

AGENDA



4:30 P.M.

CITY COUNCIL MEETING

TUESDAY, APRIL 12, 2022

NOTES:

- Public Forum: Comments are generally limited to 3 minutes.
- Consent Items: Items listed under Consent Items have been distributed to Council Members in advance for study and will be enacted by one motion. Any member of the Council, staff or the public may remove an item from the Consent Items for discussion. For additional information on pulling a Consent Item, please contact the City Clerk's Office staff, preferably in advance of the Call to Order. Items removed from the Consent Items may be acted upon before proceeding to the next agenda item.
- Meeting room is wheelchair accessible. American Disabilities Act (ADA) accommodations are available upon request. Please phone 928-282-3113 at least two (2) business days in advance.
- City Council Meeting Agenda Packets are available on the City's website at:

www.SedonaAZ.gov

THE MEETING CAN BE VIEWED LIVE ON THE CITY'S WEBSITE AT WWW.SEDONAAZ.GOV OR ON CABLE CHANNEL 4.

GUIDELINES FOR PUBLIC COMMENT

PURPOSE:

- To allow the public to provide input to the City Council on a particular subject scheduled on the agenda.
- This is not a question/answer session.

PROCEDURES:

- Fill out a "Comment Card" and deliver it to the City Clerk.
- When recognized, use the podium/microphone.
- State your:
 1. Name and
 2. City of Residence
- Limit comments to **3 MINUTES.**
- Submit written comments to the City Clerk.

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE/ROLL CALL

2. CITY'S VISION/MOMENT OF ART

3. CONSENT ITEMS - APPROVE

LINK TO DOCUMENT =

- Minutes - March 22, 2022 City Council Special Meeting AEL - PH.
- Minutes - March 22, 2022 City Council Special Meeting AEL - Res.
- Minutes - March 22, 2022 City Council Regular Meeting.
- Minutes - March 23, 2022 City Council Special.
- Approval of Proclamation, Fair Housing Month, April 2022.
- Approval of Proclamation, 50th Anniversary of the Older Americans Act Nutrition Program Month, March 2022.
- AB 2795 Approval of a Resolution authorizing the approval of a cost-sharing development agreement with LGS Real Estate to construct a sidewalk segment in Uptown in an amount not-to-exceed \$64,919.50.
- AB 2797 Approval of a Resolution authorizing the City to enter into an agreement for the purchase of the property located at 125 West State Route 89A (APN 000-00-080) located in Coconino County, City of Sedona, Arizona, for the sum of \$164,500.
- AB 2800 Approval of a construction contract with Standard Construction Company, Inc., in the amount of \$156,497, for the Los Abrigados to Ranger Park Connection Project.
- AB 2801 Approval of: 1. A lease purchase of three police hybrid vehicles from Peoria Ford in the approximate amount of \$243,466.15, plus interest, via the Arizona State Cooperative Purchasing Contract; and 2. A Resolution approving the form of the lease/purchase agreement with Zions Bancorporation, N.A., Salt Lake City, Utah and authorizing the execution and delivery thereof.

4. APPOINTMENTS

- AB 2804 **Discussion/possible action** regarding the appointment/reappointment of Historic Preservation Commissioners.

5. SUMMARY OF CURRENT EVENTS BY MAYOR/COUNCILORS/CITY MANAGER

6. PUBLIC FORUM

(This is the time for the public to comment on matters not listed on the agenda. The City Council may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date.)

7. PROCLAMATIONS, RECOGNITIONS & AWARDS

- Presentation of Proclamation Sexual Assault Awareness Month - April 2022.
- Presentation of Proclamation Earth Day - April 22, 2022.
- Recognition of Police Department Volunteers.



CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

The mission of the City of Sedona government is to provide exemplary municipal services that are consistent with our values, history, culture and unique beauty.



Page 2, City Council Meeting Agenda Continued

8. REGULAR BUSINESS

- a. AB 2798 **Discussion/possible action** for the approval of a Charging Station Site License Agreement with Electrify America, LLC for the Uptown Sedona Parking Garage. 
- b. AB 2799 **Discussion/possible action** regarding ideas for possible resolutions for consideration by League of Arizona Cities and Towns' Policy Committees. 
- c. AB 2759 **Discussion/possible direction/action** regarding proposed State legislation, short-term rental legislation and State budget and their potential impact on the City of Sedona.
- d. AB 2571 **Discussion/possible direction** regarding issues surrounding the COVID-19 pandemic and the City's response.
- e. **Reports/discussion** regarding Council assignments.
- f. **Discussion** regarding ideas for future meeting/agenda items.

9. EXECUTIVE SESSION

If an Executive Session is necessary, it will be held in the Vultee Conference Room at 106 Roadrunner Drive. Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).
- b. Return to open session. Discussion/possible action on executive session items.

10. ADJOURNMENT

Posted: 04/07/2022

By: DJ

JoAnne Cook, CMC,
City Clerk

Note: Pursuant to A.R.S. § 38-431.02 notice is hereby given to the members of the City Council and to the general public that the Council will hold the above open meeting. Members of the City Council will attend either in person or by telephone, video, or internet communications. The Council may vote to go into executive session on any agenda item, pursuant to A.R.S. § 38-431.03(A)(3) and (4) for discussion and consultation for legal advice with the City Attorney. Because various other commissions, committees and/or boards may speak at Council meetings, notice is also given that four or more members of these other City commissions, boards, or committees may be in attendance.

A copy of the packet with materials relating to the agenda items is typically available for review by the public in the Clerk's office after 1:00 p.m. the Thursday prior to the Council meeting and on the City's website at www.SedonaAZ.gov. The Council Chambers is accessible to people with disabilities, in compliance with the Federal 504 and ADA laws. Those with needs for special typeface print, may request these at the Clerk's Office. All requests should be made **forty-eight hours** prior to the meeting.

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

The mission of the City of Sedona government is to provide exemplary municipal services that are consistent with our values, history, culture and unique beauty.

**Action Minutes
Special City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Wednesday, March 22, 2022, 4:00 p.m.**

1. Call to Order

Mayor Moriarty called the meeting to order at 4:00 p.m.

2. Roll Call

Roll Call: Mayor Sandy Moriarty, Vice Mayor Scott Jablow, Councilor Kathy Kinsella, Councilor Tom Lamkin, Councilor Holli Ploog, Councilor Jon Thompson, Councilor Jessica Williamson.

Staff in attendance: City Manager Karen Osburn, Deputy City Manager Joanne Keene, City Attorney Kurt Christianson, Director of Financial Services Cherie, City Clerk JoAnne Cook.

3. Special Business

- a. AB 2787 Presentation/second public hearing regarding the extension of the City of Sedona's Alternative Expenditure Limitation – Home Rule Option and the placement of that issue on the August 2, 2022 ballot for voter approval.**

Presentation by Joanne Keene and Cherie Wright.

Opened to the public at 4:12 p.m.

No public comment.

Brought back to Council at 4:12 p.m.

Presentation and public hearing only. No action taken.

4. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**
- b. Return to open session. Discussion/possible action on executive session items.**

5. Adjournment

Mayor Moriarty adjourned the meeting at 4:13 p.m.

I certify that the above are the true and correct actions of the Special City Council Meeting held on March 22, 2022.

JoAnne Cook, CMC, City Clerk

Date

**Action Minutes
Special City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Wednesday, March 22 2022, 4:15 p.m.**

1. Call to Order

Mayor Moriarty called the meeting to order at 4:15 p.m.

2. Roll Call

Roll Call: Mayor Sandy Moriarty, Vice Mayor Scott Jablow, Councilor Kathy Kinsella, Councilor Tom Lamkin, Councilor Holli Ploog, Councilor Jon Thompson, Councilor Jessica Williamson.

Staff in attendance: City Manager Karen Osburn, Deputy City Manager Joanne Keene, City Attorney Kurt Christianson, Assistant City Manager/Director of Public Works/City Engineer Andy Dickey, Director of Financial Services Cherie Wright, City Clerk JoAnne Cook.

3. Special Business

- a. AB 2787 Discussion/possible action regarding a Resolution approving the extension of the Alternative Expenditure Limitation – Home Rule Option (the vote requires a super majority of the City Council) and putting the issue on the August 2, 2022 ballot for voter approval.**

Presentation by Cherie Wright and Joanne Keene.

Questions and comments from Council.

Motion: Councilor Ploog moved to approve Resolution 2022-06 placing the continuation of the Alternative Expenditure Limitation - Home Rule Option on the ballot. Seconded by Councilor Kinsella. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

4. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**
b. Return to open session. Discussion/possible action on executive session items.

5. Adjournment

Mayor Moriarty adjourned the meeting at 4:17 p.m.

I certify that the above are the true and correct actions of the Special City Council Meeting held on March 22, 2022.

JoAnne Cook, CMC, City Clerk

Date

Action Minutes
Regular City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Tuesday, March 22, 2022, 4:30 p.m.

1. Call to Order/Pledge of Allegiance/Moment of Silence/Roll Call

Mayor Moriarty called the meeting to order at 4:30 p.m.

Council Present: Mayor Sandy Moriarty, Vice Mayor Scott Jablow, Councilor Kathy Kinsella, Councilor Tom Lamkin, Councilor Holli Ploog, Councilor Jon Thompson, Councilor Jessica Williamson.

Staff Present: City Manager Karen Osburn, Deputy City Manager Joanne Keene, City Engineer/Assistant City Manager Andy Dickey, Associate, Sustainability Manager Alicia Peck, City Attorney Kurt Christianson, Police Chief Charles Husted, Public Relations Coordinator Ron Eland, City Clerk JoAnne Cook.

2. City's Vision

The City's Vision video was played.

3. Consent Items

- a. **Minutes - March 8, 2022 City Council Special Meeting - Executive Session.**
- b. **Minutes - March 8, 2022 City Council Regular Meeting.**
- c. **Minutes - March 9, 2022 City Council Special Meeting.**
- d. **AB 2788 Approval of a Resolution calling the 2022 Primary Election for the offices of City Councilor (three seats with four-year terms) and Mayor (two-year term), a proposal for extension of the Local Alternative Expenditure Limitation – Home Rule Option, and to call the 2022 General election, if needed.**
- e. **AB 2790 Approval of a recommendation regarding an application for a Series 10 Beer and Wine Store Liquor License with Sampling Privileges for Natural Grocers located at 1915 W State Route 89A, Sedona, AZ (File #179735).**
- f. **AB 2796 Approval of a Resolution authorizing an Intergovernmental Agreement for the provision of services by the Coconino County Elections Department.**
- g. **AB 2791 Approval of additional construction contract expenditures for the Shelby Drive Roadway Improvements Project, for cumulative change orders exceeding 10% of the original contract value.**
- h. **AB 2793 Approval of a Real Estate Purchase and Sale Agreement with the Ochoa Family for the purchase of APN 401-38-006B (780 Forest Road) for the Forest Road Extension Project.**

Motion: Councilor Williamson moved to approve the consent agenda items. Seconded by Vice-Mayor Jablow. Vote: Motion carried unanimously with seven (7)

in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

4. Appointments – None.

5. Summary of Current Events by Mayor/Councilors/City Manager

Vice Mayor Jablow stated the St. Patrick's Day Parade was a successful event. He advised the Sedona Food Truck Festival and Stumble is on Saturday, March 26, 2022. Storytime in the Park is back taking place on Wednesdays at 10 a.m. at Sunset Park, it is free and geared towards ages 4-8 yrs. The weekly pickleball schedule can be found on the City's website. Yappy Hour is Thursdays 9-10 a.m. Councilor Williamson announced the ribbon cutting for the March 24, 2022 launch of the Sedona Trailhead Shuttles took place earlier today, she encouraged all to visit sedonashuttles.com for information; and, said the Sedona Library is building a patio and have a commemorative paver project, she encouraged all to participate. Councilor Williamson and Councilor Thompson commended staff for their work and efforts on the Trailhead Shuttles. Karen Osburn commended Council for their support and decisive leadership that made the accomplishment of Trailhead Shuttles possible.

6. Public Forum

Public forum opened at 4:44 p.m.

The following spoke against the Mystic Trailhead/Chapel parking lot: Paul Bezila, Sedona, Karen Strauch, Sedona, Ernie Strauch, Sedona, Michael Mager, Sedona, and Gail Digate.

John Martinez, Sedona, spoke in support of the Verde Valley Sinfonietta and the positive impact of classical music in the community, he encouraged all to attend the next concert on Sunday, April 10, 2022 at 2:30 p.m. and advised the silent auction fund raiser that begins at 1:30 pm.

Back to Council at 5:07 p.m.

7. Proclamations, Recognitions & Awards – None.

8. Regular Business

a. AB 2783 Presentation/discussion/possible direction on the Coconino National Forest Supervisor's response to the City's request to implement a limited entry permit system for motorized use in the greater Sedona area.

Presentation by Coconino National Forest Supervisor Laura Jo West, NEPA Coordinator Mike Dechter, and Amy Tinderholt.

Comments and questions by Council.

Opened to the public at 6:05 p.m.

The following spoke regarding this item: Johnnie Pattison-Ragen, Sedona, (spoke regarding this item during 6a Public Forum); Pete Furman, Sedona, Keep Sedona Beautiful President Craig Swanson, Sedona, Janet Johnson, Sedona and Secretary for Estrella Noche HOA, Rob Adams, Sedona, Charles Pitcher, Yavapai County, DeAnna Bindley, Sedona, Tara Golden, Sedona, and Birget Loewenstein, Yavapai County.

Brought back to Council at 6:29 p.m.

Comments and questions from Council.

Presentation/discussion only. No direction given.

Break at 7:02 p.m. Reconvened at 7:24 p.m.

- b. **AB 2794 Discussion/possible action regarding a Resolution and Ordinance amending the Sedona City Code Title 10 (Vehicles and Traffic) by adopting amendments to Chapter 10.20 (Parking) and an Ordinance amending the City of Sedona Parking Citation Fine Schedule.**

Presentation by Chief Husted.

Comments and questions by Council.

Councilor Kinsella was opposed to the use of the phrase/language “dust-free” in the ordinance.

Motion: Councilor Thompson moved to approve Resolution No. 2022-09, establishing as a public record the proposed amendment to Sedona City Code Chapter 10.20 entitled “2022 Amendments to Sedona City Code Chapter 10.20 Parking” as amended. Seconded by Vice Mayor Jablow. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

(After First Reading)

Motion: Councilor Thompson moved to adopt Ordinance No. 2022-01, an ordinance of the City of Sedona, Arizona amending Sedona City Code Chapter 10.20 (Parking); providing for a savings clause; and providing for repeal of any conflicting ordinances as amended. Seconded by Councilor Ploog. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

Motion: Councilor Thompson moved to adopt Ordinance No. 2022-02, an ordinance of the City of Sedona City Parking Citation Fine Schedule; providing for a savings clause; and providing for repeal of any conflicting ordinances as amended. Seconded by Vice-Mayor Jablow. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

- c. **AB 2759 Discussion/possible direction/action regarding proposed State legislation, short-term rental legislation and State budget and their potential impact on the City of Sedona.**

Presentation by Joanne Keene.

Comments and questions from Council.

By consensus, Council agreed to oppose SB 1116.

- d. Reports/discussion regarding Council assignments.

Vice Mayor Jablow reported the Sedona Humane Society road almost completed. Councilor Thompson reported Sedona Recycles is working with the County on their agreement.

- e. Discussion regarding ideas for future meeting/agenda items.

Councilor Williamson suggested a presentation of the 10 year master plan from Yavapai College. Councilor Ploog and Vice-Mayor Jablow supported this suggestion. Councilor Thompson requested the COVID update be put back on the agenda. Councilor Kinsella supported his request.

9. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).
- b. Return to open session. Discussion/possible action on executive session items.

No Executive Session was held.

10. Adjournment

Mayor Moriarty adjourned the meeting at 8:55 p.m. without objection.

I certify that the above are the true and correct actions of the Regular City Council Meeting held on March 22, 2022.

JoAnne Cook, CMC, City Clerk

Date

**Action Minutes
Special City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Wednesday, March 23, 2022, 3:00 p.m.**

1. Call to Order

Mayor Moriarty called the meeting to order at 3:00 p.m.

2. Roll Call

Roll Call: Mayor Sandy Moriarty, Vice Mayor Scott Jablow, Councilor Kathy Kinsella, Councilor Tom Lamkin, Councilor Holli Ploog, Councilor Jon Thompson, Councilor Jessica Williamson.

Staff in attendance: City Manager Karen Osburn, Deputy City Manager Joanne Keene, City Attorney Kurt Christianson, Assistant City Manager/Director of Public Works/City Engineer Andy Dickey, Assistant to the City Manager Megan McRae, Deputy City Clerk Cherise Fullbright.

3. Special Business

a. AB 2760 Discussion/possible direction on the recommendations made by the City Council work group assigned to study the Chamber of Commerce and Tourism Bureau contract and scope of work in preparation for the establishment of the FY2023 budget and work program.

Presentation by Karen Osburn, Megan McRae, Andy Dickey, Kurt Christianson, Arizona Office of Tourism Director Debbie Johnson, SCC&TB Interim President/CEO Michelle Conway, SCC&TB Director of Finance Gary Stewart, SCC&TB Director of Visitor Services Donna Retegan and SCC&TB Board Member Cheryl Barron.

Questions and comments from Council.

Opened to the public at 4:14 p.m.

The following spoke regarding this item: Al Comello, Sedona, Michelle Conway, Clarkdale, Debbie Johnson, Phoenix, Robert Pifke, Sedona, Mark Tenbroek, Sedona.

Brought back to Council at 4:25 p.m.

Additional questions and comments from Council.

By majority consensus, Council supported the budget and work plan recommendations as proposed by the Council work group. Additionally, Council agreed that the existing work group, City Manager, and Chamber should work together to update the contract and bring specific changes back to Council for approval.

b. Discussion/possible action regarding future meeting/agenda items.

Mayor Moriarty stated that the next regular Council meeting is scheduled for April 12th.

4. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).
- b. Return to open session. Discussion/possible action on executive session items.

5. Adjournment

Mayor Moriarty adjourned the meeting at 6:28 p.m.

I certify that the above are the true and correct actions of the Special City Council Meeting held on March 23, 2022.

Cherise Fullbright, Deputy City Clerk

Date



City of Sedona Proclamation Request Form

Full Name of Contact Person	Donna Puckett
Contact Phone Number	928-203-5065
Contact Mailing Address	102 Roadrunner Drive
Contact Email Address	DPuckett@SedonaAZ.gov
Group, Organization, Activity or Event Being Recognized (Please make sure you provide complete and current information about the group or event)	City of Sedona
Website Address (if applicable)	www.SedonaAZ.gov
Name of the sponsor(s) of the Proclamation (2 Council members or the City Manager)	Mayor Moriarty and Vice Mayor Jablow
What is the proclaimed day, days, week or month? (e.g. 10/11/12, October 11-17, 2012, October 2012)	April 2022
Would you like to attend a Council meeting for formal presentation of the Proclamation or would you like to pick it up?	<input type="checkbox"/> Presentation at Meeting <input checked="" type="checkbox"/> Pick up Proclamation
If you would like the Proclamation presented at a Council meeting, please provide the full name and contact information (phone number and email address) of the party who will accept it on behalf of the group.	

Provide information about the organization/event including a mission statement, founding date, location and achievements.

The City of Sedona is required to annually declare April as Fair Housing Month as part of the Community Development Block Grant (CDBG) program.

Please explain why this Proclamation and any events accompanying it are important to the Community and are consistent with the City's vision statement and Community Plan goals. What is the clear reason for the Proclamation and why are you requesting this honor? What activities/events are planned around this Proclamation and how do you plan to promote this to the community?

This promotes that Sedona is a fair housing community and is committed to fair housing for all its citizens.

Please include a draft of the proposed Proclamation with this request, preferably a Word file in electronic format.

**Office of the Mayor
City of Sedona, Arizona**



**Proclamation
Fair Housing Month
April 2022**

WHEREAS, the National Fair Housing Law of 1986, as amended by the Fair Housing Amendments Act of 1988, prohibits discrimination in housing and declares it a national policy to provide, within constitutional limits, for fair housing in the United States; and

WHEREAS, the principle of Fair Housing is not only national law and national policy but a fundamental human concept and entitlement for all Americans; and

WHEREAS, April has traditionally been designated as Fair Housing Month in the United States;

NOW, THEREFORE, I, SANDY MORIARTY, MAYOR OF THE CITY OF SEDONA, ARIZONA, ON BEHALF OF THE SEDONA CITY COUNCIL, do proclaim April as Fair Housing Month in Sedona, Arizona and do hereby urge all citizens of this community to comply with the letter and spirit of the Fair Housing Law.

Issued this 12th day of April, 2022.

Sandra J. Moriarty, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk



City of Sedona Proclamation Request Form

Full Name of Contact Person	Kristen Paduchowski
Contact Phone Number	928-282-2834
Contact Mailing Address	2615 Melody Lane
Contact Email Address	kristenp@sccsedona.org
Group, Organization, Activity or Event Being Recognized (Please make sure you provide complete and current information about the group or event)	Meals on Wheels via Sedona Community Center- 50th anniversary of Meals on Wheels
Website Address (if applicable)	
Name of the sponsor(s) of the Proclamation (2 Council members or the City Manager)	
What is the proclaimed day, days, week or month? (e.g. 10/11/12, October 11-17, 2012, October 2012)	March 26, 2022
Would you like to attend a Council meeting for formal presentation of the Proclamation or would you like to pick it up?	<input type="checkbox"/> Presentation at Meeting <input checked="" type="checkbox"/> Pick up Proclamation
If you would like the Proclamation presented at a Council meeting, please provide the full name and contact information (phone number and email address) of the party who will accept it on behalf of the group.	

Provide information about the organization/event including a mission statement, founding date, location and achievements.

MISSION STATEMENT

The Sedona Community Center mission is to enhance the quality of life for people of the greater Sedona Community through our award winning food programs, outstanding exercise and educational activities and compassionate supportive services.

The Sedona Community Center is a non-profit 501 © (3) organization providing social service and educational/health programs to adults of Sedona and the Village of Oak Creek. All donations received remain and are used in the greater Sedona and Village of Oak Creek areas only. Our services are partially funded by N.A.C.O.G./DES, ALTCS, the City of Sedona, and your generous contributions.

Please explain why this Proclamation and any events accompanying it are important to the Community and are consistent with the City’s vision statement and Community Plan goals. What is the clear reason for the Proclamation and why are you requesting this honor? What activities/events are planned around this Proclamation and how do you plan to promote this to the community?

The proclamation promotes the Meals on Wheels program that has served the city of Sedona and Village of Oak Creek residents for over 35 years. It is a critical program for seniors who are homebound and/or recovering from surgery and gives them a warm nutritious meal Monday through Friday, delivered by a dedicated volunteer that also serves as a well check. The Older Americans Act of 1965 was amended in 1972 by President Nixon to include a national nutrition program for seniors 60 and older. This is what is now known as Meals on Wheels.

Please include a draft of the proposed Proclamation with this request, preferably a Word file in electronic format.

Office of the Mayor



**Proclamation
The 50th Anniversary of the Older Americans Act Nutrition Program
March 2022**

WHEREAS, fifty years ago, on March 22, 1972, President Nixon signed into law a measure that amended the Older Americans Act of 1965 to include a national nutrition program for individuals 60 years and older, and

WHEREAS, for five decades, this landmark law has helped to fund community-based organizations – like Meals on Wheels – and it is still the only federal program designed specifically to meet the nutritional and social needs of older adults, and

WHEREAS, this year, Meals on Wheels programs from across the country are joining together for the March for Meals awareness campaign to celebrate 50 years of success and garner the support needed to ensure these critical programs can continue to address food insecurity and malnutrition, combat social isolation, enable independence, and improve health for years to come, and

WHEREAS, Meals on Wheels programs – both congregate and home-delivered, in Sedona have served our communities admirably for over 35 years, and

WHEREAS, volunteers for Meals on Wheels programs in Sedona are the backbone of the program and they not only deliver nutritious meals to seniors and individuals with disabilities who are at significant risk of hunger and isolation, but also caring concern and attention to their welfare; and

WHEREAS, Meals on Wheels programs in Sedona provide nutritious meals to seniors throughout Sedona that help them maintain their health and independence, thereby helping to prevent unnecessary falls, hospitalizations and/or premature institutionalization; and

WHEREAS, Meals on Wheels programs in Sedona provide a powerful opportunity for social connection for millions of seniors to help combat the negative health effects and economic consequences of loneliness and isolation; and

WHEREAS, Meals on Wheels programs in Sedona deserve recognition for the heroic contributions and essential services they have provided amid the COVID-19 pandemic and will continue to provide to local communities, our State and our Nation long after it is over, and

WHEREAS, the senior population is increasing substantially, and action is needed now to support local Meals on Wheels programs through federal, state and local funding; volunteering; donations; and raising awareness to ensure these vital services can continue to be delivered for another 50 years.

NOW, THEREFORE, I, SANDY MORIARTY, MAYOR OF THE CITY OF SEDONA, ARIZONA, ON BEHALF OF THE SEDONA CITY COUNCIL, hereby proclaim March 2022 as a month celebrating the 50th anniversary of the Older Americans Act Nutrition program and honoring Meals on Wheels programs, the seniors they serve and the volunteers who care for them. Our recognition of, and involvement in, the national celebration can enrich our entire community and help combat senior hunger and isolation in America.

Issued this 12th day of April, 2022.

Sandra J. Moriarty, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk



**CITY COUNCIL
AGENDA BILL**

**AB 2795
April 12, 2022
Consent Items**

Agenda Item: 3g
Proposed Action & Subject: Approval of a Resolution authorizing the approval of a cost-sharing development agreement with LGS Real Estate to construct a sidewalk segment in Uptown in an amount not-to-exceed \$64,919.50.

Department	Public Works
Time to Present	N/A
Total Time for Item	
Other Council Meetings	N/A
Exhibits	A. Development Agreement B. Site Plan C. Resolution

City Attorney Approval	Reviewed 04/04/22 KWC	Expenditure Required	
		\$ 64,919.50	
City Manager's Recommendation	Approve the Resolution authorizing a Development Agreement for the construction of sidewalk within Uptown between the City of Sedona and LGS Real Estate, LLC for the amount not to exceed \$64,919.50 subject to approval of the written contract by the City Attorney's Office.	Amount Budgeted	
		\$ 0	
		Account No. 22-5320-89-6893 (Description) Uptown Enhancements	
		\$64,919.50 (to be transferred from 52-5630-89-68B3 Transit Bus Acquisition which has \$627,409 budget balance available	
		Finance Approval <input checked="" type="checkbox"/>	

SUMMARY STATEMENT

Staff is requesting City Council approval of the Resolution authorizing a Development Agreement with LGS Real Estate to construct a sidewalk segment in Uptown. The agreement is for the city to contribute 50% of the construction cost, not to exceed \$64,919.50. The scope of work for this project includes 380 linear feet of Sedona Red colored concrete sidewalk with a 5-foot width, vertical curb, solar bollard lighting along with ramps, driveways and adjusting utilities primarily within the right-of-way of Apple Avenue and Cedar Street. City staff believes

sidewalk in this area will improve walkability, connectivity, and pedestrian safety in the area, which are community benefits.

Background:

The 2018 Transportation Master Plan, Strategy 11, Walking and Bicycling Facilities, indicates these improvements collectively encourage use of alternative modes of travel in Sedona, and support a park-once culture where visitors and residents are encouraged to leave their vehicles at their place of lodging/residence. The City desires to improve walkability in Uptown Sedona. One strategy to accomplish this is to improve pedestrian facilities like building new sidewalks or extending existing sidewalks. Pedestrians in Uptown often encounter sidewalks which terminate or do not extend fully to their destination, even within the commercial district. Adding new sidewalk connections or improving substandard surfaces significantly improve safety and walkability for pedestrians as well as discouraging parking on shoulders.

LGS Real Estate, the property owner of 350 Jordan Rd. and 274 Apple Ave., reached out to city staff about sharing the cost to construct a sidewalk section and associated lighting along their street frontage in Uptown Sedona. Initially staff was contacted in January 2020, but the owners chose not to move forward at the time. Currently there is no sidewalk along the northern portion of Apple Avenue or western portion of Cedar Street. The plan proposes approximately 380 linear feet of a 5 foot wide concrete sidewalk.



Arizona Revised Statutes Section 9-500.05 authorizes the City to enter into a development agreement with a landowner to facilitate development of the property by providing for, among other things, the conditions, terms, restrictions, and requirements for public infrastructure and the financing of public infrastructure.

The project responds to concerns that visitors to the area are walking in the roadway, and vehicles park along the shoulder on the very narrow road. “No Parking on Pavement” signs will be installed along Cedar Street.

The right-of-way width of Cedar Street is 30 feet and Apple Avenue is 40 feet. Of the proposed 5-foot sidewalk width, 6-inches of the sidewalk will be within the private property. This is common in commercial areas, including other areas of Uptown. It is anticipated that the width of the sidewalk along Apple Avenue will exceed 5-feet but will maintain 5-foot minimum width.

The project includes bollard lights, similar to those on Jordan Road, which are dark sky compliant. Driveway improvements and curb and gutter installation are also part of the proposed project. It is not expected that any permanent easements or additional rights-of-way will be necessary to construct this project.

While this segment of sidewalk is an important one, given other higher priorities for City capital improvements, it is not in current City plans to construct. In order to expedite the construction of these sidewalks, the private sector is willing to both take the lead on the project management and to bear half the cost of the project. This allows the City to leverage private dollars to build this public infrastructure and to accelerate the construction. If this is not approved, the City will still need to construct these sidewalks at some point in the future and do so at a cost borne 100% by the City, rather than cost-sharing with the adjacent business owner.



The above photo is from Jordan Road, looking east on Apple Avenue. The proposed project would construct sidewalk on the northern side of the road.



The above photo is from Apple Avenue, looking north on Cedar Street.

Schedule:

Terms of the Development Agreement have been negotiated over the past months and the final version is included as Exhibit A. If approved, right of way permits will be obtained by the contractor with the intent of starting in May 2022. Construction and reimbursement are scheduled to be complete prior to June 30, 2022.

The total construction bid amount is for \$128,489.00 and the plan design is \$1,350, for a 50% cost-share not to exceed \$64,919.50.

Procurement Method:

The property owner requested bids from Westfork Construction and their subcontractor Tiffany Construction; companies which have years of experience working in Sedona as well with the City.

Budget:

This project was not anticipated in this fiscal year.

- The \$64,919.50 project cost will be covered with available budget capacity in the Transit Bus Acquisition project. This line item's current budget balance available is \$627,409. Since the planned bus acquisition was financed with a lease purchase agreement, budget capacity is available.

The bid received is found to be reasonable and appropriate, and no errors were found in the bid.

Climate Action Plan/Sustainability Consistent: Yes - No - Not Applicable

In the Climate Action Plan, transportation related desired actions include bike/pedestrian infrastructure, and reduced congestion. Identified strategies include developing and maintaining a safe, convenient, and effective system for walking, biking and other active forms of transportation. This project addresses those desired actions and strategies. Improved walkability reduces reliance on vehicular travel.

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): Not approving this project will result in not taking another step in addressing the need to create a more walkable and bikeable community as discussed in many plans and citizen surveys. Not pursuing this project would result in pedestrians continuing to have to walk in the roadway on both Cedar Street and Apple Avenue. Not approving this project will result in the City not taking advantage of an opportunity to leverage private dollars to build public infrastructure.

MOTION

I move to: approve the Resolution 2022-__ authorizing a Development Agreement for the construction of sidewalk within Uptown between the City of Sedona and LGS Real Estate, LLC for the amount not-to-exceed \$64,919.50 subject to approval of the written contract by the City Attorney's Office.

WHEN RECORDED RETURN TO:

City Clerk
City of Sedona
102 Roadrunner Drive
Sedona, AZ 85336

Public Infrastructure Cost-Sharing Development Agreement

This Public Infrastructure Cost-Sharing Agreement (“Agreement”) is entered into as of this _____ day of _____, 2022, by and between the City of Sedona, an Arizona municipal corporation (“City”), LGS Real Estate, LLC. City and LGS Real Estate may be referred to individually as “Party” and collectively as the “Parties”.

RECITALS

- A. LGS Real Estate, LLC. is an Arizona Corporation, and is the owner of real property located within the limits of the City, commonly known as “LGS Real Estate” located at 350 Jordan Road and 274 Apple Avenue, Sedona, Arizona 86336 (the “Property”). For the purposes of this agreement, LGS Real Estate will be responsible for the financial contributions stated herein.
- B. The City desires to improve walkability in Uptown Sedona. One strategy to accomplish this as identified in the City’s Transportation Master Plan, is to improve pedestrian facilities like building new sidewalks or extending existing sidewalks. Pedestrians in Uptown often encounter sidewalks which terminate or do not extend fully to their destination, even within the commercial district. Adding new sidewalk connections or improving substandard surfaces significantly improve safety and walkability for pedestrians as well as discouraging parking on shoulders.
- C. To help achieve this goal as indicated in Recital B, the City and LGS Real Estate have agreed to build a 5-foot wide sidewalk, and associated driveway and lighting improvements, on the north side of Apple Avenue and the west side of Cedar Street on City right-of-way fronting the properties of 350 Jordan Road and 274 Apple Avenue.
- D. Arizona Revised Statutes § 9-500.05 authorizes the City to enter into a development agreement with a land owner or any other person having an interest in real property to facilitate development of the real property by providing for, among other things, the conditions, terms, restrictions, and requirements for public infrastructure and the financing of public infrastructure.
- E. It is in both the interest and welfare of the general public and in the best interests of the Parties that the above-described improvements be constructed in order to improve pedestrian connectivity and safety in Uptown. To that end, the Parties wish to financially participate in the construction of the Apple Avenue and Cedar Street Sidewalk Improvement Project, as part of the City’s Transportation Master Plan strategy SIM11 – Bicycle & Pedestrian Improvements.

