

**AMENDED
AGENDA**

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD,
ARIZONA, TO BE HELD JULY 18, 2017, AT 6:00 PM., AT THE COUNCIL CHAMBERS
BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER -- THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION.

V. PRESENTATIONS

6:05 p.m. LIBRARY ADVISORY BOARD CHAIRMAN,
MARGO MITCHELL, WILL GIVE AN UPDATE
REGARDING THE BOARD'S ACTIVITIES.

- VI. CALL TO THE PUBLIC--This portion of the agenda is set aside for the public to address the Council regarding an item that is not listed on the agenda for discussion. However, the Council cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02(H).) Comments are limited to a 5 minute time period.

VII. APPROVAL OF MINUTES

SPECIAL MEETING OF APRIL 11, 2017.

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

- VIII. CONSENT AGENDA--The following items are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Council Member or a citizen so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

- 1. RESOLUTION NUMBER 2897--APPROVING AN AGREEMENT WITH NORTHERN ARIZONA COUNCIL OF GOVERNMENTS FOR THE USE OF SOCIAL SERVICES BLOCK GRANT FUNDS FOR THE COTTONWOOD AREA TRANSIT SYSTEM.

- IX. NEW BUSINESS--The following items are for Council discussion, consideration, and possible legal action.

- 6:20 p.m. 1. RESOLUTION NUMBERS 2898 AND 2899--APPOINTING MEMBERS TO THE PARKS AND RECREATION COMMISSION.
- 6:40 p.m. 2. AGREEMENT WITH ACTION SPORTS ENTERTAINMENT, LLC, DBA BRIGADE FMX, TO PERFORM FREESTYLE MOTOCROSS PERFORMANCES DURING THE THUNDER VALLEY RALLY EVENT SCHEDULED FOR SEPTEMBER 15-16, 2017, AT RIVERFRONT PARK.
- 6:50 p.m. 3. PUBLIC HEARING REGARDING A MINOR AMENDMENT TO THE CITY'S GENERAL PLAN TO CHANGE A ZONE CLASSIFICATION FROM MR (MEDIUM DENSITY RESIDENTIAL) TO GC (GENERAL COMMERCIAL) IN AN AREA IN OLD TOWN LOCATED ON THE SOUTH SIDE OF WEST PIMA STREET (77 WEST PIMA STREET) BETWEEN CACTUS STREET AND NORWOOD STREET (APN 406-32-02 3B.)
4. RESOLUTION NUMBER 2900--APPROVING A MINOR AMENDMENT TO THE CITY'S GENERAL PLAN WITH RESPECT TO A PARCEL LOCATED IN OLD TOWN ON THE SOUTH SIDE OF WEST PIMA STREET BETWEEN CACTUS STREET AND NORWOOD STREET (77 WEST PIMA STREET; APN 406-32-02 3B) TO CHANGE A ZONE CLASSIFICATION FROM MR (MEDIUM DENSITY RESIDENTIAL) TO GC (GENERAL COMMERCIAL).
- 7:10 p.m. 5. ORDINANCE NUMBER 626--AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR A PARCEL OF LAND LOCATED AT 77 WEST PIMA STREET (APN 406-32-023B) SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF R-1 (SINGLE FAMILY RESIDENTIAL) TO C-1 (LIGHT COMMERCIAL;) FIRST READING.
- 7:20 p.m. 6. THE VINEYARDS AT COTTONWOOD - PROPOSED FIRST AMENDMENT TO DEVELOPMENT AGREEMENT AND PHASE 1 ASSURANCE AGREEMENT
7. DISCUSSION AND DIRECTION TO STAFF REGARDING THE CIVIC CENTER RENOVATION PROJECT, INCLUDING POSSIBLE FUNDING SOLUTIONS FOR FUNDING THE SHORTFALL TO COMPLETE THE PROJECT AS CURRENTLY DESIGNED
- 7:45 p.m. 8. SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY CHRISTIAN OLIVA DEL RIO, APPLICANT FOR THE COTTONWOOD CHAMBER OF COMMERCE, FOR A CHAMBER MIXER SCHEDULED FOR JULY 20, 2017, AT 849 COVE PARKWAY, SUITES B & C (CHAMBER OF COMMERCE OFFICE.)

X. CLAIMS AND ADJUSTMENTS

XI. ADJOURNMENT

Pursuant to A.R.S. 38-431.03.(A) the Council may vote to go into executive session on any agenda item pursuant to A.R.S. 38-431.03.(A)(3) and./or A.R.S. 38-431.03(A)(4) Discussion or consultation for legal advice with the attorney or attorneys of the public body.

The Cottonwood Council Chambers is accessible to the disabled in accordance with Federal "504" and "ADA" laws. Those with needs for special typeface print or hearing devices may request these from the City Clerk (TDD 634-5526.) All requests must be made 24 hours prior to the meeting.

Members of the City Council will attend either in person or by telephone conference call.

Notice is hereby given that pursuant to A.R.S. 1-602.A.9 , subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. 1-602.A.9 have been waived.

Times noted for each agenda item are an approximate estimate for the benefit of the public. The actual time that discussion and action occur for each item on the agenda may take place earlier, or in some cases later, than the times indicted.

MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD APRIL 11, 2017, AT 4:00 P.M., AT THE COTTONWOOD COUNCIL CHAMBERS, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

Mayor Elinski called the special meeting to order at 4:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Tim Elinski, Mayor
Ruben Jauregui, Vice Mayor
Kyla Allen, Council Member
Deb Althouse, Council Member
Tosca Henry, Council Member
Linda Norman, Council Member
Karen Pfeifer, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager	Steve Gesell, Police Chief
Marianne Jiménez, City Clerk	Tom Whitmer, Natural Resources Director
Steve Horton, City Attorney	

ITEMS FOR DISCUSSION, CONSIDERATION, AND POSSIBLE LEGAL ACTION:

RESOLUTION NUMBER 2880--APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE MINGUS UNION HIGH SCHOOL DISTRICT FOR A FULL-TIME SCHOOL RESOURCE OFFICER AT MINGUS UNION HIGH SCHOOL, CONTINGENT ON THE DISTRICT'S RECEIPT OF A GRANT TO FUND THE POSITION

Police Chief Gesell thanked the Council for convening on such short notice. What he was asking for today was to enter into an agreement with Mingus union High School District to essentially take what we currently have as a half-time officer assigned to the school and transition that into a full-time position with an increased interface with our youth and student populations, meeting the parameters of a grant that the school district is planning on applying for, hence the reason for the short notice to meet the grant application deadline.

Mayor Elinski asked if there were any questions from the Council, and there were none. He then stated he saw no reason why we wouldn't support this.

Mayor Elinski then moved to approve Resolution Number 2880. The motion was seconded by Council Member Allen, and carried unanimously.

Mayor Elinski requested the City Clerk read Resolution Number 2880 by title only.

RESOLUTION NUMBER 2880

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE MINGUS UNION HIGH SCHOOL DISTRICT #4 FOR THE SERVICES OF A SCHOOL RESOURCE OFFICER TO BE PROVIDED BY THE COTTONWOOD POLICE DEPARTMENT, SUBJECT TO THE DISTRICT'S RECEIPT OF SUFFICIENT GRANT FUNDING FOR THE POSITION.

DISCUSSION OF ISSUES RELATED TO PENDING AND POTENTIAL LITIGATION ASSOCIATED WITH THE GILA RIVER ADJUDICATION AND OTHER LEGAL ISSUES REGARDING THE CITY'S WATER SUPPLY.

Upon a public majority vote of the members constituting a quorum, the Council may hold an executive session with regard to item III which is not open to the public for the following purposes: A.R.S. § 38-431.03(A)(3)–Discussion or consultation for legal advice with the attorney or attorneys of the public body; A.R.S. § 38-431.03(A)(4)–Discussion or consultation with the attorney of the public body in order to consider its position and instruct its attorney regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation; A.R.S. § 38-431.03(A)(7)–Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

Mayor Elinski moved to go into executive session. The motion was seconded by Council Member Norman, and carried unanimously.

After discussion under executive session, Mayor Elinski moved to reconvene into special session. The motion was seconded by Council Member Allen and carried unanimously.

The Council held no discussion nor took any action on this item under special session.

ADJOURNMENT

Council Member Allen moved to adjourn. The motion was seconded by Council Member Pfeifer, and carried unanimously.

The special meeting adjourned at 5:31 p.m.

City of Cottonwood, Arizona
City Council Agenda Communication

☐ Print

Meeting Date:	July 18, 2017
Subject:	Renewal of Contract with NACOG to provide subsidized Transportation Services for Low Income individuals for Fiscal Year 2018.
Department:	Administrative Services
From:	Bruce Morrow, Transportation Manager

REQUESTED ACTION

Approve the Contract with NACOG to provide subsidized transportation services to low income individuals.

SUGGESTED MOTION

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

"I move to approve Resolution Number 2897 approving an agreement with NACOG for the provision of subsidized transportation services to low income individuals for fiscal year 2018."

BACKGROUND

Cottonwood Area Transit has provided subsidized transportation services for low income individuals under contract with NACOG for a number of years. NACOG provides grant funds to cover the costs of providing these services to their clients who in turn are able to get to appointments, jobs, grocery stores, and other destinations. It benefits the community and the individuals served.

JUSTIFICATION/BENEFITS/ISSUES

There have been no issues to date and the people who have been served by this program have benefited in a number of ways by being able to get to meetings, job interviews, doctor's appointments, and other important destinations.

COST/FUNDING SOURCE

This program is funded by a Social Services Block Grant administered by NACOG and there is no city match for the grant.

ATTACHMENTS:

File Name	Description	Type
		Cover

res2897.doc

Resolution Number 2897

Memo

SFY2018_CATS_Contract_June_8_2017.pdf FY 2018 Contract Document

Backup
Material

NAIPTA -
_CATS(SSBG)BudgetFundRequest_2018.xlsx FY 2018 Contract Addendum

Backup
Material

RESOLUTION NUMBER 2897

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, APPROVING AN AGREEMENT WITH THE NORTHERN ARIZONA COUNCIL OF GOVERNMENTS FOR THE USE OF SOCIAL SERVICES BLOCK GRANT FUNDS FOR THE COTTONWOOD AREA TRANSIT SYSTEM.

WHEREAS, the City of Cottonwood operates and manages the Cottonwood Area Transit System and provides services to low income clients; and

WHEREAS, the Northern Arizona Council of Governments, through the Social Services Block Grant program, is able to provide up to \$23,524 for the Cottonwood Area Transit System.

