Water Treatment Plant. Access to the lift station is compromised, and over the last 1.5 years we have had a few power outages at the Treatment Plant which caused surges in the facility and caused spillage at the lift station. Owning the additional acreage around the lift station will allow the PWs department to create retention basins to mitigate any future spills that might affect surrounding properties.

Huck Appraisal performed an appraisal on the property and concluded the value of the property to be \$78,000.00. However, the owner had the property listed at \$149,900.00. Negotiations between the seller and the Town determined the seller wanted to net no less than \$85,000 on the property, and the Council had given staff the latitude to negotiate to that amount.

Fiscal Impact

Fiscal Impact?: Yes
If Yes, Budget Code: 06-83-5600
Available: \$89,600
Funding Source:

The acquisition was not budgeted for this fiscal year. However, the Wastewater Enterprise Fund has adequate reserves to pay for the property. The acquisition will be paid out of the Wastewater Enterprise Fund Contingency line item.

Attachments

Tree Farm, Listing Sheet
Huck Appraisal
AGR - Half Circle T, LLC (v2)

Agent Report (1)

2590 TREE FARM LN -, Chino Valley, AZ 86323

\$149,900

	6022286 Land and Lots Apx SqFt: 130,680 Apx SqFt G/N: G Apx Total Acres: 3 Apx Total Acres G/N: G Apx Deeded Fee Acres: 3 Apx Leased Acres: 0 Lot Size Dimensions: IRR Price Per Acre: 49,966.67 Price Per SqFt: 1.15 Ele Sch Dist: Elementary School: Jr. High School:	Active Subdivision: COMMERCIAL HEAVY ZONING Tax Municipality: Chino Valley Marketing Name: Irrigation District: Street Frontage Name: TREE FARM LANE Hun Block: Map Code/Grid: C82 Census Tract: 202 Zoning: CH High School Dist #: High School:
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Cross Streets: JEROME JUNCTION AND TREE FARM LANE **Directions:** FROM STATE ROUTE 89, DRIVE EAST ON PERKINSVILLE ROAD APPROX 3 MILES TO JEROME JUNCTION, TURN NORTH AND STAY LEFT AT SPLIT ON TREE FARM LANE, TO END OF STREET ON LEFT. LOOK FOR AGENT SIGN.

Public Remarks: LOCATED IN AN AREA SLATED BY TOWN OF CHINO VALLEY AS INDUSTRIAL, THIS PROPERTY ZONING "CH" OR "COMMERCIAL HEAVY" HAS MANY POTENTIAL USES. ***SEE ZONING CODE PDF UNDER DOCUMENTS TAB***. MORE INFO AND MANY MORE PHOTOS COMING SOON. CITY SEWER LINE ON PROPERTY.

Features	Development & Utilities	County, Tax and Financing
Parcel Size: 2.50 - 4.99 Acres Land Features: Land Configuration: Irregular Shape Elevation: / Topography: Level Vegetation: Natural Vegetation Horses: Special: Existing Land Use: Commercial Acreage Zoned Presently: Commercial; Industrial Potential Use: Commercial; Industrial Use Restrictions: Freeway/Highway: 2.1 - 5 Miles Traffic Count: Current Density: Proposed Density:	Development Status: Raw Land Existing Structures: Other (See Rmks) Fencing: None Water: None Sewer: Sewer - Available Gas: None Distance to Cable: Call Listing Office Distance to Electric: On Property Distance to Gas: Call Listing Office Distance to Phone: Call Listing Office Distance to Sewer: On Property Distance to Water: Call Listing Office Electric: APS Roads/Streets: Dirt/Gravel Environmental: None	County Code: Yavapai Legal Description (Abbrev): AN IRREG PCL PTN TRACT #41 NE COR APPROX 1888'S & 63'W FRM NE COR OF SEC 11-16-2W CONT. 3.00AC AN: 306-17-071-Z Lot Number: - Town-Range-Section: 16N-02W-11 Cty Bk&Pg: Taxes/Yr: \$847/2019 For Sale or Lease?: Sale New Financing: Cash Pmt & Rate Info: Equity: 149,900 Total Owed: 0 Existing 1st Loan: Treat as Free&Clear Existing 1st Ln Type: Not Applicable Existing 1st Ln Trms: Not Applicable Existing 2nd Loan: Treat as Free&Clear Existing 2nd Ln Type: Not Applicable Existing 2nd Ln Trms: Not Applicable Existing 3rd Loan: Treat as Free&Clear Existing 3rd Ln Type: Not Applicable Existing 3rd Ln Trms: Not Applicable Auction: No Reports/Disclosures: Seller Prop Disc Stm