- F. LGS Real Estate desires to work with the City as a sponsor of the public Project, and the City is willing to participate in the Project as the public sponsor as further described in this Agreement.
- G. The Project is detailed in the construction plans titled “New Sidewalk 350 Jordan Rd. Apple Avenue” (the “Project”).

NOW, THEREFORE, in consideration of the foregoing, and of the mutual promises and the covenants and agreements set forth below, the Parties agree as follows:

AGREEMENT

- A. Accuracy of the Recitals. The Parties hereby acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.
- B. Term. Once executed by the Parties, the term of this Agreement shall be deemed to commence as of the date that this Agreement is fully executed, and shall continue for two (2) years thereafter.
- C. Financial Contributions for the Project. The Parties shall each share as follows for the contract costs of the Project: The City of Sedona will contribute 50% of the as-bid construction cost, up to a maximum of \$64,919.50 (the “Contribution”) and LGS Real Estate, LLC will be responsible for the remaining construction costs. The City shall pay one-half of its Contribution no later than ten (10) calendar days after: (1) the full execution of this Agreement, and (2) written confirmation from the LGS Real Estate to the City of an accepted construction bid amount, in the City’s sole discretion, and that the construction contract with the contractor chosen to perform the project work (“Contractor”) has been executed. LGS Real Estate will be responsible for: (1) execution of the Right-of-Way Permit, and (2) paying all remaining costs of the Project. The City shall pay the remaining balance of its Contribution prior to June 30, 2022. Any amounts above the Accepted Bid Amount or added to the contract at any time including during construction, not requested in writing by the City, will be the sole responsibility of LGS Real Estate. The award of the construction contract is contingent upon LGS Real Estate executing this Agreement. The City reserves the right to, in its judgment, reject any and all construction bids submitted in the public’s interest, including if the bids exceed the engineer’s estimated cost of construction.
 - 1. LGS Real Estate shall have the right to add to the original scope and extent of the public infrastructure improvements as depicted in the final design drawings for such things as aesthetic improvements, landscaping, or other improvements intended to be to their sole benefit through change orders approved in advance by the City, which approval shall not be unreasonably withheld or delayed. LGS Real Estate shall submit actual plans and specifications for any augmented improvements to the City, as well as bids or proposals received by LGS Real Estate to construct the augmented improvements, for the City’s review and approval. The additional cost of any such augmented improvements shall be borne solely by the Party requesting the improvement, and one hundred percent (100%) of the funding shall be submitted to the City before any change order implementing the improvements is authorized.

2. Improvements made by LGS Real Estate, as noted above, after contract time is no longer available for such improvements, shall be accomplished through a City Building Permit. If a City Building Permit is obtained for this purpose, within 2-years of the contract Final Completion date issued by the City Engineer, the permit fee will be waived.
 3. Construction of the Apple Avenue and Cedar Street Sidewalk Improvement Project does not convey to LGS Real Estate any easement, interest in land or property rights to City property. This Section C.3. shall survive the termination of this Agreement.
- D. Duty to Obtain Permits; Applicable Laws; Construction; Dedication; Inspection; Acceptance.
1. The LGS Real Estate shall obtain any and all necessary permits, licenses and approvals from all applicable entities (collectively, "Approvals"), and require that Contractor and all other third parties obtain all necessary, or required Approvals, in order to construct, operate, repair, or that are otherwise required for the Project. The City shall obtain, and shall maintain, all necessary approvals, permits, consents, and authorizations from all governmental authorities and other persons or entities necessary for the City ownership, maintenance, operation, repair, and replacement of the augmented public infrastructure improvements.
 2. LGS Real Estate shall design, plan, bid, and construct the Project and dedicate the sidewalk improvements to the City.
 3. Upon substantial completion, i.e., completion of all major components of the Project, LGS Real Estate shall promptly dedicate and convey to the City the sidewalk improvements, free and clear of all liens and encumbrances. The City Engineer or his/her designee shall inspect the completed Project to determine whether it has been constructed substantially in accordance with the applicable standards and the approved plans. Upon completion of the inspection and review the City shall either: (a) approve the construction of the Project; or (b) provide a punch list of specific items that are not in accordance with applicable standards and/or the approved plans that are to be corrected by LGS Real Estate. So long as the Project is constructed in accordance with the applicable standards and approved plans, all punch lists items have been timely completed, the Project is free and clear of all liens, and accurate "as built" drawings and plans of the Project have been provided to the City, the City shall accept the sidewalk dedication. LGS Real Estate shall bear all risk of, and shall indemnify the City and its officials, employees and City Council members, against any claim arising prior to the City's acceptance of the Project improvements from any injury or property damage to any person, party or utility.
 4. LGS Real Estate hereby agrees to abide, and shall insure that Contractor and all Contractor personnel and officials, abide by, all applicable federal, state and local laws, codes, statutes, rules, regulations and ordinances, including, but not limited to, the United States Foreign Corrupt Practices Act and all other anti-corruption and anti-bribery laws and regulations ("Applicable Laws") and shall require and insure that all employees, contractors, vendors and service providers that are retained by Contractor or any other party for the Project shall abide by all Applicable Laws.
- E. Access/Right of Way. The City of Sedona will grant the Contractor temporary access onto City right-of-way for purposes of completing the Project conditioned upon and subject to the execution of a separate right-of-way permit with such terms and conditions required by the City

of Sedona ("Right-of-Way Permit"). and the City of Sedona shall have the right to terminate this Agreement without penalty if the Contractor fails or refuses to execute the Right-of-Way Permit.

- F. Warranty Period; Maintenance. LGS Real Estate will require the Contractor to warranty all components of the Project for a 2-year period after completion of the Project. After the 2-year warranty period has expired, LGS Real Estate will be responsible for maintaining all driveway improvements on its property constructed as part of the Right-of-way Permit. The City will only be responsible for the sidewalk maintenance on City property after the 2-year warranty period has expired.
- G. Performance. LGS Real Estate shall require that (1) Contractor) diligently and in good faith pursue completion of all work associated with the Project and perform all such work in a good, professional and workmanlike manner and in accordance with all industry standards, contractual requirements and Applicable Laws and (2) Contractor shall at all times enforce strict discipline and good order among, require the highest levels of professionalism and courtesy by, and be responsible for any and all injury or damage to any person and property caused by, Contractor's employees and other persons carrying out any work related to the Project.
- H. City Representations and Warranties. The City represents, warrants, and covenants to LGS Real Estate that all the City's representations, findings, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.
 - 1. That the City is a duly organized, validly existing municipal corporation in the State of Arizona. The transactions contemplated by this Agreement, the execution of this Agreement, and the City's performance hereunder have been duly authorized by all requisite action of the City, and no other approval or consent is required for this Agreement to be binding upon the City. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind the City. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which the City is a Party or by which the City is bound.
- I. LGS Real Estate, LLC. Representations and Warranties. LGS Real Estate represents, warrants, and covenants to the City that each of its respective representations, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.
 - 1. LGS Real Estate is duly organized and a validly existing corporation licensed to do business in the State of Arizona. The transactions contemplated by this Agreement, the execution of this Agreement, and LGS Real Estate's performance hereunder have been duly authorized by all requisite action, and no other approval or consent is required for this Agreement to be binding upon LGS Real Estate, LLC. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind LGS Real Estate, LLC. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which LGS Real Estate is a Party or by which LGS Real Estate is bound.

J. Default; Venue; Dispute Resolution.

1. Jurisdiction; Venue; Dispute Resolution. This Agreement shall be governed by and enforced using the law of the State of Arizona. The parties agree that any judicial action brought to enforce the terms or conditions of this Agreement shall be brought in a court of competent jurisdiction in Coconino County, Arizona. If a dispute arises out of or related to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, both parties hereby waive any right to a jury trial which they may otherwise have in the event of litigation arising out of this Agreement or the subject matter thereof and consent to a trial to the court.
2. Default and Cure Period. The failure by any 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 any other Party, shall constitute a default. In the event such default is not cured within the Cure Period, any non-defaulting Party shall have the right to seek all its rights and remedies, including injunctive relief or mandamus, in a court of competent jurisdiction. In all such cases of breach, the breaching Party shall diligently undertake all reasonable efforts to cure the breach prior to the expiration of the Cure Period.

- K. Notices and Filings. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be sent by: (1) certified or registered mail, postage prepaid, return receipt requested; (2) personal delivery or (3) recognized overnight delivery service. Such notices and communications shall be addressed as follows, or to such other addresses as any Party hereto may from time to time designate in writing and deliver in a like manner:

City	LGS Real Estate
Karen Osburn City Manager City of Sedona 102 Roadrunner Drive Sedona, AZ 86336	LGS Real Estate, LLC. Attn: Larry Schoenecker 7630 Bush Lake Rd Edina, MN 55439
Phone No: 928-204-7127	With copies also sent by email to: larry.schoenecker@biworldwide.com Phone No.: 612-840-4415 and Bill@wpclarkson.com Phone No.: 480-481-0032

Notice shall be deemed to have been given upon receipt or refusal. The telephone numbers listed above are for purposes of providing the same to overnight delivery services, and are not to be otherwise used for notice purposes.

- L. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or LGS Real Estate, LLC. 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.

- M. Termination. Prior to issuing a notice to proceed to the Contractor for the improvements, this Agreement may be terminated without cause by either Party upon written notice to the non-termination Party. After execution of the construction agreement this Agreement may only be terminated upon mutual consent of the Parties or by either Party for any material breach of this Agreement in accordance with the termination provisions provided herein.
- N. Indemnification.
1. LGS Real Estate agrees to indemnify and hold harmless the City, its elected officials, appointees, employees, affiliates, agents, assigns and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, arising as a result of LGS Real Estate' breach of this Agreement or for any injury or death resulting from LGS Real Estate' negligence or willful misconduct.
 2. City agrees to indemnify and hold harmless LGS Real Estate, LLC, their respective parents, subsidiaries and affiliates and each of their respective owners, managers, officers, directors, employees, members, and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, arising as a result of City's breach of this Agreement or for any injury or death resulting from City's negligence or willful misconduct.
 3. This Section N. shall survive the expiration or termination of this Agreement for any reason whatsoever.
- O. Insurance. Upon LGS Real Estate's execution of this Agreement, LGS Real Estate shall furnish, and require that the Contractor furnish, the City with the certificates of insurance and endorsements that meet the requirements described in Exhibit "A" ("Insurance Requirements"). LGS Real Estate and each Contractor understands and agrees that all insurance procured by Contractor is primary and non-contributory over any insurance held by the City and is intended to respond to any indemnification event. The City shall have the sole and unconditional right to terminate this Agreement with written notice to LGS Real Estate if LGS Real Estate fails or refuses to satisfy the Insurance Requirements.
- P. Counterparts. This Agreement may be executed in one 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. Facsimile and scanned signatures shall be deemed to be original signatures for purposes of executing this Agreement and amendments hereto and for purposes of issuing all instructions authorized or permitted hereunder.
- Q. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions hereof.

- R. Exhibits. The exhibits attached hereto, and incorporated by this reference, shall have the same force and effect as if fully set forth in the body hereof.
- S. 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. Without limiting the generality of the foregoing, each of the Parties shall cooperate in good faith regarding the prompt processing of any requests and applications for plan and specification, plat or permit approvals or revisions, and other necessary approvals relating to the development of the property in construction of the infrastructure improvements.
- T. Time of the Essence. Time is of the essence of this Agreement.
- U. Assignment. This Agreement may not be assigned without the express written consent of the non-assigning Parties. Consent shall not be unreasonably withheld.
- V. No Partnership and Third Parties. It is not intended by this Agreement, and nothing contained in this Agreement shall, create any partnership, joint venture, or other similar arrangement between LGS Real Estate, LLC. on one hand, and the City, on the other. 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.
- W. 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.
- X. Amendment. No change or additions are to be made to this Agreement except by written amendment executed by the Parties hereto.
- Y. Governing Law. This Agreement is entered into in Arizona, and shall be construed and interpreted under the laws of the State of Arizona. In particular, this Agreement is subject to the provisions of Arizona Revised Statutes § 38-511.
- Z. Recordation. No later than ten (10) days after this Agreement has been executed by the Parties, it shall be recorded in its entirety by the City in the Official Records of Coconino County, Arizona.
- AA. Reformation. Should any term, provision, covenant, or condition of this Agreement be held to be void or invalid, the Parties shall reform this Agreement to conform as closely as possible to the original intent thereof.
- BB. Excused Delay in Performance. In addition to specific provisions of this Agreement, for a period of time equal to the period of the force majeure delay, untimely performance by a Party hereto shall not be deemed to be a default where delays or inability to perform are due to war, insurrection, strikes, slowdowns, lockouts, riots, floods, earthquake, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority (including, but not by way of limitation,

referendums), litigation, severe weather, acts or the failure to act of any utility, public, or governmental agent or entity, and/or other causes beyond the reasonable control of said Party. In the event that a Party hereto is unable to perform due to an event constituting force majeure as provided for above, then the time for performance by said Party shall be extended as necessary for a period of time up to the period of the force majeure delay.

CC. Severability. Every provision of this Agreement is, and will be construed to be, a separate and independent covenant. If any provision of this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then 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, and each provision of this Agreement will be valid and will be enforced to the extent permitted by the law, and the Parties will negotiate in good faith for such amendments of this Agreement that may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

DD. Rights of Successors. This Agreement shall bind and inure to the benefit of the Parties hereto, their respective heirs, representatives, lessees, successors, and assigns. The singular number includes the plural, and the masculine gender includes the feminine and neuter.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the date and year first above written.

CITY OF SEDONA, an Arizona municipal corporation

By _____
Sandy Moriarty, Mayor

Attest: _____
JoAnne Cook, City Clerk

APPROVED AS TO FORM:

City Attorney

LGS Real Estate, LLC, an Arizona Corporation

By _____ Its _____

[Printed Name]

STATE OF _____)
) ss
County of _____)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20____
by _____, _____ of **LGS Real Estate, LLC**, an Arizona
Corporation, on behalf of the corporation.

Notary Public

(Seal)

Exhibit "A"
Insurance Requirements

LGS Real Estate, Contractor and all subcontractors, service providers and material suppliers retained for the Project (collectively, "Service Providers") must submit verification of insurance by providing a certificate of insurance on a standard ACORD 25-S form issued by a carrier with an S&P or Best rating not less than A-VII, unless otherwise approved in writing by the City.

The Certificate must include:

1. Additional insured endorsement for general liability naming **the City**. Coverage is primary and non-contributory. The additional insured endorsement shall state that the coverage provided to the additional insureds is primary and non-contributing with respect to any other insurance available to the additional insureds.
2. Certificate Holders must read:
The City of Sedona
102 Roadrunner Dr.
Sedona, AZ 86336

For LGS Real Estate, Contractor and any subcontractors, the following minimum and unimpaired limits of insurance (unless higher limits required by law or statute) are required. In addition to procuring and maintaining this insurance throughout the duration of the Agreement, LGS Real Estate and Contractor agree to continue to procure and maintain products and completed operations liability insurance coverage following completion of the Project for a period of one year.

Workers' Compensation and Employer's Liability

Part One - Workers' Compensation: Statutory Limit

Part Two - Employer's Liability: Annual Limits:

Bodily Injury by Accident, each Accident: \$ 500,000

Bodily Injury by Disease, each Employee \$ 500,000

Bodily Injury by Disease, Policy Limit: \$ 500,000

Commercial General Liability

General Aggregate \$1,000,000

Personal/Advertising Injury \$1,000,000

Each Occurrence Limit \$1,000,000

Coverage is required to be on an Occurrence form and shall apply to bodily injury and property damage for operations including independent contractors, products and completed operations.

Automobile Liability

Commercial Business Auto Policy covering all owned, hired and non-owned automobiles, trucks and trailers with coverage limits not less than **\$1,000,000 Combined Single Limit** each accident for Bodily Injury and Property Damage. Coverage will apply both on and away from the Project site. All subcontractors shall be required to maintain limits of not less than **\$1,000,000 Combined Single Limit**.

Property Insurance

LGS Real Estate, Contractor and any subcontractors are solely responsible for their own insurance for owned and leased equipment and materials, whether such equipment is located at the Project site or “in transit”. Contractor and any subcontractors are solely responsible for any loss or damage to their personal property including, without limitation, property or materials created or provided under the Agreement until installed at the Project site, service provider tools and equipment, and scaffolding and temporary structures, whether owned, used, leased, or rented by Contractor or any subcontractors.

Jordan Road

Cedar Street

Apple Avenue

Elote Cafe

350 Jordan
401-13-003

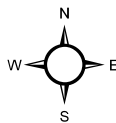
Cuptown

274 Apple Ave
401-13-004A

Instant Karma

Legend

 Parcels



This map is designed to provide as-is information only. The data is not accurate to engineering or surveying standards. The City of Sedona is not liable or responsible for loss or damages rising from the data contained on this map.

RESOLUTION NO. 2022-___

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING A DEVELOPMENT AGREEMENT WITH LGS REAL ESTATE, LLC (“LGS REAL ESTATE”) FOR A NEW SIDEWALK PROJECT IN UPTOWN SEDONA.

WHEREAS, the City of Sedona (“City”) intends to enter into a cost-sharing development agreement (“Development Agreement”) with LGS Real Estate, LLC (“LSG Real Estate”) for the construction of a sidewalk on segments of Apple Avenue and Cedar Street, as set forth in the terms of the Development Agreement.

BE IT RESOLVED BY THE MAYOR AND THE COUNCIL OF THE CITY OF SEDONA, ARIZONA, as follows:

The City of Sedona, through its Mayor and Council, hereby finds that the Development Agreement with LGS Real Estate, LLC for the construction of a sidewalk on segments of Apple Avenue and Cedar Steet is consistent with the Community Plan pursuant to A.R.S. §9- 500.05, and approves the Development Agreement, authorizing the signature by the Mayor and recording by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 12th day of April, 2022.

Sandra J. Moriarty, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney



**CITY COUNCIL
AGENDA BILL**

**AB 2797
April 12, 2022
Consent Items**

Agenda Item: 3h
Proposed Action & Subject: Approval of a Resolution authorizing the City to enter into an agreement for the purchase of the property located at 125 West State Route 89A (APN 000-00-080) located in Coconino County, City of Sedona, Arizona, for the sum of \$164,500.

Department	City Manager
Time to Present	N/A
Total Time for Item	
Other Council Meetings	N/A
Exhibits	A. Resolution B. Purchase Agreement

City Attorney Approval	Reviewed 04/04/22 KWC	Expenditure Required	
		\$	\$164,500 (52-5630-89-68B4 Bus Stop Improvements)
City Manager's Recommendation	Approve a resolution authorizing the purchase of the property located at 125 W State Route 89A.	Amount Budgeted	
		\$	0
		Account No. (Description)	Adequate capacity in capital projects accounts
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: The property located at 125 West 89A (APN 000-00-080) has been identified by the City of Sedona as having prospective use for a transportation related public purpose(s).

The City has the legal authority to acquire this property in accordance with A.R.S. § 28-7095(B) "specific highway purpose." This A.R.S. § allows the Arizona Department of Transportation (ADOT) to convey property owned by them but no longer needed, to a city or town without a public sale, if the (ADOT) director considers the conveyance to be in the public interest and if the real property is to be used for such a specific public purpose. If the City was planning to use the property for a public purpose, but not a transportation purpose, the purchase price would be fair market value. Since the property is planned to be used for a future highway/transportation purpose, the City is only required to reimburse ADOT for its expenditures for the property. Under this provision, if the property is not ultimately used for a highway/transportation purpose, it shall revert to ADOT. Further, if the director determines any property conveyed under this section is needed by the department (ADOT) for its own transportation purpose in the future, they may acquire the property back from the City at a cost

equal to the amount paid, or the fair market value at the time of the repurchase by ADOT, whichever is less.

The City Council held an executive session to discuss the potential purchase of this property on Sept 14, 2021. This purchase contract is being brought in response to the direction given by Council at that time.

Purchase Terms

ADOT paid \$1.119 million for the larger property in 2006 which included severance damages. Based on the formula used by ADOT when selling a remnant parcel to a local jurisdiction for a transportation purpose, the City purchase price will be the same per square foot cost as ADOT paid when they originally acquired the property (2006). \$28.00 a square foot applied to the 5,875 square feet of the remnant piece equals a total of \$164,500. The City has not yet determined the ultimate transportation related use of the property, but possible uses include a future transit stop, multimodal mobility hub (rental of bikes or other non-vehicular transport), or other. ADOT does not require the improvements to be made within a certain timeframe so the City can secure the property now and continue to plan for the highest and best future use. The City would likely plan to demolish the existing building in the upcoming fiscal year in order to provide some level of beautification to this highly visible location.

This site, which previously housed a gas station, has been undergoing environmental remediation by the Arizona Department of Environmental Quality (ADEQ) for the last several years under their State Lead program which allows ADEQ to perform clean up, in this case for a Leaking Underground Storage Tank (LUST). When the City began to work with ADOT on the coordination of the purchase, ADEQ had reported that they were close to completing the remediation and “closing” the case. The City has been waiting for the final ADEQ closure to take place before finalizing the purchase agreement with ADOT. That closure is in the public comment period presently and is expected to occur on or around April 15, 2022. Because of this history ADOT is indemnifying the City against future exposure due to the past environmental issues.

Adequate budget capacity is available in the capital improvement accounts to cover the cost of the land acquisition. ADOT will process the transfer of the property ownership within 60 days of Council approval.

Climate Action Plan/Sustainability Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

MOTION

I move to: approve Resolution 2022-__ authorizing the Purchase Contract for the City of Sedona to purchase the property located at 125 West 89A (APN 000-00-080) for the sum of \$164,500, subject to approval of the written contract by the City Attorney’s Office and authorizing the Mayor to execute the documents required to complete the purchase.

RESOLUTION NO. 2022-__

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE PURCHASE CONTRACT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE PURCHASE OF REAL PROPERTY FOR PUBLIC PURPOSE USE.

WHEREAS; the City has the legal authority to acquire this property in accordance with ARS 28-7095(B) “specific highway purpose”, and

WHEREAS, the City Council has determined that the property located at 125 West 89A (APN 000-00-080), within Coconino County, Arizona (Subject Parcel) has viable uses for transportation related public purpose(s); and

WHEREAS, the City has worked with ADOT to establish, in accordance with Arizona state statutes, a purchase price of \$164,500.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE COUNCIL OF THE CITY OF SEDONA, ARIZONA, that:

Section 1. The City of Sedona, through its Mayor and Council, hereby approves the purchase of the Subject Parcel from ADOT and authorizes and directs the Mayor to execute the Purchase Contract on behalf of the City of Sedona.

Section 2. That the Mayor and City Manager are authorized to approve and execute such other documents on behalf of the City of Sedona, Arizona necessary for the completion of the transactions.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 12th day of April, 2022.

Sandra J. Moriarty, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney

TERMS OF EXCESS LAND PURCHASE AGREEMENT AND DEPOSIT RECEIPT, Page 2 of 2

- ESCROW FEES:** When purchase is accomplished through escrow proceedings, the successful purchaser shall pay all escrow and collection fees.
- SCHEDULE:** Completion of a cash sale, or close of escrow, shall be scheduled on or before sixty (60) days from the date of execution of this purchase agreement. Any application for extension of time to complete the sales transaction must be in writing and approved by ADOT. An additional deposit may be required for any such extension. This non-refundable additional deposit will be applied to the purchase price if the sales transaction closes.
- POSSESSION:** Possession will be granted upon recording of the Special Warranty Deed and any other closing documents required.
- FORFEITURE OF DEPOSIT:** In the event buyer withdraws its approved bid, or fails to comply with any of the terms of this Agreement, ADOT is hereby entitled to retain the deposit as liquidated damages and buyer forfeits its right to the property.
- NON-ASSIGNABILITY:** This Purchase Agreement and any escrow instructions arising therefrom are not assignable until the escrow has closed.
- ENVIRONMENTAL RELEASE:** Successful bidders for the purchase of excess land must sign an Environmental Release form.
- DISCLAIMER OF WARRANTIES:** The State of Arizona, acting by and thru its Department of Transportation will convey by Special Warranty Deed only what right, title, and interest it has in the property and does not warrant marketability, sufficiency or color of title, ingress or egress to the property, zoning, utilities, or the ground location of property lines other than monumented highway right of way lines. The property is subject to all valid rights, exceptions and/or reservations (in accordance with Arizona Revised Statute 28-7210), whether or not these matters are of public record. Access to any existing utilities will be by way of what is existing at the time of this conveyance and shall be the responsibility of the Purchaser herein and the public or utility companies to show where that access is located. The obligation is upon the buyer to do their due diligence, to examine to their satisfaction the status of all matters affecting the property including the accuracy of title, boundaries, zoning, and physical conditions. If agricultural irrigation is to be supplied, the cost of extending service to the property is totally and expressly the cost of the purchaser. It is understood that this Disclaimer of Warranties shall remain in full force and effect regardless of the language contained in any subsequent closing documents or deeds.
- COUNTERPARTS:** This Agreement may be executed in any number of counterparts, including facsimile counterparts, with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and

constitute the same instrument. If there is any conflict between the two documents, the terms contained in this Agreement shall prevail.

**ENVIRONMENTAL RELEASE, Page 1
of 2 EXCESS LAND NO.: L-F-017**

The State of Arizona, acting by and thru its Department of Transportation (Seller) and City of Sedona, an Arizona Municipal Corporation (Buyer) have entered into a purchase and sale agreement (the Contract) dated _____, 2022 and concerning the real property described in Exhibit A together with any improvements thereon.

Seller releases Buyer of and from all liabilities, obligations and claims, known and unknown, that Seller or third parties may now have against Buyer or that may arise in the future based in whole or in part upon the presence of toxic or hazardous substances or other environmental contamination on or within the Property.

Therefore, in return for sale of the Property and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows:

Seller hereby agrees to indemnify Buyer for and releases Buyer of and from any and all claims, demands, causes of action, losses, damages, liabilities, matters, costs and expenses of any kind, known or unknown, past, present or future a) relating to the Property arising out of any violation of any law, statute, ordinance, rule regulation, or order of determination of any governmental authority pertaining to health or environment and b) relating to any act, omission, event or circumstance related to hazardous substances or environmental contamination within, on, beneath, or released from the Property. This indemnification and release shall include, but not be limited to, any and all claims, demands, causes of action, losses, damages, liabilities, matters, costs and expense of any kind, known or unknown, past, present or future arising out of or related to the Underground Storage Tank program (A.R.S. 49-1001, et seq.) and its enacting regulations; the Water Quality Assurance Revolving Fund (A.R.S. 49 Chapter 2 Article 15) and its enacting regulations; the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and its enacting regulations; the Safe Drinking Water Act as amended (42 U.S.C. § 300f et seq.); the Clean Water Act as amended (33 U.S.C. § 1251 et seq.) and any and all other local, state, or federal laws related to environmental regulation and contamination.

Seller's agreement to indemnify and release Buyer is a material portion of the consideration for conveyance of the Property by Seller to Buyer.

The terms and provisions of this Release shall run with the Property and shall be binding upon Buyer and Buyer's successors in interest.

Buyer agrees that this property will have deed restrictions upon disposal requiring ADEQ and ADOT to monitor the existing monitoring wells associated with an ongoing environmental remediation of the site, and that the sale of the parcel will be subject to this requirement. Buyer agrees to this deed restriction and Seller will indemnify the Buyer against future exposure due to this environmental mediation. Seller agrees that it will complete closure of all Underground Storage Tanks.

(Continued – please sign and notarize next page)

**ENVIRONMENTAL RELEASE, Page 2
of 2 EXCESS LAND NO.: L-F-017**

Executed this _____ day of _____, 2022.

Purchaser: City of Sedona, an Arizona Municipal Corporation

By: _____ Date _____
Sandy Moriarty

Its: Mayor

STATE OF ARIZONA)
) SS.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022 by Sandy Moriarty, who acknowledged that she executed this instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and official seal.

Notary Public in and for said County and State

My commission expires:

**ARIZONA DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY GROUP/PROPERTY MANAGEMENT
SECTION**

EXCESS LAND PURCHASE AGREEMENT AND RECEIPT FOR DEPOSIT, Page 1 of 2

Project No.: 179 YV 304 H3414 02R

Sale No. L-F-017

Received from City of Sedona, an Arizona Municipal Corporation, herein called Purchaser, the sum of One Hundred Sixty-Four Thousand Five Hundred Dollars (\$164,500.00) as the total amount for the purchase of the State's interest in the real property known as Excess Land # L-F-017; a 1,678± sq. ft. commercial building on a lot that contains approximately 5,875± sq. ft. / 0.134 ± acres of land for a specific public purpose in accordance with ARS 28-7095(B) "specific highway purpose." located around the SW Corner of the roundabout at Junction SR 179 & SR 89A, in Sedona, Coconino County, Arizona and as shown on Exhibit "A" attached hereto.

By: _____
Michael Craig, Manager Date

SALE PRICE PAYABLE AS FOLLOWS: As consideration, the Purchaser agrees to purchase the State's interest in the above described real property for the full purchase price of One Hundred Sixty-Four Thousand Five Hundred Dollars (\$164,500.00) payable as follows:

\$164,500.00	Balance of full purchase price, payable at close of escrow.
--------------	---

PURCHASER HEREBY AGREES TO: Close of escrow within 60 days of signed purchase agreement.

The property shall be conveyed by Special Warranty Deed to: City of Sedona, an Arizona Municipal Corporation.

PURCHASER TO SIGN ATTACHED ENVIRONMENTAL RELEASE FORM. This agreement is made with the understanding that it is subject to the terms and conditions attached hereto and approval by ADOT's Infrastructure Delivery and Operations Division.

PURCHASER: City of Sedona, an Arizona Municipal Corporation

By _____
Sandy Moriarty Date

Its: Mayor

Address: 102 Roadrunner Dr. Sedona, AZ 86336

Telephone: 928-204-7127 E-Mail: smoriarty@sedonaaz.gov

TERMS OF EXCESS LAND PURCHASE AGREEMENT AND DEPOSIT RECEIPT, Page 2 of 2

- ESCROW FEES:** When purchase is accomplished through escrow proceedings, the successful purchaser shall pay all escrow and collection fees.
- SCHEDULE:** Completion of a cash sale, or close of escrow, shall be scheduled on or before sixty (60) days from the date of execution of this purchase agreement. Any application for extension of time to complete the sales transaction must be in writing and approved by ADOT. An additional deposit may be required for any such extension. This non-refundable additional deposit will be applied to the purchase price if the sales transaction closes.
- POSSESSION:** Possession will be granted upon recording of the Special Warranty Deed and any other closing documents required.
- FORFEITURE OF DEPOSIT:** In the event buyer withdraws its approved bid, or fails to comply with any of the terms of this Agreement, ADOT is hereby entitled to retain the deposit as liquidated damages and buyer forfeits its right to the property.
- NON-ASSIGNABILITY:** This Purchase Agreement and any escrow instructions arising therefrom are not assignable until the escrow has closed.
- ENVIRONMENTAL RELEASE:** Successful bidders for the purchase of excess land must sign an Environmental Release form.
- DISCLAIMER OF WARRANTIES:** The State of Arizona, acting by and thru its Department of Transportation will convey by Special Warranty Deed only what right, title, and interest it has in the property and does not warrant marketability, sufficiency or color of title, ingress or egress to the property, zoning, utilities, or the ground location of property lines other than monumented highway right of way lines. The property is subject to all valid rights, exceptions and/or reservations (in accordance with Arizona Revised Statute 28-7210), whether or not these matters are of public record. Access to any existing utilities will be by way of what is existing at the time of this conveyance and shall be the responsibility of the Purchaser herein and the public or utility companies to show where that access is located. The obligation is upon the buyer to do their due diligence, to examine to their satisfaction the status of all matters affecting the property including the accuracy of title, boundaries, zoning, and physical conditions. If agricultural irrigation is to be supplied, the cost of extending service to the property is totally and expressly the cost of the purchaser. It is understood that this Disclaimer of Warranties shall remain in full force and effect regardless of the language contained in any subsequent closing documents or deeds.
- COUNTERPARTS:** This Agreement may be executed in any number of counterparts, including facsimile counterparts, with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and

constitute the same instrument. If there is any conflict between the two documents, the terms contained in this Agreement shall prevail.

**ENVIRONMENTAL RELEASE, Page 1
of 2 EXCESS LAND NO.: L-F-017**

The State of Arizona, acting by and thru its Department of Transportation (Seller) and City of Sedona, an Arizona Municipal Corporation (Buyer) have entered into a purchase and sale agreement (the Contract) dated _____, 2022 and concerning the real property described in Exhibit A together with any improvements thereon.

Seller releases Buyer of and from all liabilities, obligations and claims, known and unknown, that Seller or third parties may now have against Buyer or that may arise in the future based in whole or in part upon the presence of toxic or hazardous substances or other environmental contamination on or within the Property.

Therefore, in return for sale of the Property and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows:

Seller hereby agrees to indemnify Buyer for and releases Buyer of and from any and all claims, demands, causes of action, losses, damages, liabilities, matters, costs and expenses of any kind, known or unknown, past, present or future a) relating to the Property arising out of any violation of any law, statute, ordinance, rule regulation, or order of determination of any governmental authority pertaining to health or environment and b) relating to any act, omission, event or circumstance related to hazardous substances or environmental contamination within, on, beneath, or released from the Property. This indemnification and release shall include, but not be limited to, any and all claims, demands, causes of action, losses, damages, liabilities, matters, costs and expense of any kind, known or unknown, past, present or future arising out of or related to the Underground Storage Tank program (A.R.S. 49-1001, et seq.) and its enacting regulations; the Water Quality Assurance Revolving Fund (A.R.S. 49 Chapter 2 Article 15) and its enacting regulations; the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and its enacting regulations; the Safe Drinking Water Act as amended (42 U.S.C. § 300f et seq.); the Clean Water Act as amended (33 U.S.C. § 1251 et seq.) and any and all other local, state, or federal laws related to environmental regulation and contamination.

