



Town of Chino Valley

MEETING NOTICE TOWN COUNCIL AGENDA

**REGULAR MEETING
TUESDAY, SEPTEMBER 13, 2022
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- Individuals requesting to speak, please complete a Speaker Comment Card and return to the Clerk.**

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 Cindy Blackmore 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. **Pg. 5** Consideration and possible action to approve a Cooperative Purchasing Agreement with Empire Machinery for the purchase of a new Caterpillar CB2.7GC Tandem Vibratory Roller in the amount of \$61,888.23. (Frank Marbury, Public Works Director/Town Engineer)
- b. **Pg. 17** Consideration and possible action to ratify the emergency execution of a Cooperative Purchasing Agreement with Empire Power Systems for the purchase and installation of backup generators in the amount of \$106,107. (Frank Marbury, Public Works Director / Town Engineer)
- c. **Pg. 61** Consideration and possible action to approve the Development Agreement with Brown Homes for a construction trailer and sales trailer for the Perkinsville 44 Subdivision. (Will Dingee, Senior Planner)
- d. **Pg. 78** Consideration and possible action to approve the First Amendment to the Professional Services Agreement for Water Consulting Services between the Town of Chino Valley and Mark Holmes, LLC, to increase annual and maximum aggregate compensation. (Terri Denemy, Assistant to the Town Manager)
- e. **Pg. 83** Consideration and possible action to approve a First Amendment to the Ground Lease with Ichor Airsoft, LLC, for approximately 36.72 acres of land at Old Home Manor. (Terri Denemy, Assistant to the Town Manager)
- f. **Pg. 89** Consideration and possible action to approve the August 17, 2022, 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. **Pg. 93** Consideration and possible action to approve Ordinance No. 2022-922 regarding the Home Detention Program established in the Town for administration by the Presiding Magistrate pursuant to A.R.S §9-499.07. (Joan Dwyer, Presiding Magistrate)

Recommended Action: Approve Ordinance No. 2022-922 regarding the home detention program.

- b. **Pg. 99** Consideration and possible action to approve the Amended and Restated Development Agreement for the Bright Star Property with Estrella Vista Enterprises, LLC. (Mark Holmes, Water Resources Consultant)

Recommended Action: Approve the Amended and Restated Development Agreement for the Bright Star Property with Estrella Vista Enterprises, LLC.

- c. **Pg. 133** Consideration and possible action to approve an amendment to the existing Medical Marijuana Protected Development Right Site Plan, for AZ Organics LLC, located at 828 E. Road 4 South, to modify the approved site plan by changing the six (6) remaining, unbuilt buildings, into one (1) building of the same square footage. (Will Dingee, Senior Planner)

Recommended Action: Approve the amendment to the AZ Organics' existing Protected Development Right Site Plan.

- d. **Pg. 139** Public hearing, consideration and possible action to approve the Del Sol North Minor Subdivision Final Plat consisting of 10 lots, one acre in size or larger. Approximately 1300 feet south of the intersection of East Perkinsville Road and Salida Del Sol on the northern half of parcels 306-18-038A, 038B and 038C. Applicant: Jay Bates on behalf of Right Homes. (Will Dingee, Senior Planner)

Recommended Action:

- (i.) Hold Public Hearing
- (ii.) Approve the Del Sol North Minor Subdivision Final Plat subject to the following condition:
 - 1. Permits for the development shall not be issued until the Maintenance Improvement District has been recorded with the County.

- e. **Pg. 143** Consideration and possible action to approve the Del Sol South Minor Subdivision Final Plat consisting of 10 lots one acre in size or larger. Located approximately 1300 feet south of the intersection of East Perkinsville Road and Salida Del Sol on the southern half of parcels 306-18-038A, 038B and 038C. (Will Dingee, Senior Planner)

Recommended Action:

- (i.) Hold Public Hearing
- (ii.) Approve the Del Sol South Minor Subdivision Final Plat subject to the following condition:
 - 1. Permits for the development shall not be issued until the Maintenance Improvement District has been recorded with the County.

7. **ADJOURNMENT**

Dated this 8th day of September, 2022.

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.

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

Click to join webinar: <https://us02web.zoom.us/j/82819522800>

One tap mobile : US: +12532158782,83455013925# or +13462487799,83455013925#

Telephone: 888 788 0099 (Toll Free) or 877 853 5247 (Toll Free)

Webinar ID: 828 1952 2800

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



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

5. a.

Meeting Date: 09/13/2022
Contact Person: Frank Marbury, Public Works Director/Town Engineer
 Phone: 928-636-7140 x-1226
Department: Public Works
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to approve a Cooperative Purchasing Agreement with Empire Machinery for the purchase of a new Caterpillar CB2.7GC Tandem Vibratory Roller in the amount of \$61,888.23. (Frank Marbury, Public Works Director/Town Engineer)

RECOMMENDED ACTION:

Approve the Cooperative Purchasing Agreement with Empire Machinery for the purchase of a new Caterpillar CB2.7GC Tandem Vibratory Roller, with 84-month extended warranty, standard preparation, and sales tax for a total amount of \$61,888.23.

SITUATION AND ANALYSIS:

The Town budgeted for a new vibratory roller to be used by Public Works. The purpose of this roller is to aid in the repair and replacement of asphalt and chip seal streets throughout the Town. The equipment is being purchased utilizing the National Intergovernmental Purchasing Alliance Company ("National IPA") Cooperative Bid Program on this solicitation identified as City of Tucson contract #161534.

The cost of the roller is listed at \$64,64.00, but through the contract, is discounted 19%. The final cost including sale price, extended warranty (84 month/4000 hour 100% parts and labor), standard preparation, and sales tax totals \$61,888.23.

Other Pertinent Documents Available Upon Request:

Appendix 5a-1. A printed copy of the Cooperative Purchasing Agreement with all exhibits is available upon request. The document is available on the Town's website at <http://www.chinoaz.net/AgendaCenter> with the September 13, 2022, Council meeting documents.

Fiscal Impact

Fiscal Impact?: 61,888.23
If Yes, Budget Code: 02-78-5412
Available: 90,000

Funding Source:

The equipment was included in Fiscal 2022/2023 budget.

Attachments

Cooperative Purchase Agreement without exhibits

**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EMPIRE SOUTHWEST, LLC, DBA EMPIRE MACHINERY**

THIS COOPERATIVE PURCHASING AGREEMENT (this “Agreement”) is entered into as of September 13, 2022, between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and Empire Southwest, LLC, a Delaware limited liability company dba Empire Machinery (the “Vendor”).

RECITALS

A. After a competitive procurement process, the City of Tucson, in partnership with the National Intergovernmental Purchasing Alliance Company, entered into Contract No. 161534, effective May 1, 2017, as amended by Contract Amendment No. 8, dated June 3, 2022 (together, the “Tucson Contract”), for the purchase of heavy equipment, parts, accessories, supplies, and related services. A copy of the Tucson Contract is attached hereto as Exhibit A and incorporated herein by reference to the extent not inconsistent with this Agreement.

B. The Town is permitted to purchase such equipment and services under the Tucson Contract, at its discretion and with the agreement of the awarded Vendor.

C. The Town and the Vendor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the Tucson Contract and this Agreement, (ii) establishing the terms and conditions by which the Vendor may provide the Town with heavy equipment, parts, accessories, supplies, and related services, as more particularly set forth in Section 2 below (the “Equipment and Services”), and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Equipment and 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 Vendor 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 December 31, 2022 (the “Term”), unless terminated as otherwise provided in this Agreement or the Tucson Contract. The terms and conditions of the Tucson Contract are incorporated herein and shall survive the termination or expiration thereof.

2. Scope of Work. The Vendor shall provide to the Town the Equipment and Services under the terms and conditions of the Tucson Contract and in the configurations set forth in the Quote attached hereto as Exhibit B and incorporated herein by reference.

3. Inspection; Acceptance. All Equipment and Services are subject to final inspection and acceptance by the Town. Equipment failing to conform to the requirements of this Agreement and/or the Tucson Contract will be held at the Vendor's risk and may be returned to the Vendor. If so returned, all costs are the responsibility of the Vendor. Upon discovery of non-conforming Equipment or Services, the Town may elect to do either of the following by written notice to the Vendor: (A) waive the non-conformance or (B) bring Equipment or Service into compliance and withhold the cost of same from any payments due to the Vendor.

4. Compensation. The Town shall pay the Vendor an amount not to exceed \$61,888.23 for Equipment and Services at the unit rates set forth in the Tucson Contract and as more particularly set forth in the Quote.

5. Payments. The Town shall pay the Vendor upon delivery and acceptance of the Equipment and Services and upon submission and approval of the invoice(s). The invoice(s) shall (i) contain a reference to this Agreement and the Tucson Contract and (ii) document the Equipment and Services delivered and accepted to date. Additionally, invoices submitted without referencing this Agreement and the Tucson Contract will be subject to rejection and may be returned.

6. Safety Plan. The Vendor shall provide the Equipment and 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 Vendor's sole determination, the Equipment and Services to be provided do not require a safety plan, the Vendor 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.

7. Records and Audit Rights. To ensure that the Vendor and its subcontractors are complying with the warranty under Section 8 below, the Vendor's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any of the Vendor's 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 (i) evaluation and verification of any invoices, payments or claims based on the Vendor'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 (ii) evaluation of the Vendor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 8 below. To the extent necessary for the Town to audit Records as set forth in this Section, the Vendor 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 the Vendor pursuant to this Agreement. The Vendor 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 Section. The Town shall give the Vendor or its subcontractors reasonable advance notice of

intended audits. The Vendor shall require its subcontractors to comply with the provisions of this Section by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

8. E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Vendor 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). The Vendor's or its subcontractors' 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.

9. 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.

10. Conflict of Interest. This Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

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

12. 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 the Vendor 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. The Vendor 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.

13. Conflicting Terms. In the event of any inconsistency, conflict, or ambiguity among the terms of this Agreement, including any amendments, the Tucson Contract, including any amendments, the Quote, and invoices, then the documents shall govern in that order. Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement or the Tucson Contract (collectively, the "Unauthorized Conditions"), other than the Town's project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the

Town of any invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the Tucson Contract shall not alter such terms and conditions or relieve the Vendor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement

14. Rights and Privileges. To the extent provided under the Tucson Contract, the Town shall be afforded all of the rights and privileges afforded to the City of Tucson and shall be “Tucson” (as defined in the Tucson Contract) for the purposes of the portions of the Tucson Contract that are incorporated herein by reference.

15. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 14 above, the Town shall be afforded all of the insurance coverage and indemnifications afforded to the State to the extent provided under the Tucson Contract, and such insurance coverage and indemnifications shall inure and apply with equal effect to the Town under this Agreement including, but not limited to, the Vendor’s obligation to provide the indemnification and insurance. In any event, the Vendor shall indemnify, defend 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”), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Vendor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

16. 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 (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, or (iii) 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: 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 Vendor: _____

 Attn: _____

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 (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, or (iii) 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.

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

“Vendor”

EMPIRE SOUTHWEST, LLC, a
Delaware limited liability company dba
Empire Machinery

By:_____

Name:_____

Title:_____

EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EMPIRE SOUTHWEST, LLC, DBA EMPIRE MACHINERY

[Tucson Contract]

See following pages.

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EMPIRE SOUTHWEST, LLC, DBA EMPIRE MACHINERY

[Quote]

See following pages.



2.1.2022

Budget Pricing

TOWN OF CHINO VALLEY
1982 N VOSS DR DEPT 201
CHINO VALLEY AZ 86323



On behalf of EMPIRE MACHINERY, we certainly appreciate the opportunity to provide this proposal on a new Caterpillar CB2.7GC Tandem Vibratory Roller for Town of Chino Valley Public Works. This proposal is provided as a cooperative purchase in accordance with City of Tucson RFP #161534, National IPA (OMNIA Partners) awarded to Caterpillar Inc.

NEW CATERPILLAR CB2.7GC VIBRATORY UTILITY COMPACTOR

STANDARD EQUIPMENT

► **Powertrain**

- CAT C1.7T Diesel Engine
 - Turbocharged, EPA Tier 4 Final with DOC/DPF Aftertreatment
 - Gross Power – 24.7 hp @ 2,200 rpm
 - Liquid Cooled, Direct Injection
- Air to Air Aftercooler (ATAAC)
- Fuel Filter/Water Separator/Electronic Priming Pump and Electronic Water Indicator
- Dual Element Air Cleaner with Dust Ejection
- 3 Engine Speeds – Idle, Med., & High
- Engine Belt Guard
- Programmable Auto Idle Shutdown
- Aluminum Bar Plate Cooling System
- Hydrostatic Transmission
- Auto Warmup Cycle
- Hydraulic On Demand Cooling Fan
- Service and Parking Brakes – Spring Applied and Hydraulically Released

► **Electrical**

- Engine Start Switch with Auto Pre-Heat
- 12V Starting and Charging System
- 85 Ampere Alternator
- 750 CCA Maintenance Free Battery
- Isolated and Cooled Battery Compartment
- Back-Up Alarm
- Forward Warning Horn
- Product Link Ready
- Beacon Ready
- Diagnostic Connector
- CAT ET Compatible
- Labeled and Sealed Electrical Connectors
- LED Work Lights (2 Front, 2 Rear)

► **Drums**

- 2 47" Wide 28" Diameter Smooth Drums
- Single Amplitude with Dual Frequency Vibratory System
- Automatic Vibration Control to Prevent Vibration in Neutral
- Selection of Front Drum or Both Drum Vibration
- Pressurized Drum Watering System with Selectable Continuous or Intermittent Flow
- 4 Nozzle Spray Bars

► **Operator Environment**

- Gauges:
 - Water Level
 - Fuel Level
 - Hour Meter
 - Engine Coolant Temperature
 - Hour Meter
 - Faults
- Operator Warning System Indicators
 - Parking Brake Engaged
 - Operator Out of Seat
 - Hydraulic Oil Temperature (High)
 - Hydraulic Oil Restriction
 - Low Engine Oil Pressure
 - Low Electrical System Voltage
 - Low Fuel
 - Engine Pre-Heat
 - High/Low Vibe Frequency
 - Beacon Status
- Simple Rocker Switches
- Emergency Stop Switch
- Lockable Instrument Panel Vandalism Guard
- Single Lever Travel Control
- 3" High Visibility Orange Retractable Seat Belt
- 2 Platform Handrails/Single Guardrail
- Steering Wheel Spinner
- 12V Power Point
- Sealed Storage Compartment
- Isolated Operator Platform
- Vibration Reducing, Diesel Resistant Rubber Floor mat

► **Other Standard Equipment**

- Lockable Engine Enclosure with Safety Hold Open Latch
- Lockable External Fuel Fill
- Sealed for Life Hitch Bearings
- Hydraulic Oil Level & Engine Coolant Sight Gauges
- Lockable Hydraulic Tank Cap
- Articulated Frame with Safety Lock
- 3 Point Hitch
- 4 Transport Tie-Down & 4 Lift Points
- 16.3 Gallon Fuel Tank
- 52.8 Gallon Water Tank

EMPIRE INCLUDED OPTIONS & UPGRADES

5474537	CB2.7GC	\$59,887
0G0044	ROLL ON-ROLL OFF	\$0
0P9003	LANE 3 ORDER	\$0
3642278	SUPPORT, FIXED FOR SEAT	\$0
4218926	SERIALIZED TECHNICAL MEDIA KIT	\$0
4539461	TRAVEL CONTROL, CUP HOLDER	\$66
5031603	PLUG (NON SINGLE LIFT)	\$0
5426995	SEAT BELT, 3"	\$156
5648160	ENGINE, CAT C1.7T	\$0
5653708	SWITCH, BATTERY DISCONNECT	\$125
5685154	LIGHTS, WORKING, LED	\$0
5698105	PLUG (NO GUARDS, BUMPER)	\$0
5735962	SEAT, WITH SAFETY SWITCH	\$620
5746030	INSTRUCTIONS, ANSI	\$0
5746039	OIL, HYD, STANDARD	\$0
5746086	ROPS, FOLDABLE W/CANOPY	\$3,795
5771414	PRODUCT LINK, CELLULAR PL243	\$0
6035914	DRUM SCRAPER, FIXED	\$0

7 Year/ 3000 Hour Governmental Premier Machine Warranty – EMPIRE will provide machine warranty coverage, 100% parts and labor, for 84 months or 4000 hours, whichever occurs first.

	List Price:	\$64,649.00
City of Tucson RFP #161534 OMNIA Partners– Caterpillar Inc. 19% Discount:		(\$12,283.31)
	Sale Price:	\$52,365.69
	Nontaxable Extended Warranty:	\$3,950.00
	Nontaxable Standard Prep:	\$1,200.00
	Sales Tax (8.35%):	\$4,372.54
	Net Budget Total:	\$61,888.23

Thank you for your consideration of this proposal and for allowing Empire Machinery to assist with your Caterpillar equipment needs. We look forward to the continued business partnership with Town of Chino Valley.

Dan Allen

Dan Allen
Sales Account Manager
Dan.Allen@empire-cat.com
928.713.2915 cell

CATERPILLAR FEATURES AND BENEFITS

Water Spray –

- Water tank gauge for continuous monitoring from operator station
- 4 nozzle spray bars with improved coverage
- Triple filtration to prevent clogging
- Spray test mode to test and adjust spray coverage
- Large water tank for less fill ups

Serviceability & Reliability –

- CAT Controls with ET and remote flash/troubleshoot capability
- Fuse and relay design for simple trouble shooting
- Long life vibe bearing service interval of 3 years or 3,000 hours
- 500 hour engine oil change interval
- Locking external fuel fill
- Isolated and vented battery compartment

Productivity –

- Large (28") drum diameters for smooth mat finish
- .55" thick drum shells for longer durability
- Two vibe frequencies for simple yet versatile operation
- Offset hitch standard for easy compaction next to curbs
- Narrow frame design allows for better job surface visibility

Operator Station –

- Simple rocker switches and display
- Glove box for easy storage
- Lockable vandal protection
- Seat with operator presence sensor to prevent unintended operation while out of the seat
- Slip resistant steps and platform for improved operator safety

EQUIPMENT OPERATOR TRAINING

CATERPILLAR EQUIPMENT TRAINING

| INCLUDED |



CAT Certified Operator Training - INCLUDED

- ▶ Personal safety factors of machine operation
- ▶ Perform a machine walk around inspection per O&M
- ▶ Locate, identify, and describe functionality for: operator controls, switches, and gauges located on machines
- ▶ Safely and efficiently perform the correct pre-operational start-up and shutdown procedure
- ▶ Operate the machine by correctly moving the machine safely
- ▶ English or Spanish Speaking Instruction available

Additional CAT Certified Operator Training Available

- ▶ We offer a variety of certified operator training classes and assorted instructional techniques to fit all operator levels
- ▶ Advantages of certified training provides many cost savings benefits
 - Best operating techniques; increase productivity; reduce fuel costs
 - Utilize machine technology capabilities; finish jobs faster with less rework
 - Improve machine operating skills; reduce wear and tear on equipment
 - Learn proper operator and service inspections; find problems before failure
 - Incorporate best operator safety practices; prevent costly accidents and injuries
 - Increase machine life; Increase machine resale value



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

5. b.

Meeting Date: 09/13/2022
Contact Person: Frank Marbury, Public Works Director/Town Engineer
 Phone: 928-636-7140 x-1226
Department: Public Works
Estimated length of staff presentation: None
Physical location of item: North Campus and Yavapai Community College

AGENDA ITEM TITLE:

Consideration and possible action to ratify the emergency execution of purchase orders with Empire Power Systems for the purchase and installation of backup generators in the amount of \$106,107; and to authorize the execution of a cooperative purchasing agreement for the same. (Frank Marbury, Public Works Director / Town Engineer)

RECOMMENDED ACTION:

Ratify the emergency execution of purchase orders with Empire Power Systems for the purchase and installation of backup generators in the amount of \$106,107, and authorize the execution of a cooperative purchasing agreement for the same.

SITUATION AND ANALYSIS:

This past year, the Town has expanded both of the water systems. The North Campus water system has been expanded to include NACOG's Head Start building and the Yavapai Community College water system has been expanded to include the Equestrian Center, the Town's Road Department buildings and the Town's Utility Department buildings. It is imperative that we install emergency back-up generators at these locations to insure that we can continuously provide quality, robust and reliable water supply to our end customers.

Cost breakdown is follows:

North Campus Well Site	\$51,297.00
Yavapai Community College Well Site	\$54,810.00
Total	106,107.00

The item was initially planned for the August 23rd Regular Town Council Meeting. However, the vendors' standard language had some conflicts with the proposal; the item was subsequently removed from the agenda. Staff reached out to the vendor for revised quotations for the September 13th agenda and the total price for both generators had increased \$4,375.00. Instead of paying the additional cost, the Mayor and Town Manager approved emergency purchase orders to lock in the previous prices.

Fiscal Impact

Fiscal Impact?: 51,297

If Yes, Budget Code: 22-82-5405

Available:

Funding Source:

Fiscal Impact?: 54,810

If Yes, Budget Code: 22-82-5406

Available:

Funding Source:

Attachments

Cooperative Purchasing Contract for Generators

**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EMPIRE POWER SYSTEMS, A DIVISION OF EMPIRE SOUTHWEST, LLC**

THIS COOPERATIVE PURCHASING AGREEMENT (this “Agreement”) is entered into as of September 13, 2022, between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and Empire Power Systems, a division of Empire Southwest, LLC, a Delaware limited liability company (the “Vendor”).

RECITALS

A. After a competitive procurement process, Sourcewell (formerly Nation Joint Powers Alliance), a Minnesota governmental unit (“Sourcewell”), entered into Contract No. 120617-CAT, dated January 29, 2018, as amended by Letter of Agreement to Extend the Contract, dated February 13, 2021 (together, the “Sourcewell Contract”), for the purchase of electrical energy power generation with related parts, supplies, and services. A copy of the Sourcewell Contract is attached hereto as Exhibit A and incorporated herein by reference, to the extent not inconsistent with this Agreement.

B. The Town is permitted to purchase such equipment and services under the Sourcewell Contract, at its discretion and with the agreement of the awarded Vendor.

C. The Town and the Vendor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the Sourcewell Contract and this Agreement, (ii) establishing the terms and conditions by which the Vendor may provide the Town with electrical energy power generation with related parts, supplies, and services, as more particularly set forth in Section 2 below (the “Equipment and Services”), and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Equipment and 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 Vendor 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 29, 2023 (the “Term”), unless terminated as otherwise provided in this Agreement or the Sourcewell Contract. The terms and conditions of the Sourcewell Contract are incorporated herein and shall survive the termination or expiration thereof.

2. Scope of Work. The Vendor shall provide to the Town the Equipment and Services under the terms and conditions of the Sourcewell Contract and in the configurations set forth in the Quote attached hereto as Exhibit B and incorporated herein by reference.

3. Inspection; Acceptance. All Equipment and Services are subject to final inspection and acceptance by the Town. Equipment failing to conform to the requirements of this Agreement and/or the Sourcewell Contract will be held at the Vendor's risk and may be returned to the Vendor. If so returned, all costs are the responsibility of the Vendor. Upon discovery of non-conforming Equipment or Services, the Town may elect to do either of the following by written notice to the Vendor: (A) waive the non-conformance or (B) bring Equipment or Service into compliance and withhold the cost of same from any payments due to the Vendor.

4. Compensation. The Town shall pay the Vendor an amount not to exceed \$106,107.00 for Equipment and Services at the unit rates set forth in the Sourcewell Contract and as more particularly set forth in the Quote.

5. Payments. The Town shall pay the Vendor upon delivery and acceptance of the Equipment and Services and upon submission and approval of the invoice(s). The invoice(s) shall (i) contain a reference to this Agreement and the Sourcewell Contract and (ii) document the Equipment and Services delivered and accepted to date. Additionally, invoices submitted without referencing this Agreement and the Sourcewell Contract will be subject to rejection and may be returned.

6. Safety Plan. The Vendor shall provide the Equipment and 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 Vendor's sole determination, the Equipment and Services to be provided do not require a safety plan, the Vendor 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.

7. Records and Audit Rights. To ensure that the Vendor and its subcontractors are complying with the warranty under Section 8 below, the Vendor's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any of the Vendor's 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 (i) evaluation and verification of any invoices, payments or claims based on the Vendor'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 (ii) evaluation of the Vendor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 8 below. To the extent necessary for the Town to audit Records as set forth in this Section, the Vendor 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 the Vendor pursuant to this Agreement. The Vendor 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 Section. The Town shall give the Vendor or its subcontractors reasonable advance notice of intended audits. The Vendor shall require its subcontractors to comply with the provisions of this Section by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

8. E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Vendor 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). The Vendor's or its subcontractors' 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.

9. 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.

10. Conflict of Interest. This Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

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

12. 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 the Vendor 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. The Vendor 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.

13. Conflicting Terms. In the event of any inconsistency, conflict, or ambiguity among the terms of this Agreement, including any amendments, the Sourcewell Contract, including any amendments, the Quote, and invoices, then the documents shall govern in that order.

Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement or the Sourcewell Contract (collectively, the “Unauthorized Conditions”), other than the Town’s project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the Town of any invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the Sourcewell Contract shall not alter such terms and conditions or relieve the Vendor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement

14. Rights and Privileges. To the extent provided under the Sourcewell Contract, the Town shall be afforded all of the rights and privileges afforded to Sourcewell and shall be “Sourcewell” (as defined in the Sourcewell Contract) for the purposes of the portions of the Sourcewell Contract that are incorporated herein by reference.

15. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 14 above, the Town shall be afforded all of the insurance coverage and indemnifications afforded to the State to the extent provided under the Sourcewell Contract, and such insurance coverage and indemnifications shall inure and apply with equal effect to the Town under this Agreement including, but not limited to, the Vendor’s obligation to provide the indemnification and insurance. In any event, the Vendor shall indemnify, defend 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”), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Vendor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

16. 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 (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, or (iii) 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: 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 Vendor:

 Attn: _____

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 (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, or (iii) 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.

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

“Vendor”

EMPIRE POWER SYSTEMS, A DIVISION
 OF EMPIRE SOUTHWEST, LLC, a
 Delaware limited liability company

By: _____

Name: _____

Title: _____

EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EMPIRE POWER SYSTEMS, A DIVISION OF EMPIRE SOUTHWEST, LLC

[Sourcewell Contract]

See following pages.

FORM E

CONTRACT ACCEPTANCE AND AWARD



(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

NJPA Contract #: 120617-CAT

Proposer's full legal name: Caterpillar Inc.

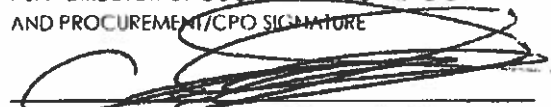
Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

The effective date of the Contract will be January 29, 2018 and will expire on January 29, 2022 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA Authorized Signatures:


 NJPA DIRECTOR OF COOPERATIVE CONTRACTS
 AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
 (NAME PRINTED OR TYPED)


 NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coauette
 (NAME PRINTED OR TYPED)

Awarded on January 25, 2018

NJPA Contract # 120617-CAT

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name Caterpillar Inc.

Authorized Signatory's Title General Manager - IPSD Power Generation


 VENDOR AUTHORIZED SIGNATURE

Bart Myers
 (NAME PRINTED OR TYPED)

Executed on January 26, 2018

NJPA Contract # 120617-CAT

Form C**EXCEPTIONS TO PROPOSAL, TERMS, CONDITIONS,
AND SOLUTIONS REQUEST**Company Name: Caterpillar Inc.

Any exceptions to the terms, conditions, specifications, or proposal forms contained in this RFP must be noted in writing and included with the Proposer's response. The Proposer acknowledges that the exceptions listed may or may not be accepted by NJPA or included in the final contract. NJPA will make reasonable efforts to accommodate the listed exceptions and may clarify the exceptions in the appropriate section below.