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

THAT, the Sub-Award Agreement, Contract Number YAV2-17-2018, with the Northern Arizona Council of Governments is hereby approved.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, THIS 18TH DAY OF JULY 2017.

Tim Elinski, Mayor

APPROVED AS TO FORM:

ATTEST:

Steve Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

Chris Fetzter
Executive Director

June 1, 2017

Bruce Morrow
Transportation Manager
City of Cottonwood
340 Happy Jack Way
Cottonwood, AZ 86326

RE: Contract No. YAV2-17-2018 between the Northern Arizona Council of Governments and City of Cottonwood Area Transit

Dear Bruce:

Attached is City of Cottonwood's contract for SFY2018. **Please review all provisions before signing and return two sets of contract signature page and Certification Regarding Lobbying page to me.**

Prior to the commencement of any services under the executed Contract, you must furnish a current Certificate of Insurance and Workers Compensation. **Please make certain that your insurances and their limits are at the minimums (this can be found in the Contract Provisions under Insurance) and that your carrier completes the certificate with all the requirements set forth in the contract.** In addition, if you have not submitted your agency's final report, please do so as soon as possible. If you have any new employees or volunteers, please remember that we will need to do a Background Check through the DES Central Registry and the employee or volunteer must obtain a Level One Fingerprint Clearance Card.

Blank Budget/Monthly Expenditure SSBG Report form is attached for this next fiscal year. Monthly expenses must be documented with fiscal backup or records to confirm expense amounts. Please throw all others out.

If you have any questions, please contact me at (928) 213-5218, or psprengeler@nacog.org.

Sincerely



Patricia A. Sprengeler, Program Manager
Community Services

Attachments

SUBAWARD AGREEMENT BETWEEN NORTHERN ARIZONA COUNCIL OF GOVERNMENTS AND CITY OF COTTONWOOD (COTTONWOOD AREA TRANSIT)

THIS SUBAWARD AGREEMENT (this "Agreement") is entered into as of **July 1, 2017, by and between Northern Arizona Council of Governments (NACOG)**, an Arizona nonprofit corporation with principal offices at 119 E Aspen Avenue, Flagstaff, AZ and **City of Cottonwood – Cottonwood Area Transit (CATs)** (Subrecipient), an Arizona nonprofit corporation with principal offices at 827 N Main Street, Cottonwood, AZ. This Agreement shall govern certain activities and responsibilities to be carried out by Subrecipient on behalf of NACOG, a grantee of the Arizona Department of Economic Security.

NACOG provides broad ranging programs and services that are intended to pursue the reduction of poverty, the revitalization of low-income communities and the empowerment of low-income families and individuals to become self-sufficient through its Community Services Department and has been awarded a grant to assist in providing case management and emergency assistance services and programs for families and individuals to become self-sufficient with a contract period of July 1, 2017 through June 30, 2018 by the Arizona Department of Economic Security, Grant No. ADES 05-089117, CFDA #93.558, 93.568, 93.569, 93.667 (the "Prime Award"), pursuant to the provisions of the Arizona Revised Statutes (A.R.S) Sections §41-1954 (A) (6) and (A) (8).

NACOG desires to provide case management and emergency assistance services and programs for families and individuals to become self-sufficient in low-income communities served by NACOG (Apache, Navajo and Yavapai Counties);

Subrecipient has been and is operating a community based senior center or assistance center which provides transportation services for families and individuals;

NACOG desires to grant a "subaward" (as defined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §200.331 (a)(1) (the "Uniform Guidance") of the Prime Award (the "Subaward") to Subrecipient to offer case management and emergency assistance services described herein in accordance with the requirements of the Arizona Revised Statutes (A.R.S) Sections §41-1954 (A) (6) and (A) (8) and the regulations and guidelines promulgated thereunder and by ADES, as well as other applicable laws; and certain information required by the Uniform Guidance, 2.C.F.R. §200.331 (a)(1) , to be included in this Agreement with respect to the Subaward is set forth in the Subaward Data attached hereto as Exhibit B and is incorporated herein by reference.

In consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NACOG and Subrecipient hereby agree as follows:

1. **TERM.** This Agreement shall govern the performance of the parties for the period **July 1, 2017** (the "**Effective Date**") **through June 30, 2018**, unless earlier terminated by either party in accordance with the terms of this Agreement (such period of performance, the "**Agreement Term**").

2. **SCOPE OF SERVICES AND BUDGET; PRIOR APPROVAL FOR CHANGES.**

a. **Scope of Services and Budget.** Subrecipient shall, in a satisfactory manner as determined by NACOG, perform all activities described in the scope of services as approved by NACOG and attached as **Exhibit C**, as may be amended from time to time (the "**Approved Services**") in accordance with the program budget as approved by NACOG and attached as **Exhibit D**, as may be amended from time to time (the "**Approved Budget**").

b. **Prior Approval for Changes.** Subrecipient may not transfer allocated funds among cost categories within a budgeted program account without the prior written approval of NACOG; nor shall Subrecipient make any changes, directly or indirectly, in program design or in the Approved Services or in the Approved Budget without the prior written approval of NACOG.