Seller's agreement to indemnify and release Buyer is a material portion of the consideration for conveyance of the Property by Seller to Buyer.

The terms and provisions of this Release shall run with the Property and shall be binding upon Buyer and Buyer's successors in interest.

Buyer agrees that this property will have deed restrictions upon disposal requiring ADEQ and ADOT to monitor the existing monitoring wells associated with an ongoing environmental remediation of the site, and that the sale of the parcel will be subject to this requirement. Buyer agrees to this deed restriction and Seller will indemnify the Buyer against future exposure due to this environmental mediation. Seller agrees that it will complete closure of all Underground Storage Tanks.

(Continued – please sign and notarize next page)

**ENVIRONMENTAL RELEASE, Page 2
of 2 EXCESS LAND NO.: L-F-017**

Executed this _____ day of _____, 2022.

Purchaser: City of Sedona, an Arizona Municipal Corporation

By: _____ Date _____
Sandy Moriarty

Its: **Mayor**

STATE OF ARIZONA)
) SS.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022 by Sandy Moriarty, who acknowledged that she executed this instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and official seal.

Notary Public in and for said County and State

My commission expires:

EXHIBIT "A"

Lot 1, of Block VII, of HART'S VILLAGE SUBDIVISION, according to the plat of record in the office of the County Recorder of Coconino County, Arizona, recorded as Book 2 of Maps, Page 54, located in the Southeast quarter (SE¼) of Section 7, Township 17 North, Range 6 East, Gila and Salt River Meridian, Coconino County, Arizona;

EXCEPTING therefrom, any portion of said Lot 1 lying within the following described parcel:

BEGINNING at a 1 inch iron pipe set in the ground marking the Southwest corner of Lot 2 of said Block VII of HART'S VILLAGE SUBDIVISION;

thence along the West lines of said Lots 2 and 1, North 10 degrees 26 minutes 30 seconds East 201.5 feet;

thence at right angles, South 79 degrees 33 minutes 30 seconds East, 123.7 feet to the Easterly line of said Lot 1;

thence along the Easterly line of said Block VII from a tangent that bears South 6 degrees 33 minutes East along a curve to the right with a radius of 227.44 feet, through an angle of 23 degrees 13 minutes 30 seconds, a distance of 92.2 feet and South 16 degrees 40 minutes 30 seconds West, 110.3 feet to the Southeast corner of said Lot 2;

thence along the South line of said Lot 2, North 79 degrees 53 minutes 30 seconds West 120.3 feet to the POINT OF BEGINNING;

ALSO EXCEPT therefrom that portion which lies easterly of the following described NEW RIGHT OF WAY LINE;

(continued)

PAGE 1

PROJECT: 179 YV 304 H3414 **LOCATION:** Village of Oak Creek-Jct. 89A **PARCEL:** L-F-017
S 238 - 805 Disposal sw 09-18-2013

NEW RIGHT OF WAY LINE DESCRIPTION:

Commencing at a Bureau of Land Management (B.L.M.) brass cap marking the Southeast corner of said Section 7, being South 01°47'27" East 2620.71 feet from a B.L.M. brass cap marking the East quarter corner of said Section 7;

thence along the South line of said Section 7, South 89°46'01" West 227.23 feet to the existing right of way centerline of said State Route 179;

thence along said existing right of way centerline of State Route 179 North 17°49'18" East 136.23 feet;

thence continuing along said existing right of way centerline of State Route 179 along a curve to the Left having a radius of 81.86 feet, a length of 124.80 feet;

thence continuing along said existing right of way centerline of State Route 179 North 69°31'57" West 411.88 feet;

thence continuing along said existing right of way centerline of State Route 179 along a spiral curve to the Right having an "a"=10.00, a length of 160.00 feet;

thence continuing along said existing right of way centerline of State Route 17 from a Local Tangent Bearing of North 56°43'58" West along a curve to the Right having a radius of 358.10 feet, a length of 376.51 feet;

thence continuing along said existing right of way centerline of State Route 17 from a Local Tangent Bearing of North 03°30'30" East along a spiral curve to the Right having an "a"=10.00, a length of 160.00 feet;

thence continuing along said existing right of way centerline of State Route 17 North 16°18'29" East 115.12 feet;

thence North 73°41'31" West 41.00 feet to the POINT OF BEGINNING on said existing westerly right of way line of State Route 179;

thence North 16°18'29" East 179.08 feet;

thence South 80°15'31" East 4.45 feet;

thence North 16°18'29" East 33.73 feet;

thence North 20°33'16" East 10.02 feet;

(continued)

PAGE 2

thence North 17°49'38" East 66.29 feet;

thence from a Local Tangent Bearing of North 16°18'26" East along a curve to the Left having a radius of 226.36 feet, a length of 40.16 feet;

thence North 05°59'26" West 25.13 feet;

thence from a Local Tangent Bearing of North 00°11'56" West along a curve to the Left having a radius of 222.44 feet, a length of 62.78 feet;

thence South 67°11'56" West 6.88 feet;

thence North 46°42'29" West 25.88 feet;

thence from a Local Tangent Bearing of North 35°16'34" West along a curve to the Left having a radius of 162.73 feet, a length of 53.34 feet to the POINT OF ENDING on the South right of way line of State Route 89A (PRESCOTT – FLAGSTAFF HIGHWAY).

EXCEPT all uranium, thorium, or any other material which is or may be determined to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, as reserved in Patent from United States of America.

5875 square feet, more or less.

GRANTOR RESERVES unto the public and various utility companies, easements for existing utilities, if any, within the above described property, in accordance with Arizona Revised Statute 28-7210. Access to the existing utilities will be by way of what exists at the time of this conveyance and shall be the responsibility of the Grantee herein and of the public or utility companies to show where that access is located.

ALSO RESERVING unto the Grantor, its successors or assigns, the right to enter upon the above described property to maintain various monitoring wells that are located thereon.

The above described property shall have no direct access to said State Route 89A, but shall have access to Hart Road on the westerly side of said property and from northbound and southbound State Route 179 (RIMROCK-SEDONA HIGHWAY) on the easterly side of said property. Egress from said property to said State Route 179 shall be limited to only a right out movement.

PAGE 3

PROJECT: 179 YV 304 H3414 **LOCATION:** Village of Oak Creek-Jct. 89A **PARCEL:** L-F-017
S 238 - 805 Disposal sw 09-18-2013



**CITY COUNCIL
AGENDA BILL**

**AB 2800
April 12, 2022
Consent Items**

Agenda Item: 3i
Proposed Action & Subject: Approval of a construction contract with Standard Construction Company, Inc., in the amount of \$156,497, for the Los Abrigados to Ranger Park Connection Project.

Department	Public Works
Time to Present	N/A
Total Time for Item	
Other Council Meetings	February 8, 2022
Exhibits	A. Contract

City Attorney Approval	Reviewed 04/04/22 KWC	Expenditure Required	
			\$ 156,497
City Manager's Recommendation	Approve a construction contract with Standard Construction Company, Inc., in the amount of \$156,497, for the Los Abrigados to Ranger Park Connection Project.	Amount Budgeted	
			\$ 148,500 (balance available)
		Account No.	22-5320-89-68C1
		(Description)	48-5320-89-68C1 (Los Ab to Brewer Connection)
			\$ 7,997 (to be transferred from 52-5630-89-68B1 – Transit Maintenance / Operations Center) which has \$521,988 budget balance available
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

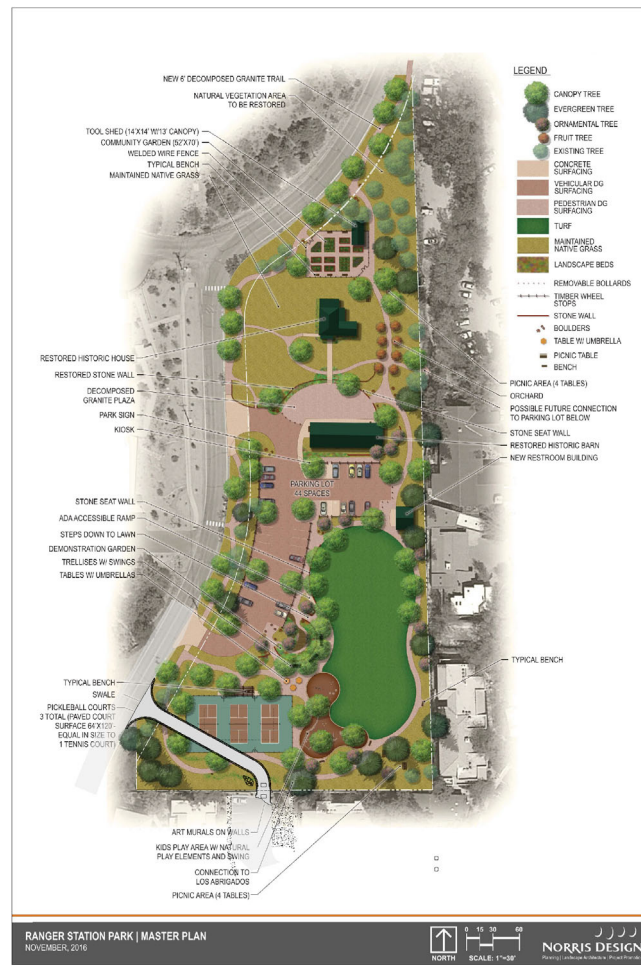
Staff is requesting City Council approval of a construction contract with Standard Construction Company, Inc. (Standard), in the amount of \$156,497 for the Los Abrigados to Ranger Park Connection Project.

Background:

This project was identified as an additional connection to support the goals of Sedona in Motion strategy 5, Major Neighborhood Connections. The connection will be a one-way exit driveway

from the Los Abrigados lodging area, through the southern corner of Ranger Station Park, to Brewer Road. It will include an automated gate that will open only for exiting vehicles. The benefit of the connection will be to allow vehicles who are headed to West Sedona or Uptown, to avoid the SR 179 corridor, reducing U-turns at the Schnebly Hill roundabout, while also reducing overall volumes and congestion for both northbound and southbound travel. This connection was considered necessary as a means for Los Abrigados to contribute to the solution, so that the Portal Lane lot would not shoulder all vehicles who may be headed to West Sedona or Uptown. It is anticipated that the driveway location will also become the new entrance into the parking area for the park to reduce the number of access points on Brewer Road.

The one-way driveway connection will also require the elimination of the pickleball courts originally contemplated in the Ranger Park Plan. This was supported by both the pickleball players' groups and the Historic Preservation Commission given that pickleball courts are not in keeping with the historic nature of this park, were controversial even when the park plan was developed originally, and up to eight new pickleball courts are planned to be built in FY23 at Posse Ground Park instead.



Schedule:

- The construction timeframe is set at 67 days and is anticipated to begin on April 25, 2022 and be complete by end of June 2022.
- Throughout the construction period, it will be the contractor's responsibility to coordinate directly with Los Abrigados regarding impacts to property or parking.

Procurement Method:

This construction contract was advertised for bids beginning February 23, 2022. Bids were opened on March 23, 2022. Two bids were received. They are listed as follows:

Bidder, (Office Location)	Base Bid
STANDARD CONSTRUCTION COMPANY (Avondale, AZ)	\$156,497
SUMMIT CONSTRUCTION COMPANY (Flagstaff, AZ)	\$169,200

Standard has previously completed satisfactory work within the City of Sedona. Staff has researched their references and licenses and have found no reason to not award the contract. Staff is recommending award of the bid provided by Standard, in the amount of \$156,497.

Budget

- The budgeted amount available for the project is \$148,500.
- The additional \$7,997 will be covered by available budget in the Transit Maintenance/Operations Center project budget.

Climate Action Plan/Sustainability Consistent: Yes - No - Not Applicable

Improved travel times reduce wasteful vehicle operations.

Board/Commission Recommendation: Applicable - Not Applicable

This proposed modification was presented to both the Historic Preservation Commission and the Planning and Zoning Commission as an informational courtesy and to seek their input on design since accommodating the connection results in a small change to the Ranger Station Park Master Plan which was originally approved by both bodies. They provided input regarding the use of materials and engineering the driveway to minimize disruption to the shared use path portion of the site which has been valuable during design.

Alternative(s): Not approving the contract could result in further delay to the Portal to Brewer connection, and continued congestion on the SR 179 corridor.

MOTION

I move to: approve award of a construction contract with Standard Construction Company, Inc., in the approximate amount of \$156,497, for the Los Abridados to Brewer Road Connection Project, subject to approval of the written contract by the City Attorney’s Office.

CONSTRUCTION CONTRACT

THIS CONTRACT, made and entered into this ____ day of _____, 2022 by and between the City of Sedona, Arizona, an Arizona municipal corporation, hereinafter called the "City", and **Standard Construction Company, Inc.**, hereinafter called the "Contractor."

WITNESSETH:

WHEREAS, the City has caused Contract Documents to be prepared for the construction of the Los Abridados to Ranger Park Connection Project (**the "Project"**), City of Sedona, Arizona, as described therein; and

WHEREAS, the Contractor has offered to perform the proposed work in accordance with the terms of the Contract; and

WHEREAS, the Contractor, as will appear by reference to the minutes of the proceedings of the City Council was duly awarded the work.

NOW, THEREFORE, the parties hereto hereby stipulate, covenant and agree as follows:

1. The Contractor promises and agrees to and with the City that it shall perform everything required to be performed and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services required to perform and complete in a workmanlike manner all of the work required in connection with construction of the Project all in strict accordance with the Specifications and Drawings, including any and all Addenda, and in strict compliance with the Contractor's Proposal and all other Contract Documents, which are a part of the Contract; and the Contractor shall do everything required by this Contract and the other documents constituting a part thereof.
2. The Contractor agrees to perform all of the work described above in accordance with the Contract Documents and comply with the terms therein for the initial estimated Contract price of \$156,497, subject to increase or decrease in accordance with the Contract Documents, and the Bid Schedule set forth therein; and the City agrees to pay the Contract Prices in accordance with the Bid Schedule for the performance of the work described herein in accordance with the Contract Documents.
3. The Contractor and the City agree that the terms, conditions, and covenants of the Contract are set forth in the Contract Documents and the Plans and Technical Specifications, and the Drawings numbered 1-3, all defined as the Contract Documents, and by this reference made a part hereof as if fully set forth herein.
4. The Contractor and the City agree that each will be bound by all terms and conditions of all the Plans and Technical Specifications, and Contract Documents, as if the same were fully set forth herein, and hereby incorporate all of the foregoing into this Agreement.
5. The Contractor shall abide by all the laws of the United States of America, State of Arizona, Coconino/Yavapai Counties, and the City of Sedona, including a requirement that Contractor

obtain an annual Sedona Business License for every year that they do business with Sedona or within the City limits.

6. The Contractor shall carry Workers' Compensation Insurance and require all Subcontractors to carry Workers' Compensation Insurance as required by the Law of the State of Arizona, and all other insurance as set forth in the General Conditions.
7. The Contractor shall supply Los Abridados with the certificates of insurance and endorsements that meet the requirements below. Each Service Provider understands and agrees that all insurance procured by Service Provider is primary and non-contributory over any insurance held by Sedona Vacation Club, Inc. or Inn at Los Abridados Owners Association and is intended to respond to any indemnification event.

City, Contractor and all subcontractors, service providers and material suppliers retained for the Project (collectively, "Service Providers") must submit verification of insurance by providing a certificate of insurance on a standard ACORD 25-S form issued by a carrier with an S&P or Best rating not less than A-VII, unless otherwise approved in writing by Sedona Vacation Club, Inc. and Inn at Los Abridados Owners Association.

The Certificate must include:

- A. Additional insured endorsement for general liability naming **Sedona Vacation Club Incorporated, the Inn at Los Abridados Owners Association, Hilton Grand Vacations, Inc.**, and each of their respective parents, subsidiaries and affiliates and each of their officials, shareholders, principals, members, managers, officers, directors, employees and agents. Coverage is primary and non-contributory. The additional insured endorsement shall state that the coverage provided to the additional insureds is primary and non-contributing with respect to any other insurance available to the additional insureds.
- B. A copy of the endorsement must be provided on form CG 2010 and form CG 2037 if applicable to service being provided.
- C. The Certificate must also evidence that each carrier has provided Waivers of Subrogation in favor of **Sedona Vacation Club Incorporated, the Inn at Los Abridados Owners Association, and Hilton Grand Vacations, Inc.**
- D. Commercial General Liability insurance on an occurrence coverage form, at least as broad as the Insurance Services Office Commercial General Liability Policy form CG 0001©.
- E. Additionally the policy(s) may not contain exclusions for residential or subsidence. Both must be evidenced on the certificate of insurance.
- F. Certificate Holders must read:
Sedona Vacation Club Incorporated, and the Inn at Los Abridados Owners Association
10600 W. Charleston Blvd.
Las Vegas, NV 89135

For City, Contractor and all Service Providers, the following minimum and unimpaired limits of insurance (unless higher limits required by law or statute) are required. In addition to procuring and maintaining this insurance throughout the duration of the Agreement, City and Contractor agree to

continue to procure and maintain products and completed operations liability insurance coverage following completion of the Project for a period of one year.

Workers' Compensation and Employer's Liability

Part One - Workers' Compensation: Statutory Limit

Part Two - Employer's Liability: Annual Limits:

Bodily Injury by Accident, each Accident: \$ 1,000,000

Bodily Injury by Disease, each Employee \$ 1,000,000

Bodily Injury by Disease, Policy Limit: \$ 1,000,000

Commercial General Liability

General Aggregate \$2,000,000

Products/Completed Operations Aggregate \$2,000,000

Personal/Advertising Injury \$1,000,000

Each Occurrence Limit \$1,000,000

Coverage is required to be on an Occurrence form and shall apply to bodily injury and property damage for operations including independent contractors, products and completed operations.

Umbrella/Excess Liability

General Aggregate \$2,000,000

Each Occurrence Limit \$2,000,000

Limits can be provided by a combination of a primary Commercial General Liability policy and Excess or Umbrella Liability policy.

Automobile Liability

Commercial Business Auto Policy covering all owned, hired and non-owned automobiles, trucks and trailers with coverage limits not less than **\$1,000,000 Combined Single Limit** each accident for Bodily Injury and Property Damage. Coverage will apply both on and away from the Project site. All subcontractors shall be required to maintain limits of not less than **\$1,000,000 Combined Single Limit**.

Property Insurance

City, Contractor and Service Providers are solely responsible for their own insurance for owned and leased equipment and materials, whether such equipment is located at the Project site or "in transit". Service providers are solely responsible for any loss or damage to their personal property including, without limitation, property or materials created or provided under the Agreement until installed at the Project site, service provider tools and equipment, and scaffolding and temporary structures, whether owned, used, leased, or rented by Service provider.

Note: Waivers Required

All Workers' Compensation, General Liability, Automobile, Umbrella or Excess Liability and Property insurers, including Contractor's equipment, shall waive all claims.

8. Contractor, its agents, employees, and subcontractors, shall not discriminate in any

employment policy or practice. "Discrimination" means to exclude individuals from an opportunity or participation in any activity or to accord different or unequal treatment in the context of a similar situation to similarly situated individuals because of race, color, gender, gender identity, sexual orientation, religion, national origin or ancestry, marital status, familial status, age, disability, or veteran status. (Ordinance 2015-10 (2015)).

9. Work under this Contract shall commence on the date specified in the written Notice to Proceed from the City to the Contractor. Upon receipt of said Notice, the Contractor shall diligently and continuously prosecute and complete all work under this Contract within the time specified on page A-2.
10. The Contract Document consist of the following component parts, all of which are a part of this Contract whether herein set out verbatim, or attached hereto:

- Advertisement for Bids
- Information for and Instructions to Bidders
- Bid Proposal and Bid Guaranty Bond
- Contract (this document)
- Change Orders
- Addenda
- Performance Bond, Labor and Material Payment Bond
- Special Conditions
- General Conditions
- Technical Specifications
- Notice of Award
- Notice to Proceed
- Plans and Drawings
- Design Reports
- Standard Specifications
- Insurance Certificates
- Participation in Boycott of Israel

The above-named documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, the order of precedence is as follows:

1. Change Orders
2. Contract (this document), including addenda
3. Payment and Performance Bonds
4. Advertisement for Bids
5. Information for and Instructions to Bidders
6. Notice of Award
7. Notice to Proceed
8. Special Conditions
9. Bid Proposal
10. Technical Specifications

11. Plans and Drawings
12. General Conditions
13. Bid Guaranty Bond
14. Standard Specifications

In the event there is a conflict between any of the above listed documents, the provision of the document with the lower numerical value shall govern those documents with a higher numerical value. Within a category, the last in time is first in precedence.

The Contractor shall not take advantage of any apparent error or omission in the Plans or Specifications. In the event the Contractor discovers such an error or omission, he shall immediately notify the City. The City will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Plans and Specifications.

11. As part of the inducement for City to enter into this Agreement, Contractor makes the following representations:
 - A. Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress, or performance of the work.
 - B. Contractor has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or those reports that otherwise may affect cost, progress or performance of the work, which were utilized by Design Engineer in the preparation of the Drawings and Specifications and which have been identified in the Contract Documents.
 - C. Contractor has made or caused to be made examinations, investigations and tests, and studies of such reports and related data as he deems necessary for the performance of the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by Contractor for such purposes.
 - D. Contractor has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
 - E. **Contractor has given the City Engineer written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents** and the written resolution thereof by City Engineer is acceptable to Contractor.
 - F. Contractor has attended mandatory pre-bid meetings and walk-throughs.
12. A. No assignment by a party hereto of any rights under or interest in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent

that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- B. City and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, and its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
 - C. Pursuant to Arizona Revised Statutes Section 38-511, the provisions of which are incorporated by reference as if fully set forth herein, all parties are hereby given notice that this Agreement is subject to cancellation by the City if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract or Contract Documents on behalf of the City is, at any time while the Contract or Contract Document or any extension thereof is in effect, an employee or agent of any other party to the Contract or Contract Documents in any capacity or a consultant to any other party to the Contract or Contract Documents with respect to the subject matter of the Contract or Contract Documents.
13. During the performance of this Agreement, Contractor may also be under contract with the City for performance of work on other projects. A breach in the performance of any of Contractor's obligations under this Agreement shall constitute a breach of Contractor's obligations under any other agreement with the City and the breach by Contractor under other agreement with the City shall also constitute a breach of Contractor's obligations under this Agreement. The City may offset any amounts owed by Contractor under any such other agreement from any amounts owed to Contractor under this Agreement.
14. To the fullest extent permitted by law, Contractor [or Service Provider] agrees to indemnify, defend and hold harmless Los Abridados, Hilton Grand Vacations, Inc, their respective subsidiaries, parents and affiliates, and each of their respective officers, directors, members, managers, employees, partners, shareholders and agents (individually a "Indemnified Party" and collectively, "Indemnified Parties"), from any causes of action, suits, liens, losses, judgments, debts, damages, claims and demands which arise from or relate to: (i) Contractor's [or Service Provider's] performance or failure to perform under this Agreement, (ii) Contractor's [or Service Provider's] breach of any provision, representation or warranty of this Agreement, (iii) the intentional, willful, illegal, dishonest or negligent acts or omissions by Contractor [or Service Provider], its subsidiaries, parents and affiliates, and each of their respective officers, directors, members, managers, employees, partners, shareholders, contractors and agents (collectively, "Contractor [or Service Provider] Parties") and (iv) any breach or violation of any Applicable Laws, of or by, Contractor [or Service Provider] or Contractor [or Service Provider] Parties. Contractor [or Service Provider] shall defend Indemnified Parties using counsel selected by the Indemnified Parties, and Contractor's [or Service Provider's] obligations shall include the obligation to pay reasonable attorneys' fees and costs in connection with such defense, or to reimburse the Indemnified Parties promptly for such attorneys' fees and costs. This Section shall survive the expiration or termination of this Agreement for any reason whatsoever.
15. The Contract Documents constitute the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement which shall be deemed an original on the date first above written.

CITY: City of Sedona, Arizona

BY: _____

NAME: _____

TITLE: _____

(SEAL)

ATTEST:

BY: _____

NAME: _____

CONTRACTOR: Standard Construction Company, Inc.

BY: _____

NAME: _____

TITLE: _____

(SEAL)

ATTEST:

BY: _____

NAME: _____

APPROVED AS TO LEGAL FORM:

BY: _____

(City Attorney)



**CITY COUNCIL
AGENDA BILL**

**AB 2801
April 12, 2022
Consent Items**

Agenda Item: 3j
Proposed Action & Subject: Approval of: 1. A lease purchase of three police hybrid vehicles from Peoria Ford in the approximate amount of \$243,466.15, plus interest, via the Arizona State Cooperative Purchasing Contract; and 2. A Resolution approving the form of the lease/purchase agreement with Zions Bancorporation, N.A., Salt Lake City, Utah and authorizing the execution and delivery thereof.

Department	Police/Financial Services
Time to Present	N/A
Total Time for Item	
Other Council Meetings	N/A
Exhibits	A. Pricing Quote for three hybrid police vehicles B. Resolution C. Lease Purchase Agreement D. Escrow Agreement

City Attorney Approval	Reviewed 04/04/22 KWC	Expenditure Required	
		\$ 52,737.67 (FY2023- FY2027 annual lease purchase payments)	
City Manager's Recommendation	Approve the lease purchase of three police hybrid vehicles and a resolution authorizing the lease/purchase agreement with Zions Bank.	\$ (lease purchase payments to begin in FY2023)	
		Account No. N/A (Description)	
		Finance Approval <input checked="" type="checkbox"/>	

SUMMARY STATEMENT

Background: During the budget process for Fiscal Year 2022-2023, PD requested three vehicle replacements. Given supply chain lead time and the opportunity to lock in a low interest rate, the lease purchasing of three hybrid police patrol vehicles is being requested prior to the start of the fiscal year.

Budget and Financing

Quotes were obtained for the lease purchase financing. The lowest financing quote was Zions Bank. The lease purchase agreement and escrow agreement are included as Exhibits C and D. the lease includes the following terms:

- 5-year term commencing April 28, 2022
- Annual payments of \$52,737.67
- Payments in arrears (at the end of each year instead of the beginning)
- Interest rate of 2.72%
- No prepayment penalty (with such a low interest rate, staff does not plan to pay this off early)

Climate Action Plan/Sustainability Consistent: Yes - No - Not Applicable

The request for the three hybrid vehicles represent furtherance of our objective, through fleet acquisition, to support the City's Climate Action Plan.

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): Fund vehicle purchase with cash or defer purchase to later date.

MOTION

I move to: approve the lease purchase for three police hybrid vehicles in the approximate amount of \$243,466.15, plus interest from Peoria Ford via the Arizona State Cooperative Purchasing Contract.

I move to: approve Resolution No. 2022-__, approving the form of the lease/purchase agreement with Zions Bancorporation, N.A., Salt Lake City, Utah and authorizing the execution and delivery thereof.



PFVT MOTORS, INC.

CONTRACT # ADSP017-166117
QUOTE DATE: 3/30/2022

SANDRA GONZALEZ
 9130 West Bell Road
 Peoria, Arizona 85382
 Direct: 480-696-5930
 Cell: 505-850-5504
 Fax: 480-393-5536
 Email: sgonzalez@peoriaford.com

CUSTOMER: SEDONA PD
CONTACT: NATHAN DORFEY
 E-MAIL: nDorfman@sedonaaz.gov

REFERENCE: HYBRID UTILITY

LEAD TIME: TBD

LINE ITEM	ORDER CODE	DESCRIPTION	PRICE
1	K8A	2023 BLACK INTERCEPTOR UTILITY - 3.3L HYBRID	\$ 38,862.00
2	86T	REAR TAIL LAMP HOUSING CUT-OUT	\$ 60.00
3	17T	CARGO DOME LAMP	\$ 50.00
4	43D	DARK CAR FEATURE	\$ 25.00
5	SYNC	BLUETOOTH	STD
6	51R	LED DRIVER SIDE SPOTLAMP	\$ 395.00
7	549	POWER HEATED MIRRORS	\$ 60.00
8	55F	KEYLESS ENTRY - 4 REMOTES	\$ 340.00
9	85R	REAR MOUNT PLATE - WIRING CHANNEL	\$ 45.00
10	STD	BACKUP CAMERA	STD
11	DIO	TINT WINDOWS TO AGENCY SPEC	STD
12	86P	FRON HEADLAMP HOUSING CUTOUT	STD
13	DIO	UPFIT PER AIRWAVE QUOTE	
14	76R	REVERSE SENSING	\$ 275.00
15	17A	REAR AUX AIR	\$ 610.00
16	52P	HIDDEN LOCK PLUNGER W REAR DOOR INOPE	\$ 160.00
17	UPFIT	AIRWAVE UPFIT - PATROL	\$ 23,300.00
18	UPFIT	GETAC In-Car Video system	\$ 5,517.76
19	UPFIT	Motorola Car Radio system	\$ 3,447.93
TAXABLE TOTAL			\$ 73,147.69
SALES TAX			\$ 5,924.96
WARRANTY COST			\$ -
TIRE TAX			\$ 5.00
FREIGHT			\$ -
TOTAL PER UNIT			\$ 79,077.65
QUANTITY OF UNITS			2
PO TOTAL			\$ 158,155.31

***OFFICIAL PRICING FROM FORD HAS NOT BEEN RELEASED FOR 2023 MODELS. PRICING IS BASED ON PROJECTED ANNUAL PRICING INCREASE AND IS SUBJECT TO CHANGE AS SOON AS OFFICIAL PRICING IS RELEASED. ***

THANK YOU FOR YOUR BUSINESS!



PFVT MOTORS, INC.

CONTRACT # ADSP017-166117
QUOTE DATE: 3/30/2022

SANDRA GONZALEZ
 9130 West Bell Road
 Peoria, Arizona 85382
 Direct: 480-696-5930
 Cell: 505-850-5504
 Fax: 480-393-5536
 Email: sgonzalez@peoriaford.com

CUSTOMER: SEDONA PD
CONTACT: NATHAN DORFEY
 E-MAIL: nDorfman@sedonaaz.gov

REFERENCE: HYBRID UTILITY

LEAD TIME: TBD

LINE ITEM	ORDER CODE	DESCRIPTION	PRICE
1	K8A	2023 BLACK INTERCEPTOR UTILITY - 3.3L HYBRID	\$ 38,862.00
2	86T	REAR TAIL LAMP HOUSING CUT-OUT	\$ 60.00
3	17T	CARGO DOME LAMP	\$ 50.00
4	43D	DARK CAR FEATURE	\$ 25.00
5	SYNC	BLUETOOTH	STD
6	51R	LED DRIVER SIDE SPOTLAMP	\$ 395.00
7	549	POWER HEATED MIRRORS	\$ 60.00
8	55F	KEYLESS ENTRY - 4 REMOTES	\$ 340.00
9	85R	REAR MOUNT PLATE - WIRING CHANNEL	\$ 45.00
10	STD	BACKUP CAMERA	STD
11	DIO	TINT WINDOWS TO AGENCY SPEC	STD
12	86P	FRON HEADLAMP HOUSING CUTOUT	STD
13	DIO	UPFIT PER AIRWAVE QUOTE	
14	76R	REVERSE SENSING	\$ 275.00
15	17A	REAR AUX AIR	\$ 610.00
16	52P	HIDDEN LOCK PLUNGER W REAR DOOR INOPE	\$ 160.00
17	UPFIT	AIRWAVE UPFIT - K-9 - phx-1849	\$ 29,066.13
18	UPFIT	GETAC In-Car Video system	\$ 5,517.76
19	UPFIT	Motorola Car Radio system	\$ 3,447.93
TAXABLE TOTAL			\$ 78,913.82
SALES TAX			\$ 6,392.02
WARRANTY COST			\$ -
TIRE TAX			\$ 5.00
FREIGHT			\$ -
TOTAL PER UNIT			\$ 85,310.84
QUANTITY OF UNITS			1
PO TOTAL			\$ 85,310.84

***OFFICIAL PRICING FROM FORD HAS NOT BEEN RELEASED FOR 2023 MODELS. PRICING IS BASED ON PROJECTED ANNUAL PRICING INCREASE AND IS SUBJECT TO CHANGE AS SOON AS OFFICIAL PRICING IS RELEASED. ***

THANK YOU FOR YOUR BUSINESS!

RESOLUTION NO. 2022-__

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING A LEASE PURCHASE AGREEMENT WITH ZIONS BANCORPORATION, N.A., FOR FUNDS TO BE USED BY THE CITY TO LEASE/PURCHASE HYBRID POLICE VEHICLES; PROVIDING AUTHORIZATION FOR THE MAYOR TO EXECUTE AND DELIVER SAID AGREEMENT.

WHEREAS, the City of Sedona (“City”) has determined that the leasing of hybrid police vehicles as described in the Lease Purchase Agreement is for a valid public purpose and is essential to the operations of the City; and

WHEREAS, the City Council has reviewed the form of the Lease Purchase Agreement and has found the terms and conditions thereof acceptable; and

WHEREAS, the City has taken the necessary steps to comply with legal bidding requirements to arrange for the leasing of such property.

BE IT RESOLVED BY THE MAYOR AND THE COUNCIL OF THE CITY OF SEDONA, ARIZONA AS FOLLOWS:

SECTION 1. That it is deemed in the best interest of the City of Sedona and the citizens thereof that the Lease Purchase Agreement for leasing/purchasing of hybrid police vehicles with Zions Bancorporation be entered into, which agreement is now on file in the office of the City Clerk.