Section/page	Term, Condition, or Specification	Exception	NJPA ACCEPTS
5.16 / Page 22	Vendors' certificate(s) must include all subcontractors as additional insureds under its policies	Caterpillar Dealers cannot be named as additional insureds on this certificate.	NJPA Accepts
7.16 / Page 25-27	The Vendor must disclose to NJPA any litigation, bankruptcy, or suspensions/denials that occur during the Contract period.	As a large international enterprise, Caterpillar Inc. can manage numerous litigation and other proceedings all over the globe for itself and for its subsidiaries and its affiliates. Caterpillar Inc. agrees to provide the information requested in 7.16 for activities that directly impact Caterpillar Inc.'s performance obligations under the NJPA contract.	NJPA Accepts
1.9 / Page 28	Prevailing wage: The Vendor must comply with applicable prevailing wage legislation in effect in the jurisdiction of the NJPA Member.	Caterpillar Inc. will use its subcontractors, who are independently owned and operated Dealers, to provide services to NJPA Members. Caterpillar Dealer's will comply with the applicable prevailing wage legislation required for the services provided to NJPA Members in their jurisdictions.	NJPA Accepts

Proposer's Signature: [Signature]Date: 11/21/2017**NJPA's clarification on exceptions listed above:**

Review and Approved:

[Signature] 4/23/18
 NJPA Legal Department

**Contract Award
RFP #120617**

FORM D



Formal Offering of Proposal
(To be completed only by the Proposer)

ELECTRICAL ENERGY POWER GENERATION WITH RELATED PARTS, SUPPLIES, AND SERVICES

In compliance with the Request for Proposal (RFP) for ELECTRICAL ENERGY POWER GENERATION WITH RELATED PARTS, SUPPLIES, AND SERVICES, the undersigned warrants that the Proposer has examined this RFP and, being familiar with all of the instructions, terms and conditions, general and technical specifications, sales and service expectations, and any special terms, agrees to furnish the defined products and related services in full compliance with all terms and conditions of this RFP, any applicable amendments of this RFP, and all Proposer's response documentation. The Proposer further understands that it accepts the full responsibility as the sole source of solutions proposed in this RFP response and that the Proposer accepts responsibility for any subcontractors used to fulfill this proposal.

Company Name: Caterpillar Inc. Date: November 21, 2017

Company Address: 100 NE Adams Street

City: Peoria State: IL Zip: 61629

Contact Person: Seth Charna Title: Industry Representative

Authorized Signature: Bart Myers  (Name printed or typed)

FORM E

CONTRACT ACCEPTANCE AND AWARD



(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

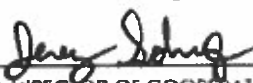
NJPA Contract #: 120617-CAT

Proposer's full legal name: Caterpillar Inc.

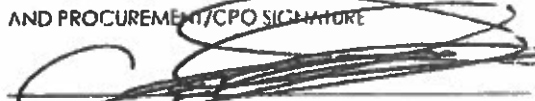
Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

The effective date of the Contract will be January 29, 2018 and will expire on January 29, 2022 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA Authorized Signatures:


 NJPA DIRECTOR OF COOPERATIVE CONTRACTS
 AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
 (NAME PRINTED OR TYPED)


 NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coauette
 (NAME PRINTED OR TYPED)

Awarded on January 25, 2018

NJPA Contract # 120617-CAT

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name Caterpillar Inc.

Authorized Signatory's Title General Manager - IPSD Power Generation


 VENDOR AUTHORIZED SIGNATURE

Bart Myers
 (NAME PRINTED OR TYPED)

Executed on January 26, 2018

NJPA Contract # 120617-CAT

Form F**PROPOSER ASSURANCE OF COMPLIANCE****Proposal Affidavit Signature Page****PROPOSER'S AFFIDAVIT**

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to NJPA members agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of NJPA, or any person, firm, or corporation under contract with NJPA, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
3. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted in writing and have been included with the Proposer's RFP response.
4. The Proposer will, if awarded a Contract, provide to NJPA Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
5. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to NJPA Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to NJPA Members under an awarded Contract.
6. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
7. The Proposer understands that NJPA will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
8. The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify NJPA for reasonable measures that NJPA takes to uphold such a data designation.

[The rest of this page has been left intentionally blank. Signature page below]

By signing below, Proposer is acknowledging that he or she has read, understands, and agrees to comply with the terms and conditions specified above.

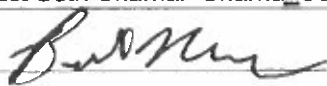
Company Name: Caterpillar Inc.

Address: 100 NE Adams Street

City/State/Zip: Peoria, IL 61629

Telephone Number: (309) 675-1000

E-mail Address: Contact Seth Charna: Charna_Seth@cat.com

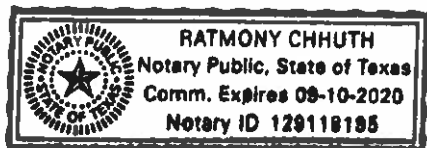
Authorized Signature: 

Authorized Name (printed): Bart Myers

Title: General Manager - IPSD Power Generation

Date: November 21, 2017

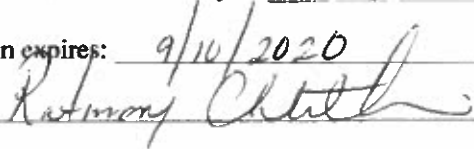
Notarized



Subscribed and sworn to before me this 21 day of November, 20 17

Notary Public in and for the County of Harris State of Texas

My commission expires: 9/10/2020

Signature: 

**Form P****PROPOSER QUESTIONNAIRE****Payment Terms, Warranty, Products and Services, Pricing and Delivery, and Industry-Specific Questions**

Proposer Name: Caterpillar Inc.

Questionnaire completed by: Seth Charna

Payment Terms and Financing Options

- 1) What are your payment terms (e.g., net 10, net 30)?

Payment terms that Caterpillar Dealers would offer to NJPA Members vary by dealer, but are most certainly equivalent to local competition. Payment terms will be made very clear to potential NJPA customers upon quotation.

- 2) Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?

Caterpillar Financial offers financial tools for NJPA Members through the Caterpillar Dealer Network on a case by case basis. Leasing terms that Caterpillar Dealers would offer to NJPA Members vary by dealers, but are most certainly equivalent to local competition. Leasing terms will be made very clear to potential NJPA customers upon quotation.

- 3) Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to NJPA. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the NJPA Members' purchase orders.

The order process will not change compared to the current NJPA contract. The NJPA Member references the NJPA contract number on the P.O., which is then presented directly to their local Caterpillar Dealer.

- 4) Do you accept the P-card procurement and payment process? If so, is there any additional cost to NJPA Members for using this process?

Not Applicable.

Warranty

5) Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may include in your response a copy of your warranties, but at a minimum please also answer the following questions.

- Do your warranties cover all products, parts, and labor?
- Do your warranties impose usage restrictions or other limitations that adversely affect coverage?
- Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?
- Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair?
- Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?
- What are your proposed exchange and return programs and policies?

Please reference the following attachments in response to these questions specifically for the Power Generation products listed in this proposal. There are no geographic regions of the United States or Canada for which Caterpillar cannot provide a certified technician to preform warranty repairs.

Additionally, when purchased through the NJPA contract, select products will automatically include options for Extended Service Coverage in 2018. Customized Extended Service Coverage is also available through the Caterpillar Dealer Network on a case by case basis.

See Attached: Caterpillar Standard Warranty SELF5709.pdf

See Attached: Olympian Standard Warranty LEXF3074.pdf

See Attached: 2018 ESC NJPA Announcement Letter – October 6 2017.pdf

6) Describe any service contract options for the items included in your proposal.

Service contracts that Caterpillar Dealers would offer to NJPA Members vary by dealer, but are most certainly at least equal to local competition. Service contract terms will be made very clear to potential NJPA customers upon quotation.

Pricing, Delivery, Audits, and Administrative Fee

7) Provide a general narrative description of the equipment/products and related services you are offering in your proposal.

Caterpillar is offering a full line of diesel and natural gas packaged generator sets from 40 to 4000 kW. Caterpillar is also offering our XQ Products, which is our mobile generator line including trailers. Other popular and almost necessary equipment included to enhance generator set purchases are Automatic Transfer Switches, Switchgear, EPIC paralleling gear, and Microgrid components all provided from Caterpillar. The Caterpillar Dealer Network can also offer custom shop work, installation, "turn-key" solutions, delivery/freight, training, custom enclosures, custom fuel tanks, custom automatic transfer switches, dealer labor, additional/custom parts, and general contracting labor. To further enhance the NJPA members' product offering, the Caterpillar Dealer Network can also offer an expansive network of used equipment along with rental agreements.

- 8) Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.)

Percentage Discount from Manufacturer's and Dealer's List Pricing per the included documentation along with product price lists. The discounts included are typically higher than standard discount for each product solution. There may be specific cases with specific options or attachments where the NJPA discount is not as deep as the non-NJPA offer. Caterpillar does have the ability to make additional discounts for NJPA members and non-NJPA customers on a case by case basis. For 2018 shipments, the price increase above the provided price lists is 2%. New price lists will be updated and submitted in January 2018. Please note, there are some items in the provided Caterpillar price lists that are marked as "Net" pricing that do not get discounted. These items usually include certifications (EPA, UL, IBC), standard EPA Tier 4f components, extended service coverage, and factory testing/packaging options. These items only follow the cost plus a percentage of cost pricing process that is acceptable for pricing sourced goods or services.

See Attached: Caterpillar Gen Disc List RFP December 2017.xlsx
See Attached: List of Caterpillar Price Lists by Product Family.zip

- 9) Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.

Overall pricing from published list price is discounted from 10% up to 40% with an average of 27% overall. Specific discounts apply to each diesel or natural gas platform product line. Services, used products, rental agreements, and microgrid solutions are also included at different discounting levels. For 2018 shipments, the price increase above the provided price lists is 2%. New price lists will be updated and submitted in January 2018.

See Attached: Caterpillar Gen Disc List RFP December 2017.xlsx
See Attached: List of Caterpillar Price Lists by Product Family.zip

- 10) The pricing offered in this proposal is

- ☐ a. the same as the Proposer typically offers to an individual municipality, university, or school district.
- ☐ b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
- ☒ c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
- ☐ d. other than what the Proposer typically offers (please describe).

- 11) Describe any quantity or volume discounts or rebate programs that you offer.

Volume discounts or rebate programs are not offered. The best discounting has been included in this RFP response for Caterpillar solutions.

- 12) Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.

There are some items in the provided Caterpillar price lists that are marked as “Net” pricing that do not get discounted. These items usually include certifications (EPA, UL, IBC), standard EPA Tier 4f components, extended service coverage, and factory testing/packaging options. These items only follow the cost plus a percentage of cost pricing process that is acceptable for pricing sourced goods or services. The percentage mark-up offered by Caterpillar Dealers to NJPA Members will vary by dealer, but is certainly equivalent to local competition. Exercising the ability to offer cost plus a percentage for “Net” items will ensure more clarity for the Caterpillar Network regarding NJPA offers because the current contract makes it difficult to calculate “Net” items since they cannot be discounted by Caterpillar. For a majority of sales including EPA Tier 2 or EPA Tier 3 platforms, the “Net” items on average are no more than 1-2.5% of the total customer list pricing. EPA Tier 4f platforms have a higher percentage of “Net” items due to the significant amount of set priced emissions components required for EPA certification.

- 13) Identify any total cost of acquisition costs that are **NOT** included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.

All transactions will take place and be negotiated between a Caterpillar Dealer and an NJPA member. Only those generator set items specifically included in a Caterpillar List Price are subject to the NJPA administration fee. Most costs associated with acquiring a generator set and related products are included within the pricing file (Caterpillar Gen Disc List RFP December 2017.xlsx) and are subject to discount. In some cases, there may be costs involved that have not been listed. These costs associated with acquiring a generator set involve items that a manufacturer (Caterpillar) cannot competitively provide.

- 14) If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program.

These programs and policies vary with products and geographic regions. Each quote from a Caterpillar Dealer to an NJPA member will have unique shipping fees. These fees may include shipment from the Caterpillar factory and, in some cases, additional local shipping fees either to a third-party packager or to the customer when factory shipment timing doesn't align with customer requirements. Shipping fees will be handled on a case-by-case basis between the selling Caterpillar Dealer and the NJPA member.

- 15) Specifically describe those shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery.

Shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery are included in question 14. These items vary by Caterpillar Dealer due to the different geographic locations. The Caterpillar Network located in Alaska, Hawaii, Canada, or other offshore location is aware of their local shipment requirements and is knowledgeable on how to quote shipping to NJPA customers.

- 16) Describe any unique distribution and/or delivery methods or options offered in your proposal.

Caterpillar offers a factory freight program specific to certain product lines. Where applicable, this program utilizes economies of scale to ensure the best shipment cost to the local Caterpillar dealer from our factories. This portion of the freight cost to customers will pass through the Caterpillar network as it did before, but is managed by Caterpillar for the first point of delivery.

- 17) Please specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with NJPA. This process includes ensuring that NJPA Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to NJPA.

The Caterpillar Dealer Network will receive additional discounts from Caterpillar to help reach NJPA members purchasing prices per the NJPA contract. To qualify for the discounts, the selling Caterpillar Dealer must identify each applicable sale as an NJPA sale on their order and they must also send a report to the Caterpillar designated NJPA custodian, Seth Charna, including the product order number and NJPA member number. Reports are updated and reviewed on a quarterly basis to assist in providing payment to NJPA. The Caterpillar designated NJPA custodian, Seth Charna, has and will remain actively involved in the auditing process both with auditing Caterpillar Dealer pricing to NJPA members as well as the quarterly administration fee process.

- 18) Identify a proposed administrative fee that you will pay to NJPA for facilitating, managing, and promoting the NJPA Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See RFP Section 6.29 and following for details.)

The proposed administrative fee payable to NJPA is proposed to be 1% of transaction price, in line with the previous two Caterpillar contracts, for all NJPA contract sales of generator sets. This 1% is the same percent as outlined in our current NJPA contract #080613-CAT

Should Caterpillar be exclusive, like the previous two Caterpillar contracts, this is valuable to the Caterpillar Dealer Network and Caterpillar would be willing to increase the administrator fee to 1.25% of transaction price.

Industry-Specific Questions

- 19) Please specify product and voltage range the generator equipment that you are offering.

Caterpillar offers factory voltage options for the majority of customer requirements. In general, here's a snapshot of the factory options based on the diesel product line. Voltage options may slightly differ on the natural gas product line and the full Caterpillar price list should be consulted to determine which specific ratings can be configured with the voltages listed below. There may also be a few exceptions where the Caterpillar Dealer Network can work towards custom solutions when necessary.

100 kW and Below Single Phase:	240V
750 kW and Below Three Phase:	480V, 600V, 208V, 240V
1000 kW up to 1250 kW:	480V, 600V, 208V, 240V, 400V, 380V
1500 kW up to 4000 kW:	480V, 600V, 240V, 440V, 380V, 2400V, 416V, 4160V, 6300V, 6600V, 6900V, 12470V, 13200V, 13800V

- 20) Describe your mobile or trailer mounted units, if any, and specify the ranges.

The XQ product line is included in the Caterpillar proposal. These units are offered with trailers for mobile use and for the most part they include switchable voltage options, which is preferred since they can be utilized at multiple customer locations with unique voltage requirements. The following XQ products are available and are EPA Tier 4f certified for mobile usage. We are working on a platform between the XQ125 and XQ425 that will be available/added to an awarded contract once released. The number represents the kVA rating of the generator and not the kW output.

XQ35
XQ60
XQ125
XQ425
XQ570

21) If you are providing trailers as part of a turnkey package, please provide details.

All XQ packages described in question 20 include trailers with selectable options including the ball size and brake type. These are the only factory product offerings that can be configured on trailers due to EPA emissions requirements.

It is important to note that the Caterpillar Dealer Network can also place Caterpillar genset packages on trailers when necessary as long as EPA regulations for stationary applications are met (EPA requires the generator to remain stationary for a specific period of time).

22) Describe how you will include customization and the pricing of such for the units.

The Caterpillar Dealer Network can offer custom shop work, installation, "turn-key" solutions, delivery/freight, training, custom enclosures, custom fuel tanks, custom automatic transfer switches, dealer labor, additional/custom parts, and general contracting labor. To further enhance the NJPA members' product offering, the Caterpillar Dealer Network can also offer an expansive network of used equipment along with rental agreements. Most costs associated with acquiring a generator set and related products are included within the pricing file (Caterpillar Gen Disc List RFP December 2017.xlsx) and are subject to discount. In some cases, there may be costs involved that have not been listed. These costs associated with acquiring a generator set involve items that a manufacturer (Caterpillar) cannot competitively provide.

23) Describe installation and service programs, and identify the associated services, service provider locations and pricing.

The Caterpillar Dealer Network will be the provider of all Caterpillar and non-Caterpillar components and services required to meet the NJPA members' local requirements.

24) Describe any preventative maintenance or extended service coverage agreements.

Preventative maintenance and extended service coverage/contracts agreements in addition to the standard product offering are covered in the "Caterpillar Gen Disc List RFP December 2017.xlsx" file.

25) Do you provide preventive, periodic or full maintenance plans/programs for the solutions you are proposing in this response?

- a. If so, provide a recommended service & maintenance agreement for a periodic/preventative and or full maintenance plan.
- b. What are recommended service intervals?

The Caterpillar Dealer Network will be the provider of all preventative maintenance plans / programs that are specific to the product being provided to the NJPA member. Preventative maintenance and extended service coverage/contracts agreements in addition to the standard product offering are covered in the "Caterpillar Gen Disc List RFP December 2017.xlsx" file.

26) Describe your rental agreements and pricing schedule.

Rental agreements in addition to the standard product offering are covered in the "Caterpillar Gen Disc List RFP December 2017.xlsx" file.

27) Will you include used equipment and if so, provide a pricing strategy for these units.

Used product agreements in addition to the standard product offering are covered in the "Caterpillar Gen Disc List RFP December 2017.xlsx" file.

28) Provide a general overview of your products EPA compliance.

Caterpillar offers a full range of products for use in the United States per EPA compliance guidelines. Per these guidelines, the application determines the EPA emissions level that is required for that specific product. For diesel emergency standby ratings (most of the market for <1000 kW) Caterpillar offers both EPA Tier 2 and EPA Tier 3 emissions levels and the specific emissions level is auto selected based on the EPA defined brake horsepower requirements. For non-emergency and/or mobile applications, Caterpillar has select ratings available with EPA Tier 4f factory certification. The Caterpillar Dealer Network is familiar with EPA regulations and can direct the NJPA member to the applicable product line required for their application.

29) Identify the lifecycle cost of ownership of your generator solutions.

The Caterpillar Dealer Network will be the provider of all preventative maintenance and lifecycle costs at the request of NJPA members. Due to the vast differences across geographic locations and product lines, this request will be handled on a case-by-case basis.

Signature: _____



Date: _____

11/21/2017

Caterpillar Sourcewell Member Discounts

All Discounts listed are for "Standby Ratings only unless otherwise stated".

Stationary Diesel		List Price Discount
60 HZ, 40 - 60 kW Diesel (Reference the "PSNA-EPG-F_C4.4LCABR" Caterpillar Price List)		
D40 - 40 kW		31%
D50 - 50 kW		31%
D60 - 60 kW		31%
60 HZ, 80 - 100 kW Diesel (Reference the "PSNA-EPG-F_C4.4PGABR" Caterpillar Price List)		
D80 - 80 kW		31%
D100 - 100 kW		31%
60 HZ, 125 - 175 kW Diesel (Reference the "PSNA-EPG-F_C7.1PGABR" Caterpillar Price List)		
D125 - 125 kW		35%
D150 - 150 kW		35%
D175 - 175 kW		35%
D200 - 200 kW		36%
C9, 60 HZ, 200 - 300 kW Diesel (Reference the "PSNA-EPG-F_C9PGAM" Caterpillar Price List)		
200 kW		33%
250 kW		37%
300 kW		37%
C9 GC, 60 HZ, 200 - 300 kW Diesel (Reference the "CP GCABR" Caterpillar Price List)		
250 kW		31%
300 kW		31%
C13, 60 HZ, 350 - 400 kW Diesel (Reference the "PSNA-EPG-F_C13PGAM" Caterpillar Price List)		
350 kW		37%
400 kW		37%
C13 GC, 60 HZ, 350 - 400 kW Diesel (Reference the "C13 GCABR" & "C13 GCAM" Caterpillar Price List)		
350 kW		31%
400 kW		31%
C15, 60 HZ, 350 - 500 kW Diesel (Reference the "PSNA-EPG-F_C15PGAM" Caterpillar Price List)		
350 kW		37%
400 kW		37%
450 kW		37%
500 kW		37%
C15 GC, 60 HZ, 350 - 500 kW Diesel (Reference the "C15 GCABR" & "C15 GCAM" Caterpillar Price List)		
350 kW		31%
400 kW		31%
450 kW		31%
500 kW		31%
C18, 60 HZ, 550 - 750 kW Diesel (Reference the "PSNA-EPG-F_C18PGAM" Caterpillar Price List)		
550 kW		37%
600 kW		37%
650 kW		33%
700 kW		33%
750 kW		33%
C18 GC, 60 HZ, 550 - 600 kW Diesel (Reference the "C18 GCAM" Caterpillar Price List)		
550 kW		31%
600 kW		31%
C18, 60 HZ, EPA Tier 4f, - 455 KW Diesel (Reference the "PSNA-EPG-F_C18PKAM" Caterpillar Price List)		
455 kW Prime Power		20%
500 kW		20%
C27, 60 HZ, 750 - 800 kW Diesel (Reference the "PSNA-EPG-F_C27PGBG" Caterpillar Price List)		
750 kW		36%
800 kW		36%
C32, 60 HZ, 1000 - 1250 kW Diesel (Reference the "PSNA-EPG-F_C32PGDG" Caterpillar Price List)		
1000 kW		36%
1250 kW		34%
3512C, 60 HZ, 1500 - 1750 kW Diesel		
(EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)		

Caterpillar: Confidential Green

(Reference the "PSNA-EPG-F_3512PGFL" Caterpillar Price List)	
1500 kW	37%
1750 kW	35%
3516C/3516E, 60 HZ, 2000 - 2750 kW Diesel (EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use) (Reference the "PSNA-EPG-F_3516PGFL" Caterpillar Price List)	
2000 kW	40%
2500 kW	38%
2750 kW	34%
3516C-HD, 60 HZ, 2000 - 2500 kW Diesel (EPA Tier 4) (Reference the "PSNA-EPG-F_3516PGFL" Caterpillar Price List)	
2000 kW	19%
2500 kW	19%
C175-16, 60 HZ, 3000 kW Diesel (EPA Tier 2 for Mobile and Stationary Use) (Reference the "C175-PGAL" Caterpillar Price List)	
3000 kW	30%
C175-16, 60 HZ, 3000 kW Diesel (EPA Tier 4) (Reference the "C175-PGAL" Caterpillar Price List)	
3000 kW	19%
C175-20, 60 HZ, 4000 kW Diesel (EPA Tier 2 for Mobile and Stationary Use) (Reference the "C175-PGAL" Caterpillar Price List)	
4000 kW	24%
Stationary Natural Gas (Select LP Vapor Options with Derates)	
50 - 60 kW Caterpillar Natural Gas (Reference the "PSNA-EPG-F_G80PGAM" Caterpillar Price List)	
DG50 - 50 kW	31%
DG60 - 60 kW	31%
DG80 - 80 kW	31%
100 - 150 kW Caterpillar Natural Gas (Reference the "PSNA-EPG-F_G150PGAM" Caterpillar Price List)	
DG100 - 100 kW	35%
DG125 - 125 kW	35%
DG150 - 150 kW	35%
175 - 300 kW Olympian Natural Gas (Reference the "PSNA-EPG-F_GASOLYGN" Caterpillar Price List)	
G175 - 175 kW	26%
G200 - 200 kW	26%
G230 - 230 kW	26%
G250 - 250 kW	26%
G275 - 275 kW	26%
G300 - 300 kW	26%
175 - 300 kW Caterpillar Natural Gas (Reference the "PSNA-EPG-F-G14.2 PGAN" Caterpillar Price List)	
DG175 - 175 kW	26%
DG200 - 200 kW	26%
DG230 - 230 kW	26%
DG250 - 250 kW	26%
DG275 - 275 kW	26%
DG300 - 300 kW	26%
300 - 450 kW Caterpillar Natural Gas (Reference the "PSNA-EPG-F-G21.9 PGAN" Caterpillar Price List)	
DG350 - 350 kW	26%
DG400 - 400 kW	26%
DG450 - 450 kW	26%
G3412, 60 HZ, 375 - 500 kW Natural Gas (Reference the "PSNA-EPG-F_G3412PGG" Caterpillar Price List)	
375 kW	20%
450 kW	26%
500 kW	26%
G3512 60 HZ, 750 - 1000 kW Natural Gas (Reference the "PSNA-EPG-F_G3512NL" Caterpillar Price List)	
750 kW	17%
1000 kW	17%
G3516 60 HZ, 750 - 1000 kW Natural Gas, Landfill Gas, & Biogas (Ratings Depend on Selection) (Reference the "PSNA-EPG-F_G3516AEPL" Caterpillar Price List)	
All Ratings	17%
Caterpillar: Confidential Green	
G3516C 60 HZ, 1500 kW Natural Gas	

(Reference the "PSNA-EPG-F_G3516CTPL" Caterpillar Price List)	
1500 kW	17%
G3516H 60 HZ, 1966 kW Natural Gas	
(Reference the "PSNA-EPG-F_G3516HNL" Caterpillar Price List)	
1966 kW	17%
G3520H 60 HZ, 2469 kW Natural Gas	
(Reference the "PSNA-EPG-F_G3520HNL" Caterpillar Price List)	
2469 kW	17%
G3520C 60 HZ, 1600 - 2055 kW Natural Gas	
(Reference the "PSNA-EPG-F_G3520CPGL" Caterpillar Price List)	
1600 kW	17%
2055 kW	17%
CG132, CG170, CG260 (custom)	
Due to the customization and plethora of options, it is not feasible to provide a paper price list for these specific generator sets.	
Each quote is custom for the specific application.	
However, members will receive a 15% discount off of the configured list price from each member's local dealer.	
Mobile Diesel (With Trailers)	
XQ35, 60 HZ, 35 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ35BM" Caterpillar Price List)	
27 kW Prime Power	23%
30 kW	23%
XQ60, 60 HZ, 59 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ60BM" Caterpillar Price List)	
48 kW Prime Power	23%
XQ125, 60 HZ, 125 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ125BM" Caterpillar Price List)	
100 kW Prime Power	23%
110 kW	23%
XQ230, 60 HZ, 230 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ230BM" Caterpillar Price List)	
200 kW Prime Power	23%
XQ425, 60 HZ, 425 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ425BM" Caterpillar Price List)	
340 kW Prime Power	23%
XQ570, 60 HZ, 570 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ570BG" Caterpillar Price List)	
455 kW Prime Power	23%
Control Panels, Switchgear, Automatic Transfer Switches	
Switchgear (customizable)	
Due to the customization and plethora of options, it is not feasible to provide a paper price list for Cat switchgear.	
However, members will receive a 12% discount off of the configured list price from each member's local dealer.	
Epic (Reference the "PSNA-EPG-F_CATEPICG" Price List)	
Epic - Master Control Panel	10%
Epic - Generator Control Panel	10%
Epic - Utility Control Panel	10%
Supervisory Control Panel (Reference the "PSNA-EPG-F_CATSCPN" Price List)	
EMCP 4.4 SCP	10%
ATS (AUTOMATIC TRANSFER SWITCHES) (Reference the "ATS NJPA Pricing 11-29-17" Price List)	
235 ATS's Available	20%

Caterpillar Sourced Goods & Support Services Multiplier

Sourced Goods & Support Service Provided	Sourcewell Member Pricing
Custom Shop Work	5% off list price / typical sale price if no list price is available
Installation	5% off list price / typical sale price if no list price is available
Engineering Services	5% off list price / typical sale price if no list price is available
Delivery/Freight	5% off list price / typical sale price if no list price is available
Training	5% off list price / typical sale price if no list price is available
Custom Enclosure	5% off list price / typical sale price if no list price is available
Custom Fuel Tank	5% off list price / typical sale price if no list price is available
Custom ATS	5% off list price / typical sale price if no list price is available
Dealer Labor	5% off list price / typical sale price if no list price is available
Additional/Custom Parts	5% off list price / typical sale price if no list price is available
General Contracting Labor	5% off list price / typical sale price if no list price is available
Extended Service Contracts	5% off list price / typical sale price if no list price is available
Maintenance Agreements	5% off list price / typical sale price if no list price is available

Electrical Energy Power Generation with Related Parts, Supplies, and Services.

Letter of Agreement To Extend the Contract

Between

Caterpillar Inc.
100 NE Adams Street
Peoria, IL 61629

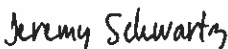
And

Sourcewell
202 12th Street NE
Staples, MN 56479
Phone: (218) 894-1930

The Vendor and Sourcewell have entered into an Agreement (Contract #120617-CAT) for the procurement of Electrical Energy Power Generation with Related Parts, Supplies and Services. This Agreement has an expiration date of January 29, 2022, but the parties may extend the Agreement for one additional year by mutual consent.

The parties acknowledge that extending the Agreement for another year benefits the Vendor, Sourcewell and Sourcewell's members. The Vendor and Sourcewell therefore agree to extend the Agreement listed above for a fifth year. This existing Agreement will terminate on January 29, 2023. All other terms and conditions of the Agreement remain in force.