Fees & Homeowner Association Information

HOA Y/N: N HOA Fee/Paid: / HOA Transfer Fee: HOA Name: HOA Telephone:	HOA 2 Y/N: N HOA 2 Fee/Paid: / HOA 2 Transfer Fee: HOA 2 Name: HOA 2 Telephone:	PAD Fee Y/N: N PAD Fee: PAD Paid (Freq): Assessed Balance: 0 Assessed Yrs Left: 0 Owner Association:
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Listing Dates	Pricing and Sale Info	Listing Contract Info
CDOM/ADOM: 0 / 0 List Date: 01/10/2020 Expire Date: 01/09/2021 Status Change Date: 01/10/2020	Original List Price: \$149,900 List Price: \$149,900	SA: N / BB: Y / % 4 % Var: Y Type: ER Other Compensation: Special Listing Cond: N/A

Private Rmks - DND2:

Semi-Private Remarks:

Office Remarks:

Showing Instructions: Permission Required to Show: No; Notify: No Notification Required; ARMLS Lockbox: No; Non-ARMLS

Lockbox: No

Occupant - DND2: Vacant

Ownr/Occ Name - DND2: CLIENT OF DELEX REALTY

Owner/Occ Phn - DND2: 602-826-1200

Lockbox Location:

Alarm Code - DND2:

Gate Code - DND2:

Mech-box Code -

DND2:

Other Code - DND2:

	Name	Office	Primary Phone	Office Phone	E-mail	Mobile and Home	Fax
LA	Timothy L Bibb tb091 SA513769000	Delex Realty dele002 LC649480001	602-826-1200	602-910-3002	timbibb@gmail.com	602-826-1200	

AN APPRAISAL REPORT
CONTAINING THE RESULTS OF
AN APPRAISAL OF
THE PROPERTY
LOCATED AT
2590 TREE FARM LANE
CHINO VALLEY, ARIZONA

HUCK APPRAISAL OFFICE

Robert C. Huck, MAI
724 Gail Gardner Way • Prescott, Arizona 86305
Phone (928) 778-7171 • Email: hanainc@cableone.net

October 7, 2020

Ms. Cecilia Grittman
Town Manager
Town of Chino Valley
202 N. State Route 89
Chino Valley, Arizona 86323

Re: An appraisal of the property located at 2590 Tree Farm Lane, Chino Valley, Arizona.

Dear Ms. Grittman:

In accordance with our agreement as outlined in our engagement letter dated September 10, 2020, I hereby transmit the attached appraisal report which contains the result of my appraisal of the subject property. The report sets forth my value conclusion, along with supporting data and reasoning which form the basis of my opinion. This letter is, by reference, made a part of the accompanying report.

The purpose of the appraisal is to provide an opinion of the market value of the fee simple interest in the subject property, 'As Is'. The client for the assignment is the Town of Chino Valley. The intended use of the appraisal is to establish a potential sale price for the subject property. The intended user of the appraisal is the Town of Chino Valley, to assist in their decisions regarding the property. No other parties are authorized to rely upon this report without the express written consent of the appraiser.

The results of the appraisal are reported in the attached appraisal report, which contains 36 pages. This Appraisal Report is intended to comply with the reporting requirements set forth under Standard Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice for an Appraisal Report. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.

October 7, 2020
Ms. Gritman:
Page Two

This report is also intended to have been prepared in accordance with:

- All requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) as provided by the Appraisal Foundation;
- The Code of Professional Ethics, the Standards of Professional Appraisal Practice, and any additional requirements of the Appraisal Institute, of which I am a member.

By reason of my investigation and having given careful consideration to the factors which affect real estate value, I have concluded the following market value of the fee simple interest in the subject property, 'As Is', as of October 6, 2020:

SEVENTY EIGHT THOUSAND DOLLARS
(\$78,000)

The estimated exposure time linked to the value estimates for the subject property is as much as two years. According to the Yavapai County Treasurer's Office, the real estate tax for the subject property is current as of the date of valuation.

The conclusions of this appraisal are subject to the Standard Assumptions and Limiting Conditions contained in the Addenda of this report. In addition, the conclusions are also made in consideration of the following Extraordinary Assumptions and/or Hypothetical Conditions, as discussed in the report. The use of an extraordinary assumption and/or hypothetical condition might have an effect on the assignment results.

1. The subject property is improved with a sewer lift station. However, the purpose of the appraisal is to develop an opinion of value for the land, as if vacant. Therefore, the identification of the subject property excludes the existing improvements. Accordingly, the appraisal is based, in part, on the hypothetical condition that the property is vacant as of the date of valuation.

I hereby disclose that I personally inspected the subject property on October 6, 2020. No one provided significant real property appraisal assistance to Robert C. Huck, MAI, the person signing this report.