SECTION 2. That Mayor or designee is authorized to execute and deliver said Lease Purchase Agreement in substantially the form presented on behalf of the City. That City officers are authorized to may make such changes to the Lease Purchase Agreement and related documents and certificates as such officers deem necessary and to fulfill all obligations under the terms of the Lease Purchase Agreement.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 12th day of April, 2022.

Sandra J. Moriarty, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney

ARIZONA FIXED EQUIPMENT LEASE

Long Name of Entity: City of Sedona
Address: 102 Roadrunner Drive
City, State Zip: Sedona, AZ 86336
Attention: Cherie Wright
Public Finance Office: Director of Financial Services
County: Coconino
Amount: 243,466.15
Rate: 2.72
Maturity Date: April 28, 2027
First Pmt Date: April 28, 2023
Payment Dates: April 28
Auto Extend: 5
Governing Body: City Council
Resolution Date: April, 2022
Dated Date: April, 2022
Day: 28th
State: **Arizona**

\$243,466.15
City of Sedona
Lease Purchase Agreement

1. Lease/Purchases Agreement of the City of Sedona
2. Exhibit A. Calculation of Interest Component
3. Exhibit B. Description of Leased Property
4. Exhibit C. Resolution of Governing Body
5. Exhibit D. Opinion of Lessee's Counsel
6. Exhibit E. Security Documents
7. Exhibit F. Delivery and Acceptance Certificate
8. Exhibit G. Escrow Agreement
9. Form 8038-G
10. Wire Transfer Request

LEASE/PURCHASE AGREEMENT

Dated as of April 28, 2022

by and between

ZIONS BANCORPORATION, N.A.,
as Lessor

and

CITY OF SEDONA,
as Lessee

TABLE OF CONTENTS

ARTICLE I

DEFINITIONS AND EXHIBITS

SECTION 1.1 Definitions and Rules of Construction1

SECTION 1.2 Exhibits3

ARTICLE II

REPRESENTATIONS COVENANTS AND WARRANTIES

SECTION 2.1 Representations, Covenants and Warranties of the Lessee3

SECTION 2.2 Representations, Covenants and Warranties of the Bank8

ARTICLE III

LEASE; LEASE PAYMENTS

SECTION 3.1 Lease8

SECTION 3.2 Term9

SECTION 3.3 Termination9

SECTION 3.4 Lease Payments9

SECTION 3.5 Possession of Leased Property Upon Termination10

SECTION 3.6 No Withholding10

SECTION 3.7 Lease Payments to Constitute a Current Obligation of the Lessee10

SECTION 3.8 Net Lease10

SECTION 3.9 Offset10

ARTICLE IV

INSURANCE

SECTION 4.1 Insurance10

SECTION 4.2 Damage to or Destruction of the Leased Property11

ARTICLE V

COVENANTS

SECTION 5.1 Use of the Leased Property11

SECTION 5.2 Interest in the Leased Property and this Lease12

SECTION 5.3 Maintenance, Utilities, Taxes and Assessments12

SECTION 5.4 Modification of the Leased Property12

SECTION 5.5 Permits13

SECTION 5.6 Bank's Right to Perform for Lessee13

SECTION 5.7 Bank's Disclaimer of Warranties13

SECTION 5.8 Indemnification13

SECTION 5.9 Inclusion for Consideration as Budget Item14

SECTION 5.10 Annual Financial Information14

ARTICLE VI

ASSIGNMENT AND SUBLEASING

SECTION 6.1 Assignment by the Bank14

SECTION 6.2 Assignment and Subleasing by the Lessee14

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

SECTION 7.1 Events of Default Defined14

SECTION 7.2 Remedies on Default15

SECTION 7.3 No Remedy Exclusive15

SECTION 7.4 Agreement to Pay Attorneys' Fees and Expenses15

SECTION 7.5 Waiver of Certain Damages15

ARTICLE VIII

PREPAYMENT OF LEASE PAYMENTS IN PART

SECTION 8.1 Extraordinary Prepayment From Net Proceeds16

SECTION 8.2 Option to Purchase Leased Property16

ARTICLE IX

MISCELLANEOUS

SECTION 9.1 Notices16

SECTION 9.2 System of Registration17

SECTION 9.3 Instruments of Further Assurance17

SECTION 9.4 Binding Effect17

SECTION 9.5 Amendments17

SECTION 9.6 Section Headings17

SECTION 9.7 Severability17

SECTION 9.8 Entire Agreement17

SECTION 9.9 Execution in Counterparts17

SECTION 9.10 Arbitration17

SECTION 9.11 Applicable Law18

SECTION 9.12 Immigration18

SECTION 9.13 Boycotting Israel18

Schedule of Lease PaymentsExhibit A

Legal Description of the Leased PropertyExhibit B

Resolution of Governing BodyExhibit C

Opinion of Lessee's CounselExhibit D

Security DocumentsExhibit E

Delivery and Acceptance CertificateExhibit F

LEASE/PURCHASE AGREEMENT

THIS LEASE/PURCHASE AGREEMENT, dated as of April 28, 2022, by and between ZIONS BANCORPORATION, N.A., a national banking association duly organized and existing under the laws of the United States of America, as lessor (the “Bank” or “Lessor”), and City of Sedona (the “Lessee”), a public agency of the State of Arizona (the “State”), duly organized and existing under the Constitution and laws of the State, as lessee;

WITNESSETH:

WHEREAS, the Lessee desires to finance the acquisition of the equipment and/or other personal property described as the “Leased Property” in Exhibit B (the “Leased Property”) by entering into this Lease/Purchase Agreement with the Bank (the “Lease”); and

WHEREAS, the Bank agrees to lease the Leased Property to the Lessee upon the terms and conditions set forth in this Lease, with rental to be paid by the Lessee equal to the Lease Payments hereunder; and

WHEREAS, it is the intent of the parties that the original term of this Lease, and any subsequent renewal terms, shall not exceed 12 months, and that the payment obligation of the Lessee shall not constitute a general obligation under State law; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Lease;

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

SECTION 1.1 Definitions and Rules of Construction. Unless the context otherwise requires, the capitalized terms used herein shall, for all purposes of this Lease, have the meanings specified in the definitions below. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Lease, refer to this Lease as a whole.

“Acquisition Amount” means \$243,466.15 and is the amount represented by Lessee to be sufficient to acquire the Leased Property and pay any ancillary costs associated therewith.

“Advance” shall have the meaning set forth in Section 2.1(l)(i)(D) hereof.

“Bank” shall have the meaning set forth in the Preamble hereof.

“Business Day” means any day except a Saturday, Sunday, or other day on which banks in Salt Lake City, Utah or the State are authorized to close.

“Code” means the Internal Revenue Code of 1986, as amended.

“Commencement Date” means the date this Lease is executed by the Bank and the Lessee and shall be the date on which the Acquisition Amount is deposited with the Escrow Agent.

“Escrow Account” means the fund established and held by the Escrow Agent pursuant to the Escrow Agreement.

“Escrow Agent” means the Escrow Agent identified in the Escrow Agreement, and its successors and assigns.

“Escrow Agreement” means the Escrow Agreement dated April 28, 2022 executed by Lessee, Bank and the Escrow Agent, pursuant to which the Escrow Account is established and administered. A copy of the Escrow Agreement shall be found in Exhibit G.

“Event of Nonappropriation” shall have the meaning set forth in Section 3.2 hereof.

“Governing Body” means the governing body of the Lessee.

“Lease Payments” means the rental payments described in Exhibit A hereto.

“Lease Payment Date” shall have the meaning set forth in Section 3.4(a) hereof.

“Leased Property” shall have the meaning set forth in the Whereas clauses hereof.

“Lessee” shall have the meaning set forth in the Preamble hereof.

“Net Proceeds” means insurance or eminent domain proceeds received with respect to the Leased Property less expenses incurred in connection with the collection of such proceeds.

“Obligation Instrument” shall have the meaning set forth in Section 2.1(c) hereof.

“Original Term” shall have the meaning set forth in Section 3.2 hereof.

“Permitted Encumbrances” means, as of any particular time: (i) liens for taxes and assessments, if any, not then delinquent, or which the Lessee may, pursuant to provisions of Section 5.3 hereof, permit to remain unpaid; (ii) this Lease; (iii) any contested right or claim of any mechanic, laborer, materialman, supplier or vendor filed or perfected in the manner prescribed by law to the extent permitted under Section 5.4(b) hereof; (iv) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the execution date of this Lease and which the Lessee hereby certifies will not materially impair the use of the Leased Property by the Lessee; and (v) other rights, reservations, covenants, conditions or restrictions established following the date of execution of this Lease and to which the Bank and the Lessee consent in writing.

“Rebate Exemption” shall have the meaning set forth in Section 2.1(l)(ii)(A) hereof.

“Regulations” shall have the meaning set forth in Section 2.1(l)(i) hereof.

“Renewal Term” shall have the meaning set forth in Section 3.2 hereof.

“Scheduled Term” shall have the meaning set forth in Section 3.2 hereof.

“State” shall have the meaning set forth in the Preamble hereof.

“Term” or “Term of this Lease” means the Original Term and all Renewal Terms provided for in this Lease under Section 3.2 until this Lease is terminated as provided in Section 3.3 hereof.

SECTION 1.2 Exhibits. Exhibits A, B, C, D, E, F and G attached to this Lease are by this reference made a part of this Lease.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 2.1 Representations, Covenants and Warranties of the Lessee. The Lessee represents, covenants and warrants to the Bank as follows:

(a) Due Organization and Existence. The Lessee is a public agency of the State duly organized and existing under the Constitution and laws of the State.

(b) Authorization; Enforceability. The Constitution and laws of the State authorize the Lessee to enter into this Lease and to enter into the transactions contemplated by, and to carry out its obligations under, this Lease. The Lessee has duly authorized, executed and delivered this Lease in accordance with the Constitution and laws of the State. This Lease constitutes the legal, valid and binding special obligation of the Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

(c) No Conflicts or Default; Other Liens or Encumbrances. Neither the execution and delivery of this Lease nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby (i) conflicts with or results in a breach of the terms, conditions, provisions, or restrictions of any existing law, or court or administrative decree, order, or regulation, or agreement or instrument to which the Lessee is now a party or by which the Lessee is bound, **including without limitation any agreement or instrument pertaining to any bond, note, lease, certificate of participation, debt instrument, or any other obligation of the Lessee** (any such bond, note, lease, certificate of participation, debt instrument, and other obligation being referred to herein as an “Obligation Instrument”), (ii) constitutes a default under any of the foregoing, or (iii) results in the creation or imposition of any pledge, lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessee, or upon the Leased Property except for Permitted Encumbrances.

By way of example, and not to be construed as a limitation on the representations set forth in the immediately preceding paragraph:

(A) no portion of the Leased Property is pledged to secure any Obligation Instrument; and

(B) the interests of the Lessor in the Leased Property hereunder do not violate the terms, conditions or provisions of any restriction or revenue pledge in any agreement or instrument pertaining to any Obligation Instrument.

If any Obligation Instrument existing on the date of execution of this Lease creates any pledge, lien, charge or encumbrance on any revenues, property or assets associated with the Leased Property that is higher in priority to the Bank’s interests therein under this Lease, the Bank hereby subordinates its interests therein, but only to the extent required pursuant to such existing Obligation Instrument.

(d) Compliance with Open Meeting Requirements. The Governing Body has complied with all applicable open public meeting and notice laws and requirements with respect to the meeting at which the Lessee's execution of this Lease was authorized.

(e) Compliance with Bidding Requirements. Either there are no procurement or public bidding laws of the State applicable to the acquisition and leasing of the Leased Property pursuant to this Lease, or the Governing Body and the Lessee have complied with all such procurement and public bidding laws as may be applicable hereto.

(f) No Adverse Litigation. There are no legal or governmental proceedings or litigation pending, or to the best knowledge of the Lessee threatened or contemplated (or any basis therefor) wherein an unfavorable decision, ruling, or finding might adversely affect the transaction contemplated in or the validity of this Lease.

(g) Opinion of Lessee's Counsel. The letter attached to this Lease as Exhibit D is a true opinion of Lessee's counsel.

(h) Governmental Use of Leased Property. During the Term of this Lease, the Leased Property will be used solely by the Lessee, and only for the purpose of performing one or more governmental or proprietary functions of the Lessee consistent with the permissible scope of the Lessee's authority, and the Leased Property will not be subject to any direct or indirect private business use.

(i) Other Representations and Covenants. The representations, covenants, warranties, and obligations set forth in this Article are in addition to and are not intended to limit any other representations, covenants, warranties, and obligations set forth in this Lease.

(j) No Nonappropriations. The Lessee has never non-appropriated or defaulted under any of its payment or performance obligations or covenants, either under any municipal lease of the same general nature as this Lease, or under any of its bonds, notes, or other obligations of indebtedness for which its revenues or general credit are pledged.

(k) No Legal Violation. The Leased Property is not, and at all times during the Term of this Lease will not be in violation of any federal, state or local law, statute, ordinance or regulation.

(l) General Tax and Arbitrage Representations and Covenants.

(i) The certifications and representations made by the Lessee in this Lease are intended, among other purposes, to be a certificate permitted in Section 1.148-2(b) of the Treasury Regulations promulgated pursuant to Section 148 of the Code (the "Regulations"), to establish the reasonable expectations of the Lessee at the time of the execution of this Lease made on the basis of the facts, estimates and circumstances in existence on the date hereof. The Lessee further certifies and covenants as follows:

(A) The Lessee has not been notified of any disqualification or proposed disqualification of it by the Commissioner of the Internal Revenue Service as an issuer which may certify bond issues.

(B) To the best knowledge and belief of the Lessee, there are no facts, estimates or circumstances that would materially change the conclusions, certifications or representations set forth in this Lease, and the expectations herein set forth are reasonable.

(C) The Scheduled Term of this Lease does not exceed the useful life of the Leased Property, and the weighted average term of this Lease does not exceed the weighted average useful life of the Leased Property.

(D) Each advance of funds by the Bank to finance Leased Property under this Lease (each an "Advance") will occur only when and to the extent that the Lessee has reasonably determined and identified the nature, need, and cost of each item of Leased Property pertaining to such Advance.

(E) No use will be made of the proceeds of this Lease or any such Advance, or any funds or accounts of the Lessee which may be deemed to be proceeds of this Lease or any such Advance, which use, if it had been reasonably expected on the date of the execution of this Lease or of any such Advance, would have caused this Lease or any such Advance to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code.

(F) The Lessee will at all times comply with the rebate requirements of Section 148(f) of the Code as they pertain to this Lease, to the extent applicable.

(G) In order to preserve the status of this Lease and the Advances as other than "private activity bonds" as described in Sections 103(b)(1) and 141 of the Code, as long as this Lease and any such Advances are outstanding and unpaid:

(I) none of the proceeds from this Lease or the Advances or any facilities or assets financed therewith shall be used for any "private business use" as that term is used in Section 141(b) of the Code and defined in Section 141(b)(6) of the Code;

(II) the Lessee will not allow any such "private business use" to be made of the proceeds of this Lease or the Advances or any facilities or assets financed therewith; and

(III) none of the Advances or Lease Payments due hereunder shall be secured in whole or in part, directly or indirectly, by any interest in any property used in any such "private business use" or by payments in respect of such property and shall not be derived from payments in respect of such property.

(H) The Lessee will not take any action, or omit to take any action, which action or omission would cause the interest component of the Lease Payments to be ineligible for the exclusion from gross income as provided in Section 103 of the Code.

(I) The Lessee is a "governmental unit" within the meaning of Section 141(b)(6) of the Code.

(J) The obligations of the Lessee under this Lease are not federally guaranteed within the meaning of Section 149(b) of the Code.

(K) This Lease and the Advances to be made pursuant hereto will not reimburse the Lessee for any expenditures incurred prior to the date of this Lease and do not constitute a "refunding issue" as defined in Section 1.150-1(d) of the

Regulations, and no part of the proceeds of this Lease or any such Advances will be used to pay or discharge any obligations of the Lessee the interest on which is or purports to be excludable from gross income under the Code or any predecessor provision of law.

(L) In compliance with Section 149(e) of the Code relating to information reporting, the Lessee will file or cause to be filed with the Internal Revenue Service Center, Ogden, UT 84201, within fifteen (15) days from the execution of this Lease, IRS Form 8038-G or 8038-GC, as appropriate, reflecting the total aggregate amount of Advances that can be made pursuant to this Lease.

(M) None of the proceeds of this Lease or the Advances to be made hereunder will be used directly or indirectly to replace funds of the Lessee used directly or indirectly to acquire obligations at a yield materially higher than the yield on this Lease or otherwise invested in any manner. No portion of the Advances will be made for the purpose of investing such portion at a materially higher yield than the yield on this Lease.

(N) Inasmuch as Advances will be made under this Lease only when and to the extent the Lessee reasonably determines, identifies and experiences the need therefor, and will remain outstanding and unpaid only until such time as the Lessee has moneys available to repay the same, the Lessee reasonably expects that (I) the Advances will not be made sooner than necessary; (II) no proceeds from the Advances will be invested at a yield higher than the yield on this Lease; and (III) the Advances and this Lease will not remain outstanding and unpaid longer than necessary.

(O) The Lessee will either (i) spend all of the moneys advanced pursuant to this Lease immediately upon receipt thereof, without investment, on the portion of the Leased Property that is to be financed thereby; or (ii) invest such moneys at the highest yield allowable and practicable under the circumstances until they are to be spent on the portion of the Leased Property that is to be financed thereby, and track, keep records of, and pay to the United States of America, all rebatable arbitrage pertaining thereto, at the times, in the amounts, in the manner, and to the extent required under Section 148(f) of the Code and the Treasury Regulations promulgated in connection therewith. At least five percent (5%) of the total amount of moneys that are expected to be advanced pursuant to this Lease are reasonably expected to have been expended on the Leased Property within six (6) months from the date of this Lease. All moneys to be advanced pursuant to this Lease are reasonably expected to have been expended on the Leased Property no later than the earlier of: (I) the date twelve (12) months from the date such moneys are advanced; and (II) the date three (3) years from the date of this Lease.

(P) This Lease and the Advances to be made hereunder are not and will not be part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the regulations promulgated in connection therewith (I) enabling the Lessee to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, and (II) overburdening the tax-exempt bond market, as those terms are used in Section 1.148-10(a)(2) of the Regulations.

(Q) To the best of the knowledge, information and belief of the Lessee, the above expectations are reasonable. On the basis of the foregoing, it is not

expected that the proceeds of this Lease and the Advances to be made hereunder will be used in a manner that would cause this Lease or such Advances to be "arbitrage bonds" under Section 148 of the Code and the regulations promulgated thereunder, and to the best of the knowledge, information and belief of the Lessee, there are no other facts, estimates or circumstances that would materially change the foregoing conclusions.

(ii) Arbitrage Rebate Under Section 148(f) of the Code. With respect to the arbitrage rebate requirements of Section 148(f) of the Code, either (check applicable box):

(A) Lessee Qualifies for Small Issuer Exemption from Arbitrage Rebate. The Lessee hereby certifies and represents that it qualifies for the exception contained in Section 148(f)(4)(D) of the Code from the requirement to rebate arbitrage earnings from investment of proceeds of the Advances made under this Lease (the "Rebate Exemption") as follows:

(1) The Lessee has general taxing powers.

(2) Neither this Lease, any Advances to be made hereunder, nor any portion thereof are private activity bonds as defined in Section 141 of the Code ("Private Activity Bonds").

(3) Ninety-five percent (95%) or more of the net proceeds of the Advances to be made hereunder are to be used for local government activities of the Lessee (or of a governmental unit, the jurisdiction of which is entirely within the jurisdiction of the Lessee).

(4) Neither the Lessee nor any aggregated issuer has issued or is reasonably expected to issue any tax-exempt obligations other than Private Activity Bonds (as those terms are used in Section 148(f)(4)(D) of the Code) during the current calendar year, including the Advances to be made hereunder, which in the aggregate would exceed \$5,000,000 in face amount, or \$15,000,000 in face amount for such portions, if any, of any tax-exempt obligations of the Lessee and any aggregated issuer as are attributable to construction of public school facilities within the meaning of Section 148(f)(4)(D)(vii) of the Code.

For purposes of this Section, "aggregated issuer" means any entity which (a) issues obligations on behalf of the Lessee, (b) derives its issuing authority from the Lessee, or (c) is subject to substantial control by the Lessee.

The Lessee hereby certifies and represents that it has not created, does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 148(f)(4)(D)(i)(IV) of the Code.

Accordingly, the Lessee will qualify for the Rebate Exemption granted to governmental units issuing less than \$5,000,000 under Section 148(f)(4)(D) of the Code (\$15,000,000 for the financing of public school facilities construction as described above), and the Lessee shall be treated as meeting the requirements of Paragraphs (2) and (3) of Section 148(f) of the Code relating to the required rebate of arbitrage earnings to the United States with respect to this Lease and the Advances to be made hereunder.

- or -

(B) Lessee Will Keep Records of and Will Rebate Arbitrage. The Lessee does not qualify for the small issuer Rebate Exemption described above, and the Lessee hereby certifies and covenants that it will account for, keep the appropriate records of, and pay to the United States, the rebate amount, if any, earned from the investment of gross proceeds of this Lease and the Advances to be made hereunder, at the times, in the amounts, and in the manner prescribed in Section 148(f) of the Code and the applicable Regulations promulgated with respect thereto.

(m) Small Issuer Exemption from Bank Nondeductibility Restriction. Based on the following representations of the Lessee, the Lessee hereby designates this Lease and the interest components of the Lease Payments hereunder as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code: (i) this Lease and the Lease Payments hereunder are not private activity bonds within the meaning of Section 141 of the Code; (ii) the Lessee reasonably anticipates that it, together with all “aggregated issuers,” will not issue during the current calendar year obligations (other than those obligations described in clause (iii) below) the interest on which is excluded from gross income for federal income tax purposes under Section 103 of the Code which, when aggregated with this Lease, will exceed an aggregate principal amount of \$10,000,000; (iii) and notwithstanding clause (ii) above, the Lessee and its aggregated issuers may have issued in the current calendar year and may continue to issue during the remainder of the current calendar year private activity bonds other than qualified 501(c)(3) bonds as defined in Section 145 of the Code. For purposes of this subsection, “aggregated issuer” means any entity which (a) issues obligations on behalf of the Lessee, (b) derives its issuing authority from the Lessee, or (c) is subject to substantial control by the Lessee. The Lessee hereby certifies and represents that it has not created, does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 265(b)(3)(C) or (D) of the Code.

(n) Reports to State. The Lessee has duly authorized and executed this Lease in accordance with A.R.S. section 35-501 and has filed with the State of Arizona all reports required thereunder relating to this Lease.

SECTION 2.2 Representations, Covenants and Warranties of the Bank. The Bank is a national banking association, duly organized, existing and in good standing under and by virtue of the laws of the United States of America, has the power to enter into this Lease, is possessed of full power to own and hold real and personal property, and to lease and sell the same, and has duly authorized the execution and delivery of this Lease. This Lease constitutes the legal, valid and binding obligation of the Bank, enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

ARTICLE III

AGREEMENT TO LEASE; TERM OF LEASE; LEASE PAYMENTS

SECTION 3.1 Lease. The Bank hereby leases the Leased Property to the Lessee, and the Lessee hereby leases the Leased Property from the Bank, upon the terms and conditions set forth herein.

Concurrently with its execution of this Lease, the Lessee shall deliver to the Bank fully completed documents substantially in the forms attached hereto as Exhibits B, C, D E, F and G hereto.

SECTION 3.2 Term. The Term of this Lease shall commence on the date of execution of this Lease, which is also the date on which the Acquisition Amount is deposited with the Escrow Agent, including delivery to the Bank by the Lessee of fully completed documents in the forms set forth in Exhibits B, C, D, E, F and G attached hereto, and continue until the end of the fiscal year of Lessee in effect at the Commencement Date (the "Original Term"). Thereafter, this Lease will be extended for 5 successive additional periods of one year coextensive with Lessee's fiscal year, except for the last such period which may be less than a full fiscal year, (each, a "Renewal Term") subject to an Event of Nonappropriation as described herein below in this Section 3.2 and in Section 3.3 (a), (c) or (e) with the final Renewal Term ending on April 28, 2027, unless this Lease is terminated as hereinafter provided. The Original Term together with all scheduled Renewal Terms shall be referred to herein as the "Scheduled Term" irrespective of whether this Lease is terminated for any reason prior to the scheduled commencement or termination of any Renewal Term as provided herein.

If Lessee does not appropriate funds for the payment of Lease Payments due for any Renewal Term in the adopted budget of the Lessee for the applicable fiscal year (an "Event of Nonappropriation"), this Lease will terminate upon the expiration of the Original or Renewal Term then in effect and Lessee shall notify Bank of such termination at least ten (10) days prior to the expiration of the Original or Renewal Term then in effect.

SECTION 3.3 Termination. This Lease will terminate upon the earliest of any of the following events:

- (a) upon the expiration of the Original Term or any Renewal Term of this Lease following an Event of Nonappropriation;
- (b) the exercise by Lessee of any option to purchase granted in this Lease by which Lessee purchases all of the Leased Property;
- (c) a default by Lessee and Bank's election to terminate this Lease under Article VII herein; or
- (d) the expiration of the Scheduled Term of this Lease, the Lessee having made payment of all Lease Payments accrued to such date.
- (e) Lessee may terminate this Lease at any time pursuant to A.R.S. § 38-511, to the extent applicable.

SECTION 3.4 Lease Payments.

(a) Time and Amount. During the Term of this Lease and so long as this Lease has not terminated pursuant to Section 3.3, the Lessee agrees to pay to the Bank, its successors and assigns, as annual rental for the use and possession of the Leased Property, the Lease Payments (denominated into components of principal and interest) in the amounts specified in Exhibit A, to be due and payable in arrears on each payment date identified in Exhibit A (or if such day is not a Business Day, the next succeeding Business Day) specified in Exhibit A (the "Lease Payment Date").

(b) Rate on Overdue Payments. In the event the Lessee should fail to make any of the Lease Payments required in this Section, the Lease Payment in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid, and the Lessee agrees to pay the same with interest thereon, to the extent permitted by law, from the date such amount

was originally payable at the rate equal to the original interest rate payable with respect to such Lease Payments.

(c) Additional Payments. Any additional payments required to be made by the Lessee hereunder, including but not limited to Sections 4.1, 5.3, and 7.4 of this Lease, shall constitute additional rental for the Leased Property.

SECTION 3.5 Possession of Leased Property Upon Termination. Upon termination of this Lease pursuant to Sections 3.3 (a), (c) or (e), the Lessee shall transfer the Leased Property to the Bank in such manner as may be specified by the Bank, and the Bank shall have the right to take possession of the Leased Property by virtue of the Bank's ownership interest as lessor of the Leased Property, and the Lessee at the Bank's direction shall ship the Leased Property to the destination designated by the Bank by loading the Leased Property at the Lessee's cost and expense, on board such carrier as the Bank shall specify.

SECTION 3.6 No Withholding. Notwithstanding any dispute between the Bank and the Lessee, in connection with this Lease or otherwise, including a dispute as to the failure of any portion of the Leased Property in use by or possession of the Lessee to perform the task for which it is leased, the Lessee shall make all Lease Payments when due and shall not withhold any Lease Payments pending the final resolution of such dispute.

SECTION 3.7 Lease Payments to Constitute a Current Obligation of the Lessee. Notwithstanding any other provision of this Lease, the Lessee and the Bank acknowledge and agree that the obligation of the Lessee to pay Lease Payments hereunder constitutes a current special obligation of the Lessee payable exclusively from current and legally available funds and shall not in any way be construed to be an indebtedness of the Lessee within the meaning of any constitutional or statutory limitation or requirement applicable to the Lessee concerning the creation of indebtedness. The Lessee has not hereby pledged the general tax revenues or credit of the Lessee to the payment of the Lease Payments, or the interest thereon, nor shall this Lease obligate the Lessee to apply money of the Lessee to the payment of Lease Payments beyond the then current Original Term or Renewal Term, as the case may be, or any interest thereon.

SECTION 3.8 Net Lease. This Lease shall be deemed and construed to be a "net-net-net lease" and the Lessee hereby agrees that the Lease Payments shall be an absolute net return to the Bank, free and clear of any expenses, charges or set-offs whatsoever, except as expressly provided herein.

SECTION 3.9 Offset. Lease Payments or other sums payable by Lessee pursuant to this Lease shall not be subject to set-off, deduction, counterclaim or abatement and Lessee shall not be entitled to any credit against such Lease Payments or other sums for any reason whatsoever, including, but not limited to: (i) any accident or unforeseen circumstances; (ii) any damage or destruction of the Leased Property or any part thereof; (iii) any restriction or interference with Lessee's use of the Leased Property; (iv) any defects, breakdowns, malfunctions, or unsuitability of the Leased Property or any part thereof; or (v) any dispute between the Lessee and the Bank, any vendor or manufacturer of any part of the Leased Property, or any other person.

ARTICLE IV

INSURANCE

SECTION 4.1 Insurance. Lessee, at Bank's option, will either self-insure, or at Lessee's cost, will cause casualty insurance and property damage insurance to be carried and maintained on the Leased Property, with all such coverages to be in such amounts sufficient to cover the value of the Leased Property at the commencement of this Lease (as determined by the purchase price paid for the Leased Property), and public liability insurance with respect to the Leased Property in the amounts required by law, but in no event with a

policy limit less than \$1,000,000 per occurrence. All insurance shall be written in such forms, to cover such risks, and with such insurers, as are customary for public entities such as the Lessee. A combination of self-insurance and policies of insurance may be utilized. If policies of insurance are obtained, Lessee will cause Bank to be a loss payee as its interest under this Lease may appear on such property damage insurance policies, and an additional insured on a primary and noncontributory basis on such public liability insurance in an amount equal to or exceeding the minimum limit stated herein. Subject to Section 4.2, insurance proceeds from insurance policies or budgeted amounts from self-insurance as relating to casualty and property damage losses will, to the extent permitted by law, be payable to Bank in an amount equal to the then outstanding principal and accrued interest components of the Lease Payments at the time of such damage or destruction as provided by Section 8.1. Lessee will deliver to Bank the policies or evidences of insurance or self-insurance satisfactory to Bank, together with receipts for the applicable premiums before the Leased Property is delivered to Lessee and at least thirty (30) days before the expiration of any such policies. By endorsement upon the policy or by independent instrument furnished to Bank, such insurer will agree that it will give Bank at least thirty (30) days' written notice prior to cancellation or alteration of the policy. Lessee will carry workers compensation insurance covering all employees working on, in, or about the Leased Property, and will require any other person or entity working on, in, or about the Leased Property to carry such coverage, and will furnish to Bank certificates evidencing such coverages throughout the Term of this Lease.

SECTION 4.2 Damage to or Destruction of the Leased Property. If all or any part of the Leased Property is lost, stolen, destroyed, or damaged, Lessee will give Bank prompt notice of such event and will, to the extent permitted by law, repair or replace the same at Lessee's cost. If such lost, stolen, destroyed or damaged Leased Property is equipment, it shall be repaired or replaced within thirty (30) days after such event. If such lost, stolen, destroyed or damaged Leased Property is other than equipment, it shall be repaired or replaced within one hundred eighty (180) days after such event. Any replaced Leased Property will be substituted in this Lease by appropriate endorsement. All insurance proceeds received by Bank under the policies required under Section 4.1 with respect to the Leased Property lost, stolen, destroyed, or damaged, will be paid to Lessee if the Leased Property is repaired or replaced by Lessee as required by this Section. If Lessee fails or refuses to make the required repairs or replacement, such proceeds will be paid to Bank to the extent of the then remaining portion of the Lease Payments to become due during the Scheduled Term of this Lease less that portion of such Lease Payments attributable to interest which will not then have accrued as provided in Section 8.1. No loss, theft, destruction, or damage to the Leased Property will impose any obligation on Bank under this Lease, and this Lease will continue in full force and effect regardless of such loss, theft, destruction, or damage. Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss, theft, destruction, or damage to the Leased Property and for injuries or deaths of persons and damage to property however arising, whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such damage to property be to Lessee's property or to the property of others.

ARTICLE V

COVENANTS

SECTION 5.1 Use of the Leased Property. The Lessee represents and warrants that it has an immediate and essential need for the Leased Property to carry out and give effect to the public purposes of the Lessee, which need is not temporary or expected to diminish in the foreseeable future, and that it expects to make immediate use of all of the Leased Property.

The Lessee hereby covenants that it will install, use, operate, maintain, and service the Leased Property in accordance with all vendors' instructions and in such a manner as to preserve all warranties and guarantees with respect to the Leased Property.

The Lessor hereby assigns to the Lessee, without recourse, for the Term of this Lease, all manufacturer warranties and guarantees, express or implied, pertinent to the Leased Property, and the Lessor directs the Lessee to obtain the customary services furnished in connection with such warranties and guarantees at the Lessee's expense; provided, however, that the Lessee hereby agrees that it will reassign to the Lessor all such warranties and guarantees in the event of termination of this Lease pursuant to Sections 3.3(a) or 3.3(c).

SECTION 5.2 Interest in the Leased Property and this Lease. Upon expiration of the Term as provided in Section 3.3(b) or 3.3(d) hereof, all right, title and interest of the Bank in and to all of the Leased Property shall be transferred to and vest in the Lessee, without the necessity of any additional document of transfer.

SECTION 5.3 Maintenance, Utilities, Taxes and Assessments.