Sourcewell DocuSigned by:



By: C0FD2A139D06489..., Its: **Director of Operations & Procurement/CPO**

Name printed or typed: Jeremy Schwartz

Date 2/12/2021 | 11:57 AM CST

Caterpillar DocuSigned by:



By: 3E9FF774E086402..., Its: VP - Electric Power Division

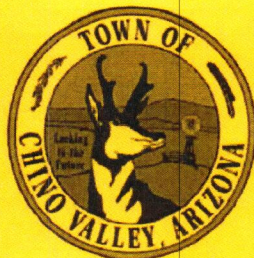
Name printed or typed: Jason Kaiser

Date 2/13/2021 | 6:05 AM PST

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EMPIRE POWER SYSTEMS, A DIVISION OF EMPIRE SOUTHWEST, LLC

[Quote]

See following pages.



PURCHASE ORDER
TOWN OF CHINO VALLEY

202 N. STATE ROUTE 89
CHINO VALLEY AZ 86323

928-636-2646

THIS ORDER
NUMBER
MUST APPEAR # 22230054
ON YOUR
INVOICE

ISSUED TO: 9309
EMPIRE SOUTHWEST, LLC
PO BOX 29879
PHOENIX AZ 85038-9879

1-800-367-4731

PURCHASE ORDER DATE: 07/28/2022

SHIP TO: TOWN OF CHINO VALLEY

202 N. STATE ROUTE 89
CHINO VALLEY AZ 86323

928-636-2646

UTILITY DEPARTMENT

REQ #	QUANTITY	DESCRIPTION	Unit Price	TOTAL	GLACCOUNT
16021	1.00	Backup Generator for YCC well site	54,810.00	54,810.00	22-82-5406

By executing this document and submitting a quotation to the Town of Chino Valley, the authorized agent agrees (i) he/she has read the Town's Standard Terms and Conditions, dated August 2, 2019 (the "Standard Terms and Conditions"), as set forth on the Town of Chino Valley website (<http://www.chinoaz.net/173/Bid-Invitations>), which are incorporated into and become a part of the company's quotation offer as if set forth fully herein and (ii) the company shall be bound by the Standard Terms and Conditions. By signing below, the company to whom this purchase order is issued hereby offers to provide the goods and related services described above (including all quotes or other materials provided by the company or the Town and listed above, which are incorporated herein by reference), and upon written acceptance of the company's offer by the Town, the company will have entered into a binding agreement.

VENDOR _____ DATE _____
TITLE _____

☐ VENDOR SIGNATURE REQUIRED _____

Freight/Shipping _____

TOTAL 54,810.00

Department Head

fmarbury

Finance Director & Date

Town Manager approval \$10,000.00 to \$50,000.00 & Date

Council approval Over \$50,000.00 & Date



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

Current Date: 7/25/2022
Quotation Number : 31023021 city hall
Quotation Expires : 8/25/2022

**City of Chino Valley, YCC Booster
Generator & ATS Project**
Sourcewell pricing member # 152219
Rev. 1

In accordance with your request, we are pleased to submit the following proposal for the abovementioned project. Empire Power Systems proposes to furnish this equipment at the attached quoted price.

Empire Power Systems is taking **exception** to any specification for this proposal due to the fact that a written specification was not available at bid time for this project.

We will arrange for initial start-up services. These services include an onsite installation and operational inspection of the equipment supplied by Empire Power Systems. A summary of our basic start up scope of work is included in the attached quote document.

The initial diesel fuel required for startup services and testing **is not** included in this proposal.

Thank you for the opportunity to provide the attached quote. Empire Power Systems remains at your disposal for any additional information or assistance that you may require.

Sincerely yours,

Greg Ames
Account Manager
Empire Power Systems
Office 928.714.2825
Mobile 928.606.1815
greg.ames@empire-cat.com



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

Caterpillar Packaged Generator Set

Caterpillar Sourcewell Contract # 120617-CAT

	List price	Sourcewell
D40GC kw 60HZ 120/240V	\$32,207.00	\$22,223.00 ea.
GC 200 ATS	\$ 3016.00	\$2413.00 ea.
Start-up	\$2950.00.	\$2803.00
Freight	\$4600.00	\$4370.00
Installation By A-team	\$19,789.00	\$18,800.00
includes concrete & crane, generator & ATS		
	Subtotal	<u>\$50,609.00</u>
	Estimated tax 8.30%	<u>\$4201.00</u>
	TOTAL	\$54,810.00

Bill of Materials Caterpillar Packaged Generator Set

Freight is included FOB truck job site, Chino Valley, AZ

Description
EPA STATIONARY EMERGENCY
60HZ 1PH 120/240
STANDBY POWER
60 Hz, 125 kW
D40GC 60HZ
ENGLISH PANEL LANGUAGE
UL 2200 LISTED PACKAGE GEN SET
5 Year Warranty
PUBLIC OR CIVIL SERVICES
PERMANENT MAGNET EXCITATION
130C TEMP RISE OVER 40C AMB
GFCI AC RECEPTACLE & WIRING
SKID WITH FUEL TANK
SUBBASE TANK 24hr
FUEL TANK FILL PIPE & LOCK CAP
VENT PIPE-STD
Fuel Level Alarms / SD
EMERGENCY FUEL VENT "
L2 SOUND ATTENUATED ENC (c)
CAT WHITE
STANDARD PANEL DOOR WITH ENC
digital CONTROL PANEL

840 N 43rd Ave Phoenix, AZ 85009
A Division of Empire Southwest LLC

PO Box 2985 Phoenix, AZ 85062-2985
www.empire-cat.com

Phone 602.333.5600 Fax 602.333.5618
AZ Contractors License ROC267407



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

WET BATTERY (B1W)
NFPA BATT CHARGER UL10A 120VAC
JACKET WATER HEATER
VOLT FREE CONTACTS GENSET RUN
VIBRATION ISOLATORS
CIRCUIT BREAKER
250A LSI 100% RATED BREAKER
AUXILIARY CONTACTS
STD AIR CLEANER - LIGHT DUTY
STANDARD RADIATOR
ENCLOSURE SILENCER
CAN2 SERVICE CONNECTOR HARNESS
RS-485 HARNESS
STD TEST - PKG GEN SET 0.8 PF

Bill of Materials Caterpillar Automatic Transfer Switch

Freight is included FOB truck job site, Chino Valley, AZ

Description
TRUONE CG CONTROLLER
OPEN TRANSITION
STANDARD - NO BYPASS
NEMA 3R
200 AMPS
MECHANICAL LUGS - STANDARD
120/240/480V; 60Hz
single PHASE
SOLID NEUTRAL
CONTACTOR
2 NO CONTACTS



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

Basic Packaged Generator Set Start up at an additional charge includes:

All work to be performed during regular business hours, 7:00 a.m. to 4:00 p.m. Monday – Friday.

- Hook up batteries
- Visually inspect unit for damage or missing parts
- Check Fluid levels
- Adjust isolators
- Hook up auto start wires to Generator
- Verify Battery Charger is working
- Verify Block Heater is working
- Prime fuel system
- Hook up to Control Panel verify settings are at factory default settings
- Copy Configuration of panel and give to sales department.
- Service meter extend days out.
- Startup unit verify operation at no-load
- Verify correct voltage and hertz
- Check Safeties
- Verify all gauges are reading correctly
- Connect and disconnect pure resistive load bank with one 50-foot run.
- Load bank for 2 hours
- Perform Startup Inspection Form and give paperwork to the sales department

Automatic Transfer Switch Start up includes:

All work to be performed during regular business hours, 7:00 a.m. to 4:00 p.m. Monday – Friday.

- Visually inspect switch for damage or loose items
- Covers are installed and secured
- Manually transfer switch with no voltage
- Verify limit switches are working
- Verify all electrical connections are secure
- Power up switch
- Check voltages on normal and emergency circuit
- Calibrate voltage sensing
- Check phase rotation
- Record settings and timers
- Make sure generator is in auto and breaker closed
- Perform a power outage test on the transfer switch



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

- Time each phase of the switch functions and record
- Verify the times are the same as the settings

Submittals and Drawings:

- Standard Submittal package includes: 2 paper copies and 1 electronic copy on CD

This Quote Specifically Excludes:

- Diesel Fuel

Subject to the attached terms and conditions

This quote automatically expires: 8.25.2022

Customer Delay:

To the extent that the construction schedule is significantly delayed by customer for any reason, Empire reserves the right to remedy. This remedy could be in various forms, including invoice and payment prior to shipment, progress payments, and/or the accrual of interest charges on undelivered and unpaid goods. Additionally, Empire will also pass along costs of storage and other fees that may result due to the delay.

Commodity Pricing:

Due to current volatility of commodity pricing the above quoted price is subject to change at the time of order.

This proposal is good for 30-days from date of issue.

The undersigned acknowledge that the preceding proposal has been read in its entirety, is understood and is hereby accepted:

Empire Power Systems

Greg Ames

July 25, 2022

Company: *Town of Chino Valley*
 Printed Name: *Michael Bovee*
 Signature: *[Handwritten Signature]*
 Date: *8-24-22*
 Purchase Order No: *22230054*



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

TERMS & CONDITIONS

A) Customer is responsible for any and all installation of the equipment supplied by **Empire Power Systems**, unless otherwise specified in writing. All equipment needed to perform any loading or unloading of the equipment supplied by **Empire Power Systems** is the responsibility of the buyer.

B) **Empire Power Systems** limits the scope of supply for this quotation to the equipment and services listed in our bill of material. Unless specifically listed in our bill of material, equipment not indicated is assumed to be supplied by others. We have detailed the equipment proposed in the bill of material. Please check it to be certain that it meets your requirements.

C) **Empire Power Systems** reserves the right to correct any errors or omissions. Standard warranty of the manufacturer applies. Copies are available upon request.

D) Contracts which include penalty or liquidated damage clauses, waivers of subrogation, or naming a third party additionally insured are not acceptable or binding on **Empire Power Systems**, unless accepted and confirmed in writing by an officer of **Empire Power Systems** at its Phoenix division office.

E) Unless agreed to in writing, **Empire Power Systems** will not accept purchase orders which:

- Require Empire Power Systems to pay any and all legal expenses for the purchaser in the event of a dispute
- Require that Empire Power Systems be responsible for design work and/or guarantee that a performance standard for a system be met
- Require completion and acceptance of the project by the owner before payment

F) There will be a **25%** of order cancellation fee for any orders cancelled, once placed and accepted by **Empire Power Systems**.

G) **Empire Power Systems'** standard and extended terms and conditions are included in the quotation and hereby become part of this quotation. These same terms need to be noted on any purchase order received by **Empire Power Systems** in order to process your order.

H) **Empire Power Systems** will not be responsible for any labor or material charges by others associated with the start-up and installation of this equipment unless previously agreed upon, in writing by **Empire Power Systems**.

I) **Empire Power Systems** is a supplier of materials and related services and not a contractor. Retention is not acceptable.

J) Credit is subject to **Empire Power Systems**, approval at its sole discretion. This quote in no way constitutes approval of credit.

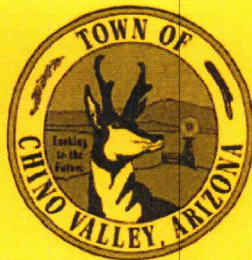
**Empire Power Systems**

840 N 43rd Ave

Phoenix, AZ 85009

K) Sales payments are due Net 10; all others Net 30. Unless otherwise agreed in writing by a corporate officer of Empire Southwest, LLC (“Empire”), the purchase of goods (including, but not limited to, new and used equipment, attachments, parts and technology) or services from Empire will be governed solely by Empire’s Terms and Conditions of Sales and Service (the “Terms”), which are available at www.empire-cat.com/termsandconditions or such other successor website at which Empire posts its Terms from time to time. A hard copy of the Terms is available upon written request to terms.conditions@empire-cat.com. Empire’s Terms are hereby incorporated by reference into this document and all other documents related to your purchase of goods or services from Empire. By purchasing goods or services from Empire, you agree to be bound by Empire’s Terms.

Terms and conditions of this quotation govern over any conflict between this document and customer’s purchase order or other document.



PURCHASE ORDER
TOWN OF CHINO VALLEY
 202 N. STATE ROUTE 89
 CHINO VALLEY AZ 86323

928-636-2646

THIS ORDER
 NUMBER
 MUST APPEAR **# 22230053**
 ON YOUR
 INVOICE

ISSUED TO: 9309
 EMPIRE SOUTHWEST, LLC
 PO BOX 29879
 PHOENIX AZ 85038-9879

SHIP TO: TOWN OF CHINO VALLEY

202 N. STATE ROUTE 89
 CHINO VALLEY AZ 86323

1-800-367-4731

928-636-2646

PURCHASE ORDER DATE: 07/28/2022

UTILITY DEPARTMENT

<u>REQ #</u>	<u>QUANTITY</u>	<u>DESCRIPTION</u>	<u>Unit Price</u>	<u>TOTAL</u>	<u>GLACCOUNT</u>
16020	1.00	Backup Generator for North Campus	51,297.00	51,297.00	22-82-5405

By executing this document and submitting a quotation to the Town of Chino Valley, the authorized agent agrees (i) he/she has read the Town's Standard Terms and Conditions, dated August 2, 2019 (the "Standard Terms and Conditions"), as set forth on the Town of Chino Valley website (<http://www.chinoaz.net/173/Bid-Invitations>), which are incorporated into and become a part of the company's quotation offer as if set forth fully herein and (ii) the company shall be bound by the Standard Terms and Conditions. By signing below, the company to whom this purchase order is issued hereby offers to provide the goods and related services described above (including all quotes or other materials provided by the company or the Town and listed above, which are incorporated herein by reference), and upon written acceptance of the company's offer by the Town, the company will have entered into a binding agreement.

VENDOR _____ DATE _____
 TITLE _____

☐ VENDOR SIGNATURE REQUIRED _____

Freight/Shipping _____
 TOTAL 51,297.00

Department Head _____
 Finance Director & Date _____
 Town Manager approval \$10,000.00 to \$50,000.00 & Date _____
 Council approval Over \$50,000.00 & Date _____

fmarbury



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

Current Date: 7/25/2022

Quotation Number : 31023021 city hall

Quotation Expires : 8/25/2022

City of Chino Valley, City Hall
Generator & ATS Project
Sourcewell pricing member # 152219
Rev. 1

In accordance with your request, we are pleased to submit the following proposal for the abovementioned project. Empire Power Systems proposes to furnish this equipment at the attached quoted price.

Empire Power Systems is taking **exception** to any specification for this proposal due to the fact that a written specification was not available at bid time for this project.

We will arrange for initial start-up services. These services include an onsite installation and operational inspection of the equipment supplied by Empire Power Systems. A summary of our basic start up scope of work is included in the attached quote document.

The initial diesel fuel required for startup services and testing **is not** included in this proposal.

Thank you for the opportunity to provide the attached quote. Empire Power Systems remains at your disposal for any additional information or assistance that you may require.

Sincerely yours,

Greg Ames
Account Manager
Empire Power Systems
Office 928.714.2825
Mobile 928.606.1815
greg.ames@empire-cat.com



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

Caterpillar Packaged Generator Set

Caterpillar Sourcewell Contract # 120617-CAT

	List price	Sourcewell
D40GC kw 60HZ 120/240V	\$32,207.00	\$22,223.00 ea.
GC 200 ATS	\$ 3016.00	\$2413.00 ea.
Start-up	\$2950.00.	\$2803.00
Freight	\$4600.00	\$4370.00
Installation By A-team	\$16,375.00	\$15,556.00
includes concrete & crane, generator & ATS		
	Subtotal	\$47,365.00
	Estimated tax 8.30%	\$3932.00
	TOTAL	\$51,297.00

Bill of Materials Caterpillar Packaged Generator Set

Freight is included FOB truck job site, Chino Valley, AZ

Description
EPA STATIONARY EMERGENCY
60HZ 1PH 120/240
STANDBY POWER
60 Hz, 125 kW
D40GC 60HZ
ENGLISH PANEL LANGUAGE
UL 2200 LISTED PACKAGE GEN SET
5 Year Warranty
PUBLIC OR CIVIL SERVICES
PERMANENT MAGNET EXCITATION
130C TEMP RISE OVER 40C AMB
GFCI AC RECEPTACLE & WIRING
SKID WITH FUEL TANK
SUBBASE TANK 24hr
FUEL TANK FILL PIPE & LOCK CAP
VENT PIPE-STD
Fuel Level Alarms / SD
EMERGENCY FUEL VENT "
L2 SOUND ATTENUATED ENC (c)
CAT WHITE
STANDARD PANEL DOOR WITH ENC
digital CONTROL PANEL

840 N 43rd Ave Phoenix, AZ 85009
A Division of Empire Southwest LLC

PO Box 2985 Phoenix, AZ 85062-2985
www.empire-cat.com

Phone 602.333.5600 Fax 602.333.5618
AZ Contractors License ROC267407



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

WET BATTERY (B1W)
NFPA BATT CHARGER UL10A 120VAC
JACKET WATER HEATER
VOLT FREE CONTACTS GENSET RUN
VIBRATION ISOLATORS
CIRCUIT BREAKER
250A LSI 100% RATED BREAKER
AUXILIARY CONTACTS
STD AIR CLEANER - LIGHT DUTY
STANDARD RADIATOR
ENCLOSURE SILENCER
CAN2 SERVICE CONNECTOR HARNESS
RS-485 HARNESS
STD TEST - PKG GEN SET 0.8 PF

Bill of Materials Caterpillar Automatic Transfer Switch

Freight is included FOB truck job site, Chino Valley, AZ

Description
TRUONE CG CONTROLLER
OPEN TRANSITION
STANDARD - NO BYPASS
NEMA 3R
200 AMPS
MECHANICAL LUGS - STANDARD
120/240/480V; 60Hz
single PHASE
SOLID NEUTRAL
CONTACTOR
2 NO CONTACTS



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

Basic Packaged Generator Set Start up at an additional charge includes:

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- Check Fluid levels
- Adjust isolators
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- Verify Battery Charger is working
- Verify Block Heater is working
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- Copy Configuration of panel and give to sales department.
- Service meter extend days out.
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- Verify limit switches are working
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- Check phase rotation
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- Perform a power outage test on the transfer switch



Empire Power Systems

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- Time each phase of the switch functions and record
- Verify the times are the same as the settings

Submittals and Drawings:

- Standard Submittal package includes: 2 paper copies and 1 electronic copy on CD

This Quote Specifically Excludes:

- Diesel Fuel

Subject to the attached terms and conditions

This quote automatically expires: 8.25.2022

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Commodity Pricing:

Due to current volatility of commodity pricing the above quoted price is subject to change at the time of order.

This proposal is good for 30-days from date of issue.

The undersigned acknowledge that the preceding proposal has been read in its entirety, is understood and is hereby accepted:

Empire Power Systems

Greg Ames

July 25, 2022

Company: *Town of Chino Valley*
 Printed Name: *Michael Bovee*
 Signature: *[Signature]*
 Date: *8-24-22*
 Purchase Order No: *2223 00 53*



Empire Power Systems

840 N 43rd Ave

Phoenix, AZ 85009

TERMS & CONDITIONS

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- Require that Empire Power Systems be responsible for design work and/or guarantee that a performance standard for a system be met
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**Empire Power Systems**

840 N 43rd Ave

Phoenix, AZ 85009

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Terms and conditions of this quotation govern over any conflict between this document and customer's purchase order or other document.

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

5. c.

Meeting Date: 09/13/2022
Contact Person: Will Dingee, Senior Planner
 Phone: 928-636-4427 x-1233
Department: Development Services
Estimated length of staff presentation: None
Physical location of item: 1991 North Road 1 East

AGENDA ITEM TITLE:

Consideration and possible action to approve the Development Agreement with Brown Homes to construct and operate a trailer complex for sales and construction activity related to the Perkinsville 44 subdivision. (Will Dingee, Senior Planner)

RECOMMENDED ACTION:

Approve the Development Agreement with Brown Homes.

SITUATION AND ANALYSIS:

Brown Homes, the developer of the Perkinsville 44 subdivision, are requesting to place a construction and sales trailer for their development. Due to the overall scale of Perkinsville 44, placement of these trailers on site is not feasible. Brown homes has entered into a lease agreement with the property owner of the parcel directly north of their development (1991 North Road 1 East) with the intent of placing these trailers on the southern most portion of the property. Since this requested use is not covered within the Town's Unified Development Ordinance and is temporary in nature, staff is bringing forward the proposed Development Agreement in an effort to help Brown Homes move forward. The Development Agreement is proposed to be in place for three years or until Perkinsville 44 is completely developed, whichever is sooner. In the event that the three-year time limit comes first, the Town has the opportunity to review and extend the time limit of the agreement with the approval of the Town Council.

Attached to this report you will find the proposed Development Agreement which includes a site plan for the trailers.

Fiscal Impact

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

Attachments

Development Agreement

Exhibit A - Site Plan Legal Description

Exhibit B - Site Plan Documents

When recorded, return to:

Town Clerk
Town of Chino Valley
202 N. State Route 89
Chino Valley, AZ 86323

**DEVELOPMENT AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
BROWN HOMES, LLC**

THIS DEVELOPMENT AGREEMENT (this “Agreement”) is made _____, 2022 (the “Effective Date”), by and between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and Brown Homes, LLC, an Arizona limited liability company (the “Developer”).

RECITALS

A. The Developer leases approximately 3.98-acres of real property located at the southeast corner of the intersection of East Road 3 North and North Road 1 East, APN 306-18-009G, which property is described and depicted on Exhibit A, attached hereto and incorporated herein by reference (the “Property”).

B. The Developer desires to develop the 150-foot southernmost portion of the Property to construct and operate a temporary residential sales and construction trailer complex (the “Trailer Complex”) for sales and construction activity related to the Perkinsville 44 subdivision.

C. The Town and the Developer desire to set forth the conditions under which the Developer may be permitted to develop the Trailer Complex while mitigating the impacts created by the Trailer Complex.

D. The parties understand and acknowledge that this Agreement is a “Development Agreement” within the meaning of and entered into pursuant to the terms of ARIZ. REV. STAT. § 9-500.05, to facilitate development of the Property.

AGREEMENT

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

1. Developer’s Obligations.

1.1 Developer Improvements. The Developer, its successors, or assigns, shall develop, at its own expense, the Property consistent with the approved site plan, landscape plan,

lighting plan, and pergola plan (collectively the “Site Plan Documents”), and all Town ordinances and regulations. The Site Plan Documents are attached hereto as Exhibit B and incorporated herein by reference.

1.2 Limited Use. The Developer, its successors, or assigns, shall only use the Trailer Complex for sales and construction management activity related to the sale and construction of homes at the Perkinsville 44 subdivision.

1.3 Removal. No later than 30 days prior to the natural expiration of this Agreement, or upon the earlier termination or cancellation of this Agreement, the Developer shall, at its own expense, remove all installations, additions, improvements, or alterations constructed or made to the Property, and restore the Property to its condition as of the Effective Date. If the Developer substantially completes the Perkinsville 44 model home complex prior to termination of this Agreement, the Developer shall, at its own expense, remove the sales trailer more particularly described in the Site Plan Documents and cease conducting sales-related activity at the Property. Termination of this Agreement does not relieve the Developer of any duties or obligations under this Section.

2. Modified Setback. Chino Valley Town Code Section 4.6 requires flagpoles to be set back from all property lines a minimum of 100% of the height of the flagpole. During the term of this Agreement, the Developer may erect a flagpole with a maximum height of 30 feet not closer than 10 feet from all property lines.

3. Term. This Agreement shall be effective upon the Effective Date and shall remain in full force and effect until the earlier of three years or the completion of the Perkinsville 44 subdivision unless sooner terminated pursuant to Section 4. The Town may extend this Agreement if the Town deems, in its sole discretion, that extension of this Agreement is necessary for the completion of the Perkinsville 44 subdivision.

4. Default. If the Developer fails to perform any obligation pursuant to this Agreement, and the Developer fails to cure its nonperformance within 30 days after notice of non-performance from the Town, the Developer will be in default. If the nature of the Developer’s nonperformance is such that it cannot reasonably be cured within 30 days, then the Developer will have such additional periods of time as may be reasonably necessary under the circumstances (the “Cure Period”), provided the Developer immediately 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 120 days. In the event of such default by the Developer, the Town may terminate this Agreement and will have all remedies which are available to it at law or in equity, including, without limitation, the remedy of specific performance.

5. 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 (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Chino Valley
 202 N. State Route 89
 Chino Valley, AZ 86323
 Attn: Town Manager

With copy to: GUST ROSENFELD, P.L.C.
 One East Washington, Suite 1600
 Phoenix, Arizona 85004-2327
 Attn: Andrew J. McGuire

If to Developer: _____

With copy to: _____

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 Section. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, or (iii) 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.

6. Verification of Employment Eligibility; E-Verify Program. Not later than 30 days after the Effective Date, the Developer shall register with and participate in the employment verification program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any successors to such program (the "E-Verify Program"). Thereafter, the Developer shall provide proof to the Town that the Developer is registered with and is participating in the E-Verify Program, as set forth above. If the Town determines that the Developer is not complying with the requirements of ARIZ. REV. STAT. § 23-214, the Town shall notify the Developer by certified mail of the Town's determination of noncompliance and the Developer's right to appeal such determination, which appeal process shall be determined by the Town in its sole discretion.

7. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Town or the Developer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

8. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants, or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

9. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

10. Headings. The descriptive headings of the sections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

11. Further Acts. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

12. Time of the Essence. Time is of the essence in this Agreement.

13. Assignment. This Agreement may be assigned, in whole or in part, by the Developer only upon the prior, written approval of the Town, as evidenced by the Town Manager's signature thereon, which approval may not be unreasonably withheld by the Town; provided, however, that the Developer may assign this Agreement without the Town's consent, but with not less than 30 days prior, written notice to the Town, to (i) any parent, subsidiary, or affiliate of the Developer, (ii) any person or entity that acquires all or substantially all of the assets of the Developer, or (iii) any lender to the Developer as collateral security for the obligations of the Developer under any credit facility or financing arrangement with respect to the Trailer Complex.

14. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations, and understandings of the parties, oral or written, are hereby superseded and merged herein.

15. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the Town unless and until it has been approved by the Town Council and has become effective, or (ii) on the Developer unless and until it has been executed by an authorized representative.

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

17. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the

same is, to any extent, found to be invalid or unenforceable, the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

18. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

19. Conflict of Interest. This Agreement may be cancelled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

20. Israel. The Developer certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a “boycott,” as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

21. Computation of Time. In computing any period of time under this Agreement, the date of the act or event from which the designated period of time begins to run shall not be included. The last date of the period so completed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday. The time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. (local time, Phoenix, Arizona) on the last day of the applicable time period provided herein.

22. Fair Interpretation. The parties have been represented by counsel in the negotiation and drafting of this Agreement and this Agreement shall be construed according to the fair meaning of its language. The rule of construction that ambiguities shall be resolved against the party who drafted a provision shall not be employed in interpreting this Agreement.

23. Recording. This Agreement shall be recorded by the Town within 10 days of its execution, as required by ARIZ. REV. STAT. § 9-500.05(D).

(Signatures on the following pages)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on 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

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

On _____, 2022, before me personally appeared _____,
the _____ of the TOWN OF CHINO VALLEY, an Arizona municipal corporation,
whose identity was proven to me on the basis of satisfactory evidence to be the person who she/he
claims to be, and acknowledged that she/he signed the above document, on behalf of the Town of
Chino Valley.

Notary Public

(Affix notary seal here)

(Developer’s signature on the following page)

“Developer”

BROWN HOMES, LLC, an Arizona limited liability company

By:_____

Name:_____

Its:_____

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

On _____, 2022, before me personally appeared _____, the _____ of _____, an _____, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document on behalf of _____, in its capacity as _____.

Notary Public

(Affix notary seal here)

**EXHIBIT A
TO
DEVELOPMENT AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
BROWN HOMES, LLC**

[Property Legal Description and Map]

See following pages.

EXHIBIT A
LEGAL DESCRIPTION

PARCEL NUMBER: 306-18-009G

The Town of Chino Valley Development Agreement for the proposed Brown Homes Sales and Construction Trailer Complex Site Plan boundary which includes the southernmost one hundred fifty feet (150.00 Feet) portion of the described parcel legal description.