3. **COMPENSATION.**

a. **Payment of Funds.** NACOG agrees to reimburse Subrecipient for costs actually incurred and paid by Subrecipient in accordance with the Approved Budget attached as **Exhibit D** and for the performance of the Approved Services under this Agreement in an amount not to exceed **\$23,524.00** (the "**Total Agreement Funds**"). The amount of Total Agreement Funds, however, is subject to adjustment by NACOG if a substantial change is made in the Approved Services that affects this Agreement or if this Agreement is terminated prior to the expiration of the Agreement as provided in Section 1 above. Program funds shall not be expended prior to the Effective Date, or following the earlier of the expiration or termination of this Agreement. Costs incurred shall only be as necessary and allowable to carry out the purposes and activities of the Approved Services and may not exceed the maximum limits set in the Approved Budget. Expenses charged against the Total Agreement Funds shall be incurred in accordance with the Uniform Guidance, the Prime Award and the authorizations, restrictions and requirements contained in the Notice of Prime Award and any amendments and other applicable laws, regulations, grant terms and conditions or policies.

b. **Invoices.** On or before the tenth (10th) day of each month and in any event no later than thirty (30) days after the earlier of the expiration or termination of this Agreement, Subrecipient shall submit invoices, in a form supplied by NACOG for the most recent month ended, to NACOG setting forth actual expenditures of Subrecipient in accordance with this Agreement. Within ten (10) working days from the date it receives such invoice, NACOG may disapprove the requested compensation. If the

compensation is so disapproved, NACOG shall notify Subrecipient as to the disapproval. If payment is approved, no notice will be given.

c. Contingency. The payment of funds to Subrecipient under the terms of this Agreement shall be contingent on the receipt of such funds by NACOG from applicable state and federal funding sources and shall be subject to Subrecipient's continued eligibility to receive funds under the applicable provisions of state and federal laws and the Notice of Prime Award. If the amount of funds that NACOG receives from state and federal funding sources is reduced, NACOG reserves the right to reduce the amount of funds awarded under, or to terminate, this Agreement. NACOG also reserves the right to deny payment for Subrecipient's expenditures for Approved Services where invoices and/or other reports are not submitted by the deadlines specified in Sections 3(b) above and 4(d) below.

4. FINANCIAL ACCOUNTABILITY AND GRANT ADMINISTRATION.

a. Financial Management. Subrecipient shall maintain a financial management system and financial records and shall administer funds received pursuant to this Agreement in accordance with all applicable federal and state requirements, including without limitation: Uniform Guidance, 2.C.F.R. §200.331 (a)(1). Subrecipient shall adopt such additional financial management procedures as may from time to time be prescribed by NACOG if required by applicable laws, regulations or guidelines from its federal and state government funding sources. Subrecipient shall maintain detailed, itemized documentation and records of all income received and expenses incurred pursuant to this Agreement.

b. Limitations on Expenditures. Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to the Effective Date, or following the earlier of the expiration or termination of this Agreement. NACOG shall only reimburse Subrecipient for documented expenditures incurred during the Agreement Term that are: (i) reasonable and necessary to carry out the NACOG Case Management and Emergency Assistance Services; (ii) documented by contracts or other evidence of liability consistent with established NACOG and Subrecipient procedures; and (iii) incurred in accordance with all applicable requirements for the expenditure of funds payable under this Agreement.

c. Indirect Cost Rate. The Subaward Data attached hereto as Exhibit B contains information on NACOG's indirect cost rate under the Notice of Prime Award. The indirect cost rate information, if any, indicated in the Approved Budget attached hereto as Exhibit D shall apply to the Subaward.

d. Financial and Other Reports. Subrecipient shall submit to NACOG such reports and back-up data as may be required by ADES or NACOG, including without limitation such reports which enable NACOG to submit its own quarterly financial and annual programmatic reports to ADES and the reports required in accordance with the following schedule:

REPORT

Expenditure Report/Funds Request
Monthly Transportation Reports
Quarterly Reports

Annual Report

DEADLINE

10th day of each month
10th day of each month
10th day of month following end of
quarter.
July 10th following end of SFY

Monthly transportation report to include at a minimum the number of clients served, the number of one-way trips (e.g. from client's home to client's work), total number of miles driven to transport clients, and results of any client satisfaction research.

This provision shall survive the expiration or termination of this Agreement with respect to any reports which Subrecipient is required to submit to NACOG following the expiration or termination of this Agreement.

e. **Improper Payments.** Any item of expenditure by Subrecipient under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of NACOG, ADES, the U.S. Government Accountability Office or the Comptroller General of the United States to be improper, unallowable, in violation of federal or state law or the terms of the Notice of Prime Award or this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of Subrecipient, shall become Subrecipient's liability, to be paid by Subrecipient from funds other than those provided by NACOG under this Agreement or any other agreements between NACOG and Subrecipient. This provision shall survive the expiration or termination of this Agreement.