(a) **Maintenance; Repair and Replacement.** Throughout the Term of this Lease, as part of the consideration for the rental of the Leased Property, all repair and maintenance of the Leased Property shall be the responsibility of the Lessee, and the Lessee shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Leased Property excepting ordinary wear and tear, and the Lessee hereby covenants and agrees that it will comply with all vendors' and manufacturers' maintenance and warranty requirements pertaining to the Leased Property. In exchange for the Lease Payments herein provided, the Bank agrees to provide only the Leased Property, as hereinbefore more specifically set forth.

(b) **Tax and Assessments; Utility Charges.** The Lessee shall also pay or cause to be paid all taxes and assessments, including but not limited to utility charges, of any type or nature charged to the Lessee or levied, assessed or charged against any portion of the Leased Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

(c) **Contests.** The Lessee may, at its expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom; provided that prior to such nonpayment it shall furnish the Bank with the opinion of an independent counsel acceptable to the Bank to the effect that, by nonpayment of any such items, the interest of the Bank in such portion of the Leased Property will not be materially endangered and that the Leased Property will not be subject to loss or forfeiture. Otherwise, the Lessee shall promptly pay such taxes, assessments or charges or make provisions for the payment thereof in form satisfactory to the Bank.

SECTION 5.4 Modification of the Leased Property.

(a) **Additions, Modifications and Improvements.** The Lessee shall, at its own expense, have the right to make additions, modifications, and improvements to any portion of the Leased Property if such improvements are necessary or beneficial for the use of such portion of the Leased Property. All such additions, modifications and improvements shall thereafter comprise part of the Leased Property and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage any portion of the Leased Property or cause it to be used for purposes other

than those authorized under the provisions of State and federal law or in any way which would impair the exclusion from gross income for federal income tax purposes of the interest components of the Lease Payments; and the Leased Property, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value which is not substantially less than the value of the Leased Property immediately prior to the making of such additions, modifications and improvements.

(b) No Liens. Except for Permitted Encumbrances, the Lessee will not permit (i) any liens or encumbrances to be established or remain against the Leased Property or (ii) any mechanic's or other lien to be established or remain against the Leased Property for labor or materials furnished in connection with any additions, modifications or improvements made by the Lessee pursuant to this Section; provided that if any such mechanic's lien is established and the Lessee shall first notify or cause to be notified the Bank of the Lessee's intention to do so, the Lessee may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Bank with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Bank. The Bank will cooperate fully in any such contest.

SECTION 5.5 Permits. The Lessee will provide all permits and licenses necessary for the ownership, possession, operation, and use of the Leased Property, and will comply with all laws, rules, regulations, and ordinances applicable to such ownership, possession, operation, and use. If compliance with any law, rule, regulation, ordinance, permit, or license requires changes or additions to be made to the Leased Property, such changes or additions will be made by the Lessee at its own expense.

SECTION 5.6 Bank's Right to Perform for Lessee. If the Lessee fails to make any payment or to satisfy any representation, covenant, warranty, or obligation contained herein or imposed hereby, the Bank may (but need not) make such payment or satisfy such representation, covenant, warranty, or obligation, and the amount of such payment and the expense of any such action incurred by the Bank, as the case may be, will be deemed to be additional rent payable by the Lessee on the Bank's demand.

SECTION 5.7 Bank's Disclaimer of Warranties. The Bank has played no part in the selection of the Leased Property, the Lessee having selected the Leased Property independently from the Bank. The Bank, at the Lessee's request, has acquired or arranged for the acquisition of the Leased Property and shall lease the same to the Lessee as herein provided, the Bank's only role being the facilitation of the financing of the Leased Property for the Lessee. **THE BANK MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, QUALITY, DURABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE LESSEE OF THE LEASED PROPERTY, OR ANY PORTION THEREOF. THE LESSEE ACKNOWLEDGES THAT THE BANK IS NOT A MANUFACTURER OR VENDOR OF ALL OR ANY PORTION OF THE LEASED PROPERTY, AND THAT THE LESSEE IS LEASING THE LEASED PROPERTY AS IS.** In no event shall the Bank be liable for incidental, direct, indirect, special or consequential damages, in connection with or arising out of this Lease, for the existence, furnishing, functioning or Lessee's use and possession of the Leased Property.

SECTION 5.8 Indemnification. To the extent permitted by applicable law, the Lessee hereby agrees to indemnify and hold harmless the Bank, its directors, officers, shareholders, employees, agents, and successors from and against any loss, claim, damage, expense, and liability resulting from or attributable to the acquisition, construction, or use of the Leased Property. Notwithstanding the foregoing, the Bank shall not be indemnified for any liability resulting from the gross negligence or willful misconduct of the Bank.

SECTION 5.9 Inclusion for Consideration as Budget Item. During the Term of this Lease, the Lessee covenants and agrees that it shall give due consideration, in accordance with applicable law, as an item for expenditure during its annual budget considerations, of an amount necessary to pay Lease Payments for the Leased Property during the next succeeding Renewal Term. Nothing herein shall be construed to direct or require that Lessee take or direct that any legislative act be done, or that the Governing Body of Lessee improperly or unlawfully delegate any of its legislative authority.

SECTION 5.10 Annual Financial Information. During the Term of this Lease, the Lessee covenants and agrees to provide the Bank as soon as practicable when they are available: (i) a copy of the Lessee's final annual budget for each fiscal year; (ii) a copy of the Lessee's most recent financial statements; and (iii) any other financial reports the Bank may request from time to time.

ARTICLE VI

ASSIGNMENT AND SUBLEASING

SECTION 6.1 Assignment by the Bank. The parties hereto agree that all rights of Bank hereunder may be assigned, transferred or otherwise disposed of, either in whole or in part, including without limitation transfer to a trustee pursuant to a trust arrangement under which the trustee issues certificates of participation evidencing undivided interests in this Lease and/or the rights to receive Lease Payments hereunder, provided that notice of any such assignment, transfer or other disposition is given to Lessee.

SECTION 6.2 Assignment and Subleasing by the Lessee. The Lessee may not assign this Lease or sublease all or any portion of the Leased Property unless both of the following shall have occurred: (i) the Bank shall have consented to such assignment or sublease; and (ii) the Bank shall have received assurance acceptable to the Bank that such assignment or sublease: (A) is authorized under applicable state law, (B) will not adversely affect the validity of this Lease, and (C) will not adversely affect the exclusion from gross income for federal income tax purposes of the interest components of the Lease Payments.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

SECTION 7.1 Events of Default Defined. The following shall be "events of default" under this Lease and the terms "events of default" and "default" shall mean, whenever they are used in this Lease, any one or more of the following events:

(a) Payment Default. Failure by the Lessee to pay any Lease Payment required to be paid hereunder by the corresponding Lease Payment Date.

(b) Covenant Default. Failure by the Lessee to observe and perform any warranty, covenant, condition or agreement on its part to be observed or performed herein or otherwise with respect hereto other than as referred to in clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the Lessee by the Bank; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Bank shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Lessee within the applicable period and diligently pursued until the default is corrected.

(c) Bankruptcy or Insolvency. The filing by the Lessee of a case in bankruptcy, or the subjection of any right or interest of the Lessee under this Lease to any execution, garnishment or

attachment, or adjudication of the Lessee as a bankrupt, or assignment by the Lessee for the benefit of creditors, or the entry by the Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Lessee in any proceedings instituted under the provisions of the federal bankruptcy code, as amended, or under any similar act which may hereafter be enacted.

The foregoing provisions of this Section 7.1 are subject to the provisions of Section 3.2 hereof with respect to nonappropriation.

SECTION 7.2 Remedies on Default. Whenever any event of default referred to in Section 7.1 hereof shall have happened and be continuing, the Bank shall have the right, at its sole option without any further demand or notice to take one or any combination of the following remedial steps:

(a) take possession of the Leased Property by virtue of the Bank's ownership interest as lessor of the Leased Property;

(b) hold the Lessee liable for the difference between (i) the rents and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term, as appropriate, and (ii) the rent paid by a lessee of the Leased Property pursuant to such lease; and

(c) take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Lease, the Security Documents (defined in Section 9.3), the Escrow Agreement or as a secured party in any or all of the Leased Property or the Escrow Account hereunder.

(d) terminate the Escrow Agreement and apply the proceeds in the Escrow Account to the Lease Payments due hereunder.

SECTION 7.3 No Remedy Exclusive. No remedy conferred herein upon or reserved to the Bank is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Bank to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

SECTION 7.4 Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party contained herein, the defaulting party agrees that it will pay on demand to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.

SECTION 7.5 Waiver of Certain Damages. With respect to all of the remedies provided for in this Article VII, the Lessee hereby waives any damages occasioned by the Bank's repossession of the Leased Property upon an event of default.

ARTICLE VIII

PREPAYMENT OF LEASE PAYMENTS IN PART

SECTION 8.1 Extraordinary Prepayment from Net Proceeds. To the extent, if any, required pursuant to Section 4.1 the Lessee shall be obligated to purchase the Leased Property by prepaying the Lease Payments in whole or in part on any date, from and to the extent of any Net Proceeds or other moneys pursuant to Article IV hereof. The Lessee and the Bank hereby agree that in the case of such prepayment of the Lease Payments in part, such Net Proceeds or other moneys shall be credited toward the Lessee's obligations hereunder pro rata among Lease Payments so that following prepayment, the remaining annual Lease Payments will be proportional to the initial annual Lease Payments.

SECTION 8.2 Option to Purchase Leased Property. Subject to the terms and conditions of this Section, the Bank hereby grants an option to the Lessee to purchase all or a portion of the Leased Property by paying on any date a price equal to the portion of the outstanding principal component of the Lease Payments that is allocable to such portion of the Leased Property that is being so purchased, without premium, plus the accrued interest component of such portion of the Lease Payments to such payment date. To exercise this option, the Lessee must deliver to the Bank written notice specifying the date on which the Leased Property is to be purchased (the "Closing Date"), which notice must be delivered to the Bank at least thirty (30) days prior to the Closing Date specified therein. The Lessee may purchase the Leased Property pursuant to the option granted in this Section only if the Lessee has made all Lease Payments when due (or has remedied any defaults in the payment of Lease Payments, in accordance with the provisions of this Lease) and all other warranties, representations, covenants, and obligations of the Lessee under this Lease have been satisfied (or all breaches thereof have been waived by the Bank in writing).

Upon the expiration of the Scheduled Term of this Lease and provided that all conditions of the immediately preceding paragraph have been satisfied (except those pertaining to notice), the Lessee shall be deemed to have purchased the Leased Property (without the need for payment of additional moneys) and shall be vested with all rights and title to the Leased Property.

ARTICLE IX

MISCELLANEOUS

SECTION 9.1 Notices. Unless otherwise specifically provided herein, all notices shall be in writing addressed to the respective party as set forth below (or to such other address as the party to whom such notice is intended shall have previously designated by written notice to the serving party), and may be personally served, telecopied, or sent by overnight courier service or United States mail:

If to Bank:

ZIONS BANCORPORATION, N.A.
One South Main Street, 17th Floor
Salt Lake City, Utah 84133
Attention: Kirsi Hansen

If to the Lessee:

City of Sedona
102 Roadrunner Drive
Sedona, AZ 86336
Attention: Cherie Wright

Such notices shall be deemed to have been given: (a) if delivered in person, when delivered; (b) if delivered by telecopy, on the date of transmission if transmitted by 4:00 p.m. (Salt Lake City time) on a Business Day or, if not, on the next succeeding Business Day; (c) if delivered by overnight courier, two Business Days after delivery to such courier properly addressed; or (d) if by United States mail, four Business Days after depositing in the United States mail, postage prepaid and properly addressed.

SECTION 9.2 System of Registration. The Lessee shall be the Registrar for this Lease and the rights to payments hereunder. The Bank shall be the initial Registered Owner of rights to receive payments hereunder. If the Bank transfers its rights to receive payments hereunder, the Registrar shall note on this Lease the name and address of the transferee.

SECTION 9.3 Instruments of Further Assurance. To the extent, if any, that the Bank's interest in the Leased Property as Lessor under this Lease is deemed to be a security interest in the Leased Property, then the Lessee shall be deemed to have granted, and in such event the Lessee does hereby grant, a security interest in the Leased Property and any moneys and investments held from time to time in the Escrow Account to the Bank, which security interest includes proceeds, and this Lease shall constitute a security agreement under applicable law. Concurrently with the execution of this Lease, the Lessee has executed, delivered, and filed and/or recorded all financing statements, UCC forms, mortgages, deeds of trust, notices, filings, and/or other instruments, in form required for filing and/or recording thereof, as are required under applicable law to fully perfect such security interest of the Bank in the Leased Property (collectively, "Security Documents"). Attached hereto as Exhibit E are copies of all such Security Documents. The Lessee will do, execute, acknowledge, deliver and record, or cause to be done, executed, acknowledged, delivered and recorded, such additional acts, notices, filings and instruments as the Bank may require in its sole discretion to evidence, reflect and perfect the title, ownership, leasehold interest, security interest and/or other interest of the Bank in and to any part or all of the Leased Property, promptly upon the request of the Bank.

SECTION 9.4 Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Bank and the Lessee and their respective successors and assigns.

SECTION 9.5 Amendments. This Lease may be amended or modified only upon the written agreement of both the Bank and the Lessee.

SECTION 9.6 Section Headings. Section headings are for reference only and shall not be used to interpret this Lease.

SECTION 9.7 Severability. In the event any provision of this Lease shall be held invalid or unenforceable by a court of competent jurisdiction, to the extent permitted by law, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 9.8 Entire Agreement. This Lease and the attached Exhibits constitute the entire agreement between the Bank and the Lessee and supersedes any prior agreement between the Bank and the Lessee with respect to the Leased Property, except as is set forth in an Addendum, if any, which is made a part of this Lease and which is signed by both the Bank and the Lessee.

SECTION 9.9 Execution in Counterparts. This Lease may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 9.10 Arbitration. To the extent permitted by law, any dispute, controversy or claim arising out of or based upon the terms of this Lease or the transactions contemplated hereby shall be settled exclusively and finally by binding arbitration. Upon written demand for arbitration by any party hereto, the parties to the dispute shall confer and attempt in good faith to agree upon one arbitrator. If the parties have not agreed upon an arbitrator within thirty (30) days after receipt of such written demand, each party to the dispute shall appoint one arbitrator and those two arbitrators shall agree upon a third arbitrator. Any arbitrator or arbitrators appointed as provided in this section shall be selected from panels maintained by, and the binding arbitration shall be conducted in accordance with the commercial arbitration rules of, the American Arbitration Association (or any successor organization), and such arbitration shall be binding upon the parties. The arbitrator or arbitrators shall have no power to add or detract from the agreements of

the parties and may not make any ruling or award that does not conform to the terms and conditions of this Lease. The arbitrator or arbitrators shall have no authority to award punitive damages or any other damages not measured by the prevailing party's actual damages. Judgment upon an arbitration award may be entered in any court having jurisdiction. The prevailing party in the arbitration proceedings shall be awarded reasonable attorney fees and expert witness costs and expenses.

SECTION 9.11 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

SECTION 9.12 Immigration. To the extent applicable and except as stated below, pursuant to the provisions of the Section 41-4401 of the Arizona Revised Statutes, and in accordance with federal law and Bank's practice, Bank hereby warrants and certifies that Bank complies with the Immigration Reform and Control Act of 1986 and employment with the Bank is contingent on the successful completion of the I-9 verification process and the E-Verify requirements of Section 23-214(A) of the Arizona Revised Statutes. Such employment with Bank is not contingent on any of the other requirements of Section 23-214(A). Bank does not knowingly employ any individuals in the United States who are not legally authorized to work in the United States. For associate confidentiality reasons, Bank generally does not disclose or allow the inspection of its personnel records of its associates to third parties, including I-9 or e-Verify documentation. However, if there are concerns about an individual's eligibility to perform work in connection with this Agreement, please contact Lessor in accordance with Section 9.1 of this Agreement and Lessor will investigate and respond to these concerns.

SECTION 9.13 Boycotting Israel. Pursuant to Section 35-393 et seq., Arizona Revised Statutes, Bank hereby certifies it is not currently engaged in, and for the duration of this Agreement shall not engage in, a boycott of Israel. The term "boycott" has the meaning set forth in Section 35-393, Arizona Revised Statutes. If it is determined that Bank's certification above is false or that it has breached such agreement, Lessee may impose remedies as provided by law.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Bank has caused this Lease to be executed in its name by its duly authorized officer, and the Lessee has caused this Lease to be executed in its name by its duly authorized officer, as of the date first above written.

ZIONS BANCORPORATION, N.A., as Lessor

By: _____
Authorized Officer

CITY OF SEDONA, as Lessee

By: _____

Title

EXHIBIT A

FIXED RATE

LEASE PAYMENT DEBT SERVICE SCHEDULE*

1. Interest. Interest components payable on the principal amount outstanding have been computed at the rate of two and seventy-two hundredths percent (2.72 %) per annum calculated based on twelve 30-day months during a 360-day year.

2. Payment Dates and Amounts.

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
04/28/2022	-	-	-	-	-
04/28/2023	46,115.39	2.720%	6,622.28	52,737.67	-
04/01/2024	-	-	-	-	52,737.67
04/28/2024	47,369.72	2.720%	5,367.94	52,737.66	-
04/01/2025	-	-	-	-	52,737.66
04/28/2025	48,658.18	2.720%	4,079.48	52,737.66	-
04/01/2026	-	-	-	-	52,737.66
04/28/2026	49,981.68	2.720%	2,755.98	52,737.66	-
04/01/2027	-	-	-	-	52,737.66
04/28/2027	51,341.18	2.720%	1,396.48	52,737.66	-
04/01/2028	-	-	-	-	52,737.66
Total	\$243,466.15	-	\$20,222.16	\$263,688.31	-

EXHIBIT B

DESCRIPTION OF THE LEASED PROPERTY

Purchase of three (3) Police Vehicles:

Description:

2023 Black Interceptor Utility – 3.3L Hybrid

VIN # _____

VIN # _____

VIN # _____

EXHIBIT C

RESOLUTION OF GOVERNING BODY

A resolution approving the form of the Lease/Purchase Agreement with ZIONS BANCORPORATION, N.A., Salt Lake City, Utah and authorizing the execution and delivery thereof.

Whereas, The City Council (the “Governing Body”) of City of Sedona (the “Lessee”) has determined that the leasing of the property described in the Lease/Purchase Agreement (the “Lease/Purchase Agreement”) presented at this meeting is for a valid public purpose and is essential to the operations of the Lessee; and

Whereas, the Governing Body has reviewed the form of the Lease/Purchase Agreement and has found the terms and conditions thereof acceptable to the Lessee; and

Whereas, either there are no legal bidding requirements under applicable law to arrange for the leasing of such property under the Lease/Purchase Agreement, or the Governing Body has taken the steps necessary to comply with the same with respect to the Lease/Purchase Agreement.

Be it resolved by the Governing Body of City of Sedona as follows:

SECTION 1. The terms of said Lease/Purchase Agreement are in the best interests of the Lessee for the leasing of the property described therein.

SECTION 2. The appropriate officers and officials of the Lessee are hereby authorized and directed to execute and deliver the Lease/Purchase Agreement in substantially the form presented to this meeting and any related documents and certificates necessary to the consummation of the transactions contemplated by the Lease/Purchase Agreement for and on behalf of the Lessee. The officers and officials of the Lessee may make such changes to the Lease/Purchase Agreement and related documents and certificates as such officers and officials deem necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 3. The officers and officials of the Governing Body and the Lessee are hereby authorized and directed to fulfill all obligations under the terms of the Lease/Purchase Agreement.

Adopted and approved this _____ day of _____, 2022.

By _____

Print Name _____

Title _____

Attest:

By _____

Print Name _____

Title _____

STATE OF ARIZONA

)

) ss.

COUNTY OF COCONINO

)

I, _____ hereby certify that I am the duly qualified and acting
_____ of City of Sedona (the "Lessee").
(Title)

I further certify that the above and foregoing instrument constitutes a true and correct copy of the minutes of a regular meeting of the governing body including a Resolution adopted at said meeting held on April 12, 2022, as said minutes and Resolution are officially of record in my possession, and that a copy of said Resolution was deposited in my office on _____, 2022.

In witness whereof, I have hereunto set my hand on behalf of the Lessee this _____ day of _____, 2022.

By _____

Print Name _____

Title _____

EXHIBIT D
Opinion of Lessee's Counsel

To: ZIONS BANCORPORATION, N.A.
One South Main Street, 17th Floor
Salt Lake City, Utah 84133

As counsel for City of Sedona (“Lessee”), I have examined duly executed originals of the Lease/Purchase Agreement (the “Lease”) dated this 28th day of April, 2022, between the Lessee and ZIONS BANCORPORATION, N.A., Salt Lake City, Utah (“Bank”), and the proceedings taken by Lessee to authorize and execute the Lease (the “Proceedings”). Based upon such examination as I have deemed necessary or appropriate, I am of the opinion that:

1. Lessee is a body corporate and politic, legally existing under the laws of the State of Arizona (the “State”).
2. The Lease and the Proceedings have been duly adopted, authorized, executed, and delivered by Lessee, and do not require the seal of Lessee to be effective, valid, legal, or binding.
3. The governing body of Lessee has complied with all applicable open public meeting and notice laws and requirements with respect to the meeting at which the Proceedings were adopted and the Lessee's execution of the Lease was authorized.
4. The Lease is a legal, valid, and binding obligation of Lessee, enforceable against Lessee in accordance with its terms except as limited by the state and federal laws affecting remedies and by bankruptcy, reorganization, or other laws of general application affecting the enforcement of creditor's rights generally.
5. Either there are no usury laws of the State applicable to the Lease, or the Lease is in accordance with and does not violate all such usury laws as may be applicable.
6. Either there are no procurement or public bidding laws of the State applicable to the acquisition and leasing of the Leased Property (as defined in the Lease) from the Bank under the Lease, or the acquisition and leasing of the Leased Property from the Bank under the Lease comply with all such procurement and public bidding laws as may be applicable.
7. There are no legal or governmental proceedings or litigation pending or, to the best of my knowledge, threatened or contemplated (or any basis therefor) wherein an unfavorable decision, ruling or finding might adversely affect the transactions contemplated in or the validity of the Lease.
8. The adoption, execution and/or delivery of the Lease and the Proceedings, and the compliance by the Lessee with their provisions, will not conflict with or constitute a breach of or default under any court decree or order or any agreement, indenture, lease or other instrument or any existing law or administrative regulation, decree or order to which the Lessee is subject or by which the Lessee is or may be bound.
9. Although we are not opining as to the ownership of the Leased Property or the priority of liens thereon, it is also our opinion that the Security Documents attached as Exhibit E to the Lease are sufficient in substance, form, and description, and indicated place, address, and method of filing and/or recording, to completely and fully perfect the security interest in every portion of the Leased Property granted under the Lease, and no other filings and/or recordings are necessary to fully perfect said security interest in the Leased Property.

Attorney for Lessee

EXHIBIT E

SECURITY DOCUMENTS

[Attach Certificates of Title showing ZIONS BANCORPORATION, N.A. as the lien holder]

EXHIBIT F

DELIVERY AND ACCEPTANCE CERTIFICATE

To: ZIONS BANCORPORATION, N.A.
One South Main Street, 17th Floor
Salt Lake City, Utah 84133

Reference is made to the Lease/Purchase Agreement between the undersigned (“Lessee”), and ZIONS BANCORPORATION, N.A. (the “Bank”), dated April 28, 2022 , (the “Lease”) and to that part of the Leased Property described therein which comprises personal property (collectively, the “Equipment”). In connection therewith we are pleased to confirm to you the following:

1. All of the Equipment has been delivered to and received by the undersigned; all installation or other work necessary prior to the use thereof has been completed; said Equipment has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented, and that said Equipment has been accepted by the undersigned and complies with all terms of the Lease. Consequently, you are hereby authorized to pay for the Equipment in accordance with the terms of any purchase orders for the same.
2. In the future, in the event the Equipment fails to perform as expected or represented we will continue to honor the Lease in all respects and continue to make our rental and other payments thereunder in the normal course of business and we will look solely to the vendor, distributor or manufacturer for recourse.
3. We acknowledge that the Bank is neither the vendor nor manufacturer or distributor of the Equipment and has no control, knowledge or familiarity with the condition, capacity, functioning or other characteristics of the Equipment.
4. The vehicle identification number for each item of Equipment which is set forth on Exhibit “B ” to the Lease is correct.

This certificate shall not be considered to alter, construe, or amend the terms of the Lease.

Lessee:

CITY OF SEDONA

By: _____
(Authorized Signature)

Date: _____

EXHIBIT G
(Escrow Agreement)

FORM OF ESCROW AGREEMENT

This Escrow Agreement (this “Agreement”) dated April 28, 2022, by and among ZIONS BANCORPORATION, N.A., a national banking association (hereinafter referred to as “Lessor”), CITY OF SEDONA, a body politic and corporate of the State of Arizona (hereinafter referred to as “Lessee”), and ZIONS BANCORPORATION, National Association, a national banking association (hereinafter referred to as “Escrow Agent”).

Reference is made to that certain Lease/Purchase Agreement, dated April 28, 2022, between Lessor and Lessee (hereinafter referred to as the “Lease”), covering the acquisition and lease of certain Leased Property described therein (the “Leased Property”). It is a requirement of the Lease that the Acquisition Amount be deposited with the Escrow Agent hereunder for the purpose of providing a mechanism for the application of such amounts to the payment of Leased Property costs.

The parties agree as follows:

1. Creation of Escrow Account.

(a) There is hereby created a special trust fund to be known as the “City of Sedona Escrow Account” (the “Escrow Account”) to be held in trust by the Escrow Agent for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof. On the date hereof, from proceeds of the Lease, Lessor has caused the amount of \$243,466.15 to be transferred to Escrow Agent for deposit into the Escrow Account.

(b) The Escrow Agent shall invest and reinvest moneys on deposit in the Escrow Account in Qualified Investments in accordance with written instructions received from Lessee. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to the Escrow Agent for the reinvestment of any maturing investment. Accordingly, neither the Escrow Agent nor Lessor shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Escrow Account, and Lessee agrees to and does hereby release the Escrow Agent and Lessor from any such liability, cost, expenses, loss or claim. Interest on the Escrow Account shall become part of the Escrow Account, and gains and losses on the investment of the moneys on deposit in the Escrow Account shall be borne by the Escrow Account. The Escrow Agent shall have no discretion whatsoever with respect to the management, disposition or investment of the Escrow Account and is not a trustee or a fiduciary to Lessee. The Escrow Agent shall not be responsible for any market decline in the value of the Escrow Account and has no obligation to notify Lessor and Lessee of any such decline or take any action with respect to the Escrow Account, except upon specific written instructions stated herein. For purposes of this agreement, “Qualified Investments” means any investments which meet the requirements of the investment of public funds by Lessee in accordance with applicable Arizona law and any applicable policy that the governing body of the Lessee has adopted with respect to the investment of public funds.

(c) Lessee covenants that all investments of amounts deposited in the Escrow Account or other fund containing gross proceeds of the Lease will be acquired, disposed of and valued at the fair market value thereof. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Internal Revenue Code of 1986, as amended (the “Code”) will be valued at their present value. Terms used in this subsection (c) shall have the meanings given them in the applicable provisions of the Code.

(d) Unless the Escrow Account is earlier terminated in accordance with the provisions of paragraph (e) below, amounts in the Escrow Account shall be disbursed by the Escrow Agent in payment of amounts described in Section 2 hereof upon receipt of written authorization(s) from Lessor, as is more fully described in Section 2 hereof. If the amounts in the Escrow Account are insufficient to pay such amounts, Lessee shall provide any balance of the funds needed to complete the acquisition of the Leased Property. Any moneys remaining in the Escrow Account on or after the date on which Lessee executes the Delivery and Acceptance Certificate shall be applied as provided in Section 4 hereof.

(e) The Escrow Account shall be terminated at the earliest of (i) the final distribution of amounts in the Escrow Account (including delivery to Lessor by Lessee of an executed Delivery and Acceptance Certificate contained in the Lease), or (ii) written notice given by Lessor of the occurrence of a default or non-appropriation of the Lease.

(f) The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Escrow Agent, and for the disposition of the same in accordance herewith. In the event conflicting instructions as to the disposition of all or any portion of the Escrow Account are at any time given by Lessor and Lessee, the Escrow Agent shall abide by the instructions or entitlement orders given by Lessor without consent of the Lessee.

(g) Unless the Escrow Agent is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee agrees to and does hereby release and indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in connection therewith, does to the extent permitted by law indemnify the Escrow Agent against any and all expenses; including reasonable attorneys’ fees and the cost of defending any action, suit or proceeding or resisting any claim.

(h) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Escrow Agent shall be reimbursed by Lessee for all costs, including reasonable attorneys’ fees, in connection with such civil action, and shall be fully

protected in suspending all or part of its activities under the Lease until a final judgment in such action is received.

(i) The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

(j) Lessee shall reimburse the Escrow Agent for all reasonable costs and expenses, including those of the Escrow Agent's attorneys, agents and employees incurred for extraordinary administration of the Escrow Account and the performance of the Escrow Agent's powers and duties hereunder in connection with any Event of Default under the Lease, or in connection with any dispute between Lessor and Lessee concerning the Escrow Account.

(k) The Escrow Agent or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation (the "Effective Date"), which shall be a date not less than 90 days after such notice is delivered to an express carrier, charges prepaid, unless an earlier resignation date and the appointment of a successor shall have been approved by the Lessee and Lessor. After the Effective Date, the Escrow Agent shall be under no further obligation except to hold the Escrow Account in accordance with the terms of this Agreement, pending receipt of written instructions from Lessor regarding further disposition of the Escrow Account.

(l) The Escrow Agent shall have no responsibilities, obligations or duties other than those expressly set forth in this Agreement and no fiduciary or implied duties, responsibilities or obligations shall be read into this Agreement.

2. Acquisition of Property.

(a) Acquisition Contracts. Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition of the Leased Property, with moneys available in the Escrow Account. Lessee represents the estimated costs of the Leased Property are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Leased Property, and the operation and maintenance thereof.

(b) Authorized Escrow Account Disbursements. Disbursements from the Escrow Account shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described) the Leased Property Costs and any delivery costs.

(c) Requisition Procedure. No disbursement from the Escrow Account shall be made unless and until Lessor has approved such requisition. Prior to disbursement from the Escrow Account there shall be filed with the Escrow Agent a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1, stating each amount to be paid and

the name of the person, firm or corporation to whom payment thereof is due. Each such requisition shall be signed by Cherie Wright (including her successors or anyone whom her successors may appoint to sign) of Lessee (an "Authorized Representative") and by Kirsi Hansen or her designees of Lessor, and shall be subject to the following:

1. Delivery to Lessor of an executed Disbursement Request in the form attached hereto as Schedule 1 certifying that:

(i)(A) an obligation in the stated amount has been incurred by Lessee, and that the same is a proper charge against the Escrow Account for costs relating to the Leased Property identified in the Lease, and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof); (B) the Leased Property relating to such obligation has been delivered, installed, is operating in a manner consistent with the manufacturer's intended use and has been inspected and finally accepted for all purposes by Lessee, and (C) Lessee has conducted such inspection and/or testing of the Leased Property relating to such obligation as it deems necessary and appropriate in order to determine the Leased Property's capability and functionality in order to accept such Leased Property; (ii) the Lessee has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made; (iii) such requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date of such certificate, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee); (iv) the Leased Property is insured in accordance with the Lease; (v) no Event of Default (nor any event which, with notice or lapse of time or both, would become an Event of Default) has occurred and is continuing and (vi) the representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof; and

2. Delivery to Lessor invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement); bills of sale (if title to such Leased Property has passed to Lessee); a description, and serial and/or VIN number for each item and any additional documentation reasonably requested by Lessor;

3. Deposit to Escrow Account. Upon execution of the Lease and the satisfaction of any conditions specified in the Lease or otherwise, Lessor will cause the Acquisition Amount of \$243,466.15 to be deposited into the Escrow Account. Lessee agrees to pay any costs with respect to the Leased Property in excess of amounts available therefor in the Escrow Account and to pay delivery costs in excess of amounts available therefor in the Escrow Account; provided, however, that any amount required for either such purpose shall be payable solely from moneys that have been appropriated by Lessee for such purpose.

4. Excessive Escrow Account. Any funds remaining in the Escrow Account on or after the date on which Lessee executes the Delivery and Acceptance Certificate, or upon a

termination of the Escrow Account as otherwise provided herein, shall be delivered by the Escrow Agent to Lessor, and Lessor shall apply such funds to amounts owed under the Lease.

5. Security Interest. The Escrow Agent and Lessee acknowledge and agree that the Escrow Account and all proceeds thereof are being held by Escrow Agent for disbursement or return as set forth herein. Lessee hereby grants to Lessor a first priority perfected security interest in the Escrow Account and all proceeds thereof, and all investments made with any amounts in the Escrow Account. If the Escrow Account or any part thereof, is converted to investments as set forth in this agreement, such investments shall be made in the name of Escrow Agent and the Escrow Agent hereby agrees to hold such investments as bailee for Lessor so that Lessor is deemed to have possession of such investments for the purpose of perfecting its security interest.

6. Control of Escrow Account. In order to perfect Lessor's security interest by means of control in (i) the Escrow Account established hereunder, (ii) all securities entitlements, investment property and other financial assets now or hereafter credited to the Escrow Account, (iii) all of Lessee's rights in respect of the Escrow Account, such securities entitlements, investment property and other financial assets, and (iv) all products, proceeds and revenues of and from any of the foregoing personal property (collectively, the "Collateral"), Lessor, Lessee and Escrow Agent further agree as follows:

(a) All terms used in this Section 6 which are defined in the Uniform Commercial Code of the State of Arizona ("Commercial Code") but are not otherwise defined herein shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

(b) Escrow Agent will comply with all entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, without further consent by Lessee.