Parcel 1:

All that portion of Government Tract 53 in Section 14, Township 16 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows;

COMMENCING at the Southwest corner of Tract 40 which is common to an angle point on Tract 53 line and marked with a GLO brass capped pipe monument;

Thence North 89°56'55" West. 1016.48 feet along the North line of Section 14 to a one half inch rebar and the TRUE POINT OF BEGINNING;

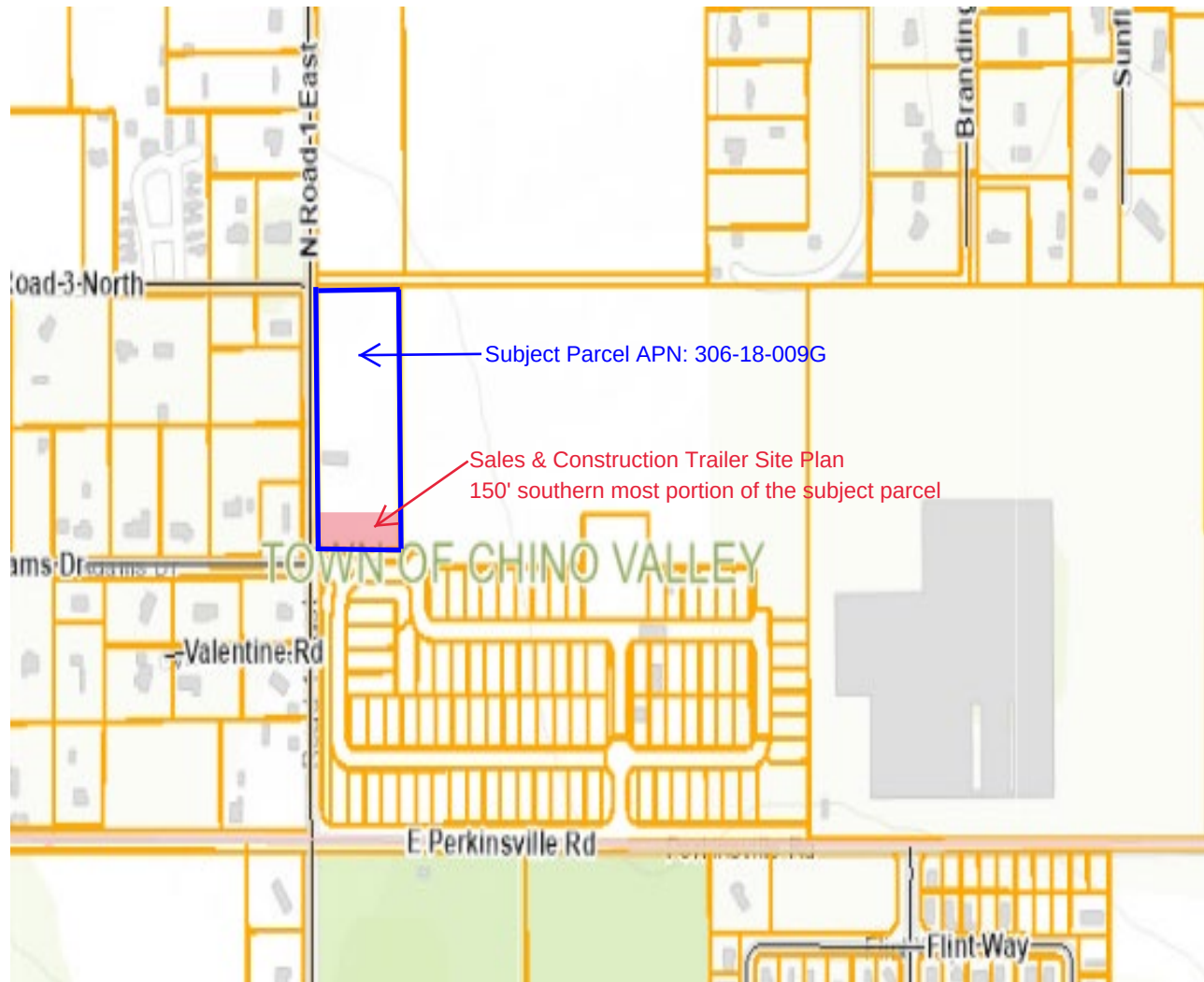
Thence, South 00°07'29" East, 630.00 feet to a one half inch rebar;

Thence North 89°56'55" West, 275.00 feet to a one half inch rebar that lies 25.00 feet Easterly of the West line of Tract 53;

Thence North 00°07'29" West, 630.00 feet parallel to and 25.00 feet Easterly of the West line of Tract 53 to a one half inch rebar on the North line of Section 14;

Thence South 89°56'55" East, 275.00 feet to the TRUE POINT OF BEGINNING.

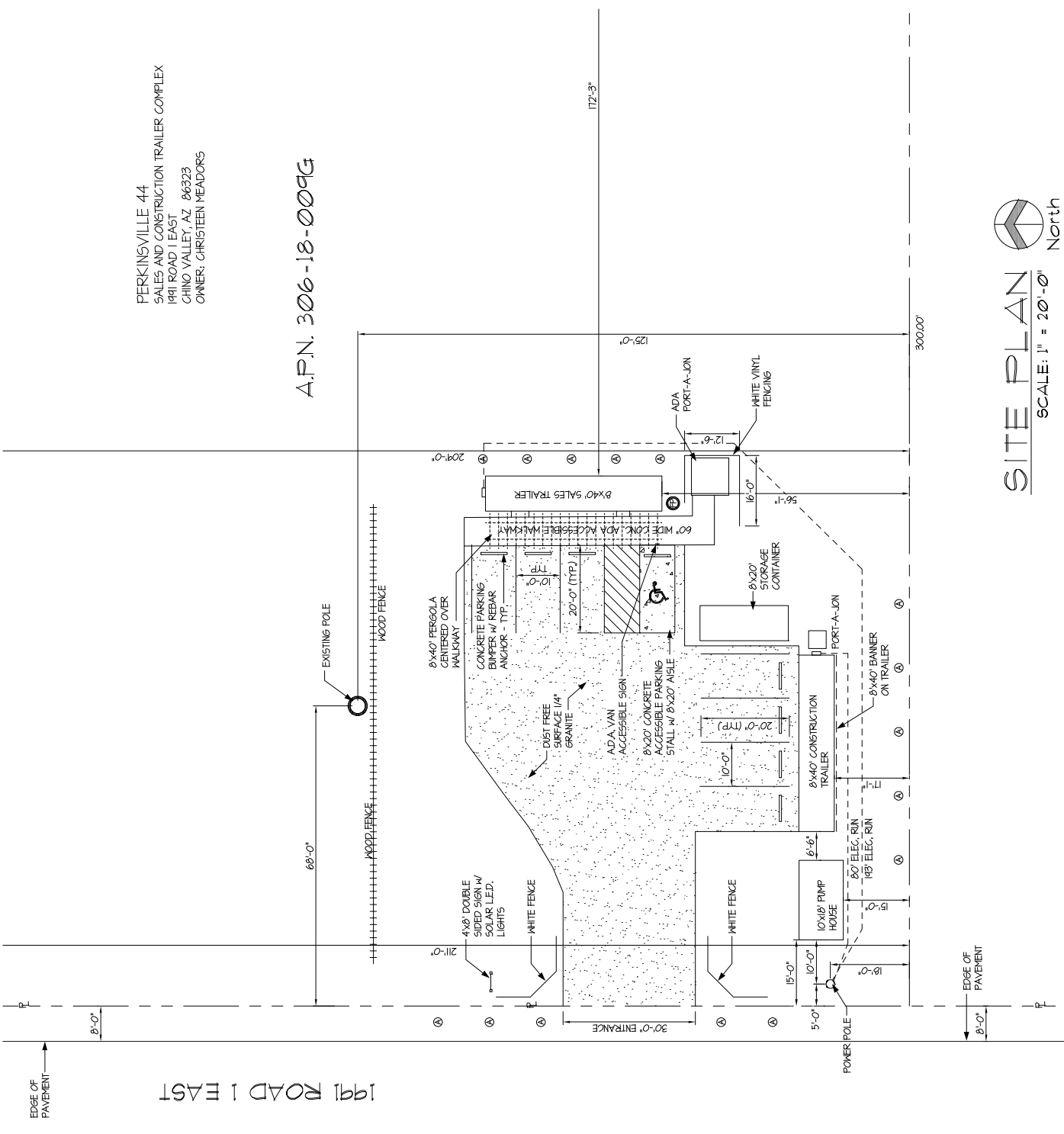
EXHIBIT A
LEGAL DESCRIPTION



**EXHIBIT B
TO
DEVELOPMENT AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
BROWN HOMES, LLC**

[Site Plan Documents]

See following pages.



SITE PLAN
SCALE: 1" = 20'-0"



**PERKINSVILLE 44
SALES TRAILER**

TEMPORARY TRAILER PLANT LEGEND

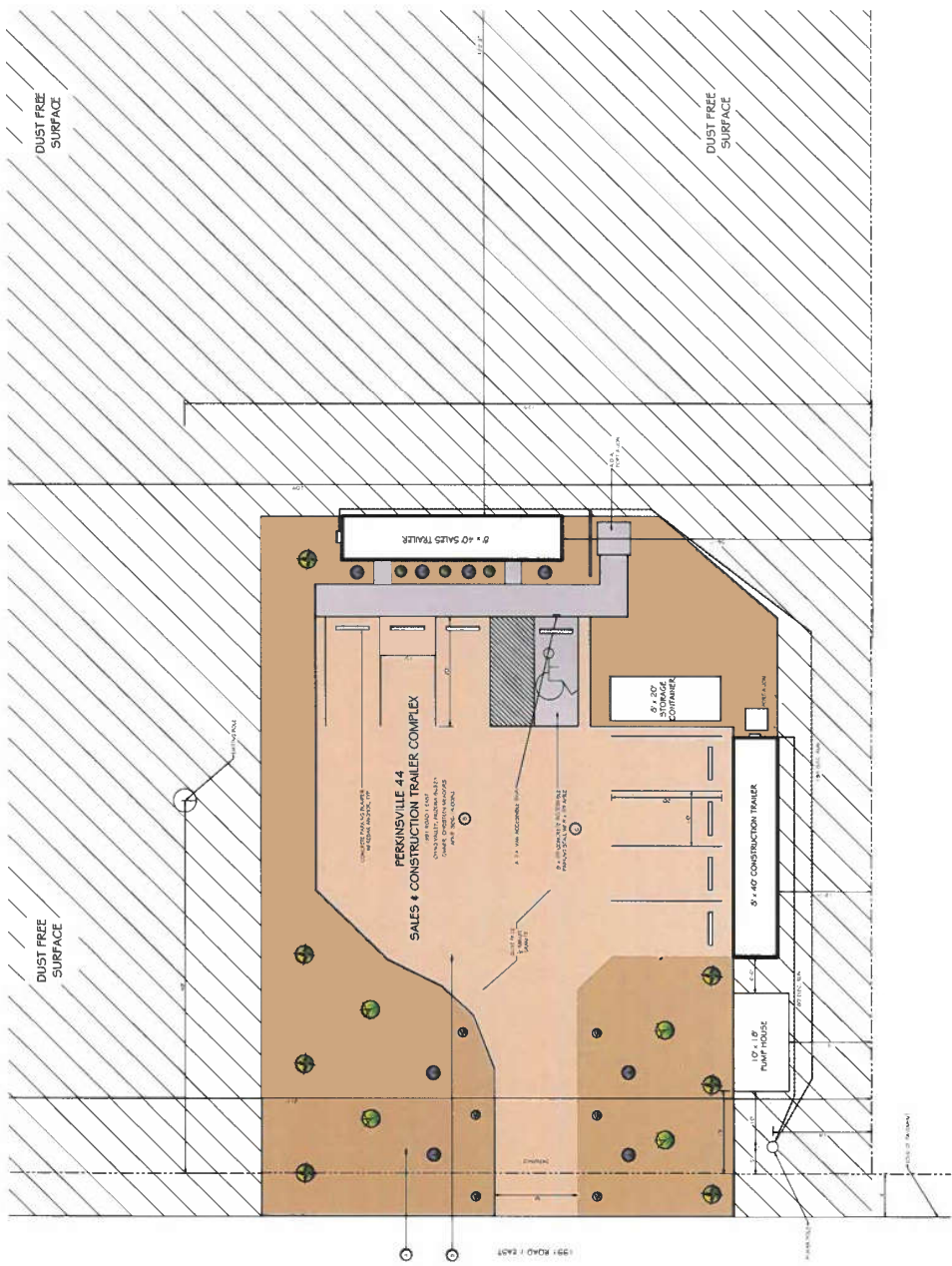
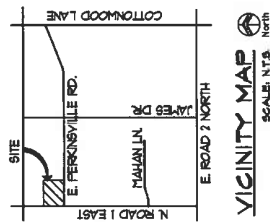
SYMBOL	QTY	SIZE	NAME
	7	5 GAL	MAHONIA FEMINATA
	3	5 GAL	PRENOST BARBERRY
	3	5 GAL	MULBERRIA RICHES
	6	5 GAL	DEER GRASS
	4	5 GAL	PROVSKIA ATRIPLEXIFOLIA
	4	5 GAL	RUSSIAN SAGE
	4	5 GAL	FOXYTHIA X INTERMEDIA
	6	5 GAL	FOXYTHIA
	6	5 GAL	THOMAS PRANCOX ARCTICUS
	6	5 GAL	CREeping THYME

INERT MATERIALS

A	GRANITE COLOR SIZE 3/4" SPOILED CINNAMON BROWN W/PE-ENHANT 5217.50 FT -- TONS
B	PAVING GRANITE COLOR SIZE 3/4" SPOILED CINNAMON BROWN W/PE-ENHANT 4567.50 FT -- TONS
C	CONCRETE DECK BY OTHERS COLOR GRAY 766.50 FT FINISH TYPE BROOM



L.I.I.



NOTES:
1) ALL PLANTS MUST BE 2" TO 4" IN HEIGHT.
2) ALL PLANTS MUST BE PLANTED WITHIN 14 DAYS OF DELIVERY.
3) ALL PLANTS MUST BE PLANTED WITHIN 14 DAYS OF DELIVERY.
4) ALL PLANTS MUST BE PLANTED WITHIN 14 DAYS OF DELIVERY.



Brown Homes Perkinsville 44 - Sales and Construction Trailer Complex



Lighting Key

■

 - 500 Lumen lights x 6

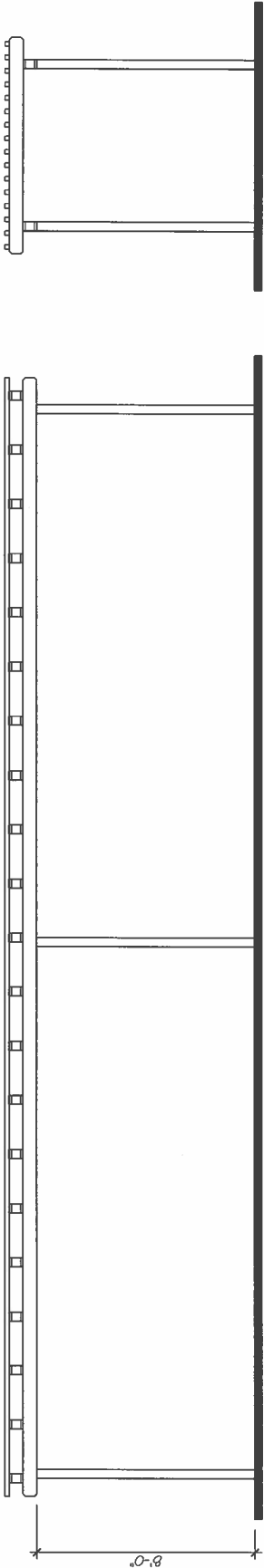
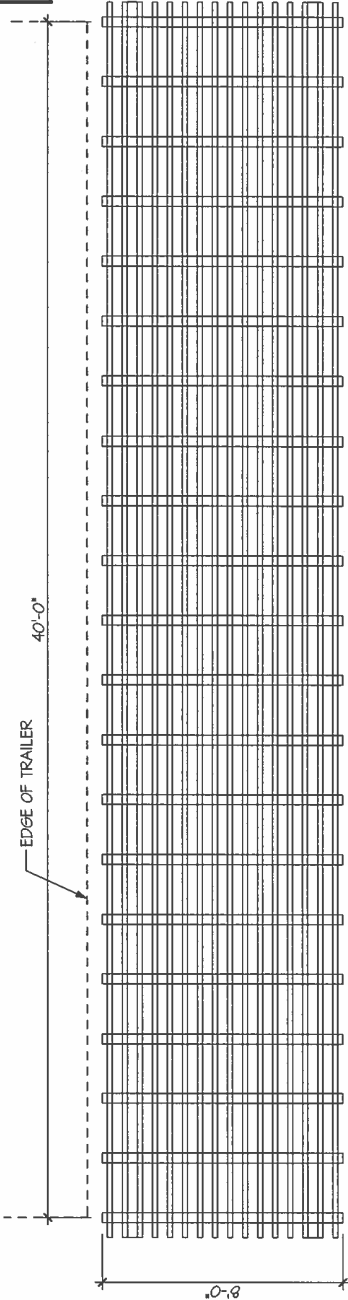
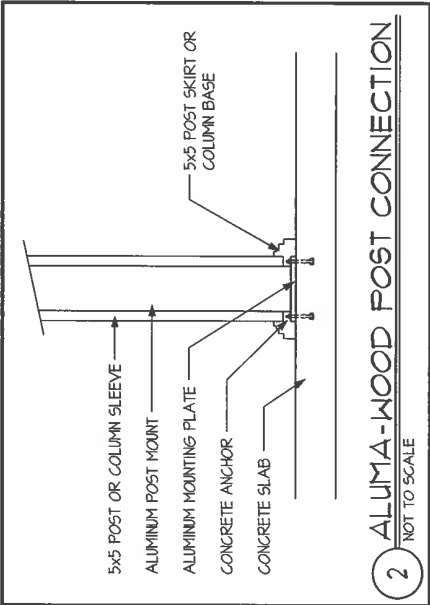
x

 - downward facing solar light for flag. 820 lumens x 1

o

 - downward facing solar light for sign 40 lumens x 1





BrownHOMES
A Family Tradition

PERGOLA PLANS



SCALE: 1/4" = 1'-0"



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

5. d.

Meeting Date: 09/13/2022
Contact Person: Terri Denemy, Assistant to the Town Manager
 Phone: 928-636-2646 x-1301
Department: Town Manager
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to approve the First Amendment to the Professional Services Agreement for Water Consulting Services between the Town of Chino Valley and Mark Holmes, LLC, to increase annual and maximum aggregate compensation. (Terri Denemy, Assistant to the Town Manager)

RECOMMENDED ACTION:

Approve the First Amendment to the Professional Services Agreement for Water Consulting Services between the Town of Chino Valley and Mark Holmes, LLC, to increase annual and maximum aggregate compensation.

SITUATION AND ANALYSIS:

The Town requires expert consultation when dealing with water issues, negotiations, proposals, and strategy. Mark Holmes has extensive knowledge of Chino Valley, water policy, ADWR, and Town Code, as well as industry relationships to successfully provide those services and has, in fact, successfully provided these services to the Town in the past both as an employee and most recently as a contractor through his company Mark Holmes, LLC. His services are valuable to the Town in navigating the ever-changing landscape of water rights, and water resource planning for managing the delivery of essential water services, growth and development.

Over the next two years, in addition to normal water resource management activities, we expect to involve Mr. Holmes in the General Plan rewrite effort, a water rate study, a long-term Capital Improvement Plan effort and an Integrated Utility Master Update. Accordingly, we anticipate the need to increase Mr. Holmes monthly hours over the remaining contract term to an average of about 70 hours per month for a maximum annual compensation of \$65,000 and maximum aggregate compensation of \$295,000 over the contract's five-year term. The contract rate shall remain the same, at \$75.00 / hour.

Fiscal Impact

Fiscal Impact?: YES
If Yes, Budget Code: 01-74-5217
Available: \$65,000

Funding Source:

The amount is included in the Fiscal Year 2022/2023 Budget

Attachments

First Amendment to Water Consulting Services PSA

**FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
MARK HOLMES LLC**

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this “First Amendment”) is entered into as of September 13, 2022, between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and Mark Holmes LLC, an Arizona limited liability company (the “Consultant”).

RECITALS

A. The Town and the Consultant entered into a Professional Services Agreement, dated May 14, 2019, for the Consultant to provide professional consulting services on water issues as they arise (the “Agreement”). All capitalized terms not otherwise defined in this First Amendment have the same meanings as contained in the Agreement.

B. The Town and the Consultant desire to enter into this First Amendment to revise certain terms and conditions of the Agreement

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. Incorporation of Defined Terms. Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Agreement.

2. Modification of Compensation. Section 3 of the Agreement is hereby amended as follows:

Compensation. The Town shall pay Consultant for the Initial Term and for each subsequent Renewal Term, if any, an annual amount not to exceed ~~\$30,000.00~~ \$65,000.00 for the Services at the unit rates set forth in the Fee Proposal attached hereto as Exhibit B and incorporated herein by reference. The maximum aggregate amount for this Agreement shall not exceed ~~\$150,000.00~~ \$295,000.00.

3. Effect of Amendment. The Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

4. Non-Default. By executing this First Amendment, the Consultant affirmatively asserts that (i) the Town is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Agreement, and (ii) any and all claims, known and unknown, relating to the Agreement and existing on or before the date of this First Amendment are forever waived.

5. Conflict of Interest. This First Amendment and the Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties hereto have executed this instrument 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”

MARK HOLMES, LLC, an Arizona limited
liability company

Mark Holmes, Owner

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

5. e.

Meeting Date: 09/13/2022
Contact Person: Terri Denemy, Assistant to the Town Manager
 Phone: 928-636-2646 x-1301
Department: Town Manager
Estimated length of staff presentation: None
Physical location of item: 2125 Old Home Manor Dr, Chino Valley Arizona

AGENDA ITEM TITLE:

Consideration and possible action to approve the First Amendment to the Ground Lease with Ichor Airsoft, LLC, for approximately 36.72 acres of land at Old Home Manor. (Terri Denemy, Assistant to the Town Manager)

RECOMMENDED ACTION:

Approve the First Amendment to the Ground Lease with Ichor Airsoft, LLC, for approximately 36.72 acres of land at Old Home Manor.

SITUATION AND ANALYSIS:

On August 24, 2021, Council approved a Ground Lease between the Town of Chino Valley and Ichor Airsoft, LLC for 36.72 acres of land at Old Home Manor with an initial one-year term and the option of two successive one-year renewal periods. The use permitted in the lease are the construction and operation of outdoor arenas with various impermanent facilities, barricades, and terrain features that can be removed and redeployed as needed to accommodate the Town's occasional use of the premises. The site had been used previously for Mud Runs and at the time of original lease negotiations the Town wished to preserve the Mud Run course obstacles and trails for potential future Mud Run events. The last Mud Run was held in 2018. At this time, no future Mud Run events are scheduled or in the works.

Since entering into the lease, Ichor Airsoft has developed the property and is marketing the site as "Argonauts Arena". The arena is the largest airsoft field in Arizona. Ichor is interested in exercising the option to extend the lease but has requested modification of the lease language to allow for construction of more permanent barriers. Ichor Airsoft ownership has stated that their first year numbers were not as strong as they had hoped they would be. But during the first year they learned that the movable barriers do not handle the weather very well and the biggest reason people have stated they don't return to play is the lack of larger structures for cover. The amended language will allow the tenant to erect larger and more permanent features in the arena to enhance the experience of their customers.

Staff believes that the airsoft arena is an asset to the Town. Modification of the lease language to

allow more permanent barriers and field features will allow the tenant to optimize the arena thereby increasing its customer traffic which will in turn be of benefit to the Town. For these reasons, staff is recommending adoption the First Amendment of the Ground Lease.

Fiscal Impact

Fiscal Impact?: 0

If Yes, Budget Code:

Available:

Funding Source:

No fiscal impact

Attachments

1st Amendment Ichor Ground Lease vendor signed

**FIRST AMENDMENT
TO
GROUND LEASE
BETWEEN
THE TOWN OF CHINO VALLEY
AND
ICHOR AIRSOFT, LLC**

THIS FIRST AMENDMENT TO THE GROUND LEASE (this "First Amendment") is entered into as of September 13, 2022, between the Town of Chino Valley, an Arizona municipal corporation (the "Town"), and Ichor Airsoft, LLC, an Arizona limited liability company ("Lessee").

RECITALS

A. The Town and Lessee entered into a Ground Lease, dated August 24, 2021, for Lessee to lease from the Town approximately 36.27 acres of real property located within the area commonly only known as Old Home Manor (the "Agreement"). All capitalized terms not otherwise defined in this First Amendment have the same meanings as contained in the Agreement.

B. The Town and Lessee desire to enter into this First Amendment to revise certain terms and conditions of the Agreement.

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 Lessee hereby agree as follows:

1. **Incorporation of Defined Terms.** Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Agreement.

2. **Modification of Permitted Use.** The definition of "Permitted Use" is hereby deleted in its entirety and replaced with the following:

Permitted Use. The construction and operation of outdoor airsoft arenas with various facilities (including on-site storage that is placed in accordance with the Town of Chino Valley's codes and regulations), barricades, and terrain features.

3. **Modification of Extension Periods.** Section 1.3 of the Agreement is hereby deleted in its entirety and replaced with the following:

Extension Periods. Tenant has the option to extend the Term for the number of successive Extension Periods specified in the Basic Terms. If Tenant

desires to exercise its right to extend the Term for an Extension Period, it will give Landlord notice of its intent to do so at least three months prior to the expiration of the Initial Term or the then-current Extension Period (but not earlier than 24 months prior to the expiration of the Initial Term or the then-current Extension Period). Failure to timely exercise an Extension Period shall be deemed to be a waiver of the right to extend.

4. Modification of Quiet Enjoyment. Section 1.4 of the Agreement is hereby modified as follows:

Quiet Enjoyment. Except as set forth herein, Landlord represents and warrants to Tenant that Landlord owns fee title to the Premises. So long as no Event of Default by Tenant is in existence, Landlord covenants and agrees that, on and after the Closing Date, Tenant may quietly hold, occupy and enjoy the Property during the Term without any manner of hindrance or interference with its quiet enjoyment, possession, and use. TENANT SHALL PERMIT LANDLORD TO USE THE PREMISES UPON LANDLORD'S REASONABLE PRIOR WRITTEN NOTICE AND REQUEST. ~~Upon request by Landlord, Tenant shall make the Premises available to Landlord Sunday through Thursday throughout June, July, and August, and on weekdays during the rest of the year; however, Tenant shall not be required to remove its various impermanent facilities, barricades, or terrain features to accommodate Landlord unless Landlord provides seven days' written notice of its intent to occupy the Premises.~~

5. Modification of Landlord's Use of the Property. Section 4.2 of the Agreement is hereby deleted in its entirety and replaced with the following:

Landlord's Use of the Property. Tenant shall make the Property available to Landlord for Landlord's use in accordance with Section 1.4.

6. Modification to Mud Run Course. Section 7.2 of the Agreement is hereby deleted in its entirety.

7. Modification of Surrender of Premises. Section 15.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

Tenant will surrender possession of the Property to Landlord at the expiration or earlier termination of this Lease. Tenant shall, unless otherwise directed by the Town in writing, remove from the Premises all of Tenant's Personal Property and Tenant Improvements and repair any damage to the Premises caused by such removal. Any of the Tenant Improvements or Tenant's Personal Property not removed on or before the last day of the Term is deemed abandoned.

8. Modification of Tenant's Improvements.

A. Section 16.2.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

Except as otherwise permitted herein, Tenant may not construct more than one permanent building improvement on the Premises without Landlord's prior, written consent (not to be unreasonably withheld). Landlord shall have no liability whatsoever for any costs associated with the construction of the building improvements.

B. Section 16.2.2 of the Agreement is hereby deleted in its entirety.

9. Modification of Exhibit E. Exhibit E to the Agreement is hereby deleted in its entirety.

10. Effect of Amendment. The Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

11. Non-Default. By executing this First Amendment, Lessee affirmatively asserts that (i) the Town is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Agreement, and (ii) any and all claims, known and unknown, relating to the Agreement and existing on or before the date of this First Amendment are forever waived.

12. Conflict of Interest. This First Amendment and the Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

(Signatures on following page)

IN WITNESS WHEREOF, the parties hereto have executed this instrument 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

"Lessee"

ICHOR AIRSOFT,
an Arizona limited liability company

By: 

Name: Crystal Patton

Title: Partner / Owner



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

5. f.

Meeting Date: 09/13/2022

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

Department: Town Clerk

Item Type:

AGENDA ITEM TITLE:

Consideration and possible action to approve the August 17, 2022, special meeting minutes. (Erin N. Deskins, Town Clerk)

RECOMMENDED ACTION:

Approve the August 17, 2022, special meeting minutes.

Attachments

8/17/22 draft minutes

DRAFT

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

WEDNESDAY, AUGUST 17, 2022
6:00 P.M.

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

1) CALL TO ORDER; ROLL CALL

Present: Mayor Jack Miller (remotely); Councilmember Tom Armstrong; Councilmember Cloyce Kelly; Councilmember John McCafferty (remotely); Councilmember Lon Turner

Absent: Vice-Mayor Annie Perkins; Councilmember Eric Granillo

Staff Town Manager Cindy Blackmore; Town Attorney Andrew McGuire (remotely); Town

Present: Clerk Erin N. Deskins

Mayor Miller called the meeting to order at 12:00 p.m.