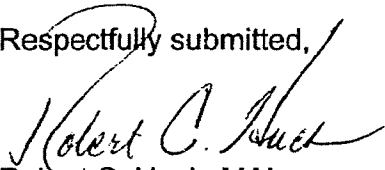
October 7, 2020

Ms. Grittmann:

Page Three

I hereby certify that I have no interest, present or prospective, in the subject property, and that the appraisal assignment was not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal. I further certify that to the best of my knowledge and belief, the statements and opinions contained in the appraisal are correct, subject to the limiting conditions expressed herein.

Respectfully submitted,

A handwritten signature in black ink, reading "Robert C. Huck". The signature is written in a cursive style with a large, looping initial "R".

Robert C. Huck, MAI

Certified General Real Estate Appraiser

Certificate No. 30123

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT ("Agreement") is made as of the Effective Date (as defined herein) by and between **HALF CIRCLE T, LLC**, an Arizona limited liability company **FKA JT'S BACKHOE, LLC**, an Arizona limited liability company ("Seller"), and **THE TOWN OF CHINO VALLEY**, an Arizona municipal corporation ("Buyer").

1. Sale and Purchase. Pursuant to this Agreement, Seller shall sell and Buyer shall purchase, the Property described below located in Yavapai County, Arizona. The Property consists of an approximately 3 acre tract of land described in Exhibit A attached hereto, together with improvements thereon and any other rights appurtenant thereto (the "Property").
2. Purchase Price. The purchase price for the Property (the "Purchase Price") is \$85,000.00. Buyer will deposit the sum of \$2,500 (the "Deposit") with Yavapai Title Agency ("Title Company") within 5 days of receiving a closing protection letter from the Title Company.
3. Title Insurance and Deed. At "Closing" (as described in Section 13 below), Seller shall convey to Buyer marketable fee simple title to the Property by special warranty deed in a form acceptable to Buyer, subject only to title exceptions acceptable to Buyer. Seller will cooperate with Buyer to fix any title issues.
4. Risk of Loss and Condemnation. Until Closing, Seller has the risk of loss or damage to the Property. If any loss or damage occurs prior to Closing, Buyer may either (i) cancel this Agreement and receive a refund of the Deposit, or (ii) accept the Property. If all or any part of the Property is condemned or any condemnation action or proceeding is commenced prior to Closing, Buyer may either (a) cancel this Agreement and receive a refund of the Deposit, or (b) proceed with this Agreement, with all condemnation proceeds and claims being assigned to Buyer.
5. Taxes and Assessments. Any real property taxes, water rates, sewer charges and rents shall be prorated and adjusted on the basis of the actual days in the calendar year, Seller to have the last day, to the date of Closing. Taxes will be apportioned upon the basis of the actual tax rate or, if unavailable, the tax rate for the preceding year applied to the latest assessed valuation, to be adjusted between the parties based on actual taxes for the year in which Closing occurs at the time actual taxes are determined.

6. Remedies of Seller. If Buyer defaults under this Agreement, and does not cure such default after ten (10) days' written notice, Seller's sole and exclusive remedy shall be to retain the Deposit as liquidated damages and cancel this Agreement, and Seller hereby waives any action, whether legal or equitable, as a result of such default by Buyer. The parties acknowledge that: (i) it would be impracticable to fix the actual damages suffered by Seller as a result of such default; and (ii) the amount of the liquidated damages represents a fair and reasonable compensation to Seller for such default.

7. Remedies of Buyer. If Seller defaults under this Agreement, and does not cure such default after ten (10) days' written notice, Buyer may, at its option, (a) cancel this Agreement in which case the Title Company is irrevocably instructed to return the Deposit to Buyer, and Buyer may recover from the Seller all reasonable expenses paid or incurred by Buyer in connection with this Agreement, or (b) pursue any other legal or equitable remedy, including without limitation a suit for specific performance.

8. Right of Entry and Inspection. At any time prior to Closing, at Buyer's sole expense, Buyer or its authorized agents may enter upon the Property for any lawful purpose.

9. Brokerage Fees. Seller has enlisted the services of Delex Realty (Tim Bibb) ("Listing Broker") in connection with this Agreement and the transaction contemplated herein. In the event of the Closing of the purchase of the Property pursuant hereto, Listing Broker shall be paid a commission in the amount of four percent (4%) of the Purchase Price, which shall be paid by Buyer at Closing. Both parties represent that no other broker is involved in this Agreement and each party agrees to indemnify the other against brokerage commission claims arising out of the indemnifying party's actions. The provisions of this Section 9 shall survive Closing or any cancellation or earlier termination of this Agreement.