(c) Escrow Agent hereby represents and warrants (a) that the records of Escrow Agent show that Lessee is the sole owner of the Collateral, (b) that Escrow Agent has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (c) that Escrow Agent is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Escrow Agent is obligated to accept from Lessor under this Agreement and entitlement orders that Escrow Agent, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

(d) Without the prior written consent of Lessor, Escrow Agent will not enter into any agreement by which Escrow Agent agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph (e) below, Lessee, with respect to any portion or all of the Collateral. Escrow Agent shall promptly notify Lessor if any person requests Escrow Agent to enter into any such agreement or otherwise asserts or seeks to assert a lien, encumbrance or adverse claim against any portion or all of the Collateral.

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) hereof, Escrow Agent may allow Lessee to effect sales, trades, transfers and exchanges of Collateral within the Escrow Account, but will not, without the prior written consent

of Lessor, allow Lessee to withdraw any Collateral from the Escrow Account. Escrow Agent acknowledges that Lessor reserves the right, by delivery of written notice to Escrow Agent, to prohibit Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Escrow Account. Further, Escrow Agent hereby agrees to comply with any and all written instructions delivered by Lessor to Escrow Agent (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

(f) Lessee hereby irrevocably authorizes Escrow Agent to comply with all instructions and entitlement orders delivered by Lessor to Escrow Agent.

(g) Escrow Agent will not attempt to assert control and does not claim and will not accept any security or other interest in, any part of the Collateral, and Escrow Agent will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever.

(h) Escrow Agent and Lessee hereby agree that any property held in the Escrow Account shall be treated as a financial asset under such section of the Commercial Code, notwithstanding any contrary provision of any other agreement to which Escrow Agent may be a party.

(i) Escrow Agent is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 7 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Escrow Account statements or reports issued or sent to Lessee with respect to the Escrow Account.

7. Information Required Under USA PATRIOT ACT. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on November 18, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

8. Fee Schedule; Initial Fee. \$1,500.00, annually.

9. Miscellaneous.

(a) Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This agreement may not be amended except in writing signed by

all parties hereto. This agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument, and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below:

If to Lessor: ZIONS BANCORPORATION, N.A.
 1 South Main Street 17th Floor
 Salt Lake City, UT 84133
 Attn: Jon Dunfield, Vice President

If to Lessee: City of Sedona
 102 Roadrunner Dr.
 Sedona, AZ 86336
 Attn: Cherie Wright

If to Escrow Agent: ZIONS BANCORPORATION, National Association
 Corporate Trust Department
 6001 North 24th Street, Bldg. B
 Phoenix, AZ 85016
 Attn: Pamela Saucer, Corporate Trust Officer

(b) As required by the provisions of Arizona Revised Statutes Section 38-511, as amended, notice is hereby given that the District may, within three (3) years of the execution hereof, cancel this Agreement without penalty or further obligations, if any person significantly involved in initiating, negotiation, securing, drafting or creating this Agreement on behalf of the District is, at any time while this Agreement or any extension of this Agreement is in effect, an employee or agent of the Escrow Agent or a consultant to the Escrow Agent with respect to the subject matter of this Agreement. The cancellation shall be effective when written notice from the District is received by the Escrow Agent unless the notice specifies a later time.

(c) To the extent applicable and except as stated below, pursuant to the provisions of the Section 41-4401 of the Arizona Revised Statutes, and in accordance with federal law and Escrow Agent's practice, Escrow Agent hereby warrants and certifies that Escrow Agent complies with the Immigration Reform and Control Act of 1986 and employment with the Escrow Agent is contingent on the successful completion of the I-9 verification process and the E-Verify requirements of Section 23-214(A) of the Arizona Revised Statutes. Such employment with Escrow Agent is not contingent on any of the other requirements of Section 23-214(A). Escrow Agent does not knowingly employ any individuals in the United States who are not legally authorized to work in the United States. For associate confidentiality reasons, Escrow Agent generally does not disclose or allow the inspection of its personnel records of its associates to third parties, including I-9 or e-Verify documentation. However, if there are concerns about an

individual's eligibility to perform work in connection with this Agreement, please contact Lessor in accordance with Section 9.1 of this Agreement and Lessor will investigate and respond to these concerns.

(d) Pursuant to Section 35-393 et seq., Arizona Revised Statutes, Escrow Agent hereby certifies it is not currently engaged in, and for the duration of this Agreement shall not engage in, a boycott of Israel. The term "boycott" has the meaning set forth in Section 35-393, Arizona Revised Statutes. If it is determined that Escrow Agent's certification above is false or that it has breached such agreement, Lessee may impose remedies as provided by law.

(Signature Lines to Follow)

In Witness Whereof, the parties have executed this Escrow Agreement as of the date first above written.

ZIONS BANCORPORATION, N.A.
as Lessor

CITY OF SEDONA
as Lessee

By: _____
_____, Vice President

By: _____
Its: _____

ZIONS BANCORPORATION, National Association
as Escrow Agent

By: _____
Pamela Saucer, Corporate Trust Officer

SCHEDULE 1

TO THE ESCROW AGREEMENT

FORM OF DISBURSEMENT REQUEST

Re: Lease/Purchase Agreement, dated April 28, 2022 (the “Lease”), between ZIONS BANCORPORATION, N.A., as Lessor, and CITY OF SEDONA, as Lessee (Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease.)

In accordance with the terms of the Escrow Agreement, dated April 28, 2022 (the “Escrow Agreement”) by and among ZIONS BANCORPORATION, N.A., a national banking association (“Lessor”), CITY OF SEDONA (“Lessee”) and ZIONS BANCORPORATION, National Association, (the “Escrow Agent”), the undersigned hereby requests the Escrow Agent pay the following persons the following amounts from the Escrow Account created under the Escrow Agreement for the following purposes:

PAYEE’S NAME AND ADDRESS	INVOICE NUMBER	DOLLAR AMOUNT	PURPOSE (INCLUDE SERIAL AND/OR VIN NUMBER)

The undersigned hereby certifies as follows:

(i) The date on which “acceptance” occurred with respect to the portion of the Leased Property for which disbursement is hereby requested is _____, and such portion of Leased Property is hereby accepted by Lessee for all purposes of the Lease.

(ii) An obligation in the stated amount has been incurred by Lessee, and the same is a proper charge against the Escrow Account for costs relating to the Leased Property identified in the Lease, and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof), and the Leased Property relating to such obligation has been delivered, installed, is operating in a manner consistent with the manufacturer's intended use and has been inspected and finally accepted for all purposes by Lessee. Lessee has conducted such inspection and/or testing of the Leased Property relating to such obligation as it deems necessary and appropriate in order to determine the

Leased Property's capability and functionality in order to accept such Leased Property. Attached hereto is the original invoice with respect to such obligation.

(iii) The undersigned, as Authorized Representative, has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.

(iv) This requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date hereof, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee).

(v) The Leased Property is insured in accordance with the Lease.

(vi) No Event of Default, and no event which with notice or lapse of time, or both, would become an Event of Default, under the Lease has occurred and is continuing at the date hereof.

(vii) No Material Adverse Change in Lessee's financial condition shall have occurred since the date of the execution of the Lease.

(ix) The representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof.

Dated: _____

By: _____
Authorized Representative

Disbursement of funds from the Escrow Account in accordance with the foregoing Disbursement Request hereby is authorized

ZIONS BANCORPORATION, N.A.,
as Lessor under the Lease

By: _____
Name: _____
Title: _____



**CITY COUNCIL
AGENDA BILL**

**AB 2804
April 12, 2022
Appointments**

Agenda Item: 4a
Proposed Action & Subject: Discussion/possible action regarding the appointment/reappointment of Historic Preservation Commissioners.

Department	City Clerk
Time to Present	2 minutes
Total Time for Item	5 minutes
Other Council Meetings	N/A
Exhibits	A. Applications

City Attorney Approval	Reviewed 04/04/22 KWC	Expenditure Required	\$ 0
City Manager's Recommendation	NA	Amount Budgeted	\$ 0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: On September 30, 2020 the Historic Preservation Commission advertised seeking applicants to fill two (2) open seats on the Commission with an application deadline of October 22, 2020. The deadline was extended, and another open seat was added in the November 4, 2020 press release due to a resignation. The deadline was extended again on December 3, 2020, then a public notice went out on January 6, 2021, with the deadline changed to “remain open until filled”. Mid-January 2021 Bob Huggins and Allyson Holmes were interviewed and reappointed, leaving one seat remaining open. The remaining vacancy was posted again on July 2, 2021. In October 2021 there was another resignation, and in November 2021 another vacancy was created as a result of the expiration of another current members term. There are now a total of 3 vacancies staff has been actively trying to fill since September of 2020.

An application was received in May 2021. After an interview, the Selection Committee determined that the applicant did not have enough ties to Sedona to satisfy the requirements for a member that does not reside in Sedona. In March 2022, incumbents Kurt Gehlbach and Steve Segner applied for reappointment. Although the Historic Preservation Commission continues to advertise seeking applicants, no additional applications have been received.

The Selection Committee made up of Mayor Sandy Moriarty, Vice Mayor Scott Jablow, and Chair Brynn Burkee Unger reviewed the applications of the two incumbents on March 29, 2022. The Selection Committee unanimously recommended the reappointment of Kurt Gehlbach and Steve Segner to seats on the Historic Preservation Commission. The term for each appointee is three years beginning immediately and expiring November 30, 2024 or until a successor is appointed, whichever is later.

Climate Action Plan/Sustainability Consistent: Applicable - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): Council may request that the vacancies remain open.

MOTION

I move to: reappoint Kurt Gehlbach and Steve Segner to the Historic Preservation Commission with a term beginning immediately and ending November 30, 2024 or until a successor is appointed, whichever is later.

SEP 26 2018

Historic Preservation Commission Application



City Of Sedona City Clerk's Office
102 Roadrunner Drive Sedona, AZ 86336
(928) 282-3113 · Fax: (928) 204-7105

Please read the following instructions carefully before filling out your application.
TYPE OR PRINT CLEARLY IN INK ONLY.

All requested information must be furnished. If an item does not apply to you, or if there is no information to be given, write in the letters "N/A" for "Not Applicable".

RECEIVED
MAR 02 2022

A resume may be included with your application; however, you must complete all information requested on this application. Resume attached? Yes No re-applied.

Form with fields: Name (Kurt Gehlbach), Mailing Address (redacted), Sedona AZ 86336, Phone, Cell Phone (redacted), E-mail (redacted)

Are there any days you are not be available for an interview? N/A

Are you a resident of the City of Sedona? Yes No
If yes, how many years? 18 yrs

Have you previously been appointed by the City of Sedona to any position or served on any commission, board, committee or citizen engagement working groups other than the Historic Preservation Commission? Yes No

If so, what group and for what length of time?

The Historic Preservation Commission is a voluntary body made up of seven citizens appointed by City Council. The Historic Preservation Commission was established by Sedona City Council to promote the protection, enhancement and perpetuation of properties and areas of historic, cultural, archaeological, and aesthetic significance.

Typically, the Historic Preservation Commission meets the second Monday of the month at 4:00 p.m., in the Vultee Conference Room at City Hall, 102 Roadrunner, Building #106, Sedona.

In answering the following questions, if more space is required, please attach a separate sheet of paper.

**Historic Preservation Commission
Application**



City Of Sedona City Clerk's Office
102 Roadrunner Drive Sedona, AZ 86336
(928) 282-3113 • Fax: (928) 204-7105

1. Background experience and knowledge.

In 1998, the Arizona State Historic Preservation Office (SHPO) designated the City of Sedona as a Certified Local Government. To satisfy the City's Certified Local Government (CLG) Agreement with the SHPO, it is preferable that all Historic Preservation Commission members have experience or knowledge in at least one of the following areas: history, architectural history, architecture, historic interiors, historic architecture, planning, archaeology, historic archaeology, real estate, historic preservation law, or other historic preservation related field. **Which categories do you have experience and/or knowledge, check all that apply:**

- Archaeologist/Archaeology
- Architect/Architecture/Architectural History
- Historian/History
- Real Estate
- Building Construction
- Historic Preservation Law
- Conservation/Preservation
- Land Use Planning
- Other related field (please explain) _____

2. Please explain your related experience or knowledge.

born and raised in Phoenix when Scottsdale was a simple town. My Grandfather's Ceramic industry was one of the first Scottsdale along with Pink Pony, Sugar Bowl, Zula Belles etc. My family spent many weekends in Sedona where I've called home since 1997. My Real Estate career spans over 18 yrs in Sedona and includes my involvement as a Sedona Fire Fighter, Developer, and Realtor. Through these occupations I've created trust and respect with Sedona Planners, zoning, and other professionals and residents in Sedona. My heart is in Sedona and to preserve our history while increasing tourism through the efforts of preservation excites me!

3. What are your perceptions of the duties, responsibilities and role of the Historic Preservation Commission?

Identifying and Preserving Sedona's Cultural Heritage and Historical Sites while maintaining their unique Archaeological and Architectural identities. Also stimulating and promoting Sedona's Tourism through protecting and promoting Sedona's history by offering various incentives while enforcing specific standards for the improvements and restoration of such sites.



4. What do you hope to accomplish as a Commission/Board member?

Interesting question - As a board member I wish to accomplish all I can for the benefit of our Town. I truly do love Sedona and will bring a fresh outlook on not only our Preservations but how our Future Preservation can also offer the Tangible bringing additional tourism through various additional offerings for the visiting consumer -

5. How much time are you willing to devote to this position if you are appointed?

I've been wanting to be very involved but haven't found that specific place for myself until this opening - I'll devote all I possibly can which will be a lot of Time!

6. What is your understanding of the Sedona Community Plan pertaining to Historic Preservation?

According to the "Plan" preservation of our natural environment and scenic resources is paramount. The desire for Sense of Community and Small Town Character are also of importance which in turn reflects back on to our history which is also of great importance to Preserve and Share with Consumers from all over the world.

7. What is your understanding of the Land Development Code's ordinance pertaining to Historic Preservation?

Basically the Land development Code is to protect and Preserve and prevent Keeping the natural beauty and scenic vistas while minimizing and directing. Through this Code our historical Preservation is also safeguarded.

Historic Preservation Commission
Application



City Of Sedona City Clerk's Office
102 Roadrunner Drive Sedona, AZ 86336
(928) 282-3113 · Fax: (928) 204-7105

8. If not currently a member of the Historic Preservation Commission, have you attended any Historic Preservation Commission meetings, and if so how many?

Unfortunately - No I have not.

9. If currently a member of the Historic Preservation Commission, how many terms have you served on this Commission? Why are you reapplying?

Not Currently a Member N/A

10. What do you perceive are the top three issues facing the Historic Preservation Commission? Please consider both long and short-term issues.

1. The designation of Properties for the consideration of land marks and historical preservation
2. Certificate of Appropriateness ensuring the work on these historic sites
3. Funding

11. Are there any projects that you are personally interested in as a Historic Preservation Commission member?

Over time Sedona has slowly moved away from the historical charm, theatrics of the old west and other important aspects which drive tourists into our town. I would like to revive all these things that I once enjoyed as a child when visiting Sedona. By having all these in place once again will increase our tourism, revenue

**Historic Preservation Commission
Application**



City Of Sedona City Clerk's Office
102 Roadrunner Drive Sedona, AZ 86336
(928) 282-3113 • Fax: (928) 204-7105

12. What is your understanding of a Certified Local Government (CLG) and how do you feel it relates to the Historic Preservation Commission?

From my understanding the CLG's benefit from the Federal Historical Preservation Program. Sedona became part of a certified local government program network and partnership between local, state & National Governments. This relationship also offers funding, expert technical advice from state offices and (NPS) National Park Service. Maybe CLG will help in creating a better relationship between our Forest Service and the Town.

Additional information. If you would like to explain or elaborate on the experiences or professional qualifications you have checked, please use this space:

Throughout my Real Estate Career I've worked in Concord MA, the most historic town in our country. Also Sedona which I consider the most beautiful town in our country and developed a few homes prior to the recession. I've also been a Sedona firefighter among a few other things creating wonderful trusted relationships within our community.

To learn more about the Historic Preservation Commission's particular responsibilities, contact Audree Juhlin, Director, Sedona Community Development Department at 928-204-7107 or email ajuhlin@sedonaaz.gov.

Please return your completed application to the City Clerk's Office at Sedona City Hall located at 102 Roadrunner Drive, Sedona, AZ 86336. For more information about the application, interview, and selection process, please call (928) 282-3113.

Thank you for your interest in serving on Sedona's Historic Preservation Commission.

Cherise Fullbright

From: Cherise Fullbright
Sent: Wednesday, March 2, 2022 2:09 PM
To: Cynthia Lovely
Cc: JoAnne Cook
Subject: HPC Member Re-Applying

Hi Cynthia,

I wanted to let you know that Kurt Gelbach just visited the Clerk's Officer to inform us that he would like to re-apply for HPC. I still have not received anything from Steve Segner. Please let me know if you have any questions.

Thanks!



Cherise Fullbright
Deputy City Clerk

City Clerk's Office
102 Roadrunner Drive
Sedona, AZ 86336-3710
cfullbright@sedonaaz.gov
(928) 203-5032

*City business hours are Mon-Thurs 7 a.m.-6 p.m.
Public safety 24/7*

***City Staff is working modified hours and City
Hall is open to the public from 7:30 a.m. to 5:00
p.m., Monday - Thursday.***

Re-submitted
SEP 29 2015
CITY OF SEDONA
CITY CLERK'S OFFICE

Received
OCT 18 2012
CITY OF SEDONA
CITY CLERK'S OFFICE



APPLICATION for COMMISSIONS and BOARDS

RECEIVED
MAR 29 2022

CITY OF SEDONA
CITY CLERK'S OFFICE
Re-Applied.

Please read the following instructions carefully before filling out your application – type or print clearly in ink only.

All requested information must be furnished. If an item does not apply to you, or if there is no information to be given write in the letters "NA" for "Not Applicable".

A RESUME MAY BE SUBMITTED, HOWEVER, YOU MUST COMPLETE ALL INFORMATION REQUESTED ON THE APPLICATION

Resume Attached: Yes () No ()

POSITION APPLIED FOR: Historic

APPLICANT'S NAME: Steve Segner

ADDRESS: P.O. Box 1750, Sedona, AZ 86339
(Street or P.O. Box) (City) (State) (Zip)

PHONE: Home: [redacted] Work: " Message Phone: "

E-MAIL ADDRESS: [redacted]

Are you a resident of the City of Sedona? Yes (✓) No () How many years? 10

Have you previously been appointed to any position by the City of Sedona? Yes (✓) No () If so, what and for what length of term? Historic Commission 2 terms

In answering the following questions, if more space is required, please attach a separate sheet of paper. Budget Committee 4 yrs

BACKGROUND INFORMATION WHICH YOU FEEL QUALIFIES YOU FOR THE APPOINTMENT:
(This should include education, employment history, community service, special interest and skills, personal philosophy.)

Past president of LA Pet Foods, Past president Western Pet Assoc. Past President Teresita Charter School Board member Sedona Humane Society

Application
Page 2

RECEIVED
MAR 2 9 2012
CITY OF SEDONA
CITY CLERK'S OFFICE

What are your perceptions of the duties, responsibilities and role of the Commission for which you are applying?

I've been a comm. on and off for 4 yrs
and agree with the current work plan

What do you feel are the major issues facing this Commission?

Protecting + identify historic properties
communicating to the community the history
of Sedona

Application
Page 3

What do you hope to accomplish as a Commission member?

I personal would like to establish a
history walk - from Pink Jeep Plaza to
La Auberge
place plaques along walk about history
and possibly film making in Sedona
This will encourage walking from uptown to Tlaquepaque

If appointed to this Commission, are you willing to service the full term of the appointment?

yes

Have you read the Community Plan or attended any meetings of the Commission, for which you are applying?

yes

HPC

Steve Segner

Thu 10/4/2018 1:34 PM

To: Susan Irvine <Slrvine@sedonaaz.gov>;

Cc: Brynn Unger <[REDACTED]>; Warren Campbell <WCampbell@sedonaaz.gov>;

I wish to be considered for reappointment to the HPC steve segner

Cherise Fullbright

From: Steve Segner <[REDACTED]>
Sent: Tuesday, March 29, 2022 11:03 AM
To: Cherise Fullbright
Cc: Brynn Unger
Subject: HPC, comission

I would be happy to serve on HPC steve segner



City of Sedona Proclamation Request Form

Full Name of Contact Person	Tracey McConnell
Contact Phone Number	(928) 925-4020 / (928) 282-2755
Contact Mailing Address	PO Box 595, Sedona 86339
Contact Email Address	development@verdevalleysanctuary.org
Group, Organization, Activity or Event Being Recognized (Please make sure you provide complete and current information about the group or event)	Verde Valley Sanctuary
Website Address (if applicable)	https://verdevalleysanctuary.org
Name of the sponsor(s) of the Proclamation (2 Council members or the City Manager)	Mayor Sandy Moriarty and Councilor Tom Lamkin
What is the proclaimed day, days, week or month? (e.g. 10/11/12, October 11-17, 2012, October 2012)	April is Sexual Assault Awareness Month
Would you like to attend a Council meeting for formal presentation of the Proclamation or would you like to pick it up?	<input checked="" type="checkbox"/> Presentation at Meeting <input type="checkbox"/> Pick up Proclamation
If you would like the Proclamation presented at a Council meeting, please provide the full name and contact information (phone number and email address) of the party who will accept it on behalf of the group.	Tracey McConnell (928) 925-4020 or (928) 282-2755 development@verdevalleysanctuary.org

Provide information about the organization/event including a mission statement, founding date, location and achievements.

The Verde Valley Sanctuary (VVS) began 28 years ago as a grassroots organization of women who were concerned about domestic violence in our community. The original group of volunteers began taking crisis calls in their homes and transporting victims of abuse to the nearest shelters 50+ miles away in Flagstaff, Prescott, and Phoenix.

VVS opened the first and only domestic violence shelter in the Verde Valley region in 1994 with a leased modular home that slept six. Since then, VVS has strategically expanded and now offers comprehensive services for victims of domestic violence, sexual assault, and human trafficking.

Our mission is to enhance the safety of, and increase services for, survivors of sexual and domestic violence and end additional abuse through community education.

In Fiscal Year 2020/2021, the Verde Valley Sanctuary provided services to over 2,300 survivors of domestic violence, sexual assault, and human trafficking.

Locations: Sedona, Cottonwood and Camp Verde

Please explain why this Proclamation and any events accompanying it are important to the Community and are consistent with the City's vision statement and Community Plan goals. What is the clear reason for the Proclamation and why are you requesting this honor? What activities/events are planned around this Proclamation and how do you plan to promote this to the community?

This proclamation is consistent with the city's vision - nurturing connections between people, encourages healthy lifestyles, and supporting a diverse and prosperous economy and community goal ensuring that the needs and aspirations of the community now and into the future are met through a variety of opportunities.

Sexual Assault Awareness Month calls attention to the fact that sexual violence is widespread. The proclamation is clear declaration to join advocates and communities across the Verde Valley region in taking action to prevent sexual violence.

Sexual assault, at its core, is a devastating abuse of power one that affects people of every age, race, sex, gender identity, sexual orientation, national origin, socioeconomic background, and religion. It is the responsibility of each of us to stand up and speak out against it, not only to improve the laws and services available to survivors, but also to change the culture and attitudes that allow sexual assault to proliferate. Together, we must work toward a society that upholds every person's right to live free from sexual violence where our institutions and communities commit to preventing sexual assault and sexual harassment, supporting survivors, and holding offenders accountable.

Please include a draft of the proposed Proclamation with this request, preferably a Word file in electronic format.

*Office of the Mayor
City of Sedona, Arizona*



**Proclamation
Sexual Assault Awareness Month
April 2022**

WHEREAS, Sexual Assault Awareness Month is intended to draw attention to the fact that sexual violence is widespread and has public health implications for every community member of the City of Sedona; and

WHEREAS, the City of Sedona shares a critical concern for the victims of sexual violence and a desire to support the needs for justice and healing; and

WHEREAS, Rape, sexual assault, and sexual harassment impact our community as seen by statistics indicating that 1 in 2 women, 1 in 4 men, and 1 in 2 transgender individuals have experienced contact sexual violence in their lifetime (The National Intimate Partner and Sexual Violence Survey, 2018; US Trans Survey, 2015); and

WHEREAS, We must work together to educate our community about what can be done to prevent sexual assault and how to support survivors; and

WHEREAS, Staff and volunteers of anti-violence programs at Verde Valley Sanctuary encourage every person to speak out when witnessing acts of violence however small and support victims of sexual violence; and

WHEREAS, With leadership, dedication, and encouragement, there is compelling evidence that we can be successful in reducing sexual violence in the City of Sedona through prevention education, increased awareness, and holding perpetrators who commit acts of violence responsible for their actions; and

WHEREAS, the City of Sedona strongly supports the efforts of national, state, and local partners, and of every citizen to actively engage in public and private efforts, including conversations about what sexual violence is, how to prevent it, how to help survivors connect with services, and how every segment of our society can work together to better address sexual violence.

NOW, THEREFORE, I, SANDY MORIARTY, MAYOR OF THE CITY OF SEDONA, ARIZONA, ON BEHALF OF THE SEDONA CITY COUNCIL, hereby proclaim April as "Sexual Assault Awareness Month!"

Issued this 12th day of April, 2022.

Sandra J. Moriarty, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk



City of Sedona Proclamation Request Form

Full Name of Contact Person	Alicia Peck
Contact Phone Number	(928) 203-5060
Contact Mailing Address	102 Roadrunner Dr., Sedona, AZ 86336
Contact Email Address	apeck@sedonaaz.gov
Group, Organization, Activity or Event Being Recognized (Please make sure you provide complete and current information about the group or event)	Earth Day 2022
Website Address (if applicable)	
Name of the sponsor(s) of the Proclamation (2 Council members or the City Manager)	Mayor Moriarty and Councilor Ploog
What is the proclaimed day, days, week or month? (e.g. 10/11/12, October 11-17, 2012, October 2012)	04/22/2022
Would you like to attend a Council meeting for formal presentation of the Proclamation or would you like to pick it up?	<input checked="" type="checkbox"/> Presentation at Meeting <input type="checkbox"/> Pick up Proclamation
If you would like the Proclamation presented at a Council meeting, please provide the full name and contact information (phone number and email address) of the party who will accept it on behalf of the group.	Councilor Ploog

Provide information about the organization/event including a mission statement, founding date, location and achievements.

Every year on April 22, Earth Day marks the anniversary of the birth of the modern environmental movement in 1970. Today, Earth Day is widely recognized as the largest secular observance in the world, marked by more than a billion people every year as a day of action to change human behavior and create global, national and local policy changes.

Please explain why this Proclamation and any events accompanying it are important to the Community and are consistent with the City’s vision statement and Community Plan goals. What is the clear reason for the Proclamation and why are you requesting this honor? What activities/events are planned around this Proclamation and how do you plan to promote this to the community?

The Sedona Community Plan states, “Protection of the environment is the community’s top priority, and sustainability is a fundamental goal of the Plan.” The City of Sedona has committed to climate action efforts through the ongoing creation of a Climate Action Plan to reduce emissions of harmful carbon pollution and build resilience to risks including flooding, wildfire, and extreme heat. We are all stewards and beneficiaries of the Earth, and its healthy and diverse ecosystem is vital to the Sedona community, visitors, and neighbors who depend on the continued preservation of our natural environment to provide a high quality of life and economic vitality for this generation and future generations.

Please include a draft of the proposed Proclamation with this request, preferably a Word file in electronic format.

**Office of the Mayor
City of Sedona, Arizona**



**Proclamation
Earth Day
April 22, 2022**

WHEREAS, in this time of global conflict and division, as we increasingly seek opportunities to provide for our families and ensure the sustainability of our unique livelihoods, environments and cultures, we pause to recognize the renewed hope that is brought by the tradition of Earth Day; and

WHEREAS, we are all stewards and beneficiaries of the Earth, and its healthy and diverse ecosystem is vital to the Sedona community, visitors, and neighbors who depend on the continued preservation of our natural environment to provide a high quality of life and economic vitality for this generation and future generations; and

WHEREAS, human activities are causing widespread environmental effects and climate change to the detriment of natural resources, biological diversity, and human health and happiness; and

WHEREAS, the impacts include pollution, loss of wildlife species, damage and loss of habitat, food and water, weather extremes and worse flooding, human health crises, and loss of livelihoods; and

WHEREAS, the City of Sedona has committed to climate action efforts through the creation and approval of a Climate Action Plan to reduce emissions of harmful carbon pollution and build resilience to risks including flooding, wildfire, and extreme heat; and

WHEREAS, there are compelling aesthetic, economic, and social reasons for local governments to initiate and support these practices; and

WHEREAS, Earth Day offers people a unique opportunity to make, renew, and celebrate commitments that will protect quality of life and the Earth for generations to come.

NOW, THEREFORE, I, SANDY MORIARTY, MAYOR OF THE CITY OF SEDONA, ARIZONA, ON BEHALF OF THE SEDONA CITY COUNCIL, hereby proclaim Thursday, April 22, 2022, as Earth Day in Sedona in recognition of our stewardship of our natural environment.

Issued this 12th day of April, 2022.

Sandra J. Moriarty, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk



**CITY COUNCIL
AGENDA BILL**

**AB 2798
April 12, 2022
Regular Business**

Agenda Item: 8a
Proposed Action & Subject: Discussion/possible action for the approval of a Charging Station Site License Agreement with Electrify America, LLC for the Uptown Sedona Parking Garage.

Department	City Manager’s (Sustainability)
Time to Present	10 minutes
Total Time for Item	30 minutes
Other Council Meetings	January 25, 2022
Exhibits	A. Charging Station Site License Agreement B. Signed Letter of Intent

City Attorney Approval	Reviewed 04/04/22 KWC	Expenditure Required	
		\$ N/A	
City Manager’s Recommendation	Approve the Charging Station Site License Agreement with Electrify America, LLC for the Uptown Sedona Parking Garage, subject to approval of the written contract by the City Attorney’s Office.	Amount Budgeted	
		\$ All planning, installation, maintenance, repair, and operating costs will be covered by Electrify America.	
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: On July 14, 2021, City Council approved the Sedona Climate Action Plan (CAP). The CAP sets a science-based target of reducing community-wide emissions in Sedona by 50% by the year 2030. In 2018, it was estimated that the transportation sector made up 18% of community-wide emissions. The CAP identifies three primary strategies for reducing transportation sector emissions, including to “increase fuel efficiency and clean fuel use”. Constructing DC fast chargers at the Uptown Garage will help accelerate the usage of electric vehicles for residents and tourists alike. There are currently no DC fast chargers in Sedona, although four are planned for Posse Grounds Park. The City signed a nonbinding letter of intent with Electrify America in December 2021 to allow this project to move forward (Exhibit B).

The Charging Station Site License Agreement (Exhibit A) will grant Electrify America the ability to construct ten (10) electric vehicle charging stations at the Uptown Garage. Construction will happen concurrently with garage construction to lower costs. All ten chargers will be DC Fast

chargers, which charge vehicles considerably faster than level 2 chargers (such as what is currently installed at City Hall). Electrify America will cover construction, installation, operation, and maintenance costs for these chargers. They will determine how much to charge customers and the City will not receive any profits derived from the charging services. The contract will last for ten (10) years, with the possibility to extend if mutually agreeable to the City and Electrify America. Electrify America will retain ownership of all charging equipment and will be responsible for removing it at the end of the contract, as well as ensuring that all garage facilities are returned to their former condition. Staff from Electrify America have been collaborating with Public Works staff and other relevant parties on the development of these chargers to ensure they are consistent with the rest of the garage's design.

Electrify America will be responsible for procuring their own electricity for the EV chargers. They will have a separate meter and purchase electricity directly from APS. As such, their electricity will not pull from the garage's planned solar panels. The option for them to build their own solar panels on the garage was offered but was declined as it is not part of Electrify America's business model. The percentage of their electricity coming from renewable sources will be based on Arizona Public Service (APS)'s current grid offerings.

Climate Action Plan/Sustainability Consistent: Yes

One of the Climate Action Plan's three primary strategies for reducing transportation sector emissions is to "increase fuel efficiency and clean fuel use." Since electricity is considered a clean fuel and electric vehicles have lower emissions than cars with internal combustion engines, the construction of new EV charging stations is CAP consistent and should help reduce community-wide emissions.

Board/Commission Recommendation: Not Applicable

Alternative(s): Council could elect not to approve the Charging Station Site License Agreement with Electrify America, LLC for the Uptown Sedona Parking Garage. Not approving the agreement would give the City three options: The City could fund the cost of installation, operation, and maintenance of similar DC fast chargers that are quite costly or build much slower but less costly level 2 charging equipment; the City could find an alternative supplier to install DC fast chargers (may or may not result in a similar agreement) which may require the City to cover some portions of funding; the City could not install DC fast chargers or other electric vehicle supply equipment in the parking garage, which for this occasion would preclude the opportunity to foster growth/usage of electric vehicles and associated reduction of local emissions as outlined in the Climate Action Plan.

MOTION

I move to: approve the Charging Station Site License Agreement with Electrify America, LLC for the Uptown Sedona Parking Garage, subject to approval of the written contract by the City Attorney's Office.

CHARGING STATION SITE LICENSE AGREEMENT

This CHARGING STATION SITE LICENSE AGREEMENT (the “Agreement”), dated as of _____ (the “Effective Date”), between **CITY OF SEDONA**, an Arizona municipal corporation (“Licensor”), whose address is 102 Roadrunner Drive, Sedona, Arizona 86336, and **ELECTRIFY AMERICA, LLC**, a Delaware limited liability company (“Licensee”), whose address is 2003 Edmund Halley Drive, Suite 200, Reston, Virginia 20191.