f. **Audited Financial Statements.** In accordance with A.R.S. §35-214, the Contractor shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Contract for a period of five years after completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce the original of any or all such records. In compliance with the Federal Single Audit Act (31 U.S.C. Sections 7501-7507 as may be amended), Contractors designated as subrecipients, as described in the Office of Management and budget (OMB) Circular A-133, expending Federal funds from all sources totaling \$500,000 or more, shall have a yearly audit conducted in accordance with the audit and reporting standards as prescribed in OMB Circular A-133 (A-133) as may be amended. In any fiscal year in which Subrecipient expends \$500,000 or more in federal awards during such fiscal year, including awards received as a subrecipient, Subrecipient must comply with the federal audit requirements contained in the Uniform Guidance, 2 C.F.R. §200.331 (a) (1), including the preparation of an audit by an independent Certified Public Accountant in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501-7507, and with Generally Accepted Accounting Principles. If Subrecipient expends less than \$750,000 in federal awards in any fiscal year, it is exempt from federal audit

requirements, but its records must be available for review by NACOG and appropriate officials of ADES, the U.S. Government Accountability Office and the Comptroller General of the United States, and it must still have a financial audit performed for that year by an independent Certified Public Accountant. Subrecipient shall provide NACOG with a copy of Subrecipient's most recent audited financial statements, federal Single Audit report, if applicable (including financial statements, schedule of expenditures of federal awards, schedule of findings and questioned costs, summary of prior audit findings, and corrective action plan, if applicable), and management letter within 30 days after execution of this Agreement and thereafter within nine (9) months following the end of Subrecipient's most recently ended fiscal year.

g. Closeout. Final payment request(s) under this Agreement must be received by NACOG no later than thirty (30) days from the earlier of the expiration date or termination date of this Agreement. No payment request will be accepted by NACOG after this date without authorization from NACOG. In consideration of the execution of this Agreement by NACOG Subrecipient agrees that acceptance of final payment from NACOG will constitute an agreement by Subrecipient to release and forever discharge NACOG, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this Agreement. Subrecipient's obligations to NACOG under this Agreement shall not terminate until all closeout requirements are completed to the satisfaction of NACOG. Such requirements shall include, without limitation, submitting final reports to NACOG and providing any closeout-related information requested by NACOG by the deadlines specified by NACOG. This provision shall survive the expiration or termination of this Agreement.

5. COOPERATION IN MONITORING AND EVALUATION.

a. NACOG Responsibilities. NACOG shall monitor, evaluate and provide guidance and direction to Subrecipient in the conduct of Approved Services performed under this Agreement. NACOG has the responsibility to determine whether Subrecipient has spent funds in accordance with applicable laws, regulations, including the federal audit requirements and agreements and shall monitor the activities of Subrecipient to ensure that Subrecipient has met such requirements. NACOG may require Subrecipient to take corrective action if deficiencies are found.

b. Subrecipient Responsibilities.

i. Subrecipient shall permit NACOG to carry out monitoring and evaluation activities, including any performance measurement system required by applicable law, regulation, funding sources guidelines or by the terms and conditions of the applicable Notice of Prime Award, and Subrecipient agrees to ensure, to the greatest extent possible, the cooperation of its agents, employees and board members

in such monitoring and evaluation efforts. This provision shall survive the expiration or termination of this Agreement.

ii. Subrecipient shall cooperate fully with any reviews or audits of the activities under this Agreement by authorized representatives of NACOG, ADES, the U.S. Government Accountability Office or the Comptroller General of the United States and Subrecipient agrees to ensure to the extent possible the cooperation of its agents, employees and board members in any such reviews and audits. This provision shall survive the expiration or termination of this Agreement.

6. RECORD RETENTION AND ACCESS. Subrecipient shall maintain all records, books, papers and other documents related to its performance of Approved Services under this Agreement (including without limitation personnel, property, financial and medical records) for a period of 5 years following the date that NACOG makes the last payment to Subrecipient under this Agreement, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Agreement. Subrecipient shall make all records, books, papers and other documents that relate to this Agreement available at all reasonable times for inspection, review and audit by the authorized representatives of NACOG, ADES, the U.S. Government Accountability Office and the Comptroller General of the United States.

7. INDEPENDENT CONTRACTOR RELATIONSHIP. The relationship of Subrecipient to NACOG is that of an independent contractor and not of an employee/employer. It is expressly understood that any individual performing services under this Agreement on behalf of Subrecipient shall not be deemed to be an employee or independent contractor of NACOG and such individual shall not be entitled to tax withholding, workers' compensation, unemployment compensation or any employee benefits, statutory or otherwise, from NACOG. Subrecipient agrees that it is solely responsible for the reporting and payment of income, social security and other employment taxes due to the proper taxing authorities with respect to such personnel. Subrecipient agrees to indemnify, defend and hold harmless NACOG and its directors, officers, employees and agents from and against any and all costs, losses, damages, liabilities, expenses, demands and judgments, including court costs and attorney's fees, relating to the reporting and payment of income, social security and other employment taxes and the provision of employee benefits (including but not limited to workers' compensation, unemployment insurance and health insurance coverage or assessable payments required under the Patient Protection and Affordable Care Act, P.L.111-148) with respect to such individual performing services under this Agreement on behalf of Subrecipient. This provision shall survive the expiration or termination of this Agreement.