2) Consideration and possible action to adopt Resolution No. 2022-1219, declaring and adopting the results of the 2022 Primary Election held on August 2, 2022. (Erin Deskins, Town Clerk)

Recommended Action: Adopt Resolution No. 2022-1219, declaring and adopting the results of the 2022 Primary Election held on August 2, 2022.

MOVED by Councilmember Tom Armstrong, seconded by Councilmember Cloyce Kelly to adopt Resolution No. 2022-1219, declaring and adopting the results of the 2022 Primary Election held on August 2, 2022.

AYE: Mayor Jack Miller (remotely), Councilmember Tom Armstrong, Councilmember Cloyce Kelly, Councilmember John McCafferty (remotely), Councilmember Lon Turner

5 - 0 PASSED - Unanimously

3) ADJOURNMENT

MOVED by Councilmember Lon Turner, seconded by Councilmember Cloyce Kelly to adjourn the meeting at 12:01 p.m.

AYE: Mayor Jack Miller (remotely), Councilmember Tom Armstrong, Councilmember Cloyce Kelly, Councilmember John McCafferty (remotely), Councilmember Lon Turner

5 - 0 PASSED - Unanimously

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 _____, 2022. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2022.

Erin N. Deskins, Town Clerk

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. a.

Meeting Date: 09/13/2022
Contact Person: Joan Dwyer, Magistrate
 Phone: 928-636-2646 x-1290
Department: Municipal Court
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to approve Ordinance No. 2022-922 regarding the Home Detention Program established in the Town for administration by the presiding magistrate pursuant to A.R.S §9-499.07. (Joan Dwyer, Presiding Magistrate)

RECOMMENDED ACTION:

Approve Ordinance No. 2022-922 regarding the home detention program.

SITUATION AND ANALYSIS:

The Home Detention ordinance which was passed last year will sunset on September 28, 2022. The Court would like to make this a permanent ordinance in that there are circumstances where, if one has to serve 9 or more days in jail, wearing an ankle monitor that also senses alcohol use would allow for one to continue their employment. It also tracks their location and movement such that it can be restricted. The Town Attorney was contacted and recommended the reference to COVID in the present ordinance be removed, a new ordinance enacted making Home Detention a permanent option (at the judge's discretion) and that then repeals the old ordinance.

Fiscal Impact

Fiscal Impact?: None
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Home Detention Program Requirements
 ORD - 2022-922 - Home Detention

TOWN OF CHINO VALLEY
HOME DETENTION PROGRAM
PURSUANT TO ARS 9-499.07

Subject to the approval of the sentencing judge, persons sentenced to a period of incarceration may serve all or a portion of their sentence under home detention in lieu of confinement in jail in accordance with the terms and conditions set forth herein.

1. A person is not eligible for home detention if any of the following apply:
 - a. The person constitutes a risk to himself or other members of the community.
 - b. The person has a past history of violent behavior.
 - c. The conviction for which the person is being sentenced is a domestic violence offense pursuant of ARS 13-3601, as amended.
 - d. The conviction for which the person is being sentenced is an act of prostitution or solicitation pursuant to ARS 13-3214, as amended.
 - e. The person is not eligible pursuant to ARS 9-499.07, as amended.
2. If a person (the "Defendant") is sentenced to jail confinement by the Court in any driving under the influence ("DUI") charge, the Court may substitute home detention for a portion of the jail term as provided in this Section. Any Defendant placed in a home detention program as a term of a DUI sentence must serve an initial 24 consecutive hours in jail, except as provided in section 3 below. The Defendant shall bear the costs of confinement and be responsible for payment thereof.
3. Notwithstanding § 28-1387, subsection C (work release), if the prisoner is sentenced under § 28-1381, subsection K or § 28-1382, subsection I the prisoner must first serves a minimum of twenty per cent of the initial term of incarceration in jail before being placed under home detention or continuous alcohol monitoring. The Defendant shall bear the costs of incarceration and be responsible for payment thereof.
4. A Defendant placed in a home detention program shall be subject to electronic monitoring in the Defendant's home and shall be required to remain at home during the hours specified by the Court. A Defendant sentenced pursuant to ARS 28-1381 or 28-1382, shall be tested at least once daily for the use of alcohol or drugs in a manner approved by the Court.
5. If the Defendant attends educational classes in or is employed within Yavapai County, the Court may permit the Defendant to attend classes or leave home for employment during specified hours. The Court may permit the Defendant to attend religious services or funerals or to seek medical care or other Court-approved counseling, but any such event shall require the Court's prior written permission.
6. During the term of the home detention, Defendant shall not:
 - a. Consume any alcoholic beverages; and

- b. Take any drugs unless pursuant to a health care provider's order; and
 - c. Associate with individuals detrimental to the Defendant's successful participation in the program.
- 7. The Court may require a Defendant placed in a home detention program to participate in community service work or impose other reasonable restrictions the Court deems necessary.
- 8. A Defendant placed in a home detention program shall bear the expense and be responsible for payment of the full costs of the home detention, including electronic monitoring and alcohol and/or drug testing cost, to the program provider. Non-payment of any program costs may result in termination of home detention or the failure to receive credit for the confinement.
- 9. The Court shall terminate a Defendant's participation in a home detention program and require the Defendant to complete the remaining term of any sentence by jail confinement if the Court finds the Defendant
 - a. has not successfully completed Court ordered alcohol or drug screening and treatment pursuant to ARS 28-1381 or 28-1382, or pursuant to any other Court -ordered program, or
 - b. has left the home during home detention without permission of the Judge or supervising authority.
 - c. The Court may terminate a Defendant's participation in the home detention program and require jail confinement for any other violation of the terms of the home detention order.
- 10. Before any person may participate in the home detention and electronic monitoring program, the Town shall have entered into a contract with one (1) or more providers to implement the home detention and electronic monitoring program and the provider is subject to contractual language regarding notification and requirements set forth in the contract.

APPROVED by:

Date

s/JDwyer
Joan Dwyer, Presiding Magistrate

9-2-2021

ORDINANCE NO. 2022-922

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, REPEALING CERTAIN PORTIONS OF ORDINANCE 2021-905 RELATING TO COVID-19 AND AMENDING THE TOWN CODE, TITLE III, ADMINISTRATION, CHAPTER 34, COURT, SECTION 34.05, HOME DETENTION PROGRAM, RELATED TO THE ESTABLISHMENT AND ADMINISTRATION OF A HOME DETENTION PROGRAM BY THE PRESIDING MAGISTRATE OF THE MAGISTRATE COURT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, A.R.S. § 9-499.07 allows cities or towns to establish prisoner work, community restitution work, continuous alcohol monitoring, and home detention programs for eligible sentenced prisoners; and

WHEREAS, home detention/electronic monitoring programs have been proven to be successful in other jurisdictions within Arizona; and

WHEREAS, home detention, coupled with intensive treatment and electronic monitoring, has been proven to be an effective alternative to incarceration for DUI offenders; and

WHEREAS, the Town Council finds the necessity of containing the home detention program for persons who are sentenced to jail confinement pursuant to A.R.S. § 28-1381 or § 28-1382; and

WHEREAS, the Town Magistrate previously submitted the Home Detention Program attached to Ordinance No. 2021-905 as Exhibit A (the "Program") and recommended that the Town Council approve the Program, which the Town Council approved pursuant to Ordinance No. 2021-905; and

WHEREAS, the Town Council found that detailed provisions related to sentencing, prisoner eligibility, administration, and other matters are best left to the discretion of the judicial branch of government, and therefore approved the Program as submitted.

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 hereby incorporated as if fully set forth herein.

Section 2. Chino Valley Town Code, Title III (Administration), Chapter 34 (Court), Section 34.05 (Home Detention Program), is hereby amended by deleting Subsection 34.05(E) in its entirety.

Section 3. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. Specifically, the provisions of Ordinance No. 2021-905 that refer to COVID-19 are hereby repealed.

Section 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or any part of the Code adopted herein by reference, 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 thereof.

Section 5. Because of the urgent need to continue the Program, the immediate operation of this Ordinance is necessary for the preservation of health, safety, and welfare. An emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately upon adoption by the Town Council.

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 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 13th day of September, 2022.

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. 2022-922 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on September 13, 2022, 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. b.

Meeting Date: 09/13/2022
Contact Person: Terri Denemy, Assistant to the Town Manager
 Phone: 928-636-2646 x-1301
Department: Town Manager
Estimated length of staff presentation: 5 minutes
Physical location of item: East Road 2 North / Equestrian Trail / Peavine Trail

AGENDA ITEM TITLE:

Consideration and possible action to approve the Amended and Restated Development Agreement for the Bright Star Property with Estrella Vista Enterprises, LLC. (Mark Holmes, Water Resources Consultant)

RECOMMENDED ACTION:

Approve the Amended and Restated Development Agreement for the Bright Star Property with Estrella Vista Enterprises, LLC.

SITUATION AND ANALYSIS:

Background

In 2001, the Town entered into a Pre-Annexation Development Agreement with Running W Ranch, Inc describing the terms under which approximately 2,724 acres would be annexed into the Town Limits. In January 2002, the Town entered into a Development Agreement with Granite Investment & Development for approximately 391 acres of the property. The agreement was amended in March 2002, for approximately 420.44 acres and included a Conceptual Master Plan. At the same time, Verde Water Resource Consultants and Granite entered into a Water Transfer Agreement to enable Granite to secure a Certificate of Assured Water Supply for Phase 1 of what is now known as the Bright Star Property. Over the years several amendments to the agreement were negotiated, and water credit purchases were made for additional phases as detailed in the recital section of the Restated and Amended Development Agreement before you today. In 2019, by Special Warranty Deed, the Bright Star Property was conveyed to Estrella Vista Enterprises (EVE).

With the EVE looking to move forward with development, the Town and EVE met to discuss various aspects of the development and obligations. The past agreements, supplements, and amendments were extremely challenging to decipher. As a result, in 2019 the Town retained Michele Van Quathem, contracts and water rights attorney, to produce a new restated agreement and clean up the numerous past agreements – especially as it relates to water and sewer. Over the next several years the parties negotiated the terms of the agreement with continued reviews and redlines moving back and forth. Finally, in August 2022, the Town and Bright Star reached an accord and a new restated and amended agreement was finalized, signed by EVE and ready for Town Council review and action.

Key Provisions of New Agreement

- A new Master Plan for the development will need to be completed with the next plat application.
- Certain road improvements and trail connector will be completed.
- The Town will make 45.3 acre-feet (AF) of assured water supply credits available to the development per the infrastructure improvements made to the Town's water system (this was an existing term, but details needed to be updated).
- The Town will make its physical availability determination (PAD) available to the development for an analysis of assured water supply for this development.
- Any future assured water supply needs, beyond the 45.3 AF for the development, will follow the Town's water use policy ordinance.
- Future fees, i.e., whether hookup, access, or development fees, or other fees outside this agreement will be the obligation of the development.

Fiscal Impact

Attachments

Amended Development Agreement

When Recorded, Return To:

Town of Chino Valley
202 N. State Route 89
Chino Valley, AZ 86323

RESTATED AND AMENDED DEVELOPMENT AGREEMENT BRIGHT STAR PROPERTY

THIS RESTATED AND AMENDED DEVELOPMENT AGREEMENT BRIGHT STAR PROPERTY (the "Agreement") is made by and between the TOWN OF CHINO VALLEY, a municipal corporation of the State of Arizona ("Town") and ESTRELLA VISTA ENTERPRISES, LLC, an Arizona limited liability company ("EVE" or "Developer"), effective as of this _____ day of _____ 2022.

RECITALS

A. The Town and Running W Ranch, Inc. ("RWR") entered into that Pre-Annexation Development Agreement dated August 23, 2001 and recorded at Yavapai County Recorder Book 3869, page 950 on October 11, 2001, describing the terms under which the RWR property described in Exhibit C attached thereto of approximately 2,724 acres would be annexed into the Town limits. Such property was annexed into the Town limits by Ordinance No. 476, dated September 17, 2001.

B. The Town and Granite Investment & Development (Meadow Ridge Ranch), L.L.C. ("Granite") entered into that Development Agreement dated January 10, 2002 and recorded at Yavapai County Recorder Book 3897, page 272 on January 29, 2002, describing the terms under which Granite, RWR's successor-in-interest as to approximately 391 acres of the RWR property included in the Pre-Annexation Development Agreement, would develop the Granite property.

C. The Town and Granite entered into that Amended Development Agreement dated March 12, 2002 and recorded at Yavapai County Recorder Book 3909, page 409 on March 14, 2002 ("Amended Development Agreement"). The Amended Development Agreement applied to approximately 420.44 acres of Granite's property (referred to in this Agreement as the "Bright Star Property" or the "Property" and described on Exhibit A to this Agreement). The Amended Development Agreement replaced in its entirety the Development Agreement dated January 10, 2002. The parties in the Amended Development Agreement agreed to a Conceptual Master Plan that was attached as Exhibit B to the Amended Development Agreement, and other terms for the Bright Star Property.

D. The Town, Verde Water Resource Consultants, LLC ("Verde"), and Granite entered into that Water Transfer Agreement dated March 12, 2002 and recorded at Yavapai County Recorder Book 3909, page 410 on March 14, 2002 through which Verde, pursuant to the terms

and conditions thereof agreed to facilitate a transfer from the Town to Granite of a sufficient amount of stored water to enable Granite to secure a Certificate of Assured Water Supply for Phase 1 of what is now known as the Bright Star Property (f/k/a Meadow Ridge Ranch). The Water Transfer Agreement was amended by that First Amendment to Water Transfer Agreement dated May 23, 2002 between the same parties to clarify the ability to assign the Water Transfer Agreement.

E. The Town, Verde, and Granite entered into that Second Amendment to Water Transfer Agreement dated September 26, 2002, and recorded at Yavapai County Recorder Book 3961, page 614 on September 27, 2002, granting Verde and Granite an option for a particular refund that expired October 11, 2002. The Town, Verde, and Granite entered into that Third Amendment to Water Transfer Agreement dated October 24, 2002 and recorded at Yavapai County Recorder Book 3976, page 586 on November 15, 2002, extending the time for refund to October 31, 2002. The refund provision has expired and is of no further effect.

F. The Town, Verde, and Granite entered into that Supplement and Fourth Amendment to Water Transfer Agreement dated January 13, 2005 and recorded at Yavapai County Recorder Book 4233, page 99 on February 14, 2005. The purpose of the Supplement and Fourth Amendment to Water Transfer Agreement was, among other things, to define the terms of a transfer of water credits for Phase 2 of the Bright Star Property development.

G. Granite purchased additional water credits for Phase 3 of the Bright Star Property development from the Town pursuant to an Agreement for Transfer of Assured Water Supply Extinguishment Credits among the Town and Granite dated November 10, 2005 and recorded at Yavapai County Recorder Book 4351, page 394 on January 4, 2006. Through the Consent to Assignment of Rights under Water Transfer Agreement dated March 31, 2005, the Town consented to grant M&I Marshall & Ilsley Bank ("M&I"), Granite's lender, a security interest in the Water Transfer Agreement, as amended.

H. As contemplated in section 4 of the Amended Development Agreement, the Town and Granite entered into that Waterline Extension and Reimbursement Agreement dated March 6, 2003 and recorded at Yavapai County Recorder Book 4012, page 752 on March 20, 2003. The Waterline Extension and Reimbursement Agreement, among other things, set the terms upon which the Town would establish water service to the Bright Star Property, including requiring Granite to design and construct a water line from the Town's Facilities to the Bright Star Property, along with all on-site infrastructure and facilities for distribution of water within each phase of the project.

I. The Town and Granite entered into that First Amendment to Waterline Extension and Reimbursement Agreement dated February 18, 2004 and recorded at Yavapai County Recorder Book 4127, page 675 on March 12, 2004. The First Amendment to Waterline Extension and Reimbursement Agreement amended the Waterline Extension and Reimbursement Agreement to extend the required completion date of the certain off-site infrastructure to June 17, 2004. All improvements identified in the Waterline Extension and Reimbursement Agreement, as amended, were timely completed and accepted by the Town, all conditions of the Waterline Extension and Reimbursement Agreement were met, and the Town commenced making the Water System Hookup Fees reimbursements.

J. In order for Granite to provide assurance of payment to the contractor constructing the waterline from the Town to the Bright Star Property, Fann Contracting, Inc. ("Fann"), Granite assigned Granite's right to receive reimbursable costs from the Town in the Assignment of Payments dated May 19, 2004 between Granite and Fann. Fann was compensated and released Fann's right to the reimbursement payments in a Release and Reassignment of Waterline Payments dated April 29, 2005.

K. The Town, Granite, and Fann entered into that Sewer Hookup Fee Reimbursement Agreement dated April 28, 2005 for the Bright Star Property. In satisfaction of Granite's obligation to guarantee the payment \$574,656.00 for 146 sewer hookup fees to the Town pursuant to that Construction Cost Guaranty agreement dated September 7, 2003, an amount that would be reimbursed to Fann by the Town, Granite would instead directly reimburse Fann the amount owed. The Town further agreed that Granite could be reimbursed by the Town through payment to Granite of the hookup fees paid by purchasers of properties within Bright Star Property as such fees were paid up to \$4,100 per hookup. No further obligations remain under the agreements described in this Recital K.

L. Granite and M&I entered into that Direct Assignment of Water-System Hookup Fees and Sewer-System Hookup Fees dated April 28, 2005, relating to the remaining Water System Hookup Fees and sewer hookup fees to be paid by the Town to Granite or to Fann pursuant to the Waterline Extension and Reimbursement Agreement dated March 6, 2003, as amended, and the Sewer Hookup Fee Reimbursement Agreement dated April 28, 2005. The Direct Assignment of Water-System Hookup Fees and Sewer-System Hookup Fees assigned Granite's right to receive such fees to M&I as security for repayment of a loan from the bank to Granite.

M. The Town and Granite entered into that Supplement to Amended Development Agreement dated October 12, 2006 and recorded at Yavapai County Recorder Book 4461, page 77 on December 6, 2006. The Supplement to Amended Development Agreement, among other things, granted and further defined to Granite the right to obtain additional water supplies for Certificates of Assured Water Supply for the remaining areas of the Bright Star Property and further defined the development, financing, and construction of expanded municipal water production and storage facilities and roads to serve the Bright Star Property.

N. The Town and Granite entered into that Addendum to Supplement to Amended Development Agreement and Related Agreements dated September 27, 2007 and recorded at Yavapai County Recorder Book 4544, page 658 on October 3, 2007. The Addendum to Supplement to Amended Development Agreement and Related Agreements clarified and revised various provisions in the earlier Supplement to Amended Development Agreement.

O. The Town and Granite entered into that Clarification to Addendum to Supplement to Amended Development Agreement and Related Agreements dated July 24, 2008 and recorded at Yavapai County Recorder Book 4612, page 75 on July 30, 2008. The Clarification to Addendum to Supplement to Amended Development Agreement and Related Agreements clarified Granite's obligations regarding construction of a one-million-gallon storage tank, the waterline, and the timing of conveyance of certain water credits. The time for constructing the one-million-gallon storage tank and appurtenances to substantial completion was extended to June 1, 2009 in that Extension to Clarification to Addendum to Supplement to Amended Development Agreement and

Related Agreements between the Town and Granite dated February 12, 2009 and recorded at Yavapai County Recorder Book 4665, page 600 on May 4, 2009. The one-million-gallon storage tank, the water line from the new tank to the existing twelve (12) inch water line that transports water from the existing Country West well site for use within the Property, and appurtenances were completed in 2009, and accepted by the Town, at a total cost to Granite of \$1,877,934.36.

P. By Special Warranty Deed dated October 3, 2019 and recorded at Reception No. 2019-0064911, Official Records of Yavapai County, Arizona, the Bright Star Property (not previously conveyed to third parties), together with all benefits and privileges relating thereto was conveyed to EVE.

Q. Arizona law provides for municipalities to enter into development agreements pursuant to Arizona Revised Statutes (“A.R.S.”) § 9-500.05 with landowners and others having an interest in real property to, among other things: (a) establish the permitted uses of property subject to the development agreement; (b) provide for vesting and phased development of property; (c) provide conditions, terms, restrictions and requirements for needed public infrastructure; (d) determine the density and intensity of uses on property; (e) provide for reservation or dedication of a portion of property for public purposes and to protect environmentally sensitive portions thereof; and (f) other matters related to the development of the Property;

R. The Parties in this Agreement acknowledge that, over the past approximately 18 years, a number of obligations have been addressed in the above agreements, and many of the provisions are now outdated. It is burdensome to review so many agreements to determine the outstanding obligations. The Parties acknowledge that the foregoing Recitals are a summary of the various agreements and do not include all terms and provisions thereof. The Parties wish in this Agreement to restate the above agreements and amend certain of the remaining development obligations relating to the Bright Star Property, and to entirely replace all prior agreements listed above unless otherwise specifically stated herein. The Parties do not intend by this Agreement to adversely affect Developer’s pre-existing rights or ability to continue to develop the Property as outlined in prior agreements, unless the Parties otherwise specifically agree to new terms in this Agreement, and the Parties agree to confer in good faith regarding any potential dispute regarding such terms. This Agreement is intended to apply to remaining development obligations, and is not intended to have any binding effect on lots or parcels with the Property that have already been sold to an end user (i.e. a member of the public or residential user).

AGREEMENT

1. DEFINITIONS

1.1. “Access Fees” means the fees payable to the Town for the transfer of Water Credits.

1.2. “ADWR” means the Arizona Department of Water Resources.

1.3. “Agreement” means this Restated and Amended Development Agreement - Bright Star Property.

1.4. “A.R.S” means Arizona Revised Statutes.

- 1.5. “Bright Star Property” means the approximate 420.44 acres described on Exhibit A to this Agreement.
- 1.6. “CAWS” means Certificate of Assured Water Supply.
- 1.7. “CC&Rs” means covenants, conditions, and restrictions.
- 1.8. “Cure Period” is defined in subsection 10.2.
- 1.9. “Default” is defined in subsection 10.2.
- 1.10. “Developer” means EVE.
- 1.11. “EVE” means Estrella Vista Enterprises, LLC, an Arizona limited liability company.
- 1.12. “Fann” means Fann Contracting, Inc., an Arizona corporation.
- 1.13. “Granite” means Granite Investment & Development (Meadow Ridge Ranch), L.L.C., and Arizona limited liability company.
- 1.14. “Infrastructure” means public improvements and infrastructure required for design and development within the Property, including, but not limited to: septic tanks or other appropriate means of solids removal for first stage wastewater treatment; wastewater collection and discharge facilities, structures, or improvements as approved by the Town; water supply storage, treatment and distributions systems; road rights-of-way; public dedicated lands and related infrastructure; drainage and flood control structures; bridges; and communication lines and related infrastructure.
- 1.15. “Master Plan” is that plan shown on Exhibit B to this Agreement as it may be amended from time-to-time after Town approval made per paragraph 2.2 (The Master Plan was previously denominated as the Conceptual Master Plan referenced in Recital C hereof).
- 1.16. “Maximum Density” is defined in Section 2.3.
- 1.17. “Off-site Infrastructure” means the off-Property water production, storage, transmission and related equipment and facilities required to extend the Town’s Facilities and Town water service to the Property. “Off-site Infrastructure” shall include as defined further below a one-million-gallon water storage tank adjacent to the Peavine Trail (the “New Tank”) and the pumping facilities and equipment required to connect and extend the water line from the New Tank to the existing twelve (12) inch water line that transports water from the existing Country West well site for use within the Property.
- 1.18. “PAD” means Planned Area Development.
- 1.19. “Party” or “Parties” refer to EVE/Developer and/or the Town.

1.20. "Private Rights-of-Way" is defined in Section 3.3.

1.21. "Property" when used alone refers to the Bright Star Property.

1.22. "RWR" means Running W Ranch, Inc. (RWR), an Arizona corporation.

1.23. "Term" is defined in subsection 11.1.

1.24. "Town" means the Town of Chino Valley, a municipal corporation of the State of Arizona.

1.25. "Verde" means Verde Water Resource Consultants, LLC, an Arizona limited liability company.

1.26. "Water Credits" is defined in subsection 7.1.

1.27. "Water Line Connection" is defined in subsection 5.5.

2. MASTER PLAN AND ZONING

2.1. General. The Town has approved and incorporates in this Agreement the Master Plan for the development of the Property attached as Exhibit B, as may be amended from time to time in accordance with section 2.2 hereof. Developer is authorized to implement the types of land uses, densities and intensities of uses set forth in the Master Plan as may be amended from time to time, this Agreement. The Town Council ("Council") shall hereafter, in good faith, to the extent not already done, conduct procedures necessary for adoption of the Preliminary Plat and Final Plat for each phase of development of the Property, upon application by the Developer. The Preliminary Plat(s) and Plat(s) shall be reasonably consistent with the Master Plan as amended from time-to-time.

2.2. Amendment. The Parties acknowledge that the Master Plan will need to be updated during the Term of this Agreement and initially prior to or simultaneously with the Town's approval of the next plat for the Property. Amendments to the Master Plan will be made pursuant to the Town's Unified Development Ordinance section 1.9.4.3H. as the ordinance may be updated by the Town from time-to-time, except per prior agreements between the Parties. The Parties may effectuate minor adjustments through administrative amendments mutually approved by the Developer and the Town's Community Development Director which, after execution shall be attached to the Master Plan as an addendum and become a part thereof and may be further changed and amended from time-to-time as necessary, with the approval of the Town and the Developer. Unless otherwise required by law, no such minor amendments shall require prior notice or hearing. If, in the future, the Town amends one or more of its zoning designations and/or districts, Developer shall have the right to apply to convert the zoning designation under the Master Plan and/or this Agreement as applicable to the equivalent zoning designations under such amended development ordinance(s), subject to notice and hearing requirements of

applicable law. The exercise by Developer of such right and any approval by the Town shall not be deemed to constitute or to necessitate an amendment of this Agreement, and, unless otherwise required by law, no such minor amendments shall require prior notice or hearing. All major changes or amendments shall be reviewed in conjunction with the preliminary and final plat approval process by the Town's Planning and Zoning Commission ("P&Z Commission") and approved by the Council. The following are examples of major changes or amendments:

- 2.2.1. Substantial alteration of the permitted uses of the Property set forth in the Master Plan and/or this Agreement, as deemed substantial by the Town's Community Development Director ("Community Development Director");
- 2.2.2. Deletion of a requirement for the reservation or dedication of land for public purposes except for minor boundary adjustments or changes to street alignments, which shall be treated as minor changes;
- 2.2.3. Additions and deletions of arterial or collector streets to those shown on the Master Plan; and
- 2.2.4. A substantial increase in either residential units or commercial mixed-use square footage for the Property, except as otherwise allowed by the Master Plan and/or this Agreement.

The following are examples of minor changes:

- 2.2.5. Minor boundary adjustments and changes to street alignments; and
- 2.2.6. Reasonable and ordinary interpretation of the permitted uses of the Property set forth in the Master Plan and/or this Agreement, as deemed to be minor by the Community Development Director.

The Parties shall cooperate in good faith to agree upon amendments to the Master Plan and will use reasonable best efforts to process any minor or major amendments to the Master Plan.

- 2.3. Density Transfers. The Town and Developer hereby acknowledge and agree that the Master Plan provides for a maximum of 1,200 residential units to which Developer is entitled for the Property (the "Maximum Density"). Regardless of any density transfers, Developer shall not exceed the Maximum Density for the Property without prior amendment(s) of the Master Plan, which amendment(s) shall be reviewed by the P&Z Commission and approved by the Council. Except as otherwise provided in the Master Plan, neither the P&Z Commission nor the Council shall be required or obligated to approve an increase in the Maximum Density, although they may elect, in their discretion, to do so. In accordance with the above, Developer further agrees to provide the Town, at the time of platting or site plan approval, notice as to the density assigned to the parcel subject to the platting or site plan approval.

2.4. Regulation of Development.

2.4.1. Applicable Rules. Whenever reference is made in this Agreement to the ordinances, rules, regulations, permit requirements, development fees, other requirements, and/or official policies of the Town that apply to the development of the Property in accordance with the Master Plan, this subsection 2.4.1 shall define said applicable ordinances, rules, regulations, permit requirements, development fees, other requirements and/or official policies. Except as otherwise expressly provided in this Agreement and the Master Plan, the ordinances, rules, regulations, permit requirements, development fees (as defined in A.R.S. § 9-463.05), other infrastructure fees, however denominated, exactions, other requirements, and/or official policies of the Town applicable to and governing the development of the Property shall be those ordinances, rules, regulations, permit requirements, development fees, other exactions and requirements, and/or official policies that were existing and in force for the Town as of March 12, 2002. The Developer shall be solely responsible for complying with all federal and state policies, laws, rules, and regulations regulating the development of the Property. Notwithstanding the foregoing, if and to the extent this Agreement or the Master Plan conflict with the Applicable Rules, then this Agreement and the Master Plan will modify the Applicable Rules and will apply to development of the Property. Compliance shall include fulfilling all requirements of the State of Arizona Real Estate Department, the prevailing Arizona Department of Environmental Quality (ADEQ) rules and regulations, “208” plans, and the rules and regulations of the Arizona Department of Water Resources and Federal Corps of Engineers “404” permit requirements.