RECITALS

- A. Licensee wishes to create electric charging stations for electric vehicles throughout the United States at various locations;
- B. Licensor desires to participate in Licensee’s network of charging stations for electric vehicles in the United States;
- C. This Agreement sets forth the parties agreement with respect to Licensor’s license to Licensee.

AGREEMENT

1. Basic Provisions.

(a) Property. The Licensor is the owner of the property commonly known as City of Sedona Public Parking Garage, located at 430 & 460 Forest Road, Sedona, Arizona 86336, and legally described in Exhibit “A”, attached hereto and made a part hereof (the “Property”).

(b) License Premises. The Licensor hereby licenses to Licensee approximately one thousand eight hundred (1,800) square feet, which will result in ten (10) electric vehicle (“EV”) charging parking spaces and approximately nine hundred (900) square feet of landscaped or paved space for equipment (the “License Premises”) on the Property and as depicted on Exhibit “B” attached hereto, together with all related equipment, in order to build an electric vehicle charging station (“Charging Station”) to charge electric vehicles.

(c) Fee. Licensor and Licensee hereby agree that there will no Fee due to Licensor during the Term as consideration for the Agreement herein.

(d) Term. The term (“Term”) of this Agreement shall commence on the Effective Date and end on the date that is ten (10) years from the Commencement Date (as extended from time to time, the “Expiration Date”).

(e) Commencement. The “Commencement Date” shall mean the date on which the Charging Station is first operational.

(f) Extension. One (1) option to extend the Term for a period of five (5) years, as set forth in Section 3 below.

Confidential

(g) Expansion. The right to expand the License Premises to include an additional five hundred (500) of adjacent square feet, as set forth in Section 4 below.

(h) This Agreement covers only the License Premises and the areas contiguous thereto that are reasonably necessary to provide access to and from the License Premises and the Charging Station for the purpose of the construction, installation, maintenance, repair and operation of the Charging Station, by Licensee, together with any ancillary uses permitted herein, all in accordance with this Agreement.

(i) Future Parking Garage Fees. If Licensor intends to charge a parking fee in the Public Parking Garage at the Property, Licensor shall notify Licensee within thirty (30) days of Licensor's intent to initiate a parking fee charge.

2. Termination.

(a) By Licensee. Licensee shall have the right to terminate this License at any time upon thirty (30) days prior written notice. In connection with any early termination, the Licensee shall comply with the Surrender obligations set forth below.

(b) By Licensor for Cause. This Agreement may be terminated by the Licensor if the Licensee breaches or fails to perform any of its obligations in any material respect, and such breach or failure continues uncured for thirty (30) days after receipt of written notice.

(c) Surrender. Promptly following the expiration or termination of this Agreement, Licensee shall remove the Charging Station from the License Premises and restore the License Premises to its former condition, excluding ordinary wear and tear; provided, however, that any underground electrical wiring shall be capped off and secured, but not removed. For the avoidance of doubt, Licensee will not remove any equipment installed by a utility.

(d) No Further Obligations. Upon any termination pursuant to this Section, both parties are relieved of any further obligations contained in this Agreement, except for those that by their nature survive or may require performance after termination (e.g., indemnity).

3. **Option to Extend**. Upon mutual agreement between Licensor and Licensee, Licensor shall have the option identified in Section 1(f) above to renew this Agreement upon request from Licensee with not less than sixty (60) days prior written notice of its request to extend. In the event Licensor extends this Agreement, this Agreement shall continue based upon the identical terms and conditions hereof.

4. **Expansion Option**. Upon prior approval by Licensor, Licensee may license the additional adjacent square feet identified in Section 1(g) for EV charging parking spaces upon the same terms and conditions as the License Premises. In the event Licensee wishes to exercise such option to expand the additional parking spaces, it shall provide written notice to Licensor. Licensor, in its sole discretion, may permit Licensee to prepare plans and specifications for such

Confidential

additional space, pull the permits, and upon receipt of permits, build out such additional spaces with additional charging stations, at which time, such additional space shall be part of the Premises. In the event Licensor approves of the expansion option, the Fee set forth in Section 1(c) of this Agreement shall be applicable to each additional EV Charging Space under the expansion per month for the remainder of the Term.

5. **Charging Station.**

(a) **Installation.** Upon execution of this Agreement and construction of the Public Parking Garage at the Property, Licensor shall deliver possession of the License Premises to Licensee, and Licensee shall, at its sole cost and expense, construct the improvements described in and pursuant to the procedures set forth in Exhibit “B” attached hereto and made a part hereof. The design, make, model, and manufacturer of the Licensee charging stations and their number and approximate locations are specified in Exhibit “B”. Licensee, at any time and for any reason during the term of this Agreement, may elect to upgrade, revise, alter, or swap any Charging Station installed in the License Premises.

(b) **Construction.** Licensee is solely responsible for supervising the construction and installation of the Charging Station, and shall have control over construction, scheduling, and installation means, methods, techniques, sequences, and procedures, including the coordination of all work. Before commencing installation of the Charging Station at the License Premises, Licensee shall give a copy of the anticipated construction schedule and installation plans to Licensor for its approval, which approval shall not be unreasonably withheld, conditioned or delayed. No work will begin until plans have been approved by Licensor and all applicable permits and certifications have been obtained. Once approved, and after Licensee has provided Licensor with all necessary insurance certificates required by this Agreement, Licensee will, at its sole cost and expense, oversee and manage the installation of the Charging Station, including the hiring and coordination of all vendors and contractors; the installation of electrical equipment, utility lines, hardware, and software; site preparation, trenching, repaving, and landscaping; and installation of all Licensee branded signage. Licensor shall allow Licensee and Licensee’s agents to stage equipment in reasonable proximity to the License Premises to facilitate Licensee’s construction at the Property; provided such staging shall not unreasonably interfere with Licensor’s use of the Property. Licensee shall be permitted to reconfigure the existing parking spaces in the License Premises to meet the needs of Licensee and Licensee’s end users. For the avoidance of doubt, reconfiguring of parking spaces in the License Premises shall include, among other things, the right to reduce the number of striped parking spaces, if necessary, to promote the efficient and legal use of the EV charging parking spaces.

(c) **Permits.** Licensee will, at its sole cost and expense, obtain from applicable governmental authorities and utility providers all licenses, permits, or other approvals required to install the Charging Station, and Licensor will reasonably cooperate upon

request with Licensee's efforts to do so. Licensor shall provide such other reasonable assistance to Licensee where needed, including, without limitation, creating any necessary easement agreements with any utility provider where necessary, as determined by Licensee in its reasonable discretion. Licensor will provide staffing support to meet with Licensee at the License Premises as needed, and cooperate generally with Licensee during the planning, permitting, and construction of the Charging Station.

(d) No Liens. Licensee will not permit or suffer any mechanic's or materialmen's or construction liens to attach to the License Premises or Property as a result of the installation of the Charging Station. If such a lien attaches to the License Premises or Property, Licensee shall remove or bond over such lien at Licensee's sole cost and expense, within twenty (20) days of Licensee receiving written notice thereof from Licensor.

(e) Ownership by Licensee. Licensee shall either own or have a valid leasehold interest in the Charging Station, and as such, as between Licensor and Licensee, the Charging Station shall remain the sole property of the Licensee at all times, and Licensee shall have the right to remove all or a portion of the Charging Station at any time during the term of this Agreement, whether or not the Charging Station is considered a fixture and attached to the License Premises under applicable laws.

(f) Charging Station Definition. For purposes of this Agreement, "Charging Station" shall mean all electrical and mechanical equipment, hardware, and software installed by Licensee, electrical wiring and/or cabling, equipment infrastructure, Licensee's signage and all supporting equipment, including without limitation concrete pads, protective bollards, and, if elected to be constructed by Licensee, a canopy covering the Premises.

(g) Additional Services. Licensee may provide at the License Premises other ancillary or additional services to the Charging Station, as Licensee may elect to offer its customers from time to time during the Term. Additionally, Licensee and its employees and vendors may perform security assessments and install (or add additional) reasonable security features at the License Premises, including, without limitation, lighting and cameras.

(h) Right to Tow. Licensee retains the right to remove any vehicle from the License Premises at any time and for any reason at Licensee's sole cost, in accordance with applicable law.

6. **Operation and Maintenance.** Except as otherwise provided in this Agreement, Licensee will, at its sole cost and expense, maintain and operate the Charging Station, including making all necessary maintenance, repairs, and replacements.

Confidential

7. **Access.** Licensee's customers shall have unrestricted access to the License Premises generally twenty-four (24) hours per day, seven (7) days per week, and 365 days per year, except that the Licensor may close the Public Parking Garage at the Property for routine cleaning or maintenance, or in the event of a Force Majeur. Licensee and its employees and vendors may, at any time during the Term, access the License Premises to maintain, inspect, repair or replace any portion of the Charging Station pursuant to its obligations under this Agreement.

8. **Right to Relocate.** Should Licensor desire to relocate Licensee on the Property, Licensor may do so as provided in this Paragraph 8. At Licensor's sole cost and expense reimbursable to Licensee, Licensor may require Licensee to relocate to other premises ("New Premises") within the Property; provided however, Licensor shall have no right to relocate Licensee for the purpose of leasing or licensing the License Premises to a tenant that will operate the License Premises as an electric vehicle charging station or so that Licensor may operate an electric vehicle charging station on the License Premises. The New Premises will be reasonably comparable in location, proximity to the main entrance to the facility, size, visibility, and layout to the License Premises at Licensor's sole cost and expense, as the License Premises as of the date of Licensor's Notice (hereinafter defined). Licensor will reimburse Licensee all reasonable costs Licensee incurs to move Licensee's fixtures and equipment to the New Premises as well as costs incurred to secure new power at the New Premises. In the event Licensor elects to exercise the right of relocation, Licensor shall deliver written notice to Licensee identifying the location of the proposed New Premises at least one hundred twenty (120) days' prior to the date that Licensee is required to relocate to the New Premises ("Licensor's Notice"). Licensee shall have no obligation to vacate the License Premises until the New Premises is commissioned and fully operational.

9. **Signage.** Licensee may paint, place, erect, or construct signage, marks, or advertising devices in, on, or about the License Premises as Licensee shall deem necessary or appropriate in its sole discretion. Licensee shall be responsible at its own cost and expense to obtain any and all permits necessary for the installation of its signs. All signage shall be in accordance with all laws, rules and ordinances.

10. **Licensor Obligations regarding Property/Premises.** Licensor shall, at its sole cost and expense, take all actions necessary to maintain the License Premises in a clean, safe, and orderly condition excluding the Charging Station and related equipment and signage, to at least the same standard as it customarily maintains the common areas at the Property, including, without limitation, parking lot sweeping, parking lot snow and ice removal, parking lot repaving and restriping, and maintenance and repair of curbs, gutters and landscaping features at the Property. Licensor shall also be responsible, at its sole cost and expense, for the Property continuously being in compliance with all state and local parking laws, ordinances, requirements and rules, including, but not limited to, those relating to parking density should same be impacted by the installation of electric vehicle parking spaces as contemplated herein. Licensor shall be liable for any damage caused to the License Premises, including each Charging Station, which may be caused, directly by Licensor, its employees, agents, contractors, or representatives. To the extent Licensor has actual knowledge of vandalism, Licensor shall promptly notify Licensee. For the avoidance of doubt, Licensor shall be under no obligation to maintain the Charging Station, signage or any other

equipment installed by Licensee within the Premises. However, if Licensor restripes the parking lot, inclusive of the License Premises, Licensor shall restripe the License Premises in a manner identical to Licensee's striping scheme in effect immediately prior to the restriping.

11. **Utility Availability.** Licensee shall be responsible for all electricity costs of the Charging Station. Licensee shall, at its sole expense, ensure that the Charging Station contains separately-metered electricity with Licensee as the customer of record for such meter. Licensee may charge its end users for electrical usage if market conditions permit. Licensor shall cooperate with Licensee to obtain electricity and any other utilities necessary to operate the Charging Station, including by granting appropriate easements as approved by the Sedona City Council to local utility providers; provided, however, that Licensor is not required to pay money to satisfy the requirements of the utility provider or Licensee associated with the provision of such utilities. Neither Licensor nor Licensee has any responsibility or liability for interruption, curtailment, failure, or defect in the supply or character of utilities furnished to facilities or equipment located at the License Premises, unless the cause of the interruption is covered by such party's indemnity provided for in Sections 23 and 24.

12. **Taxes.** Licensee is solely responsible for personal property taxes imposed on the Charging Station, and any other equipment installed by it at the Premises. All other real or personal property taxes related to the License Premises, including any increase in real estate taxes on the Property of which the License Premises is a part which arise from Licensee's improvements and/or Licensee's use of the License Premises, are the sole obligation of Licensor.

13. **Ownership of Drawings and Other Documents.** All documents prepared by or under the direction of Licensee pursuant to this Agreement, including, without limitation, drawings, plans, and specifications, including those in electronic format, are solely and exclusively owned by Licensee, and Licensee retains all common law, statutory and other reserved rights, including the copyright except for those drawings, plans, and specification that are needed by the Licensor to construct, maintain, repair or alter the Public Parking Garage at the Property. The parties agree between them that the Licensee has and retains ownership of all of such Licensee's Intellectual Property rights therein, and Licensor has no right, and shall not obtain any right, in any Licensee Intellectual Property.

As used in this Agreement, "**Intellectual Property**" means all copyrights, patents, trademarks and service marks, names, logos, designs, domain names, charger station equipment names, all registrations for copyrights, patents, trademarks and service marks/names, domain names, trade secrets, know-how, and all unique concepts, information, data and knowledge that is eligible for legal protection under applicable laws as intellectual property, whether protected through confidentiality, registration or pending registration, regardless of form, whether disclosed in writing, electronically, orally or through visual means, whether learned or obtained orally, through observation, through the discharge of responsibilities under this Agreement, or through analysis of that information, data or knowledge.

Confidential

14. **Confidentiality/Publicity.** Licensee and Licensor agree that the terms of this Agreement are confidential, and both parties agree not to disclose such confidential information to any person or entity other than (a) accounting, legal, tax, and construction consultants that have a “need to know” such confidential information, and (b) as required by court order or law, including in response to public record requests (A.R.S. §§ 39-121 through 39-128). Neither party will use the other party’s name, trademark or logo without such other party’s prior written consent. If mutually agreed in writing, Licensee and Licensor may make general press releases and statements, hold press conferences, both through traditional and electronic media, including websites created by Licensee or other third parties, regarding the existence of the Charging Station and the status of the activities contemplated by this Agreement; provided that all such press releases and statements and press conferences shall be approved in advance by the Licensor and Licensee. Nothing herein shall be deemed to require Licensor’s consent to Licensee’s disclosure of the location of the Charging Station to the general public in any manner, including via an application to permit electric vehicle owners, users and lessees to locate places to charge their vehicles. Licensor shall disclose the location of the Charging Station to the general public as part of a standard Property site map and/or directory.

15. **Licensor and Licensee Representations and Warranties.** Each of Licensor and Licensee hereby represent and warrant to the other as of the Effective Date that: (a) it has all necessary power and authority to execute, deliver, and perform its obligations hereunder; (b) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary action and do not violate any of the terms or conditions of its governing documents, any contract to which it is a party, or any law, rule, regulation, order, judgment, or other legal or regulatory determination applicable to it; (c) there is no pending or, to its knowledge, threatened litigation or administrative proceeding that may materially adversely affect its ability to perform this Agreement; (d) it is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing; (e) this Agreement constitutes a legal, valid and binding obligation of such party, except as the enforceability of this Agreement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors’ rights generally and by general principles of equity; and (f) at all times during the Term, it will comply with all federal, state, and local laws, rules, regulations (including, without limitation, all zoning ordinances and building codes) in performing its obligations under this Agreement.

16. **Licensor Representations, Warranties and Covenants.** Licensor represents that it is the owner of the Property and that this Agreement does not violate any agreement, lease or other commitment of Licensor. Licensor covenants that it shall not take any action that would interrupt the use of the License Premises or the Charging Station except as provided herein. Licensor further represents, warrants and covenants that it has obtained or it shall obtain any and all consents or approvals required in order for Licensor to enter into this Agreement and other rights and performance obligations under this Agreement, including, but not limited to consent from the Licensor’s first lien holder to this License Premises and any easements required herein, if necessary or required by such lien holder.

Confidential

17. **Environmental Compliance.** Licensor hereby represents, warrants and covenants that the Property is in compliance with all environmental laws, rules and regulations relating to health, safety and/or environmental conditions on, under or around the Property, including without limitation: CERCLA, the Resource Conservation and Recovery Act, and all state and local counterparts thereto, and any regulations or policies promulgated or issued thereunder (“Environmental Laws”) and that there are no Hazardous Materials on the Property. The term “Hazardous Materials” means and includes any substance, material or waste listed or defined as hazardous or toxic, or as a pollutant or contaminant under any Environmental Laws, including asbestos, petroleum products and crude oil. Licensee hereby represents, warrants and covenants that it will comply with all environmental laws, rules and regulations relating to health, safety and/or environmental conditions related to Licensee’s use of the License Premises or Charging Station.

18. **Licensee Insurance.**

(a) During the Term of this Agreement, Licensee shall maintain in full force and effect, at its cost and expense, the following coverages and amounts of insurance:

(i) Full replacement cost property Insurance (written on a “special perils” basis) for the Charging Station, and all other personal property, machinery, equipment and trade fixtures owned by Licensee;

(ii) Statutory Worker’s Compensation Insurance, and Employer’s Liability limits of \$1,000,000.00 per accident/per employee;

(iii) Commercial General Liability Insurance, written on an occurrence basis, covering bodily injury (including death), personal injury, and property damage, with limits of not less than \$2,000,000.00 per occurrence, that includes coverage for contractual liability, independent contractors, premises/operations, products/completed operations, and cross liabilities/separation of insureds; Licensee shall consider its own insurance primary, and shall not seek contribution from similar insurance being maintained by the Licensor, but only as to the negligent acts or omissions of Licensee or the Licensee Parties.

(iv) Automobile Liability with a combined single limit of \$1,000,000.00 that includes coverage for owned, non-owned and hired vehicles; and

(v) \$5,000,000.00 in excess liability coverage per occurrence, for injuries, losses, claims for damages to persons or property occurring on the License Premises or the Property, and resulting from the use of the Charging Station, the occupancy of the License Premises and/or the negligence of Licensee and its agents, contractors, employees or invitees, which coverage shall sit excess of the scheduled underlying General Liability, and Automobile Liability and Employer’s Liability

Confidential

Insurance policies with exclusions that are no more broad than those contained in the underlying policies.

(b) With respect to Licensee's Commercial General Liability Insurance, Automobile Liability Insurance and Excess Liability Insurance, include Licensor as an additional named insured with respect to liability arising out of the ownership, maintenance or use of the Charging Station or the Premises.

(c) Upon Licensor's written request, Licensee shall provide Licensor with a certificate of insurance and endorsement, evidencing the required coverages. Licensee shall have the right to "self insure" all or any portion of the foregoing insurance obligations.

19. **Licensor Insurance.**

(a) During the term of this Agreement, Licensor shall maintain in full force and effect, at its cost and expense, the following coverages and amounts of insurance:

(i) Full replacement cost Property Insurance (written on an "special perils" basis) for (1) the Property and all improvements thereon (including without limitation the License Premises and all electrical infrastructure for the Charging Station); and (2) all personal property, machinery, equipment and trade fixtures located at the Property or owned by Licensor; and

(ii) Commercial General Liability insurance with a minimum combined single limit of liability of at least \$2,000,000 for personal injuries or deaths of persons occurring in or about the License Premises and Property.

(b) Upon Licensee's written request, Licensor shall provide Licensee with a certificate of insurance and endorsement, evidencing the required coverages, stating that the insurance is primary with regard to Licensor and naming Licensee as an additional insured. Licensor shall have the right to "self insure" all or any portion of the foregoing insurance obligations.

20. **Policy Requirements.** The insurance policies required under Sections 18 and 19 shall:

(a) be issued by insurance companies licensed or risk retention pools authorized to do business in the state in which the Property is located, with a general policyholder's ratings of at least "A-" and a financial rating of at least "Class VIII," in the most current Best's Insurance Reports available on the Commencement Date; if the Best's ratings are changed or discontinued, the parties shall agree to a comparable method of rating insurance companies;

(b) contain provisions whereby each party's insurers waive all rights of subrogation against the other party on each of the coverages required herein.

21. **Waiver.** Anything in this Agreement to the contrary notwithstanding, to the extent covered by any property insurance maintained (or required to be maintained) hereunder, each party hereby waives every right or cause of action for any and all loss of, or damage to (whether or not such loss or damage is caused by the fault or negligence of the other party or anyone for whom said other party may be responsible) the Property, the License Premises, the Charging Station and/or the personal property of either party, or their respective affiliates, representatives, agents, officers, directors, managers, members, shareholders, partners, contractors, or employees, regardless of cause or origin. These waivers and releases shall apply between the parties and they shall also apply to any claims under or through either party as a result of any asserted right of subrogation.

22. **Casualty and Condemnation.**

(a) **Damage.** If the License Premises, any portion of the Charging Station or any portion of the Property that adversely affects the use of the Charging Station is damaged by fire or other casualty, then either Licensor or Licensee may, within thirty (30) days of the date of such fire or other casualty elect to terminate the Agreement on written notice to the other party. If Licensee elects to repair its property, it shall restore, rebuild, or replace those portions of the Charging Station in the License Premises and any other property damaged as a result of such fire or other casualty to its prior or better condition as necessary, and all property insurance proceeds of Licensor applicable to the License Premises shall be made available to Licensee in connection with such repair and restoration. If Licensee elects to terminate the Agreement, it shall remove all of Licensee's property from the License Premises in accordance with Section 2 of this Agreement. Any repair and restoration required by Licensee under this Section 22 shall commence within sixty (60) days of the date Licensee elects to repair and restore the License Premises and shall be completed no later than 120 days thereafter, if reasonably possible.

(b) **Condemnation/Taking.** If any portion of the License Premises or Property is condemned or taken in any manner for a public or quasi-public use that could adversely affect the use of the Charging Station, then Licensee may elect to terminate this Agreement effective as of the date title to the condemned portion of the Property is transferred to the condemning authority. If Licensee does not elect to terminate, the parties will use commercially reasonable efforts to find an alternate location for the Charging Station elsewhere on the Property. The costs of the relocation of the Charging Station shall be paid by Licensee. Licensee may file a separate claim to the condemning authority for any relocation award made as a result of such condemnation; provided, however, in no event shall such claim reduce the Licensor's award related to the condemnation or taking.

Confidential

(c) Suspension of Term. During any time that the Charging Station or any portion of the License Premises is under repair or being relocated pursuant to a casualty or condemnation, the Term shall be temporarily suspended on a day-for-day basis.

23. **Licensee's Indemnity**. Subject to Section 24 and Section 25, Licensee shall indemnify and hold harmless Licensor, its directors, employees, and agents from and against all third party claims, demands, causes of action, liabilities, costs, damages, losses, penalties, fines, judgments or expenses, including reasonable attorneys' fees and costs of collection (collectively, "Losses") that arise out of or result from (i) any breach by Licensee of its obligations, representations or warranties under this Agreement, (ii) any willful misconduct or active negligence of Licensee in connection with this Agreement, or (iii) the operation of the Charging Station during the Term, except to the extent arising out of or resulting from any willful misconduct or negligence of Licensor or any installation activities conducted by a contractor or other service provider hired by Licensor. The obligations of Licensee under this Section shall survive the expiration, cancellation, or termination of this Agreement and Term.

24. **Licensor's Indemnity**. Subject to Section 23 and Section 25 hereof, Licensor shall indemnify and hold harmless Licensee, its affiliates, and their respective representatives, agents, officers, directors, shareholders, partners and employees from and against all third party Losses that arise out of or result from (i) any willful misconduct or active negligence of Licensor in connection with this Agreement or (ii) any breach by Licensor of its obligations, representations or warranties under this Agreement. The obligations of Licensor under this Section shall survive the expiration, cancellation, or termination of this Agreement and the Term.

25. **Limitation of Licensor and Licensee Liability**. In no event shall either party be liable (in contract or in tort, including negligence and strict liability) to such other party or to such other party's affiliates or their respective representatives, agents, officers, directors, shareholders, partners or employees for any special, indirect or consequential damages relating to this Agreement. The entire liability of each party for any and all claims of any kind arising from or relating to this Agreement will be subject in all cases to an affirmative obligation on the part of the other party to mitigate its damages. Each party's total liability for any and all liability to the other party and to such other party's affiliates or their respective representatives, agents, officers, directors, shareholders, partners or employees (on an aggregate basis) arising out of or in connection this Agreement whether in contract or in tort (including negligence and strict liability) shall not exceed the greater of ONE MILLION DOLLARS (\$1,000,000.00) or, if insurance coverage is applicable, the insurance coverage limits required under this Agreement. The provisions of this Section 25 shall apply to the full extent permitted by law and shall survive termination of this Agreement.

26. **Default**. Each of the following shall constitute an "Event of Default" by Licensor or Licensee, as applicable, under this License:

(a) The failure by either Licensee or Licensor to perform or observe any material term or condition of this Agreement and such failure continues for a period of thirty (30) days after receipt of written notice thereof, provided however, that if the nature of such default is such that the same cannot be reasonably cured within said thirty (30) day period, then Licensee or Licensor, as applicable, shall have such additional time as is reasonably required to cure such failure, provided, Licensee or Licensor commences to cure such failure within such 30 day period and proceeds to cure such failure with diligence and continuity; or

(b) The appointment of a receiver or trustee to take possession of all or substantially all of the assets of Licensee or Licensor located at the License Premises if possession is not restored to Licensee or Licensor, as applicable, within sixty (60) days; or a general assignment by Licensee or Licensor for the benefit of creditors; or any action or proceeding commenced by or against Licensee or Licensor under any insolvency or bankruptcy act; or under any other statute or regulation having as its purpose the protection of creditors and in the case of involuntary actions filed against the Licensee or Licensor the same are not discharged within 60 days after the date of commencement.

27. **Remedies.** Licensor and Licensee acknowledge and agree that each party shall have all remedies available at law or in equity if the other party is in default under the terms of this Agreement. If an Event of Default has occurred and is continuing, then Licensor or Licensee, as applicable, in addition to any other remedies given at law or in equity may (a) bring an action to recover and regain possession of said License Premises in the manner provided by the laws of eviction of the State where the License Premises are located then in effect, or (b) seek damages for breach of this Agreement.

28. **Brokers.** In the event Licensor or Licensee utilizes a broker in connection with this transaction, the party that is responsible for engaging such broker shall indemnify and hold harmless the other party for any commissions and/or fees due or owing. The payment of any such commission and/or fee shall be the subject of a separate, independent agreement between such party and the broker.

29. **Survival of Covenants.** The covenants, representations and agreements of Sections 13, 14, 21, 23, 24, 25, and 29 shall survive the expiration, termination or cancellation of this Agreement, regardless of reason.

30. **Notice.** Any notice provided or permitted to be given under this Agreement must be in writing and be served either by (i) deposit in the mail, addressed to the party to be notified, postage prepaid, and registered or certified, with a return receipt requested, or (ii) deposit with an internationally-recognized overnight delivery carrier, with notice of delivery to the recipient party. Notice given by registered or certified mail or overnight carrier shall be deemed delivered and effective on the date of delivery shown on the return receipt or proof of receipt. For purposes of notice the addresses of the parties shall be as follows:

Confidential

If to Licensee:

Electrify America, LLC
2003 Edmund Halley Drive, Suite 200
Reston, Virginia 20191
Attention: Anthony Lambkin

With a copy to (which shall not constitute notice):

Electrify America, LLC
2003 Edmund Halley Drive, Suite 200
Reston, Virginia 20191
Attention: Emily Durham, Esq.

If to Licensor:

City of Sedona
102 Roadrunner Drive
Sedona, Arizona 86336
Attention: City Attorney

Each party may change its address for notice by giving notice thereof to the other party.

31. **Assignment.** This Agreement is binding on and inures to the benefit of the parties and their respective heirs, successors, assigns, and personal representatives. Neither party may assign its rights and obligations in and under this Agreement without first obtaining prior written consent of the other party, which may be withheld in such party's sole discretion; provided, however, that either party may assign its rights and obligations in and under the Agreement to an affiliate, subsidiary or successor by merger or acquisition or successor to all or substantially all of the assets of such party at any time and without consent.

32. **Miscellaneous.**

(a) **Force Majeure.** Neither party is responsible for any delay or failure in performance of any part of this Agreement to the extent that delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes beyond the party's control.

(b) **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the internal laws of the State in which the License Premises is located without giving effect to conflict of law rules.

(c) **Attorneys' Fees; Waiver of Jury Trial.** If either party institutes a suit against the other for violation of or to enforce any covenant, term or condition of this Agreement, the prevailing party shall be entitled to reimbursement of all of its costs and expenses, including, without limitation, reasonable attorneys' fees. The parties hereby waive any and all rights which either party may have to request or require that a jury determine any fact,

Confidential

matter, controversy, dispute or litigation between them, or render any judgment or decision, in any way concerning this Agreement, and agree that any and all litigation between them arising from or in connection with this Agreement shall be determined by a judge sitting without a jury.

(d) No Waiver. The failure of a party to insist on strict performance of any provision of the Agreement does not constitute a waiver of, or estoppel against asserting, the right to require performance in the future. A waiver or estoppel given in any one instance does not constitute a waiver or estoppel with respect to a later obligation or breach.

(e) No Third Party Beneficiaries. This Agreement does not confer any rights or remedies on any person other than the parties and their respective successors and permitted assigns.

(f) Remedies. The rights and remedies provided by this Agreement are cumulative, and the use of any right or remedy by any party does not preclude or waive its right to use any or all other remedies. These rights and remedies are given in addition to any other rights a party may have under applicable law, in equity or otherwise.

(g) Severability. If any term of this Agreement is held by any court of competent jurisdiction to contravene, or to be invalid under, the laws of any political body having jurisdiction over this subject matter, that contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as reformed to the extent necessary to render valid the particular provision or provisions held to be invalid, consistent with the original intent of that provision and the rights and obligations of the parties shall be construed and enforced accordingly, and this Agreement shall remain in full force and effect as reformed.

(h) Integration; Amendments. It is agreed and understood that this Agreement contains all agreements, promises and understandings between the parties, and that there are no verbal or oral agreements, promises or understandings between the parties. Any amendment, modification or other change to this Agreement shall be ineffective unless made in a writing signed by the parties hereto.

(i) Counterpart/Electronic Execution. This Agreement may be executed in any number of counterparts with the same effect as if all the parties had signed the same document; all counterparts shall be construed together and shall constitute one and the same instrument. The delivery of an executed counterpart to this Agreement by electronic means (including via email) shall be as effective as the delivery of a manually executed counterpart.

Confidential

(j) Time is of the Essence. Time is of the essence in this Agreement.

In witness whereof, the parties hereto execute this Agreement as of the date first above written.

LICENSOR:

CITY OF SEDONA,
an Arizona municipal corporation

By: _____
Name: _____
Title: _____

LICENSEE:

ELECTRIFY AMERICA, LLC,
a Delaware limited liability company

By: _____
Name: Giovanni Palazzo
Title: President & CEO

ATTEST:

By: _____
Name: JoAnne Cook
Title: City Clerk

By: _____
Name: Gregory A. Crossley
Title: Chief Financial Officer

APPROVED AS TO FORM:

By: _____
Name: Kurt W. Christianson
Title: City Attorney

EXHIBIT A
PROPERTY

PARCEL 1 (APN 401-16-071, aka 430 Forest Road, Sedona, AZ):

All that certain plot, parcel of land or real property located in the SW1/4, of the SE1/4, of the NE1/4 of Section 7, Township 17 North, Range 6 East. Gila and Salt River Base and Meridian, Coconino County, Arizona, as described in a Special Warranty Deed recorded in the Official Records of Coconino County in Instrument Number 3871426, as follows:

Beginning at the Southeast corner of the Southwest quarter of the Southeast quarter of the Northeast quarter of said Section 7;

Thence North 00° 21' West, 171 feet;

Thence South 89° 31' 44" West, 165 feet;

Thence South 00° 21' East, 171 feet

Thence North 89° 31' 44" West, 165 feet to the point of Beginning.

PARCEL 2 (APN 401-16-100, aka 460 Forest Road, Sedona, AZ):

All that certain plot, parcel of land or real property located in the SW1/4, of the SE1/4, of the NE1/4 of Section 7, Township 17 North, Range 6 East. Gila and Salt River Base and Meridian, Coconino County, Arizona, as described in a Special Warranty Deed recorded in the Official Records of Coconino County in Instrument Number 3877484, as follows:

Lot 41, Manzanita Hills Unit 1, according to the plat of record in the office of the County Recorder of Coconino County, Arizona, recorded in Case 2, Map 261.