8. COMPLIANCE WITH GRANT AGREEMENT AND APPLICABLE LAWS.

a. **Compliance with Prime Award and Subaward.** Subrecipient shall perform all activities funded by this Agreement in accordance with: (i) the Notice of Prime Award attached hereto as Exhibit A, including any amendments thereto; (ii) the Subaward Data

attached hereto as Exhibit B, including any amendments thereto; (iii) the Approved Services attached hereto as Exhibit C, including any amendments thereto; (iv) the Approved Budget attached hereto as Exhibit D, including any amendments thereto and (v) the applicable contract provisions for non-federal entity contracts under federal awards required under Appendix II to the Uniform Guidance (each of (i) – (v) above is hereby incorporated by reference into this Agreement). In addition, Subrecipient shall cooperate fully with NACOG in its efforts to comply with the requirements of the Notice of Prime Award, including any amendments thereto.

b. Compliance with Applicable Laws. Subrecipient shall perform all activities funded by this Agreement in accordance with all applicable federal, state and local laws, including without limitation laws which regulate the use of funds allocated. The term “federal, state and local laws” as used in this Agreement shall mean all applicable statutes, rules, regulations, executive orders, directives or other laws, including all laws as presently in effect and as may be amended or otherwise altered during the Agreement Term, as well as all such laws which may be enacted or otherwise become effective during the Agreement Term.

i. Administrative Requirements; Cost Principles; Audit Requirements. Subrecipient shall comply with the 2 C.F.R. §200.331 (a) (1) (the “Uniform Guidance”).

ii. Restrictions on Lobbying. Subrecipient shall comply with the restrictions on lobbying set forth in [45 C.F.R. Part 93]. If the Subaward exceeds \$100,000, Subrecipient must execute and deliver to NACOG the certification attached hereto as Exhibit E (“Certification Regarding Lobbying”). In addition, Subrecipient shall comply with the applicable restrictions on lobbying contained in the federal appropriations act through which funds for the Subaward were appropriated, the Consolidated Appropriations Act, 2016 (P.L. 114-113).

iii. Covenant Against Contingent Fees. Subrecipient represents and warrants that no person or entity has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. In the event of a breach or violation of this representation and warranty, NACOG shall have the right to annul this Agreement without liability or, in its discretion, to offset against amounts it owes Subrecipient under this Agreement or otherwise recover from Subrecipient the full amount of such commission, percentage, brokerage, or contingent fee, and to seek any other legal remedies available to it as a result of such breach;

iv. Suspension and Debarment. Subrecipient represents that neither it nor any of its principals has been debarred, suspended or determined ineligible to participate in federal assistance awards or contracts as defined in regulations implementing Office of Management and Budget Guidelines on Governmentwide Debarment and Suspension (Nonprocurement) in Executive Order 12549. Subrecipient further agrees that it will notify NACOG immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or nonprocurement programs available at www.sam.gov;

v. DUNS Number. Subrecipient agrees and acknowledges that NACOG may not grant the Subaward and Subrecipient may not receive the Subaward unless Subrecipient has provided its Data Universal Numbering System ("DUNS") number to NACOG. The DUNS number is the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify business entities;

vi. Federal Funding Accountability and Transparency Act of 2006. Subrecipient agrees to provide NACOG with all information requested by NACOG to enable NACOG to comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282, as amended by section 6202 of P.L. 110-252);

vii. Regulations on Nondiscrimination. Subrecipient shall comply with the ADES regulations on nondiscrimination in ADES programs or activities receiving federal financial assistance at ADES Section 34 of Terms and Conditions;

viii. Drug-Free Workplace. Subrecipient shall comply with the requirements of the Drug-Free Workplace Act of 1988, 42 U.S.C. § 701 *et seq.* and 2 C.F.R. 182, and the applicable ADES regulations set forth in 45 C.F.R. Part 82, which require all programs and activities receiving federal assistance to maintain a drug-free workplace;

ix. Equal Treatment for Faith-Based Organizations. Subrecipient shall comply with the ADES regulations regarding the equal treatment of religious organizations in ADES programs, 45 C.F.R. Part 87;

x. Pro-Children Act of 1994. In accordance with 20 U.S.C. 6081 *et seq.*, Subrecipient certifies that Subrecipient, its employees, agents, contractors, and subcontractors will not permit smoking in any portion of an indoor facility owned or leased or contracted for by Subrecipient and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18;

xi. Policies on Limited English Proficient Persons. Subrecipient must have written policies that are consistent with the Arizona Department of Economic Security's Limited English Proficiency Policy (DES1-01-34) and Title VI of the Civil Rights Act of 1964, 42 U.S. C. 2000d *et seq.*

xii. Licenses, Certifications, Permits, Accreditation. Subrecipient shall procure and keep current any license, certification, permit or accreditation required by federal, state or local law and shall submit to NACOG proof of any licensure, certification, permit or accreditation upon request;

xiii. Israel Boycott Certification. Contractor hereby certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of Israel as defined by A.R.S. § 35-393.01. Violation of this certification by Contractor may

result in action by Northern Arizona Council of Governments up to and including termination of this contract; and

xiv. Other NACOG Agreements. Subrecipient shall fulfill all other agreements with NACOG and shall comply with all federal, state and local laws applicable to programs funded by such agreements.

9. EMPLOYMENT LAWS AND POLICIES.

a. Non-Discrimination in Employment. Subrecipient shall not discriminate against any qualified employee or applicant for employment because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, religion, genetic information, or disability. Subrecipient shall comply with all applicable provisions of federal, state and local laws prohibiting discrimination in employment.

10. CONFIDENTIALITY; PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION. The Subrecipient shall observe and abide by all applicable State and federal statutes, rules and regulations regarding the use or disclosure of information including, but limited to, information concerning applicants for and recipients of contract services. To the extent permitted by law, the Subrecipient shall release information to NACOG, ADES, and to the Attorney General's Office as required by the terms of this Agreement, by law or upon their request.