2.4.2. Permissible Additions to the Applicable Rules. Notwithstanding the provisions of subsection 2.4.1 above and the provisions of subsection 2.5 below, the Town may enact the following provisions, and take the following actions, which shall be applicable to and binding on the development of the Property, providing they shall have general application to all property within the Town:

2.4.2.1. Future fees; whether hookup, access, impact and/or any other fees and charges;

2.4.2.2. Future land use ordinances, rules and regulations, permit requirements, other requirements and official policies of the Town that are consistent with the express provisions of this Agreement, and not contrary to the existing land use regulations applicable to and governing the development of the Property, as established in subsection 2.4.1 above, provided that such land use ordinances, rules, regulations, permit requirements, other requirements, and official policies shall, to the extent applicable, not involve the modification of any factual determinations of the Town memorialized in this Agreement and shall not materially impair the Developer’s ability to develop the Property in the manner provided in the Master Plan and this Agreement and that any such future ordinances, rules, regulations, permit requirements, other requirements, and

policies will be applied to the Property in a reasonable and prudent manner which is practicable under the circumstances, taking into account the factual determinations of the Town memorialized in this Agreement;

2.4.2.3. Future land use ordinances, rules, regulations, permit requirements, development and impact fees, other requirements, and official policies of the Town enacted as necessary to comply with mandatory requirements imposed on the Town by county, state or federal laws and regulations, court decisions, and other similar superior external authorities beyond the control of the Town;

2.4.2.4. Future generally applicable land use and other ordinances, rules, regulations, permit requirements, other requirements and official policies of the Town reasonably necessary to alleviate severe threats to public health and safety;

2.4.2.5. Future updates of, and amendments to, existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, and similar construction and safety related codes, which updates and amendments are generated by a nationally recognized construction/safety organization, such as the International Conference of Building Officials, or by the county, state or federal governments; and

2.4.2.6. Amendments to such construction and safety codes generated by the Town for the purpose of conforming such codes to conditions generally existing in the Town.

2.4.3. Zoning Code, Subdivision Regulation Amendments. The Master Plan reflects the most practical and efficient aesthetic layout compatible with surrounding uses and existing development, promoting a transitional land use pattern consistent with good and practical land use planning. The Master Plan will preserve and protect the natural and rural environment while enhancing the transportation and circulation system of the Town. Even without the Property being designated a "Special Development Subdivision," the provisions of the PAD overlay shall apply. In order to enhance, promote and ensure the "cluster" concepts and intent of the PAD zoning as it relates to the Master Plan as envisioned by the Council, Planning Commission, and Staff, the Town and Developer do hereby agree to use their best efforts to work with one another to promote and develop the Property in accordance with the intent of the Parties as set forth herein.

2.5. Anti-Moratoria. The Parties hereby acknowledge and agree that the Master Plan and this Agreement provide for the phasing of the development of the Property during the Term of this Agreement. Except in an emergency affecting or threatening the health and welfare of the inhabitants of the entire incorporated community, and unless a causal relationship is reasonably substantiated by the Council, with the advice and consultation of related federal and regional agencies, between the public emergency and a need for a moratoria on development of any kind to cause the alleviation or cessation of such public emergency, the Town will in good faith preserve contractual commitments and long-range economic stability, avoid the use of land development moratorium or ordinance, resolution or other

land use rule or regulation or limitation of the conditioning rate, timing, or sequencing of the development of the Property whether affecting parcel or subdivision maps, building permits, occupancy permits, or other entitlements to use issued or granted by the Town, or any portion thereof of properties within the incorporated boundaries and those areas outside of the boundaries of the incorporated boundaries of the Town over which the Town has any planning authority and responsibility, except as otherwise provided in Section 2.4 and other provisions of this Agreement. The Town agrees that, in order to allow Developer and its successors and assigns to rely upon the continued validity of the provisions of the Town's land use and development ordinances applicable to this Agreement regulating the development of the Property, the Town shall, during the Term hereof, take no action that would preclude Developer from achieving the uses and densities contemplated herein or interfere with the ability to timely develop the Property in accordance with the Master Plan and this Agreement.

- 2.6. Applicable Zoning. The Town and Developer acknowledge the zoning of the Property as of the effective date of this Agreement is MR-1/CL with a PAD overlay that allows for development of the Property pursuant to this Agreement and the Master Plan. The Town shall not initiate any changes or modifications to the zoning applicable to the Property except at the request of the Developer for the portion of the Property for which the change is sought.
- 2.7. Vested Rights. The Town agrees that for the Term of this Agreement, Developer shall have a vested right to develop the Property including, but not limited to, all water rights in accordance with this Agreement, the Master Plan and the zoning. The Town shall take no action that will materially frustrate the Developer's right to develop the Property in accordance with this Agreement, the Master Plan and the zoning. The determinations the Town memorialized in this Agreement, together with the assurances provided to Developer in this Agreement, are bargained for and in consideration for the undertakings of Developer set forth herein and contemplated by the Master Plan, and are intended to be and have been relied upon by Developer to its detriment in undertaking the obligations of Developer under this Agreement and the Master Plan. For example, in reliance on this Agreement and the Master Plan, Developer has spent monies to purchase the Property and conduct the planning, design, engineering, construction, acquisition, installations, and/or provision of public services/infrastructure improvements within and benefiting the Property and other property in the Town. The Town agrees that Developer shall be deemed to have a vested right to develop the Property in accordance with the Master Plan, this Agreement and the zoning.
- 2.8. General Plan. The Parties agree that the Town's current General Plan has incorporated the Property in a manner that is consistent with this Agreement and prior agreements of the Parties, the originating Conceptual Master Plan as amended and supplemented by the Master Plan as amended from time to time, the Planned Area Development provisions approved for the Property, and the zoning of the Property set forth in Arizona laws.
- 2.9. Municipality Decisions. Subject to Section 2.4 and the other provisions of this Agreement, the implementation of the Master Plan shall be in accordance with the development review

process of the Town. The Town and Developer agree that Developer must be able to proceed rapidly with the development of the Property and that an efficient process for Town review, approval of final plats, land development and construction inspection is necessary.

3. OPEN SPACE

3.1. Open Space. Developer agrees to reserve not less than 19.1 acres as open space within the Property as generally described in the Master Plan. Portions of such open space may be dedicated to the Town upon the Town's election to accept such dedications for use as a public park, recreational areas, and pedestrian and equestrian trails. Prior to implementing the Master Plan as to the open space, the Developer will give the Town notice of Developer's offer to dedicate any specific parcels. Town will notify Developer within a reasonable time thereafter whether Town will accept the proposed dedication parcels. If not dedicated to and accepted by the Town, Developer will add covenants and restrictions to the title binding a property owners' association to maintain the open space parcels as common area.

3.1.1. The deeds conveying any dedicated open space to the Town contemplated by this Section 3.1 may, at Developer's option, contain a use restriction, which restricts use of the applicable property to exclusively the public use specified in the Master Plan for a period of twenty (20) years and shall provide that such use may only be changed with the consent of two thirds of the then owners of the Property (excluding the Town as owner of the donated parcel). In the event the Town changes the specified use of the donated property without the consent of the then owners of the Property, the property owners' association of which such owners are members will have the right to require the Town to convey such donated parcel to the association free and clear of all monetary liens. Upon dedications of land by Developer to the Town pursuant to the provision of this Agreement, and after Town's acceptance of such dedication, the Town agrees to execute any acknowledgements or forms reasonably requested by Developer to substantiate the donation in compliance with Internal Revenue Service guidelines, rules, and regulations.

3.2. No Additional Dedications or Exactions. The Town agrees that, except for the dedications and exactions identified in this Agreement, the Town shall not attempt to acquire or require, through zoning or subdivision stipulations, any exactions, reservations; conditions or further dedications of portions of the Property or easements or other rights over portions of the Property for any purpose. Notwithstanding the foregoing, the Town may require dedication of interior streets and roads, minor arterial roadways and reasonable drainage and utility easements and certain incidental rights and easements which do not materially burden or interfere with the timely development of the Property pursuant to the Master Plan or this Agreement.

3.3. Private Rights-of-Way, Continuation, and Improvements: Address Naming. The Town and Developer hereby acknowledge and agree that Developer will have the right, with the concurrence of the Town, to retain and/or acquire ownership to some interior residential

streets and other rights-of-way located within the Property ("Private Rights-of-Way"). In addition, some or all of the Private Rights-of-Way may be conveyed to one or more property owners' associations created by Developer and/or any successor of Developer for this and other purposes. Private Rights-of-Way shall be built to comply with the road construction standards of the Town if within any portion of the Property that is developed with detached residential dwelling units and shall have a minimum pavement width of twenty-four (24) feet. Developer shall have the right to install access control structures within the medians of the Private Rights-of-Way at any portion of the Property. Developer shall grant to the Town an easement for police, fire, ambulance, garbage collection, water or sewer line repair, and other similar public purposes, over the Private Rights-of-Way. Developer shall have the right to name the private streets and the Town will give reasonable consideration to any name proposed by Developer for any new public streets not a continuation of an already-named public street. Major arterial streets within the Property as depicted in the Master Plan shall be dedicated to and accepted by the Town following construction pursuant to Town requirements.

- 3.4. Environmental Matters. The Town shall not be required to accept any conveyance, dedication or easement under this Agreement until Developer has supplied the Town with an environmental study sufficient to provide reasonable satisfaction to the Town that no environmental concerns exist with respect to any part of the Property to be dedicated to the Town. The Developer provided the Town in 2002 with a Phase I study of the Property which indicated that it was free of environmental concerns, and unless (i) the Property shall have since or hereafter be contaminated by hazardous substances or (ii) hazardous substances previously unknown to exist shall be discovered, the Town finds the Property's condition to be acceptable for dedications from an environmental perspective.

4. PHASING OF DEVELOPMENT/FINANCING

- 4.1. Phasing. The development planned for the Property, including the Infrastructure (as defined in Section 5.1 below), is intended by Developer to be carried out in phases over a number of years. Development of the Property is contemplated to progress in phases that may be non-contiguous until all of the Property is developed. The exact boundaries of each phase shall be established when Preliminary and Final Plats are approved for each phase. The Parties acknowledge that as of the effective date of this Agreement, approximately forty percent (40%) of the Property has been final platted.
- 4.2. Information Exchange and Cooperation. Not less than annually, upon request by the Town, Developer will provide the Town Council with the Developer's report on the development progress of the Property, including Developer's updated development schedule and forecast of the commercial and housing adsorption rates within the Property. The Town and Developer mutually agree to the importance of maintaining goodwill between the Parties and the positive goodwill generated by developing the community in a cooperative and open manner. Amendments to the Master Plan shall be retained in the Town's official file for the Property.

- 4.3. No Representation to Complete. Nothing contained in this Agreement or the Master Plan shall be deemed to obligate Developer to complete any part or all of the development of the Property in accordance with the Master Plan or any other plan, and the Master Plan shall not be deemed a representation or warranty by Developer of any kind whatsoever.
- 4.4. Improvement Districts. Any improvements to be constructed by Developer may be constructed, at Developer's option, through improvement districts, community facilities districts, or other special taxing districts, and the Town will cooperate in the organization of improvement districts, community facilities districts, or other special taxing districts if requested by Developer. All financing and other costs of such districts shall be paid by the Developer.

5. PUBLIC IMPROVEMENTS AND INFRASTRUCTURE

- 5.1. Developer's Obligations Generally. Public improvements and infrastructure required for design and development within the Property, including, but not limited to: septic tanks or other appropriate means of solids removal for first stage wastewater treatment; wastewater collection and discharge facilities, structures, or improvements as approved by the Town; water supply storage, treatment and distributions systems; road rights-of-way; public dedicated lands and related infrastructure; drainage and flood control structures; bridges; and communication lines and related infrastructure, (collectively, "Infrastructure"), shall be provided by the Developer as required; (a) in any Preliminary and Final Plat approved by the Town; (b) in this Agreement; and (c) in the Master Plan. Such Infrastructure shall be transferred to the Town at no cost to the Town upon final inspection by the Town and acceptance by the Town Council. However, it is acknowledged that the Developer shall have no obligation to construct or cause to be constructed and installed Infrastructure for any phase of the development for which a Final Plat has not yet been approved. The Developer does have the responsibility, and hereby acknowledges such responsibility, to complete to the Town's satisfaction, agreed-upon Infrastructure for all phases of the development for which a Final Plat has been approved. Such infrastructure shall be completed within two (2) years of the date of Final Plat approval. Financial assurances to ensure the completion of the Infrastructure shall be posted with the Town prior to Final Plat approval. If the Infrastructure is not completed within two (2) years, the Town shall have the right, at its sole discretion, to access the posted financial assurances to complete the Infrastructure. Financial assurance instruments shall be in a form acceptable to the Town. However, the Parties acknowledge that, if the Town and Developer enter into agreements subsequent to this Agreement concerning joint efforts to construct Infrastructure benefitting both the Property and the Town, the obligations of Developer and Town concerning the timing of construction of such Infrastructure shall be governed by such subsequent agreements.
- 5.2. Infrastructure Plan. The design, siting and placement of all Infrastructure, will be delineated and specified in the Master Plan, a copy of which is attached as Exhibit B, the Final Plat for each phase of development and approved plans and specifications. The Parties hereto acknowledge and agree that the Town, as necessary to implement the construction of Infrastructure, shall cooperate reasonably with, and assist in the

abandonment of, any unnecessary public rights-of-way or easements currently located on the Property, at the cost of the Developer. In the Amended Development Agreement, the Town agreed to provide (i) public access to the Property at Road 2 North, and (ii) utility easements to the Property from Road 2 North and the Peavine Trail and other areas to the extent they are owned by the Town. The Town has provided public access to the Property at Road 2 North and utility easements to the Property from Road 2 North.

5.3. Town's Use of Infrastructure. The Parties acknowledge that the Town may desire that Developer construct certain Infrastructure within the Property with greater capacity in order to provide services outside the Property. The Parties agree to negotiate in good faith regarding construction of Infrastructure to jointly benefit the Town generally and the Property and both Parties shall negotiate in good faith regarding mutually acceptable cost sharing agreements, if any, applicable to any such Infrastructure.

5.4. Infrastructure Assurances. The Parties hereto acknowledge and agree that the Town, prior to issuing a particular construction permit or permits for internal Infrastructure within each phase of the Property shall require the Developer to provide financial assurance instruments as indicated in Section 5.1 above to assure the Town that the installation of required streets, sewer, electric, drainage, flood control, and other Infrastructure directly related to such building permit or permits will be completed.

5.5. Water System.

5.5.1. Off-Site Infrastructure. Developer has constructed certain off-site infrastructure that included: (i) a one-million-gallon storage tank adjacent to the Peavine Trail (the "New Tank"), and (ii) the water line from the New Tank to the existing twelve (12) inch water line that transports water from the existing Country West well site for use within the Property (the "Water Line Connection"). The Town has accepted this off-site infrastructure, and agrees that the water storage requirements and the off-site water delivery system for the entire Property are deemed satisfied. The Addendum to Supplement to Amended Development Agreement and Related Agreements recorded October 3, 2007 further required Developer to construct a future waterline connection from the Highlands Ranch well site to the existing twelve (12) inch water line that serves to transport water from the existing Country West well site for use by Bright Star. The Town and Developer agree that, in exchange for the Developer's waiver of the right to receive the remaining payments due from the Town to Developer for reimbursement of the costs of infrastructure constructed per the Waterline Extension and Reimbursement Agreement dated March 6, 2003, Town hereby waives Developer's obligation to construct the future waterline from the Highlands Ranch well. From time-to-time, if, as, and when Developer elects to proceed with any phase of development of the Property, Developer (as between Town and Developer) shall be solely responsible for all costs of designing, engineering, permitting and constructing all on-site equipment and facilities for distribution of water within each such phase. Town shall review the designs, engineering and construction of all such on-site equipment and facilities pursuant to the Applicable Rules as defined in Section 2.4.1 above.

5.5.1.1. Reversion. In the event the Town supplements its water system such that the New Tank is rendered obsolete or use of the New Tank is abandoned by formal or informal action of the Town, the Town shall pay the cost of such removal of the New Tank, related equipment and other related improvements from its location and the ownership of the location upon which the New Tank was situated shall revert to Developer.

5.5.2. Unit 2, Phase 3 Incomplete Infrastructure.

5.5.2.1. The Town has no obligation to issue any building permits or certificates of occupancy for construction occurring within the area currently planned as "Amended Final Plat of Bright Star Unit 2, Phase 3, PAD Lots 1-91 and Tracts A, D, and P" until Developer provides the following: i) posting of Town-approved financial assurances; ii) completion of the normal permitting process for the infrastructure to be built, such as the filing of an application, providing plans and paying the requisite fee(s); and iii) completion of construction and approval due to the final inspection of the permitted infrastructure improvements.

5.5.3. Maintenance and Repair. Developer shall have no obligation to repair or maintain the Off-Site Infrastructure.

5.5.4. Water Service. Pursuant to the water source requirements of Section 7 below, the Town shall serve the water needs of the Property consistent with the terms of this Agreement.

5.6. Wastewater System. Town acknowledges that all off-site infrastructure necessary for the collection and transport of wastewater from the Property to the Town's wastewater treatment facility is complete. Developer shall have no further responsibility for construction of or payment for any offsite wastewater infrastructure to serve the Property.

5.6.1 Wastewater Service. The Town shall provide sewer service to the Property from Town's existing wastewater treatment facility. Town agrees to manage its existing wastewater treatment facilities to assure there is sufficient capacity for full development of the Property as contemplated herein.

5.7. Other Services. In addition to water and wastewater service, the Town shall provide to the Property all necessary utility and other services on the same basis that the Town provides utilities and services to the residents of the Town.

5.8. Developer's Right to Construct. The Town agrees to use its best efforts to cooperate with Developer in the preparation of plans, specifications, design work, proformas, and necessary related work product to provide land and easements, if required, and any entitlements currently owned by the Town that may be required by Developer.

- 5.9. Access Across Property/Road Improvement. In order to permit lawful public access across what are currently private portions of the Property, Developer agrees to dedicate to Town a roadway in the approximate location of the presently undedicated roadway shown on the Final Plat of Bright Star Unit I Phase I and Unit 2, Phase I as the Emergency/Secondary Access Easement which includes the easterly extension of Meridian Parkway and the portion of proposed Road 2 North within the Property that extends from the North-South portion of the Emergency Easement to the East side of the Property ("Emergency Easement"). The approximate route of such road as shown on the said Final Plat is attached hereto as Exhibit B. As Developer is in the process of preparing the plat for Phase 3 of Bright Star, it is understood and agreed that the dedication to Town shall match the final alignment of Meridian Parkway and the North-South road along the alignment of the Emergency Easement as the same shall be as shown on the plat for Phase 3 of Bright Star and that they may vary somewhat from those shown on Exhibit "B". At such time as the roads are incorporated into platted subdivisions with Bright Star, Developer shall complete the roads to Town standards. In the interim Developer shall have no obligation to develop or maintain such roads and Town will, at its cost, immediately grade and chip seal the roads to provide dust amelioration, install appropriate signage and maintain and patrol the road. In Phase 3 of Bright Star the Developer will complete Meridian Parkway extending easterly up to its intersection with the North-South roadway comprising part of the Emergency Easement and said North-South Road northerly up to its intersection with the alignment of proposed East-bound Road 2 North. To the extent that the final dedicated roadways do not match the existing Emergency Easement alignment shown on Exhibit B, Town will release the balance of such easement.
- 5.10. Unfinished Road and Trail Improvements. Developer will complete the following infrastructure improvements in the next phase of development after execution of this Agreement, as described below and as illustrated for ease of reference generally in Exhibit C, attached hereto and incorporated herein, to be amended and adjusted in the final plans:
- 5.10.1. Extension of Road 2 North. Developer will install approximately 20 feet of road pavement width on East Road 2 North between Utility Road and the Eastern property line of parcel number 306-02-0671 for fire access as shown on Exhibit C.
- 5.10.2. Equestrian Trail Connection. Developer shall construct an equestrian trail on the Property that connects Road 2 North to the Peavine Trail as illustrated in Exhibit C, or as otherwise agreed in writing by the Developer and Development Services Director.
- 5.10.3. Center Street Road Improvements. At such time as Developer's property located adjacent to and northerly of the southern boundary of current APN 306-02-671 is developed with roadways and other Infrastructure, Developer shall dedicate right-of-way and improve Center Street between Railroad Avenue and the western property line of APN 800-20-029H as shown on Exhibit C to the Town's then current standards.

6. REIMBURSEMENTS FOR OFF-SITE INFRASTRUCTURE

6.1. Reimbursements. The Parties agree no further reimbursements are due from the Town for construction of the Off-Site Infrastructure.

6.1.1. Indemnification of Town. In the event of any conflicting demands made by Developer and Fann Contracting, Inc. upon the Town concerning the obligations in the Sewer Hookup Fee Reimbursement Agreement dated April 28, 2005, Developer and Fann Contracting, Inc., jointly and severally, shall each indemnify and hold harmless the Town for, from, and against all costs, claims, losses, damages, attorney's fees, expenses and liabilities, which Town may incur or sustain in connection with this Agreement, or any interpleader action arising herefrom and will pay the same on demand, except to the extent such costs, claims, losses, damages, attorney's fees, expenses and liabilities arise from the Town's negligence, willful act or omission, or breach of any contractual obligation of Town in the Sewer Hookup Fee Reimbursement Agreement to the other parties.

7. WATER RESOURCES

7.1. Agreement to Provide Water Credits. Subject to the Town's reasonable ability with good faith efforts to secure uncommitted water supplies, the Town agrees to provide to Developer, for use in demonstrating an Assured Water Supply for the Bright Star Property, water credits representing rights to use groundwater, effluent, or other sources of water for 100 years after the date the credits are committed to a Certificate of Assured Water Supply ("Water Credits") that are physically, legally and continuously available, and consistent with achievement of the Prescott AMA Management Goal, sufficient to permit the Developer's acquisition of one or more Certificates of Assured Water Supply ("CAWS") for the Bright Star Property Phase 4 and subsequent phases from the Arizona Department of Water Resources ("ADWR"). Provision of these Water Credits shall be subject to the terms of this Section 7.

7.2. Quantity of Pre-Paid Water Credits for Developer's Excess Expenditures. The Town agreed that amounts paid by Developer for the New Tank and Water Line Connection up to the amount of \$745,000 would be a grant in aid of construction of this municipal facility. Amounts paid by Developer for the New Tank and Water Line Connection in excess of the \$745,000 grant in aid of construction would require the Town to provide Developer with access to water supplies for future phases of development of the Bright Star Property in amounts determined by the amount of Developer's excess expenditures for the New Tank and Water Line Connection over the \$745,000 grant in aid of construction, at the rate of \$25,000 per acre foot for each acre foot of one hundred year Water Credits usable by Developer to obtain a CAWS. Developer and Town agree that Developer spent a total cost of \$1,877,934.36 for the New Tank and Water Line Connection, so after subtracting the \$745,000 grant in aid of construction therefrom, Developer's excess expenditures total \$1,132,934.36. Developer is accordingly entitled to receive 45.3 acre-feet per year of pre-paid one-hundred-year Water Credits ("Pre-Paid Water Credits").

- 7.3. Physical Availability Determination for Effluent Recharge Credits for Future Phases. In order to secure additional water supplies that may be made available to Developer for Phase 4 of the Property and additional phases as determined by Developer, the Town has applied to ADWR and shall expeditiously seek approval by ADWR of a Physical Availability Determination of Effluent currently being collected, treated and stored in existing underground storage facilities by Town, and approval by ADWR of a Physical Availability Determination and Recovery Well Permits showing the physical, continuous and legal availability of Effluent recovered outside the area of hydrologic impact of storage. Developer will within 90 days from the effective date of this Agreement submit one or more concurrent Analysis of Assured Water Supply applications to reserve the Town's Effluent to Developer for use in Developer's application for a CAWS, or one or more applications for a CAWS, for the Bright Star Property for up to the volume of the Pre-Paid Water Credits (45.3 acre feet per year). Developer understands that, under ADWR's rules, the Town cannot control ADWR's reservation of groundwater determined physically available for competing applicants, and any Developer delay in submitting a complete and correct Analysis of Assured Water Supply application for the amount of groundwater needed to support physical availability of the Pre-Paid Water Credits may make the Pre-Paid Water Credits unavailable for use at the Bright Star Property (but the refund provision in 7.5 would still apply). The Town shall exercise good faith and commercially reasonable diligence to pursue the Physical Availability Determination and Recovery Well Permit approvals from ADWR as expeditiously as possible. Developer and the Town understand, and hereby confirm, that ADWR has the sole discretion and authority to determine when, how, and if ADWR will approve any of these applications by the Town.
- 7.4. Developer's Application for CAWS. Town shall make commercially reasonable efforts to secure the approval of its Physical Availability Determinations described in Section 7.3 above within one hundred and eighty (180) days from the effective date of this Agreement. Upon Developer's Request, Town shall cooperate with Developer to pledge the quantity of Pre-Paid Water Credits determined physically available in a Physical Availability Determination requested in Developer's Request to Developer's CAWS application. Developer shall file its CAWS application based on such pledge and Developer shall pursue such application in good faith and with commercially reasonable diligence. Developer may, in Developer's discretion, apply for one or more CAWS for the Bright Star Property but such applications shall not increase the volume of Pre-Paid Water Credits to which Developer is entitled under this Agreement.
- 7.5. Monetary Refund of Developer's Excess Expenditures. If Developer is unable to secure the CAWS from ADWR for any reason within one hundred twenty (120) days of Developer's application therefor, or if Town fails to obtain ADWR approval of a Physical Availability Determination for the amount of water needed to provide Developer with any portion of the Pre-Paid Water Credits within one hundred eighty (180) days from the date of this Agreement, then Town shall, within thirty (30) days after the Developer's notification to Town of failure to obtain the CAWS, or Town's failure to obtain the Physical Availability Determination, pay to Developer the sum of \$25,000.00 per acre foot for each acre foot of assured water supply Pre-Paid Water Credits pledged to Developer

but not resulting in an issued CAWS up to the prepaid 45.3 acre feet of one hundred year supply.

- 7.6. Water Portfolio Access Fee. For any development in the Bright Star Property for which Developer requests water beyond the 45.3 acre feet of Pre-Paid Water Credits, the Developer shall follow the Town Water Use Policy Ordinance currently at Town Code §51-035 *et seq.*, as it may be updated from time-to-time, including the payment of Water Portfolio Access Fees ("Access Fees") as adopted from time-to-time by the Town or as approved pursuant to a Water Transfer Agreement for any Town Water Credits that are determined available for new development by the Town and required by the Bright Star Property, except as expressly provided for in this Agreement.
- 7.7. Certificates of Assured Water Supply. Developer shall be responsible for filing all CAWS applications with ADWR and, except as specifically provided in this Agreement regarding the Water Credits, meeting all requirements of a CAWS, but the Town will reasonably cooperate with Developer's efforts to satisfy those requirements involving Town commitments. Developer shall obtain a CAWS from ADWR prior to Town's approval of the final plat for each phase or portion of the Property.
- 7.8. Type and Amount of Water Credits. Town may determine, in its sole discretion, the type and source of the Pre-Paid Water Credits to be provided to Developer so long as such Pre-Paid Water Credits meet the applicable criteria of being physically, legally and continuously available and consistent with the achievement of the Prescott AMA Management Goal for development of the Property as required by applicable law. The Parties understand and acknowledge that the Town anticipates providing effluent storage credits for such Pre-Paid Water Credits, rather than groundwater.
- 7.9. Third-Party Supplies. Developer shall have the option to acquire water from sources other than from the Town for all, or a portion, of the needs of Developer to secure CAWS from ADWR for the Property, but shall not acquire such other sources until the opportunity to use the Pre-Paid Water Credits has been satisfied, either by use of those credits or by notification from Developer to Town pursuant to section 7.5 hereof, or Town's failure to obtain the Physical Availability Determination within one hundred eighty (180) days from the date of this Agreement.
- 7.10. Water Credits: Successors and Assigns. Except as may otherwise be specifically set forth herein, this Agreement, as it shall be amended and/or supplemented from time-to-time, shall be binding upon and inure to the benefit of the Parties hereto, and their successors and assigns. Until other sources for Pre-Paid Water Credits become available to Town to fulfill its commitment to Developer under this Agreement or any Amendments and/or Supplements thereto, the Town will not transfer, assign and/or pledge any portion of the source of the Pre-Paid Water Credits committed under this Agreement to any other development or property. Neither Developer, nor any of its respective successors or assigns, shall transfer its interest in this Agreement, as amended and supplemented from time-to-time, or any of its rights or obligations hereunder, voluntarily or involuntarily, to any person or entity without the prior written consent of the Town, except in connection

with a transfer of the Property to which the Water Credits described herein have been committed by the Town, subject, however, to the restrictions and requirements provided for in the Agreement as amended and supplemented. It is the intent of this provision that the Pre-Paid Water Credits committed by the Town pursuant to this Agreement, and any CAWS issued by ADWR with respect thereto, shall be irrevocably devoted to the Property and not be severed and transferred separate and apart from the Property by anyone without the Town's prior written consent, which consent may be granted or withheld in the sole discretion of the Town. Notwithstanding the foregoing, the Town's consent shall not be required in the event of the transfer, mortgage or other hypothecation of the Property together with its applicable Pre-Paid Water Credits. In the event of a transfer of title of the Property (whether by conveyance or resulting from foreclosure, trustee's sale, other involuntary transfer or otherwise), the transferee shall be entitled to the rights and benefits under this Agreement by Developer and/or any successor in interest to Developer upon: (i) notifying the Town of such transfer in writing setting forth such reasonable information as may then be required by the Town, and (ii) providing the Town with a document, in form and content approved by the Town, pursuant to which the transferee assumes the obligations of Developer under this Agreement and agrees to abide by and comply with the then current development plan, zoning, Preliminary Plat and/or Final Plat for the Property as shall have been approved by the Town and the ordinances, rules and regulations of the Town as are applicable hereunder. The transferee to which the rights, benefits and obligations of the transferring Party are transferred shall thereafter be subject to the terms of this Agreement as now or hereafter amended and supplemented. In no event shall any Party be relieved of its obligations hereunder without the express written consent of each other Party; provided, it is understood and agreed that upon a transfer of all or any portion of the Property the transferor shall be relieved of any future obligation to pay Water Access Fees thereafter requested by the transferee with respect to the portion of the Property transferred, but not from any accrued obligation unless specifically assumed by the transferee in writing.