EXHIBIT B
PREMISES

Confidential

ELECTRIC VEHICLE CHARGING SITE PLAN



City of Sedona

PROPERTY NAME: SEDONA PUBLIC PARKING GARAGE

ADDRESS: 430 & 460 FOREST ROAD

CITY, STATE ZIP: SEDONA, AZ 20109

SITE ID: 140102

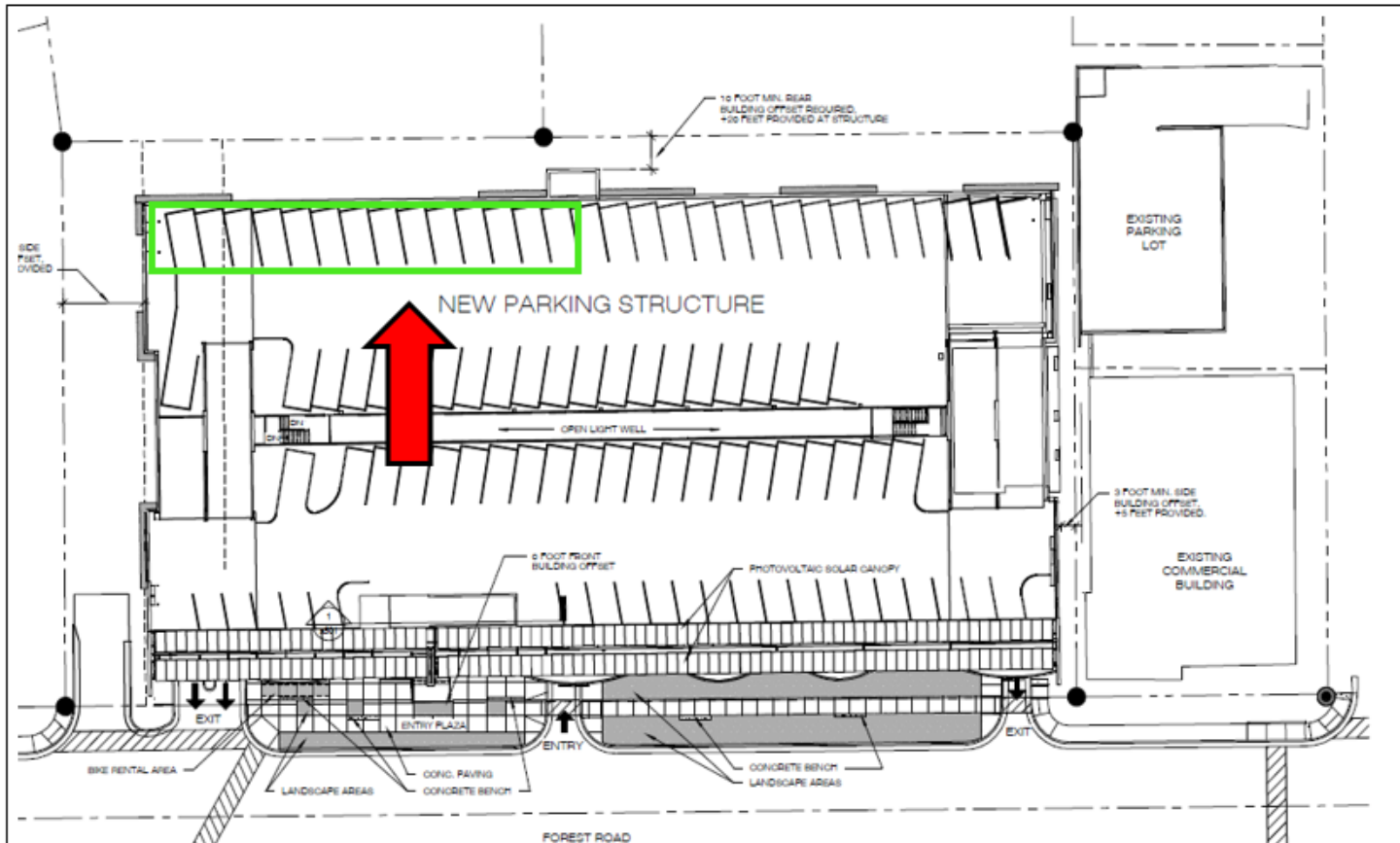
DATE: 03/11/2022

PDM NAME: Jennifer Coddington

PDM PHONE #: Page 579 | 325-7571

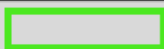
UTILITY: APS

SITE HOST LEASE PLAN



LEGEND

**REQUIRED SPACES FOR
ELECTRIFY AMERICA**



SPECIFICATIONS & DESIGN LAYOUT

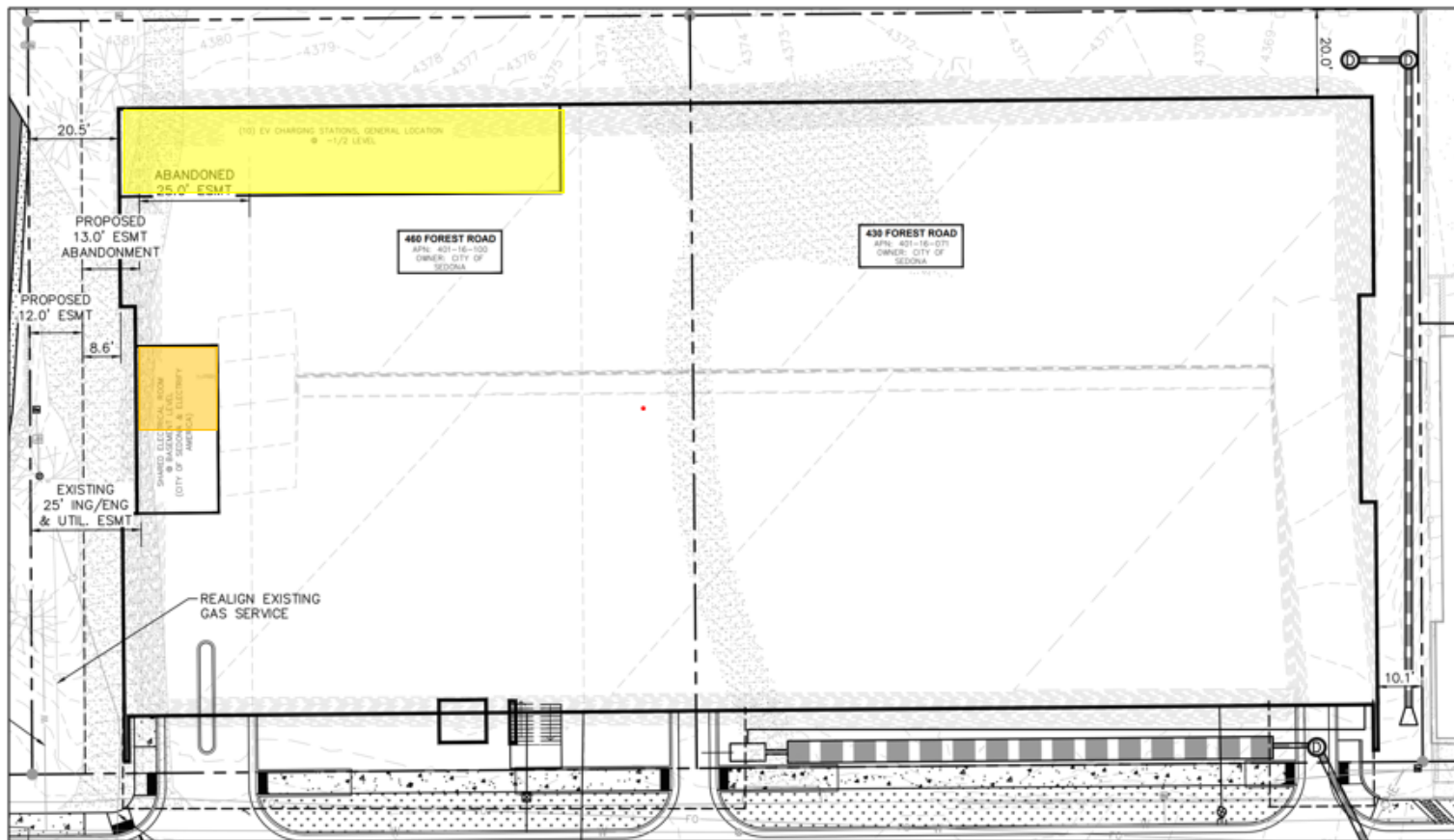


DISPENSER DESIGN FOR ILLUSTRATION PURPOSES ONLY

STANDARD DESIGN FIT: NATIONAL METRO BACK TO BACK 10 DISPENSERS

NUMBER OF EV PARKING SPACES (DISPENSERS) 8 – 150kw & 2 – 350kw	10
NUMBER OF EXISTING PARKING SPACES REQUIRED FOR EV PARKING (DISPENSERS)	14
NUMBER OF EXISTING PARKING SPACES REQUIRED FOR EQUIPMENT PAD, TRANSFORMER, BATTERY	0
TOTAL NUMBER OF EXISTING PARKING STALLS REQUIRED FOR PROJECT	14
EXISTING PARKING SPACE WIDTH (SINGLE SPACE)	9'
EXISTING PARKING SPACE DEPTH	19'
DRIVE AISLE WIDTH	26'
PARKING SPACE SLOPE (ALONG WIDTH / DEPTH)	<2%

PROPOSED CHARGING AREA LAYOUT – NATIONAL



LEGEND	EXIST. POWER SOURCE	POSSIBLE EASEMENT	EQUIP. PAD	SURVEY AREA
	NEW TRANSFORMER	SECONDARY RUN	EV SPACES	

SPEXBOOK 3-D LAYOUT - NATIONAL





VIA EMAIL

December 21, 2021

City of Sedona
Attn: Gabe Desmond
102 Roadrunner Dr
Sedona, AZ 86336

**Re: Property Name: Public Parking Garage
Property Address: 403 & 406 Forest Rd, Sedona, AZ 86336
Proposal to Lease Parking Spaces for Electric Vehicle Charging**

Dear Gabe:

On behalf of Electrify America LLC ("Tenant"), we are pleased to submit to City of Sedona ("Landlord") this non-binding proposal to lease parking spaces and adjoining areas from Landlord at address(es) outlined in Exhibit A for the purposes of installing, maintaining and operating Electrify Vehicle ("EV") Charging Stations.

Tenant: Electrify America, LLC, a Delaware limited liability company

Premises: Exact specifications to be outlined in the final site plan, which will result in ten (10) EV charging parking spaces and paved space for equipment to be described in Exhibit A. The location and size of the Premises must be mutually agreed upon by Landlord and Tenant.

Use and Access: The Premises will be used for EV charging stations and ancillary or additional services, as Tenant may choose. Electrify America customers shall have access to the Premises 24 hours per day, 365 days per year, except for when the Premises are closed to all members of the public.

Lease Term:	The lease term shall be for ten (10) years.
Term Commencement:	Upon completion of Tenant's EV charging station area and the date the charging station area is first operational and open to the public.
Rent:	No additional rent will be paid to Landlord as Tenant is covering all installation and electricity costs.
Customer Fees:	If the Landlord opts to charge parking fees for usage of the Public Parking Garage, Electrify America customers will pay the standard parking fee, along with any fees charged by Electrify America for EV charging.
Option to Extend:	After the initial ten (10) year term, renewal of the lease agreement must be mutually agreed upon by Landlord and Tenant.
Expansion Option:	Landlord must approve any expansion to agreed upon Premises.
Tenant Installation:	Upon delivery of possession of the Premises, Tenant at its sole cost and expense will construct all of its site improvements as further described in the lease agreement.
Signage:	Tenant will be allowed to install signage in accordance with all local laws, regulations and ordinances.
Landlord's Engagement:	Property owner will assist Tenant in the execution of an easement agreement and other permitting forms with the local utility provider/jurisdiction, where necessary. Landlord will provide staffing support to meet with Tenant's team at the Premises as needed.
Maintenance and Repairs:	Tenant shall keep and maintain all of their operating equipment in good working condition. Landlord will

maintain the parking spaces and landscaped areas, including snow removal and routine pavement maintenance and repair.

Utilities: Tenant intends to bring in a new transformer dedicated to supplying power to the Premises at its sole cost and expense. All utilities shall be separately metered and all utility charges associated with the Premises will be paid for by Tenant to the applicable utility service provider.

Lease Expiration Requirements: Upon the expiration of the lease, Tenant will remove all of its equipment and restore the affected area to its former condition excluding normal wear and tear; provided that any underground electrical wiring shall be capped off and secured but not removed.

Expiration of Proposal: This proposal shall expire thirty (30) days from the above date.

NOTE: Neither Landlord nor Tenant shall incur any mutual obligation whatsoever by agreeing to this proposal. It is understood that this proposal is non-binding and subject to prior leasing, modification or withdrawal at any time. The sole purpose of this proposal is to state mutually agreeable terms and conditions that will form the basis for negotiation of a lease for the proposed premises.

If the above proposal is acceptable, please sign where indicated below.

AGREED TO AND ACCEPTED:

TENANT:

Electrify America, LLC

DocuSigned by:
By: Christina Slayton
74FD9B1CA720453...

Title: Manager, Site Acquisition

Date: 12/23/2021

LANDLORD:

City of Sedona

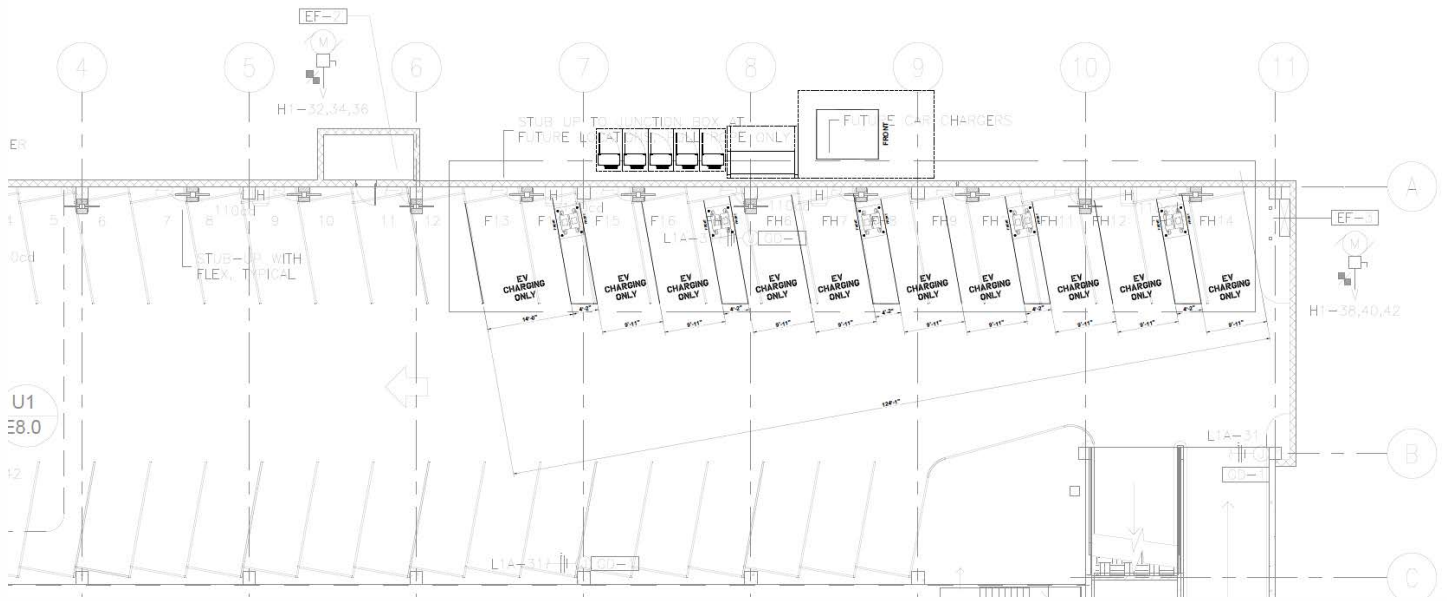
By: Haven Osburn

Title: City Manager

Date: 12/22/21

EXHIBIT A

PROPOSED SITE PLAN — TO BE DETERMINED





**CITY COUNCIL
AGENDA BILL**

**AB 2799
April 12, 2022
Regular Business**

Agenda Item: 8b
Proposed Action & Subject: Discussion/possible action regarding ideas for possible resolutions for consideration by League of Arizona Cities and Towns' Policy Committees.

Department	City Manager's Office
Time to Present	10 Minutes
Total Time for Item	30 Minutes
Other Council Meetings	N/A
Exhibits	A. Councilor Suggested Resolutions

City Attorney Approval	Reviewed 04/04/22 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	N/A	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: Each year, the League of Arizona Cities and Towns (League) seeks suggestions from municipalities for legislative proposals for the forthcoming legislative session. Councilors have been asked to provide ideas for items they feel the League should consider. These will be forwarded to the appropriate League Policy Committee for review and consideration.

The five (5) Policy Committees are: 1) Budget, Finance and Economic Development (BFED); 2) General Administration, Human Resources and Elections (GAHRE); 3) Transportation Infrastructure and Public Works (TIPW); 4) Public Safety, Military Affairs and the Courts (PSMAC); and 5) Neighborhoods, Sustainability and Quality of Life (NSQL). Each Policy Committee meets on an as-needed basis when there are issues brought forward by Committee members for discussion. The Policy Committees ultimately vote on whether to move any proposal forward for consideration at the Annual Conference.

The purpose of this item is to discuss items suggested by Councilors to determine if they should be sent on to the League for consideration. The suggested items from Councilors include:

Off Highway Vehicle (OHV) Regulation and Alternative Expenditure Limitations/Home Rule. Details on these are attached as Exhibit A with 2 individual suggestions.

Climate Action Plan/Sustainability Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): N/A

MOTION

I move to: for discussion and possible action.

League of Arizona Cities and Towns Policy Committees and Resolutions Process Overview

2022

Overview

The Policy Committee framework was established to give city and town elected officials and staff the opportunity to provide direction and expertise on proposed policy issues that come to the League. After submitted policy issues are discussed and vetted in the appropriate policy committee, they may become a League Resolution, be referred for further study or they may have a non-legislative solution.

Issues must be submitted by the deadlines set forth each year. This gives the committee members and League staff ample time to study the issues and formulate solutions. If the committee recommends that the issue should be developed into a League Resolution, the issue must be provided to all cities and towns before the League Annual Conference in August/September so that individual cities and towns may consider them prior to the Resolutions Committee Meeting. To adhere to this schedule, all policy issues must be submitted no later than a week before the policy committees meet.

Policy Committee Membership

The Policy Committee chairs are members of the Executive Committee and are selected by the President of the League. The chairs will select their membership based on applications. Municipal elected officials and staff are eligible to apply for a position on a Policy Committee by submitting their interest to: resolutions@azleague.org. In addition, an individual city or town may have only one vote on each committee; and only elected officials can vote on the direction of the policy issue. Staff may participate in the discussion and offer their expertise but cannot vote on the proposal. Committee membership is for one year, but members may re-apply to a committee for another term.

Submission of Policy Issues

Cities and towns may submit policy issues any time of the year. The Policy Committee to which the issue is assigned will decide if the issue becomes a formal resolution. The Vice President of the League assigns policy submissions to one or more policy committees. ***To submit your policy issue, please use the special form provided by the League below.***

Policy Committee Actions

Policy Committees will meet in May and June. The meetings are open for anyone to attend, however only one elected official from each city on that committee may vote. The committee may choose to advance the policy submission as a formal resolution, assign the submission to further study, or propose a non-legislative solution. Outside experts may be invited to provide additional input. The sponsoring city or town is responsible to present their case for their submission at the policy committee.

Each chair shall prepare a report of their activities and the formal resolutions to the full Resolutions Committee as a part of the Annual Conference packet. In addition, each Committee Chair shall provide a verbal report to the Resolutions Committee. *Only resolutions put forward by the Policy Committees will be voted on at the Resolutions Committee during the Annual Conference.*

Resolutions Committee

Each member city or town shall receive a Resolutions Packet in preparation for the Annual Conference and shall have a seat at the committee with either the mayor or a council member as their voting representative. The Policy Committee chairs shall provide their reports and the Resolutions Chair shall facilitate the meeting. The sponsoring city/town may be called upon to provide additional information on a Resolution. Resolutions adopted at the Resolutions Committee will be forwarded to the Annual Business Meeting for formal ratification.

Municipal Policy Statement

The adopted resolutions become the basis of the Municipal Policy Statement, the League's legislative priorities for the following legislative session. The statement is used to educate legislators on the League's highest priorities for that year.

Policy Issue Submittal Form

Please use this form to submit your policy issue. The issue will be vetted by the relevant Policy Committee, and may become a formal Resolution, or may go on for further discussion with a non-legislative solution.

Guidelines

There are two types of resolutions:

- 1) Statements requesting a specific action, such as requesting that the Legislature enact a statute relating to a zoning issue.
- 2) Statements of general policy direction, such as supporting increases for transportation funding.

The resolutions process is designed for issues that impact a broad cross section of cities and towns. Single city/town issues are not generally part of the League's overall agenda.

Policy Issue

Please state the problem or issue.

Off-Highway Vehicles (OHVs) are currently street legal in the State of Arizona. OHVs, however, were never designed to be on paved roads and present safety concerns when operating on streets and highways. This is confirmed by the manufacturer's specification sheet and owners manuals that clearly state "not to be on paved or public roads". Because OHVs were not intended to be on a paved or public road they do not meet the minimum state safety requirements, including airbags, etc.

Please state the solution you are promoting for your issue.

Amend State Statute to ban OHVs from State highways and allow local governments to limit OHVs on City streets. An exception to this request would be for agricultural activities.

The following is suggested legislation wording from the Recreational Off-Highway Vehicle Association (ROHVA)

Model State Recreational Off-Highway Vehicle (ROV) Legislation

Chapter 1. Definitions

Section 101. Definitions. As used in this Act:

(a) "Recreational Off-Highway Vehicle" or "ROV" means a motorized off-highway vehicle designed to travel on four or more tires, intended by the manufacturer for use by one or more persons and having the following characteristics: a steering wheel for steering control; non-straddle seating; seat belts; a rollover protective structure; maximum speed capability greater than 30 mph; less than 80 inches in overall width, exclusive of accessories; engine displacement of less than 1,000cc; identification by means of a 17 character PIN or VIN.

(b) "Department" means the Department of _____.

(c) "Owner" means any person, other than a person with a security interest, having a property interest or title to an ROV and entitled to the use and possession of the vehicle.

(d) "Person" means every natural person, firm, co-partnership, association, or corporation.

(e) "Public street," "road," or "highway" [the state will define these terms to correspond to other legislation and its road system, but it is not intended that this definition cover such public thoroughfares as logging roads, woodland trails or other unimproved ways.]

Chapter 2. Operation

Section 201. Occupant Requirements

(a) An ROV operator must be at least 16 years of age and possess a valid driver's license.

(b) No operator may carry any passenger who is unable: (1) to place both feet flat on the floorboard while seated upright with his or her back against the seatbacks; and (2) to reach the occupant handhold(s) when seated.

(c) No person shall operate or be a passenger in an ROV unless the person wears eye protection and a DOT-compliant safety helmet.

Section 202. Equipment Requirements.

Any ROV operated in this state shall meet the following requirements:

(a) Every ROV must be equipped with a brake system maintained in good operating condition.

(b) Every ROV must be equipped with an effective muffler system in good working condition.

(c) Every ROV must be equipped with an effective spark arrester in good working condition.

(d) ROVs participating in certain competitive events may be exempted from all or any part or parts of Section 202 at the discretion of the Department.

Chapter 3 Prohibited Acts

Section 301. Prohibited Acts by Owner and Operator.

The following acts are prohibited when an ROV is operated on public land.

(a) No person shall operate an ROV in a careless or reckless manner so as to endanger or to cause injury or damage to any person or property.

(b) An ROV shall not be driven or operated on any public street, road, or highway of this state unless such street, road, or highway is part of a designated trail system permitting such operation or except for purposes of crossing if:

(1) the crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(2) the vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;

(3) the operator yields the right of way to all oncoming traffic that constitutes an immediate potential hazard;

(4) both the headlight and tail light are on when the crossing is made.

(c) The crossing of any interstate or limited access highway is not permitted.

(d) No person shall operate an ROV during hours of darkness without displaying a lighted headlamp and tail lamp. These lights must be in operation during the period of from one-half hour after sunset to one-half hour before sunrise and at any time when visibility is reduced due to insufficient light or unfavorable atmospheric conditions, unless use of lights is prohibited by other applicable state laws such as a prohibition on use of lamps when hunting at night.

(e) No person shall operate or be a passenger in an ROV unless wearing a seat belt.

(f) No operator of an ROV shall carry more passengers than recommended by the manufacturer in the vehicle owner's manual.

(g) No operator shall carry a passenger in the bed of an ROV.

(i) No person shall operate an ROV while under the influence of alcohol or any controlled substance, or under the influence of a prescription or non-prescription drug that impairs vision, motor coordination or judgment.

(j) No owner shall authorize an ROV to be operated contrary to this Act.

Chapter 4 Miscellaneous Provisions

Section 401. Powers of the Department.

The Department may promulgate rules and regulations as may be deemed necessary to carry out and enforce the provisions of this Act.

Section 402. Penalties.

Any person who violates any of the provisions in Chapter 4 of this Act shall be subject to a fine of not less than \$__ or more than \$___. However, for offenses committed with intent to defraud or mislead, or for second and subsequent offenses, a fine of not less than \$__ or more than \$__ shall be imposed.

Section 503. Effective Date.

This Act shall take effect on _____.



POSITION IN OPPOSITION TO ON-HIGHWAY OPERATION OF ROVs

The Recreational Off-Highway Vehicle Association (ROHVA) is a not-for-profit trade association formed to promote the safe and responsible use of recreational off-highway vehicles (ROVs) manufactured or distributed in North America. ROHVA also serves as the primary resource for information on ROVs. An ROV – sometimes referred to as a side-by-side or UTV – is a motorized off-highway vehicle designed to travel on four or more non-highway tires, with a steering wheel, non-straddle seating, seat belts, an occupant protective structure, and engine displacement up to 1,000cc. Current models are designed with seats for a driver and one or more passengers.

ROVs are designed, manufactured and sold for off-highway use only. On-highway vehicles must be manufactured and certified to comply with U.S. Department of Transportation Federal Motor Vehicle Safety Standards (FMVSS). These safety standards consist of extensive and detailed compliance requirements. Since ROVs are not intended to be used on-highway, they are not designed, equipped or tested to meet such standards. Permitting street use of ROVs, including modified vehicles, would be in conflict with manufacturers' intentions on their proper use, and would be contrary to federal safety requirements.

Riding on public streets and highways introduces the possibility of the ROV colliding with a car or truck, an obviously dangerous situation.

ROHVA emphasizes that ROVs are not designed, manufactured, or in any way intended for use on public streets or highways and urges that on-highway use of ROVs be prohibited and law enforcement efforts be strengthened to eliminate this practice.



League of Arizona Cities and Towns Policy Committees and Resolutions Process Overview

2022

Overview

The Policy Committee framework was established to give city and town elected officials and staff the opportunity to provide direction and expertise on proposed policy issues that come to the League. After submitted policy issues are discussed and vetted in the appropriate policy committee, they may become a League Resolution, be referred for further study or they may have a non-legislative solution.

Issues must be submitted by the deadlines set forth each year. This gives the committee members and League staff ample time to study the issues and formulate solutions. If the committee recommends that the issue should be developed into a League Resolution, the issue must be provided to all cities and towns before the League Annual Conference in August/September so that individual cities and towns may consider them prior to the Resolutions Committee Meeting. To adhere to this schedule, all policy issues must be submitted no later than a week before the policy committees meet.

Policy Committee Membership

The Policy Committee chairs are members of the Executive Committee and are selected by the President of the League. The chairs will select their membership based on applications. Municipal elected officials and staff are eligible to apply for a position on a Policy Committee by submitting their interest to: resolutions@azleague.org. In addition, an individual city or town may have only one vote on each committee; and only elected officials can vote on the direction of the policy issue. Staff may participate in the discussion and offer their expertise but cannot vote on the proposal. Committee membership is for one year, but members may re-apply to a committee for another term.

Submission of Policy Issues

Cities and towns may submit policy issues any time of the year. The Policy Committee to which the issue is assigned will decide if the issue becomes a formal resolution. The Vice President of the League assigns policy submissions to one or more policy committees. ***To submit your policy issue, please use the special form provided by the League below.***

Policy Committee Actions

Policy Committees will meet in May and June. The meetings are open for anyone to attend, however only one elected official from each city on that committee may vote. The committee may choose to advance the policy submission as a formal resolution, assign the submission to further study, or propose a non-legislative solution. Outside experts may be invited to provide additional input. The sponsoring city or town is responsible to present their case for their submission at the policy committee.

Each chair shall prepare a report of their activities and the formal resolutions to the full Resolutions Committee as a part of the Annual Conference packet. In addition, each Committee Chair shall provide a verbal report to the Resolutions Committee. ***Only resolutions put forward by the Policy Committees will be voted on at the Resolutions Committee during the Annual Conference.***

Resolutions Committee

Each member city or town shall receive a Resolutions Packet in preparation for the Annual Conference and shall have a seat at the committee with either the mayor or a council member as their voting representative. The Policy Committee chairs shall provide their reports and the Resolutions Chair shall facilitate the meeting. The sponsoring city/town may be called upon to provide additional information on a Resolution. Resolutions adopted at the Resolutions Committee will be forwarded to the Annual Business Meeting for formal ratification.

Municipal Policy Statement

The adopted resolutions become the basis of the Municipal Policy Statement, the League's legislative priorities for the following legislative session. The statement is used to educate legislators on the League's highest priorities for that year.

Policy Issue Submittal Form

Please use this form to submit your policy issue. The issue will be vetted by the relevant Policy Committee, and may become a formal Resolution, or may go on for further discussion with a non-legislative solution.

Guidelines

There are two types of resolutions:

- 1) Statements requesting a specific action, such as requesting that the Legislature enact a statute relating to a zoning issue.
- 2) Statements of general policy direction, such as supporting increases for transportation funding.

The resolutions process is designed for issues that impact a broad cross section of cities and towns. Single city/town issues are not generally part of the League's overall agenda.

Policy Issue

Please state the problem or issue.

The requirement for cities and towns to hold a vote every four years on the Alternative Expenditure Limitation (Home Rule) was enacted by citizen initiative over 40 years ago. Today, very few cities and towns vote to change their current status, whether accepting or rejecting Home Rule [confirmation needed], so funding and administering an election every four years has become a mostly unnecessary burden for cities and towns, simply to maintain the Home Rule choice they have determined to be right for them. Some have considered adopting a Permanent Base Adjustment in order to avoid this burden, but the PBA has its own downside as well.

Please state the solution you are promoting for your issue.

We propose that the four-year election requirement be increased to ten years. Any resident or group of residents who wanted to change their city's or town's status before the ten-year election could of course still use the initiative process to put the issue on the next ballot; this change simply resets the cycle of the process to a time frame more consistent with the likelihood of need, without removing the potential to begin the process sooner if the public desires. A ten year cycle has the additional advantage of syncing with the revision of the general plan of a city or town, when thinking about and planning for the longer term is already an activity the residents are engaged in.

Three options:

1. Change to the 10-year cycle for all cities and towns immediately. [RECOMMENDED]
2. Change to the 10-year cycle automatically for any city or town that has retained the same status for three of the current four-year election cycles.
3. Change to the 10-year cycle beginning with the first election after the city or town has adopted a general plan revision



**CITY COUNCIL
AGENDA BILL**

**AB 2759
April 12, 2022
Regular Business**

Agenda Item: 8c
Proposed Action & Subject: Discussion/possible direction/action regarding proposed State legislation, short-term rental legislation and State budget and their potential impact on the City of Sedona.

Department	City Manager
Time to Present	15 Minutes
Total Time for Item	45 Minutes
Other Council Meetings	January 11, 2022, January 26, 2022, February 8, 2022, February 22, 2022, March 8, 2022, March 22, 2022
Exhibits	None

City Attorney Approval	Reviewed 04/04/22 KWC	Expenditure Required	
		\$	0
		Amount Budgeted	
		\$	0
City Manager's Recommendation	N/A	Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: During the course of the State Legislative Session, many bills are introduced that have a potential impact on the City of Sedona. The League of Arizona Cities and Towns, the City's legislative advocate and City staff routinely monitor bills of interest as they progress through the legislative process.

This item is scheduled to provide a summary update on relevant bills and the proposed State budget, to answer questions that the City Council may have regarding any individual bill or the budget, and to consider the need for the City Council to take a formal position in support or opposition of any particular bill.

Climate Action Plan/Sustainability Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

MOTION

I move to: for informational purposes only unless there is a preference to take a position on a particular issue.



**CITY COUNCIL
AGENDA BILL**

**AB 2571
April 12, 2022
Regular Business**

Agenda Item: 8d
Proposed Action & Subject: Discussion/possible direction regarding issues surrounding the COVID-19 pandemic and the City's response.

Department	City Manager
Time to Present	10 minutes
Total Time for Item	15 minutes
Other Council Meetings	March 24, 2020, April 14, 2020, April 28, 2020, May 12, 2020, May 26, 2020, June 9, 2020, June 23, 2020, July 14, 2020, July 28, 2020, August 11, 2020, September 8, 2020, September 22, 2020, October 13, 2020, October 27, 2020, November 10, 2020, November 24, 2020, December 9, 2020, January 12, 2021, January 26, 2021, February 9, 2021, February 23, 2021, March 9, 2021, March 23, 2021, April 13, 2021, April 27, 2021, May 11, 2021, May 25, 2021, June 8, 2021, June 22, 2021, July 13, 2021, July 27, 2021, August 10, 2021, September 14, 2021, September 28, 2021, October 12, 2021, October 26, 2021, November 9, 2021, November 23, 2021, December 14, 2021, January 11, 2022, January 26, 2022, February 8, 2022, February 22, 2022, March 8, 2022
Exhibits	None

City Attorney Approval	Reviewed 04/04/22 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	For discussion and possible direction only.	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: This item was added to ensure opportunity to discuss the latest updates with the COVID-19 pandemic and the City's response.

The City continues regular communication with state and county health departments, hospitals, other healthcare providers, emergency responders, emergency managers, and policy experts.

During the meeting staff will present up-to-date information on COVID-19 related data and regulatory changes.

Climate Action Plan/Sustainability Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): N/A

MOTION

I move to: for discussion and possible direction only.