The Subrecipient shall comply with the requirements of Arizona Address Confidentiality Program, A.R.S. §41-161 et,seq, NACOG will advise the Subrecipient as to applicable policies and procedures NACOG and ADES has adopted for such compliance.

11. ADVERTISING, PUBLISHING AND PROMOTION OF CONTRACT. The Contractor shall provide to the Department for review and approval all reports or publications (written, visual or sound) that are funded or partially funded under this Contract, a minimum of fifteen (15) calendar days prior to public release. All reports and publications whether written, visual or verbal shall contain the following statement: "This program was funded through a Contract with the Arizona Department of Economic Security. Points of view are those of the author and do not necessarily represent the official position or policies of the Department." The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

12. INTELLECTUAL PROPERTY RIGHTS. NACOG shall own all rights, title and interest relating to any and all inventions, works of authorship, designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part, by or for or on behalf of Subrecipient during the term of this Agreement that relate to the subject matter of or arise out of or in connection with the Approved Services ("Work Product"). All Work Product is work made for hire to the extent allowed by law and, in addition, Subrecipient hereby makes all assignments necessary to accomplish the foregoing ownership. Subrecipient shall assist NACOG to further evidence, record and

perfect such assignments, and to perfect, obtain, maintain, enforce and defend any rights assigned. Subrecipient hereby irrevocably designates and appoints NACOG as its agents and attorneys-in-fact, coupled with an interest, to act for and on Subrecipient's behalf to execute and file any document and to do all other lawfully permitted acts to further the foregoing with the same legal force and effect as if executed by Subrecipient and all other creators or owners of the applicable Work Product. Subrecipient represents and warrants that all Work Product created for NACOG under this Agreement is original and does not infringe on the rights of any third party. Subrecipient further agrees to indemnify and hold harmless NACOG against any damages or losses related to any claims of intellectual property infringement by the Work Product. The parties also acknowledge and agree that ADES reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: (i) the copyright in the Work Product; and (ii) any rights of copyright to which NACOG, Subrecipient or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. This provision shall survive the expiration or termination of this Agreement.

13. INDEMNIFICATION. (Refer to Section 29.0 Indemnification of attached Terms and Conditions) Subrecipient shall defend and hold NACOG, its employees, officers, directors, agents and representatives harmless from any and all costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs and attorney's fees, which they may suffer arising from any act or omission or neglect of Subrecipient, its employees, officers, directors, agents or representatives, or anyone else for whose acts Subrecipient may be responsible, in the performance of Subrecipient's obligations under this Agreement. This provision shall survive the expiration or termination of this Agreement.

14. INSURANCE. (Refer to 30.0 Insurance Requirements of attached Terms and Conditions) Subrecipient shall, at all times throughout the Agreement Term, carry insurance in such form and in such amounts as NACOG may from time to time reasonably require against other insurable hazards and casualties that are commonly insured against in the performance of similar services as are to be provided under this Agreement. All policies (other than workers' compensation and employer's liability insurance) providing such coverage shall name the State of Arizona and the Department of Economic Security as an additional insured with respect to Subrecipient's performance of services under this Agreement. Subrecipient shall provide NACOG with certificates of insurance evidencing such coverage within thirty (30) days after execution of this Agreement, which certificates shall provide that NACOG shall receive thirty (30) days' advance written notice of any pending cancellation or non-renewal of any of the coverages required by NACOG pursuant to this Agreement. Insurance coverages that expire before the expiration of the Agreement Term shall be promptly renewed by Subrecipient so that there is no gap in coverage and certificates of insurance evidencing such renewal coverage shall be

provided to NACOG (by a copy provided to NACOG pursuant to the notice provisions set forth in Section 16(f)) immediately upon renewal. Subrecipient's failure to maintain insurance in the form and/or amounts required by NACOG pursuant to this Agreement shall be deemed a material breach of this Agreement and NACOG shall have the right thereupon to terminate this Agreement immediately in addition to any other remedy provided herein.

15. TERMINATION. (Refer to Section 60.0 of attached Terms and Conditions)

a. By NACOG. NACOG may, by giving written notice to Subrecipient, terminate this Agreement in whole or in part for cause, which shall include, without limitation: (i) failure for any reason of Subrecipient to fulfill timely and properly any of its obligations under this Agreement, including failure to comply with any provision of Section 8 of this Agreement; (ii) Subrecipient's default, breach or any intervening casualty which poses an immediate threat to life, health or safety; (iii) Subrecipient's breach of its representations, warranties and certifications contained in this Agreement; (iv) the suspension or debarment or determination that Subrecipient or any of its principals are ineligible to participate in federal assistance awards or contracts; (v) Subrecipient's failure to maintain the insurance coverage in the form and/or amounts required by NACOG pursuant to this Agreement; (vi) the submission by Subrecipient to ADES or NACOG of reports that are incorrect or incomplete in any material respect; (vii) ineffective or improper use by Subrecipient of funds received under this Agreement; (viii) suspension, termination, in whole or in part of, or absence or reduction of appropriations for, grants or reimbursements to NACOG; (ix) the necessity for termination and/or amendment of this Agreement so as to make any terms of this Agreement consistent with federal, state or local laws; (vi) fraudulent activities on the part of Subrecipient; and (x) the filing of bankruptcy, receivership or dissolution by or with respect to Subrecipient. NACOG may also terminate this Agreement in whole or in part without cause upon thirty (30) days' written notice to Subrecipient.