8. PROPERTY OWNERS' ASSOCIATION

8.1. Covenants, Conditions, and Restrictions; Property Owners Association. Developer may organize one or more property owners associations to: (i) oversee the operation and the maintenance of the common areas on the Property as identified on the tracts denoted on the Final Plats for the construction of any residential dwelling units or the approved site plans for the construction of the multiple family dwelling units and potential commercial uses; and (ii) comply with any and all obligations of Developer in this Agreement to maintain landscaping installed on the dedicated non-arterial rights-of-way that abut boundaries of the Property, subject to the inspection and approval by the Town of each completed portion of the infrastructure and approval by the Town of the financial capacity of the association. Developer shall have the right to record one or more declarations of covenants, conditions, and restrictions ("CC&Rs") for the residential subdivisions and any commercial subdivision within the Property in order to govern the development and use of the Property. The CC&Rs shall be consistent with the spirit and intent of the Master Plan, this Agreement, and all applicable laws and regulations of the Town prior to recording thereof.

9. NOTICES AND FILINGS

9.1. Any notice to a Party under this Agreement shall be in writing, and may be given by personal delivery, facsimile transmission (followed by mailing), recognized overnight courier or mail, and shall be deemed given and effectively served upon delivery, or if mailed, upon mailing provided it is thereafter actually delivered (or refused) and is mailed (postage prepaid) by certified or registered mail, return receipt requested, to the address of such Party set forth herein, or to such other address as shall have previously been specified in writing by such Party to all Parties hereto; provided, however, a notice of change of address for notices shall not be deemed made until actually received. Refusal to accept delivery or to sign a receipt, or the inability to deliver because of a changed address of which no notice previously was given, shall constitute actual receipt. Whenever a Party has the right or is required to do some act or give some notice within a prescribed period after the service of a notice or other paper upon that Party and the notice or other paper is served by mail only, three days shall be added to the prescribed period for response. Until changed as herein provided, notices shall be sent to the following addresses:

Town: Town of Chino Valley
P.O. Box 406
Chino Valley, AZ 86323
Attention: Town Manager
Town Clerk
Town Attorney

Developer: Estrella Vista Enterprises, LLC
P.O. Box 4356
Prescott, AZ 86302
Attn: Michael W. Fann

with a copy to:
Roberts & Carver, PLLC
239 South Cortez Street
Prescott, AZ 86303
Attn: Paul L. Roberts

10. DEFAULT AND DISPUTE RESOLUTION

10.1. Appointment of Representatives. To further the commitment of the Parties to cooperate in the implementation of this Agreement, the Town and the Developer each shall designate and appoint a representative to act as a liaison between the Town and its various departments and the Developer. The initial representative for the Town shall be the Town Manager or the Town Manager's designee, and the initial representative for the Developer shall be its Project Manager, as identified in writing to the Mayor and Town Manager by the Developer from time-to-time. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this Agreement

and the development of the Property pursuant to the Master Plan. The representatives may recommend amendments to the Master Plan or this Agreement, which may be agreed upon by the Parties.

- 10.2. Default and Cure. Failure or unreasonable delay beyond reasonable processing schedules by either Party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of thirty (30) days (the "Cure Period") after written notice thereof from the other Party shall constitute a default under this Agreement (a "Default"). The notice of Default shall specify the alleged Default and the manner in which the Default may be satisfactorily cured, if possible. In the event of a Default, one or both of the Parties' designated representatives will request amiable conference, to discuss such issues, of the appropriate technical, administrative staff of the appropriate Parties and the Town Manager, based upon the presumption that reasonable people can reason, compromise, and resolve issues together.
- 10.3. Dispute Resolution. In the event a dispute arises under this Agreement that has not been resolved under the notice and cure process in Section 10.2, the initiating Party shall send written notice to the other Party of the commencement of the ninety (90) day moratorium on litigation the Parties have agreed shall be instituted. During the ninety (90) day period, the Parties agree to attempt to settle the dispute through non-binding mediation before commencement of litigation. The mediation shall be held under the Commercial Mediation Rules of the American Arbitration Association ("AAA") but shall not be administrated by AAA unless agreed to by the Parties in writing, in which case all administrative fees shall be divided evenly between the City and Developer. The matter in dispute shall be submitted to a mediator mutually selected by the City and Developer. If the Parties cannot agree upon the selection of a mediator within ten (10) days, then within five (5) days thereafter, the City and Developer shall request that the Presiding Judge of the Superior Court in and for the County of Yavapai, State of Arizona, appoint the mediator. The cost of any such mediation shall be divided equally between the City and Developer. The results of the mediation shall be nonbinding with any Party free to initiate litigation upon the conclusion of the latter of the mediation or of the ninety (90) day moratorium on litigation. The mediation shall be completed in one day (or less) and shall be confidential, private, and otherwise governed by the provisions of A.R.S. § 12-2238, to the extent allowed by the Arizona Open Meetings Law, § 38-431 et. seq.

11. DURATION OF AGREEMENT/TERM

- 11.1. The term of this Agreement shall commence on the date of execution by both Parties hereto and shall, subject to extension as hereinafter provided, automatically terminate on the Tenth (10th) anniversary of such date (the "Term"). The Term hereof may be extended with the consent of the Town, at the Town's sole discretion, for up to an additional period of five (5) years upon the request of Developer submitted prior to the Eighth (8th) anniversary of the original Term.

12. MISCELLANEOUS

- 12.1. Tax Status of Property. The Town will support agricultural tax status for the undeveloped portions of the Property as determined by Yavapai County. Developer will be subject to the Town ordinances, rules or regulations as they pertain to agricultural property for those portions with agricultural tax status.

13. DEVELOPER'S REPRESENTATIONS

- 13.1. Developer represents and warrants that: (a) it is an Arizona limited liability company duly organized and validly existing under the laws of the State of Arizona; and (b) the execution, delivery, and performance of this Agreement has been duly authorized by the managing members thereof and the current owners of the Property, except those portions of the Property already sold to end users.

14. TOWN'S REPRESENTATIONS

- 14.1. The Town of Chino Valley represents and warrants that: (a) it is a validly existing and incorporated municipal corporation of the State of Arizona; and (b) its execution, delivery, and performance of this Agreement has been duly authorized and entered into on behalf of the Town.

15. BENEFIT AND BURDEN; ASSIGNMENT OF INTERESTS

- 15.1. All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the Parties hereto pursuant to A.R.S. § 9-500.05(D). In the event of a complete assignment by Developer of all rights and obligations of Developer hereunder, Developer's liability hereunder shall terminate effective upon the assumption of such obligation by Developer's assignee. Nothing in this Agreement shall operate to restrict Developer's ability to assign less than all of its rights and obligations under this Agreement to those entities that acquire any portion of the Property.

- 15.1.1. Notwithstanding the foregoing, the Town agrees that the ongoing ownership, operation and maintenance obligations provided by this Agreement may upon the Town's reasonable review and approval (including, without limitation, approval of financial capacity) be assigned to a property owners association to be established by Developer. Developer agrees to provide the Town with written notice at least sixty (60) day prior to making any binding commitment to assign any of Developer's rights or obligations.

- 15.1.2. Further, notwithstanding any other provisions of this Agreement, Developer may collaterally assign all or part of its rights and duties under this Agreement to any financial institution from which Developer has borrowed funds for use in constructing the Infrastructure or otherwise developing the Property.

16. GENERAL PROVISIONS

- 16.1. Recitals. The Recitals stated above are incorporated into this Agreement as if restated in full below.
- 16.2. Amendments. This Agreement may be amended only by a written agreement fully executed by the Town and the Developer. Major amendments shall be adopted by Town ordinance or resolution and recorded in the Office of the Yavapai County Recorder within ten (10) calendar days of its execution by authorized representatives of the Parties.
- 16.3. Attorney's Fees. If any Party Defaults hereunder, the defaulting Party shall pay for other Party's reasonable attorney's fees, expert witness fees, deposition and trial transcript costs, and costs of court and other similar costs or fees paid or incurred by the other Party by reason of or in connection with the Default (whether or not legal or other proceedings are instituted). In the event either Party hereto finds it necessary to bring an action at law or other proceeding against the other Party to enforce any of the terms, covenants, or conditions hereof or any instrument executed pursuant to this Agreement, or by reason of any breach hereunder, the Party prevailing in any such action or other proceeding shall be paid all costs and reasonable attorney's fees by the other Party, and in the event any judgment is secured by such prevailing Party, all such costs and attorney's fees shall be included in any such judgement, with attorney's fees to be set by the court and not by jury.
- 16.4. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from the counterparts and the signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.
- 16.5. Entire Agreement. Except as otherwise set forth in Recital R hereof, this Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof.
- 16.6. Time of Essence. Time is of the essence in implementing the Terms of this Agreement. If the time for performing any act hereunder falls on a day that is not a business day, it may be performed on the next succeeding business day. A "business day" is any day that is not a Saturday, Sunday, or legal holiday in the State of Arizona.
- 16.7. Waiver. No waiver by any Party of a breach of any of the terms, covenants or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. Furthermore, no delay in exercising any right or remedy shall constitute a waiver thereof.
- 16.8. Severability. In the event any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void or against public policy for any reason, or shall be held by any court of competent jurisdiction to be illegal,

null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law. If a court prohibits or excuses the Town from completing any act required of it by this Agreement, and the Town fails to voluntarily take such action, the Developer may terminate this Agreement following expiration of the notice and Cure Period set forth in subsection 10.2 above if the Town declines to take such action during the Cure Period.

- 16.9. Force Majeure. If either Party hereto is prevented from performing any of its obligations under this Agreement by reason of natural disasters, wars, insurrections, strikes, acts of government or any other circumstances beyond its control, the particular failure or failures occasioned thereby shall be waived during such period of prevention and shall not be considered breaches of this Agreement.
- 16.10. Headings. The descriptive headings of the Sections and subsections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- 16.11. Exhibits. Each of the Exhibits attached hereto shall be deemed to have been incorporated herein by this reference, with the same force and effect as if fully set forth in the body hereof.
- 16.12. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as are reasonably necessary, from time-to-time, to carry out the matters contemplated by this Agreement.
- 16.13. No Partnership/Third Party Rights. It is not intended by this Agreement to, and nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between the Developer and the Town. No term or provision of this Agreement is intended to, or shall be for the benefit of any person, firm, organization or corporation not a Party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.
- 16.14. Title to Names, Plans, Etc. Except with regard to improvements and infrastructure constructed pursuant to public bidding processes, the Developer shall be the owner of all names, titles, plans, drawings, specifications, ideas, programs, designs, and work products of every nature developed, formulated or prepared by or at the instance of the Developer in connection with the Property; provided, however, that in connection with any conveyance of portions of said Property to the Town, such rights pertaining to the portions of Property so conveyed shall be assigned (to the extent such rights are assignable) to the Town. Furthermore, notwithstanding the foregoing, the Developer shall be entitled to utilize all such materials described herein to the extent required for the Developer to construct, operate or maintain improvements and Infrastructure relating to the Property.
- 16.15. Conflict of Interest. This Agreement may be cancelled without penalty pursuant to A.R.S. § 38-511 in the event of a conflict of interest as described therein.

16.16. Recordation. This Agreement shall be recorded in the Office of the County Recorder of Yavapai County within ten (10) calendar days of execution. The Town and Developer agree that only Exhibit A will be recorded with the Agreement, and that all other exhibits are included herein by reference and are adopted and shall be maintained in a permanent file in the Office of the Town Clerk of the Town.

IN WITNESS WHEREOF, the Parties hereto have executed this Restated and Amended Development Agreement – Bright Star Property by and through their authorized representatives the day and year first above written.

TOWN OF CHINO VALLEY,
a municipal corporation of Arizona

By: _____

Its: _____
“Town”

APPROVED AS TO FORM:

Michelle Van Quathem, Special Counsel

ATTEST: _____
Erin N. Deskins, Town Clerk

ESTRELLA VISTA ENTERPRISES, LLC,
an Arizona limited liability company

By: _____


Michael W. Fann, Member
"EVE"

Exhibit A
Property Description
Restated and Amended Development Agreement - Bright Star Property

Parcel 306-02-006:

That parcel lying East of the AT&SFRR in Section 13, T16N, R2W, and the NE¼ and the W½ lying East of the AT&SFRR in Section 24, T16N, R2W, containing 420.44 acres.

Exhibit B
Restated and Amended Development Agreement - Bright Star Property
Master Plan

PHOTOGRAPH BY: [illegible] FEET: 4300

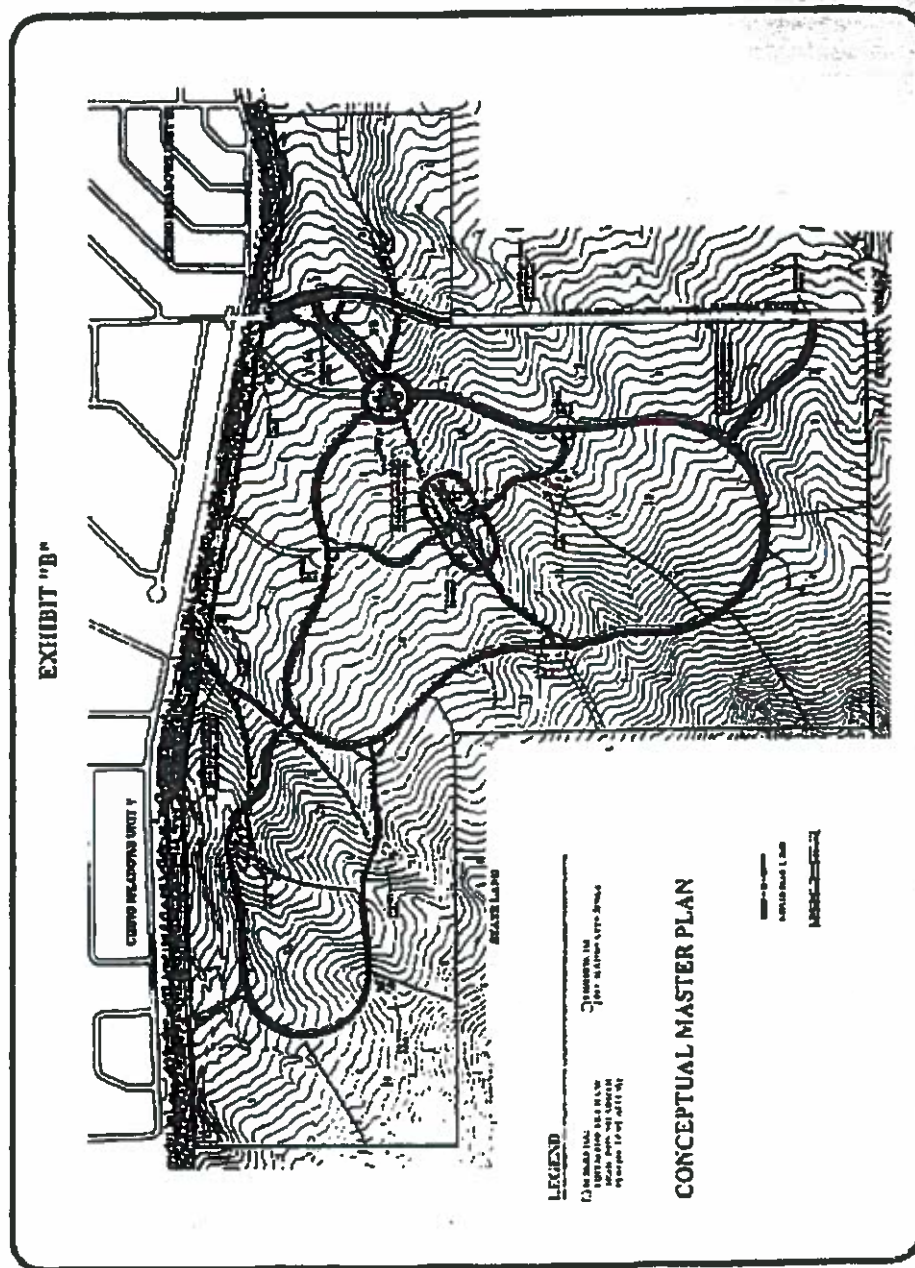
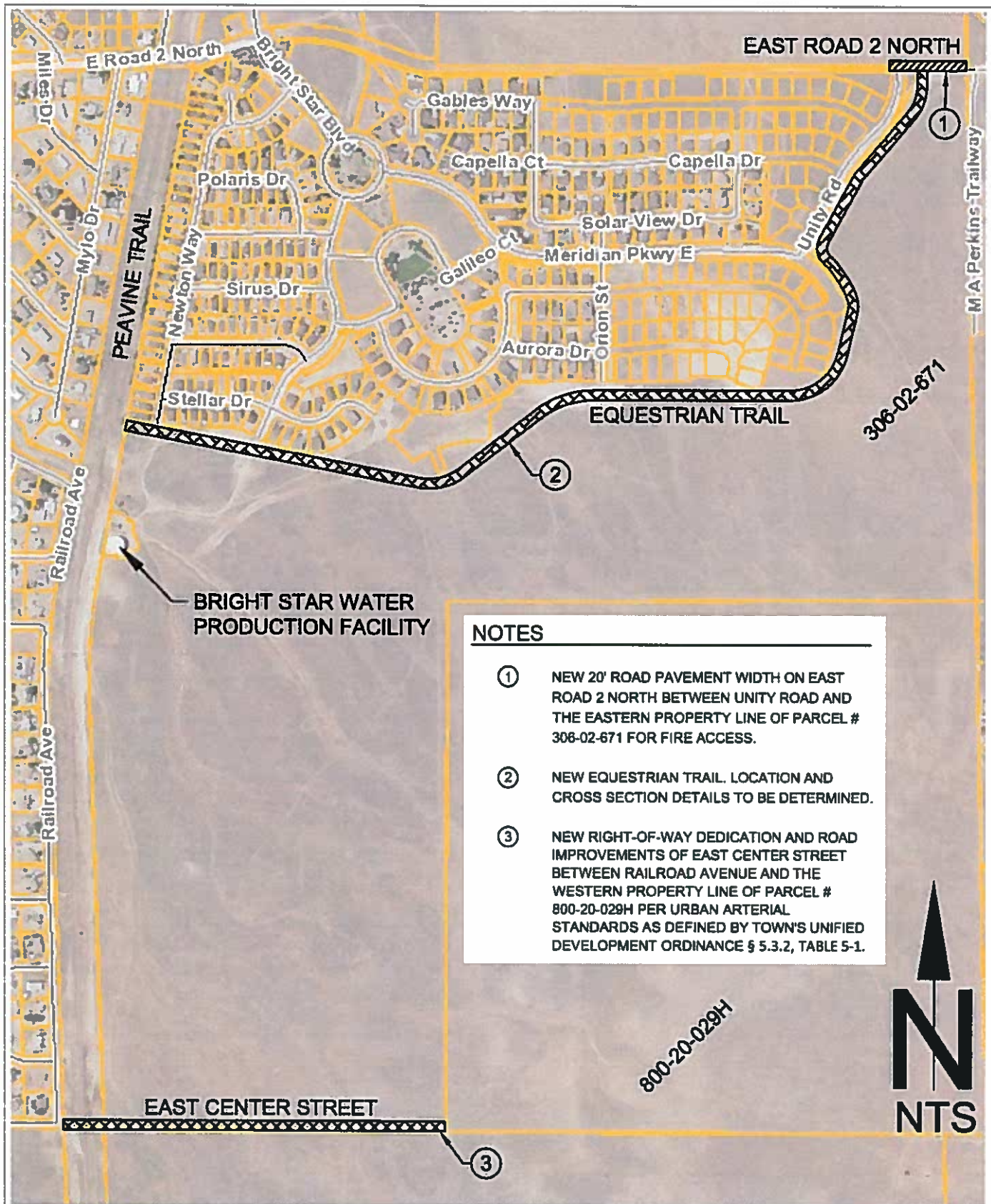


Exhibit C
Restated and Amended Development Agreement - Bright Star Property
Unfinished Improvements



BRIGHT STAR SUBDIVISION STIPULATIONS EXHIBIT 06/07/2021

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. c.

Meeting Date: 09/13/2022
Contact Person: Will Dingee, Senior Planner
 Phone: 928-636-4427 x-1233
Department: Development Services
Estimated length of staff presentation: 5 minutes
Physical location of item: 828 E Road 4 South

AGENDA ITEM TITLE:

Consideration and possible action to approve an amendment to the existing Medical Marijuana Protected Development Right Site Plan, for AZ Organics LLC, located at 828 E. Road 4 South, to modify the approved site plan by changing the six (6) remaining, unbuilt buildings, into one (1) building of the same square footage. (Will Dingee, Senior Planner)

RECOMMENDED ACTION:

Approve the amendment to the AZ Organics' existing Protected Development Right Site Plan, PDR16-004.

SITUATION AND ANALYSIS:

The Protected Development Right (PDR) was granted to the AZ Organics' site in 2016 which allows for a total of 122,400 square feet of cultivation area, specific to Medical Marijuana (MMJ), to be constructed on site by 2021. In March of 2021, Town Council approved a one-time, two-year extension of this time limit. The property owner is requesting to modify the existing Council approved site plan by changing the six (6) remaining, unbuilt cultivation buildings totaling 88,400 square feet, into one (1) building of the same square footage.

Items to note:

- If the Town Council chooses to approve this amendment, it will not expand the time limit to develop this site. Per Arizona Revised Statute, no additional time limit extensions can be granted. The PDR is set to expire in February 2023.

Town Staff is forwarding a recommendation of approval of the PDR site plan amendment to Town Council. The original site plan from 2016, the amended site plan and submittal letter from the applicant are attached.

Fiscal Impact

Fiscal Impact?: N/A

If Yes, Budget Code:

Available:

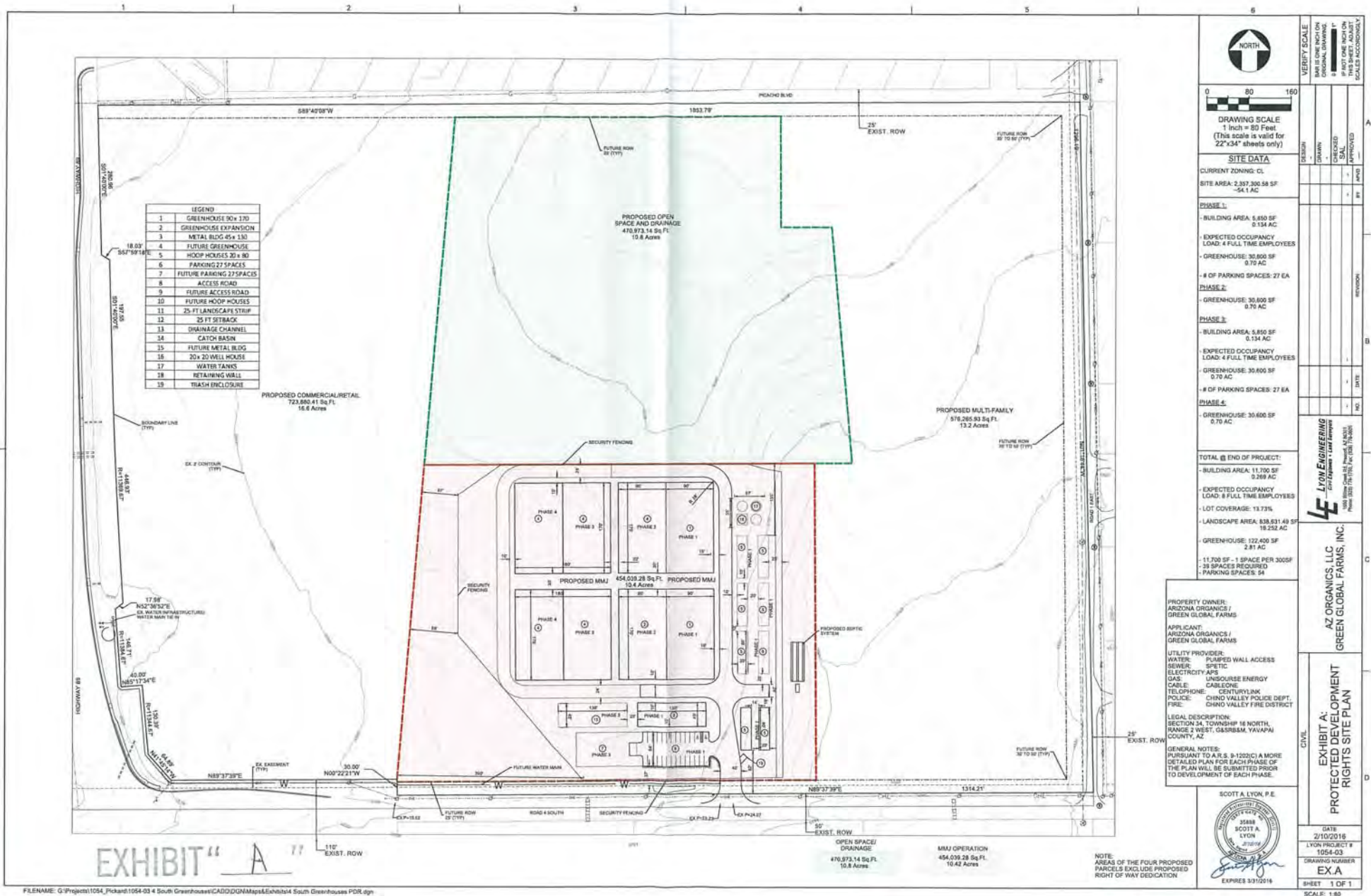
Funding Source:

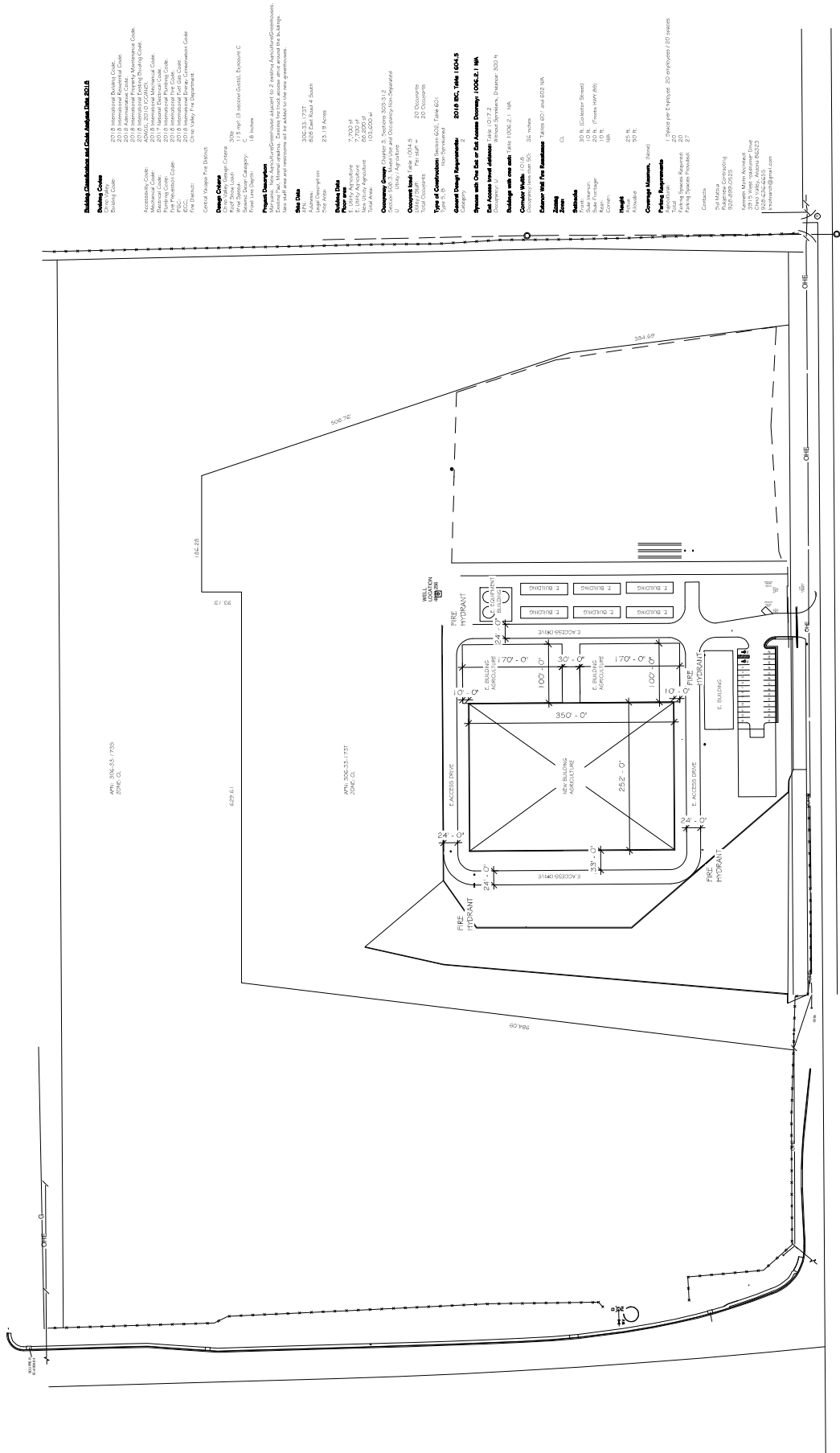
Attachments

2016 Site Plan

Proposed Site Plan

Applicant Letter





① Site Plan
1" = 80'-0"

PHASED PROTECTED DEVELOPMENT RIGHTS PLAN 16-004
AMENDMENT REQUEST
FOR 51 +/- ACRES

ORIGINAL PARCELS 306-33-173R and 306-33-173Q

NEW PARCELS 306-33-173S and 306-33-173T

Submitted by:

Owner: AZO One Members LLC
&
Applicant: AZ Organics LLC ("AZO")
828 E Road 4 South
Chino Valley, AZ 86323

Submitted To:

The Town of Chino Valley ("Town")
Development Services
Planning and Zoning Division
1982 Voss Drive
Chino Valley, AZ 86323

Overview of the Property:

The Property consists of 51 +/- acres of land which includes 23.15 acres of the Property for the marijuana production site with only 10.4 acres being utilized for cultivation facilities and 3.1 acres being buildings and greenhouses.