10. Seller's Warranties. Seller makes the following representations and warranties which are true and accurate as of the Effective Date of this Agreement and as of Closing:
 - (a) Seller has no knowledge of any violations of any codes, ordinances, regulations, or orders with respect to the Property.
 - (b) No litigation is pending, threatened or likely with respect to the Property or Seller's interest therein.
 - (c) The Property is not contaminated with, nor threatened with contamination from outside sources by, any chemical, material or substance to which exposure is

prohibited, limited or regulated by any federal, state, county, local or regional authority and the Property has never been used for a landfill, dump site, underground improvements, storage of hazardous or regulated substances, or by a manufacturer of any product or for any other industrial use.

- (d) There are no unrecorded leases, arrangements, agreements, understandings, options, contracts, or rights of first refusal affecting or relating to the Property in any way.
 - (e) Except to the extent this Agreement provides otherwise, the Property will remain in the condition existing as of the execution of this Agreement until Closing.
 - (f) The individual signing this Agreement on behalf of Seller has the authority to bind the Seller to the agreements set forth herein.
 - (g) The Property does not contain sinkholes, caverns, faults, conduits, voids, mines, or other geological anomalies which could affect the development of the Property.
11. Feasibility Period. Buyer shall have a 90-day period from the Effective Date of this Agreement (the "Feasibility Period") to determine the feasibility of Buyer's planned use of the Property. Seller shall, in all ways, fully cooperate with Buyer in its due diligence efforts during the Feasibility Period, including providing information as necessary for Buyer to complete such studies of the Property as it deems necessary; Seller's cooperation shall be at no out of pocket cost to Seller. At any time prior to the end of the Feasibility Period, the Buyer may, for any reason in its sole and absolute discretion, cancel this Agreement and receive a refund of the Deposit.
12. Notices. All notices and communications required or permitted to be given hereunder shall be in writing and hand delivered or mailed by certified or registered mail, postage prepaid, or by Federal Express or similar overnight delivery service, addressed as follows:

If to Seller:

With a copy to:

If to Buyer:

Town Manager
 Town of Chino Valley
 202 North State Route 89
 Chino Valley, AZ 86323

With a copy to:

Andrew J. McGuire
 Gust Rosenfeld, P.L.C.

One E. Washington, Suite 1600
Phoenix, AZ 85004

If to Title Company:
Yavapai Title Agency

Notice shall be deemed to have been given upon receipt or refusal.

13. Closing. Closing shall occur no later than 15 days after the Feasibility Period. Seller shall deliver possession of the Property to Buyer at Closing.
14. Closing Costs. Seller shall pay revenue stamps, transfer tax, documentary stamps or excise taxes related to the Property. Buyer shall pay the title insurance premium, recording fee and closing fee.
15. Time of Essence. Time is of the essence of this Agreement.
16. Entire Agreement. This Agreement contains the entire agreement between Seller and Buyer.
17. Headings. The Section headings are for convenience of reference only and do not modify or restrict any provisions hereof and shall not be used to construe any provisions.
18. Modifications and Waiver. This Agreement may be amended only by an instrument in writing signed by both Seller and Buyer.
19. Successors. This Agreement shall inure to the benefit of and bind the parties hereto and their respective executors, heirs, administrators, successors and assigns. Seller may not assign this Agreement without the prior written consent of Buyer. Buyer may freely assign this Agreement without consent by Seller, and such assignment may contain a unilateral revision (without the need for Seller's consent) to Section 12 for the sole purpose of updating Buyer's notice information.
20. Internal Revenue Code. Seller agrees to comply with Section 1445 of the Internal Revenue Code.
21. Survival. All warranties, indemnities, representations and covenants herein and the provisions of Section 5 shall survive Closing.

22. Enforceability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof.
23. Attorney's Fees. In any action or proceeding arising out of this Agreement, each party shall bear its own attorney's fees, and the prevailing party shall be entitled to recover only court costs from the non-prevailing party incurred by such party in enforcing its rights hereunder.
24. Effective Date. The term "Effective Date" or such other similar term shall be the date upon which the latter of Seller or Buyer shall so execute this Agreement, such date to be evidenced by the date inserted beneath the signature of Seller and Buyer.
25. Confidentiality Clause. Seller hereby agrees that it shall use reasonable efforts to keep this Agreement confidential.
26. Counterparts. This Agreement may be executed in multiple counterparts. This Agreement may be executed by one or more parties using an electronic signature, which the parties agree shall be binding for all purposes and shall constitute an original signature.

Remainder of the page intentionally blank.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written below.

SELLER

Half Circle T, LLC, an Arizona limited liability company FKA JT's Backhoe, LLC, an Arizona limited liability company

BUYER

The Town of Chino Valley, an Arizona, municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

By: _____
Name: _____
Its: _____
Date: _____

EXHIBIT A TO PURCHASE AGREEMENT