Overview and Progress of Approved Phased Protected Development Rights Plan:

PDR Plan 16-004 was initially approved by the Town Council on February 23, 2016, with an effective date of March 22, 2016. The approved plan consisted of three (3) phases with Phase A being specific to development of the MJ Cultivation facilities within the MJ Site, Phase B being commercial development along Hwy 89, and Phase C being multi-family development along Road 1 East.

On, or around, March 9, 2021, the Town Council approved a two-year extension as provided in the Site Plan marked as Exhibit "A". Since the Town Council's extension approval, of the extension, AZO and our project consultants determined a slight modification of the Site Plan, as seen in Exhibit "B", would better suit our needs.

It is expected the facilities will be constructed substantially consistent with the Site Plan, as reflected in Exhibit "B", however the Protected Development Rights statutes do not envision or provide this Plan will control the building or design of the buildings to be completed on the Property. Thereto, all construction will proceed through the typical Town building approval process and will comply with applicable building codes.

Today, AZO respectfully requests the Mayor and Town Council approve this Amended Site Plan.

With Appreciation,



Chad Pipkin
Managing Member
AZ Organics LLC



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. d.

Meeting Date: 09/13/2022

Contact Person: Will Dingee, Senior Planner
Phone: 928-636-4427 x-1233

Department: Development Services

**Estimated length
of staff presentation:** None

Physical location of item: 1300 South of the intersection of East Perkinsville Road and Salida Del Sol

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve the Del Sol North Minor Subdivision Final Plat consisting of 10 lots, one acre in size or larger, located approximately 1300 feet south of the intersection of East Perkinsville Road and Salida Del Sol on the northern half of parcels 306-18-038A, 038B, and 038C. Applicant: Jay Bates on behalf of Right Homes. (Will Dingee, Senior Planner)

RECOMMENDED ACTION:

- (i.) Hold Public Hearing
- (ii.) Approve the Del Sol North Minor Subdivision Final Plat subject to the following condition:
 - 1. Permits for the development shall not be issued until the Maintenance Improvement District has been recorded with the County.

SITUATION AND ANALYSIS:

Location: Approximately 1300 feet south of the intersection of East Perkinsville Road and Salida Del Sol

Zoning: Single Family Residential 1-acre minimum (SR-1)

General Plan Land Use Designation: Medium Density Residential

Property Size: Approximately 13 Acres

Existing Use: Vacant Land

The Del Sol North Minor Subdivision Final Plat meets all requirements set by both sections 5.2.4 and 5.2.7 of the Unified Development Ordinance. The site will have its main access by way of a newly created road off of Salida Del Sol. The new road is intended to be dedicated to the Town of Chino Valley as it will be constructed to Town public road standards. The landscape and drainage tracts will also be dedicated to the Town and will be maintained through a Maintenance Improvement District (MID) funded by the properties within this platted subdivision. The development will use onsite wells and septic systems. The Development Services Department and Public Works Department have completed their review of the Final Plat. Any further divisions of this property will have to come through the plat amendment process and be brought back for Town Council approval.

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

AttachmentsFinal Plat - North

FINAL PLAT OF
DEL SOL NORTH
BY RIGHT HOMES LLC

TYPICAL BUILDING SET BACK LINES

MONUMENTATION

- = SET 1/2" REBAR WITH CAP, LS 67585, OR AS NOTED
○ = CALCULATED POSITION, NOTHING SET AT THIS LOCATION
(1) = SET CENTERLINE MONUMENT IN PAVEMENT

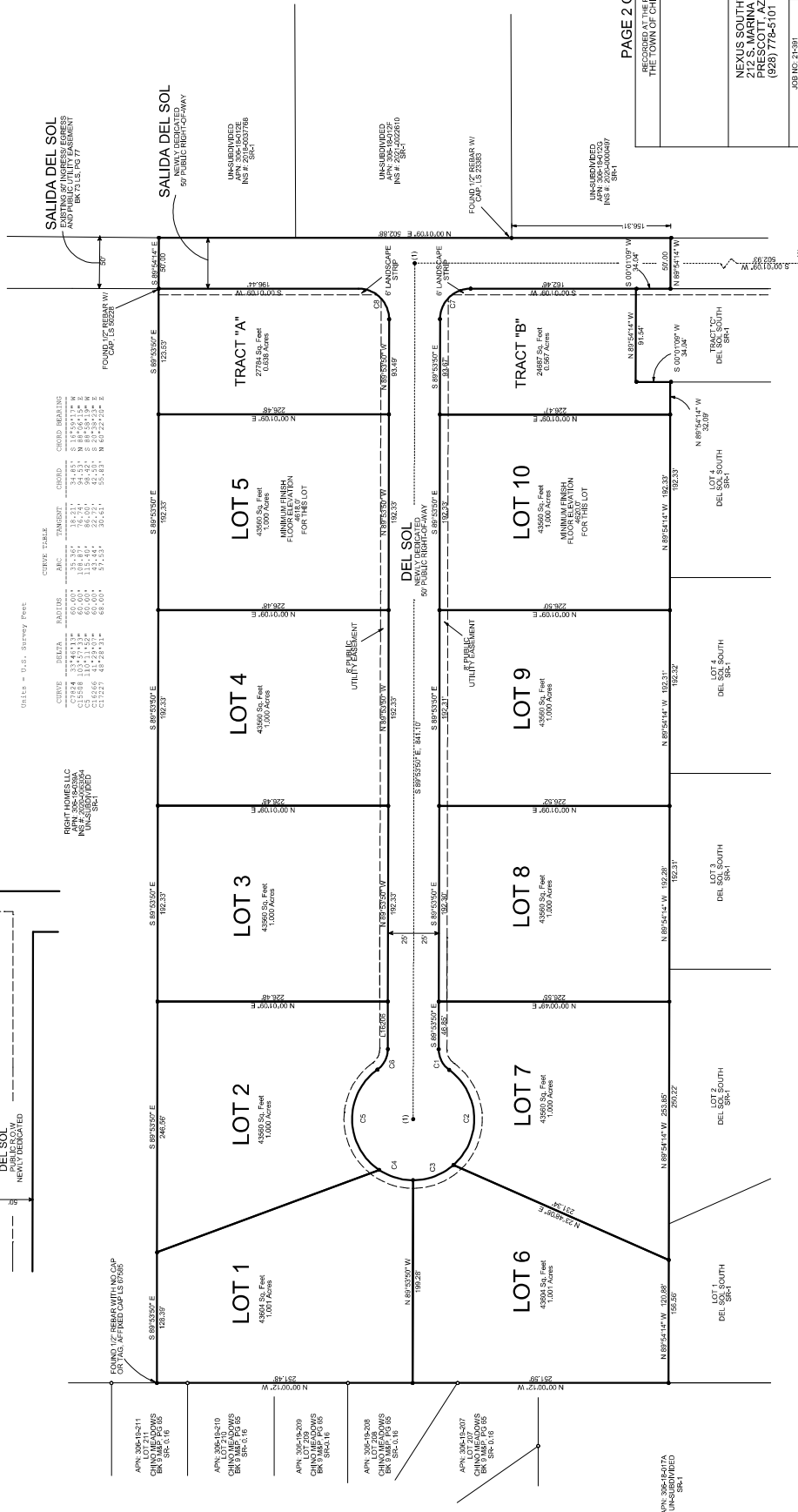
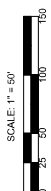
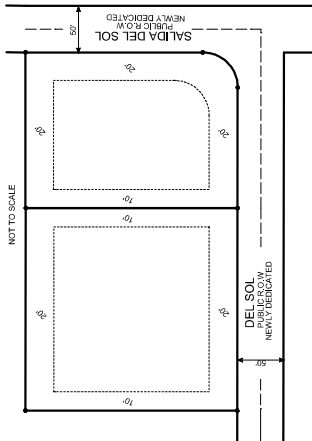
CURVE TABLE

CURVE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C1	43°56'05"	6000'	23,455'	12,713'	22,695'	S 63°10'08" W
C2	48°28'31"	6000'	50,767'	27,011'	49,265'	S 69°02'27" W
C3	42°26'31"	6000'	60,000'	66,605'	88,342'	N 47°38'37" W
C4	95°29'35"	6000'	100,000'	60,605'	88,342'	N 47°38'37" W
C5	48°28'31"	6000'	50,767'	27,011'	49,265'	S 69°10'05" W
C6	43°56'05"	6000'	23,455'	12,713'	22,695'	S 63°10'08" W
C7	90°05'02"	3000'	47,168'	23,466'	47,168'	S 69°25'44" E
C8	90°05'02"	3000'	47,168'	23,466'	47,168'	N 48°40'02" E

Units = U.S. Survey Feet

CURVE TABLE		CHORD		CHORD BEARING	
ARC	TANGENT	CHORD	CHORD BEARING	CHORD	CHORD BEARING
35.35°	18.21	34.05	S 16°59.1' E	M	
35.35°	76.74	94.53	N 88°06.1' E	M	
115.87°	86.00	98.42	S 88°58.1' E	M	
43.54°	22.72	42.50	S 20°38.2' E	F	
77.53°	30.61	65.81	N 60°32.2' E	F	

RIGHT HOMES LLC
APN: 306-18-039A
ASS #: 2020-0063054
UN-SUBDIVIDED
SR-1



PAGE 2 OF 2

RECORDED AT THE REQUEST OF
THE TOWN OF CHINO VALLEY

NEXUS SOUTHWEST
212 S. MARINA ST.
PRESCOTT, AZ 86303
(928) 778-5101

RAW: AMH
4/4/22
CHK: AMH
4/4/22



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. e.

Meeting Date: 09/13/2022

Contact Person: Will Dingee, Senior Planner
Phone: 928-636-4427 x-1233

Department: Development Services

Estimated length None

of staff presentation:

Physical location of item: 1300 South of the intersection of East Perkinsville Road and Salida Del Sol

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve the Del Sol South Minor Subdivision Final Plat consisting of 10 lots one acre in size or larger and located approximately 1300 feet south of the intersection of East Perkinsville Road and Salida Del Sol on the southern half of parcels 306-18-038A, 038B, and 038C. (Will Dingee, Senior Planner)

RECOMMENDED ACTION:

- (i.) Hold Public Hearing
- (ii.) Approve the Del Sol South Minor Subdivision Final Plat subject to the following condition:
 - 1. Permits for the development shall not be issued until the Maintenance Improvement District has been recorded with the County.

SITUATION AND ANALYSIS:

Location: Approximately 1300 feet south of the intersection of East Perkinsville Road and Salida Del Sol

Zoning: Single Family Residential 1-acre minimum (SR-1)

General Plan Land Use Designation: Medium Density Residential

Property Size: Approximately 13 Acres

Existing Use: Vacant Land

The Del Sol South Minor Subdivision Final Plat meets all requirements set by both sections 5.2.4 and 5.2.7 of the Unified Development Ordinance. The site will have its main access by way of a newly created road off of Salida Del Sol. The new road is intended to be dedicated to the Town of Chino Valley as it will be constructed to Town public road standards. The landscape and drainage tracts will also be dedicated to the Town and will be maintained through a Maintenance Improvement District (MID) funded by the properties within this platted subdivision. The development will use onsite wells and septic systems. The Development Services Department and Public Works Department have completed their review of the Final Plat. Any further divisions of this property will have to come through the plat amendment process and be brought back for Town Council approval.

Fiscal Impact

Fiscal Impact?: N/A

If Yes, Budget Code:

Available:

Funding Source:

Attachments

Final Plat - South UPDATED

Del Sol South

BY RIGHT HOMES LLC.

LOCATED IN THE NW QUARTER OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 2 WEST
OF THE GILA AND SALT RIVER BASE AND MERIDIAN

OWNER/DEVELOPER
RIGHT HOMES LLC
1515 S. MARINA ST.
PRESCOTT, AZ 86303

LAND SURVEYOR
JAY BATES
NEXUS SOUTHWEST LLC
212 S. MARINA ST.
PRESCOTT, AZ 86303
INFO@NEXUS-SW.NET

ENGINEERING
1408 S. MARINA ST.
PRESCOTT, AZ 86303
PH: 928-524-4444

ZONING: SR-1
TOTAL AREA: 13.064 ACRES
TOTAL LOTS: 10
AVERAGE LOT SIZE: 1 AC
MAXIMUM LOT SIZE: 1 AC
MINIMUM LOT SIZE: 1 AC

FLOODPLAIN

NO PORTION OF THIS SUBDIVISION FALLS WITHIN A FEMA DESIGNATED SPECIAL FLOOD ZONE. THE SUBDIVISION IS LOCATED IN AN AREA OF LOW FLOOD RISK. THE SUBDIVISION IS NOT LOCATED IN A FLOOD HAZARD ZONE. THE SUBDIVISION IS NOT LOCATED IN A FLOOD HAZARD ZONE. THE SUBDIVISION IS NOT LOCATED IN A FLOOD HAZARD ZONE.

ZONING

ALL CONSTRUCTION SHALL COMPLY WITH CITY CODES AND SETBACK DIMENSIONS PER TOWN OF CHINO VALLEY SR-1 ZONING.

UTILITY NOTE

ALL NEWLY CREATED LOTS SHOWN HEREON ARE TO HAVE WATER PROVIDED BY INDIVIDUAL WELLS LOCATED ON EACH LOT. THE SUBDIVISION IS NOT LOCATED IN A FLOOD HAZARD ZONE. THE SUBDIVISION IS NOT LOCATED IN A FLOOD HAZARD ZONE. THE SUBDIVISION IS NOT LOCATED IN A FLOOD HAZARD ZONE.

LEGAL DESCRIPTION

A PORTION OF PARCELS 51 AND 52 LOCATED IN SECTION 14, TOWNSHIP 16 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA ARE COMING HEREIN TO BE REBARR'D BY THE SURVEYOR. THE SUBDIVISION IS NOT LOCATED IN A FLOOD HAZARD ZONE. THE SUBDIVISION IS NOT LOCATED IN A FLOOD HAZARD ZONE. THE SUBDIVISION IS NOT LOCATED IN A FLOOD HAZARD ZONE.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

THAT RIGHT HOMES LLC, the owner of the lands shown hereon, HEREBY CERTIFIES THAT THE LANDS SHOWN HEREON ARE NOT SUBJECT TO ANY EASEMENTS, RIGHTS, OR INTERESTS OF ANY KIND, AND THAT THE LANDS SHOWN HEREON ARE NOT SUBJECT TO ANY EASEMENTS, RIGHTS, OR INTERESTS OF ANY KIND.

1. THIS PLAT SUBDIVIDES THE LANDS CONTAINED IN THE WARRANTY DEED RECORDED IN INSTRUMENT NUMBER 202-003564 IN TO LOTS AS SHOWN HEREON.

2. HEREIN, NEWLY CREATED LOTS SHALL BE KNOWN NOW AND HEREAFTER BY THE LOT NUMBERS SHOWN HEREON.

3. A NEW 100' WIDE PUBLIC RIGHT-OF-WAY IS HEREBY CREATED AND DESIGNATED TO THE TOWN OF CHINO VALLEY FOR PUBLIC USE. THIS RIGHT-OF-WAY TERMINATES AT A CORNER WITH A 60' FOOT RIGHT-OF-WAY. THIS RIGHT-OF-WAY SHALL BE KNOWN NOW AND HEREAFTER AS "SALUDA DEL SOL".

4. ALL NEWLY CREATED LOTS AND TRACTS SHOWN HEREON ARE PART OF A DESIGNATED MAINTENANCE DISTRICT AND ARE SUBJECT TO ALL ASSOCIATED STIPULATIONS AND REQUIREMENTS THEREOF.

5. TRACTS "C", "D", & "E" ARE CREATED TO TRANSFER AND CONTAIN STORM WATER RUN OFF. THESE TRACTS ARE HEREBY MAINTAINED TO REMAIN OPEN AND UNDEVELOPED. THE DRAINAGE SHALL BE MAINTAINED TO REMAIN OPEN AND UNDEVELOPED. THE DRAINAGE SHALL BE MAINTAINED TO REMAIN OPEN AND UNDEVELOPED.

6. INSIDE TRACTS "C", "D", & "E" A 6' FOOT LAND SCAPING STRIP IS HEREBY CREATED ALONG THE WESTERLY BOUNDARY OF THE SALUDA DEL SOL. THIS STRIP SHALL BE MAINTAINED AS A LANDSCAPING STRIP FOR THE USE OF THE TOWN OF CHINO VALLEY FOR PUBLIC USE.

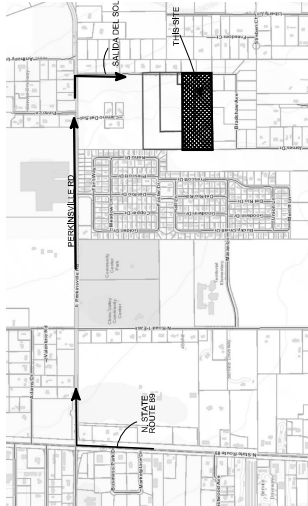
7. SALUDA DEL SOL, EXISTING 80' FOOT WIDE, IS HEREBY DESIGNATED AS A PUBLIC UTILITY EASEMENT. THIS EASEMENT IS TO BE USED FOR THE TOWN OF CHINO VALLEY FOR PUBLIC USE.

8. AN 8' FOOT PUBLIC UTILITY EASEMENT IS HEREBY CREATED ALONG THE NEWLY DEDICATED SALUDA DEL SOL.

IN WITNESS WHEREOF, RIGHT HOMES LLC HAS CAUSED THE NAME OF THE LIMITED LIABILITY CORPORATION TO BE AFFIXED HERETO, AND THE SAME TO BE ATTESTED TO BY THE SIGNATURE OF JOHN V. BATES, AGENT, BEING DULY AUTHORIZED TO DO SO.

JOHN V. BATES, MEMBER

VICINITY MAP



SURVEYOR CERTIFICATION

I, ADAM M. HAYWOOD, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA. THAT THIS PLAT REPRESENTS A SURVEY OF THE LANDS SHOWN HEREON, AND THAT THE SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THAT ALL MONUMENTS SHOWN ACTUALLY EXIST AT THE DATE HEREOF AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED AND RECORDED OF THIS PLAT.



ACCEPTANCE

THIS FINAL PLAT AND ALL RECORDS CONTAINED THEREIN HAVE BEEN APPROVED OF AND ACCEPTED BY THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, ON THIS _____ DAY OF _____, 2022.

TOWN MANAGER _____ DATE _____

TOWN CLERK _____ DATE _____

APPROVED BY THE COMMUNITY DEVELOPMENT DEPARTMENT OF THE TOWN OF CHINO VALLEY ON THIS _____ DAY OF _____, 2022

DEVELOPMENT SERVICES DIRECTOR _____ DATE _____

ENGINEERING CERTIFICATION

THIS PLAT HAS BEEN CHECKED FOR CONFORMANCE WITH SPECIAL CONDITIONS. THE SURVEYOR HAS REVIEWED THE PLAT AND FOUND IT TO BE IN CONFORMANCE WITH ALL APPLICABLE REGULATIONS AND STANDARDS. THE SURVEYOR HAS REVIEWED THE PLAT AND FOUND IT TO BE IN CONFORMANCE WITH ALL APPLICABLE REGULATIONS AND STANDARDS.

TOWN ENGINEER _____ DATE _____

COMPLIANCE

THIS PLAT IS IN COMPLIANCE WITH CURRENT SUBDIVISION REGULATIONS AND CODES. THE PLAT IS IN COMPLIANCE WITH CURRENT SUBDIVISION REGULATIONS AND CODES.

WATER NOTE

CERTIFICATE OF ASSURED WATER SUPPLY HAS BEEN ISSUED THROUGH THE ARIZONA DEPARTMENT OF WATER RESOURCES, APPLICATION NUMBER 27-0-000-0003

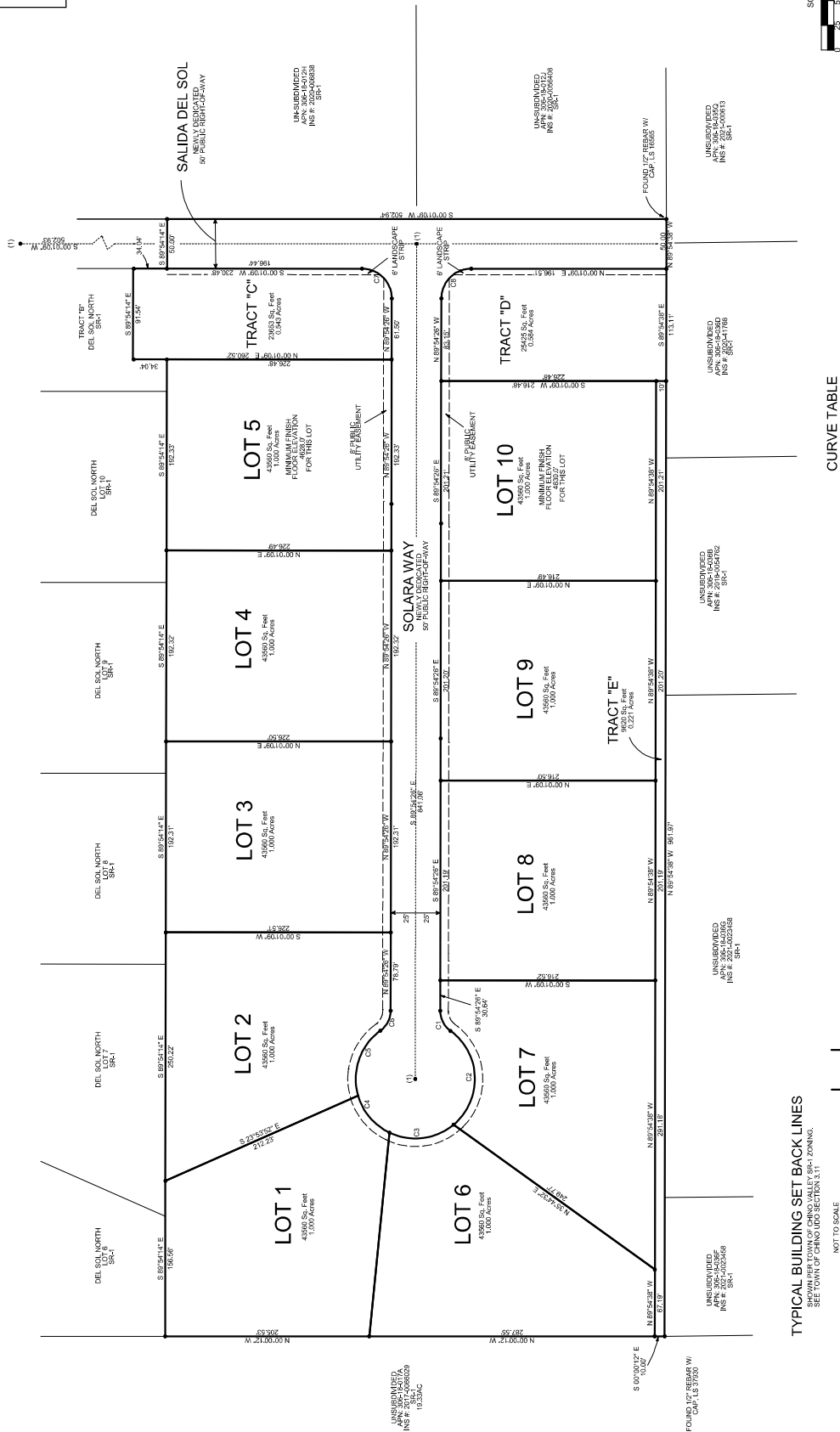
PAGE 1 OF 2

RECORDED AT THE TOWN OF CHINO VALLEY

NEXUS SOUTHWEST LLC
212 S. MARINA ST.
PRESCOTT, AZ 86303
(928) 779-5101

JOB NO. 22-501
CLIENT: RIGHT HOMES
CREW: AMH
SCALE: 1"=50'

DRAW: AMH
CHECK: AMH
DATE: 4/1/22



CURVE TABLE

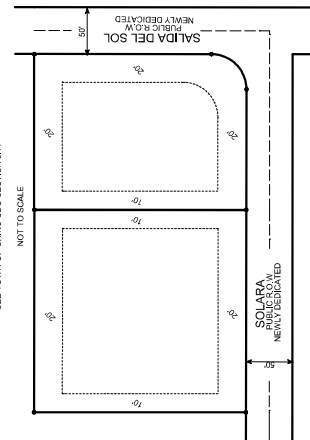
CURVE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C1	53°58'05"	25.00	23.5°	12.73	22.69	N 53°06'31" E
C2	101°57'33"	65.00	108.8°	76.74	94.53	N 58°06'13" E
C3	62°11'02"	65.00	68.5°	28.91	41.70	E 54°17'12" N
C4	118°01'56"	65.00	124.8°	98.56	117.12	N 34°54'12" W
C5	70°05'16"	65.00	73.4°	42.11	68.83	N 70°54'53" W

MONUMENTATION

- = CALCULATED POSITION, NOTHING SET AT THIS LOCATION
- = SET 12" REBAR WITH CAP, LS 87585, OR AS NOTED
- (1) = SET CENTERLINE MONUMENT IN PAVEMENT



TYPICAL BUILDING SET BACK LINES
SHOWN PER TOWN OF CHINO VALLEY SR-1 ZONING.



PAGE 2 OF 2

RECORDED AT THE REQUEST OF
THE TOWN OF CHINO VALLEY

NEXUS SOUTHWEST LLC
212 S. MARINA ST.
PRESCOTT, AZ 86303
(928) 778-5101

JOB NO: 21-391	DRAW: AMH
CLIENT: RIGHT HOMES	5/17/22
CREW: AMH	CHK: AMH
SCALE: 1" = 50'	5/17/22