b. By Subrecipient. If Subrecipient is unable or unwilling to comply with any additional conditions or requirements which may arise as a result of changes in or additions to any federal, state or local laws after the commencement of the Agreement Term, including without limitation those applied by Arizona Department of Economic Security in their grants and reimbursements to NACOG, and which thereby become applicable to Subrecipient during the Agreement Term, Subrecipient shall terminate this Agreement by giving written notice to NACOG. The effective date of such notice of termination shall be no earlier than thirty (30) days from the date of the notice.

c. Transfer of Performance Upon Termination. Upon giving or receiving notice of termination, NACOG may require Subrecipient to ensure that adequate arrangements have been made for the transfer of performance of the Approved Services to another entity or to NACOG, including the reasonable payments of any costs involved out of compensation otherwise due Subrecipient under this Agreement.

d. Disposition of Property. In the event of any termination of this Agreement, all property and finished or unfinished documents, data, studies, and reports purchased or prepared by Subrecipient under this Agreement shall be disposed of according to State of Arizona and Subrecipient shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred in satisfactory performance of this Agreement during the Agreement Term.

e. Liability for Default. Whether or not this Agreement is terminated, Subrecipient shall be liable to NACOG for damages sustained by NACOG by virtue of any breach of this Agreement by Subrecipient and NACOG shall be liable to Subrecipient for damages sustained by Subrecipient by virtue of any breach of this Agreement by NACOG. This shall include, without limitation, liability of Subrecipient for the disallowance by Arizona Department of Economic Security of the reimbursement of charges submitted by NACOG for services provided by Subrecipient under this Agreement where the disallowance is in any way attributable to Subrecipient, including the provision or maintenance by Subrecipient of inadequate or erroneous records or billing documentation of services provided. If any such reimbursement of charges is disallowed as a result of an audit by Arizona Department of Economic Security of Subrecipient or NACOG, the amount disallowed must be paid by Subrecipient to NACOG from funds other than those provided by NACOG under this Agreement.

16. GENERAL PROVISIONS.

a. Governing Law. This Agreement shall be governed by the laws of the State of Arizona, without giving effect to the conflicts of laws provisions thereof.

b. Integration. This Agreement supersedes all oral agreements, negotiations and representations between the parties pertaining to the subject matter of this Agreement.

c. Severability. If any provision of this Agreement is found to be invalid, the remaining provisions shall remain in full force and effect.

d. Waiver of Breach. The waiver by either party of any breach of any provision of this Agreement shall not be deemed a waiver of any subsequent breach by the other party of the same or of different provisions.

e. Binding Effect; Assignment. Except as otherwise provided in this Agreement, every covenant, term, and provision of this Agreement shall be binding upon and inure to the benefit of the parties and their respective and permitted successors, transferees, and assigns. Subrecipient shall not assign, subcontract or transfer any of its rights, responsibilities or obligations under this Agreement without NACOG's prior written consent, which NACOG may withhold in its sole discretion. Should Subrecipient assign, subcontract or transfer any of its rights, responsibilities or obligations hereunder with such consent from NACOG, Subrecipient and the party to which it proposes to assign or subcontract its responsibilities or services hereunder

must enter into a written agreement that is consistent with this Agreement and the various requirements specified hereunder and that is approved by NACOG prior to its execution.

f. Notices. Notices required by this Agreement shall be made in writing and delivered via U.S. mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means (provided that receipt is confirmed). Any notice delivered or sent as described above shall be effective on the date received. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

If to NACOG:

Patricia Sprengeler
Program Manager
NACOG
119 E Aspen Ave
Flagstaff, AZ 86001
928-213-5218
928-556-9142
psprengeler@nacog.org

If to Subrecipient:

Bruce Morrow
Transportation Manager
Cottonwood Area Transit
340 Happy Jack Way
Cottonwood, AZ 86326
928-634-2287
928-634-7285
bmorrow@cottonwoodaz.gov

g. Amendment. Any amendment to this Agreement, including to the Approved Services and the Approved Budget, shall be reduced to writing, signed by an authorized representative of each party, and attached to this Agreement.

h. Counterpart Execution; Facsimile Execution. This Agreement may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the other parties by facsimile or other electronic transmission and such facsimile or other electronic execution shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile executions, electronic executions or a combination of the foregoing, shall be construed together and shall constitute one and the same agreement.

IN WITNESS WHEREOF, each of the parties has executed this Agreement by its duly authorized officer as of the day and year first written above.

Northern Arizona Council of Governments

City of Cottonwood

By: _____

Name: Chris Fetzer

Title: Executive Director

Date: _____

By: _____

Name: Tim Elinski

Title: Mayor

Date: _____

SUBAWARD AGREEMENT

List of Exhibits

<u>Exhibit A</u>	Notice of Award
<u>Exhibit B</u>	Subaward Data
<u>Exhibit C</u>	Approved Services
<u>Exhibit D</u>	Approved Budget
<u>Exhibit E</u>	Certification Regarding Lobbying

Exhibit A

Notice of Award



Contract between the Department of Economic Security (the "Department") and Northern Arizona Council of Governments (the "Contractor").

WHEREAS the Contractor is:

- ☐ a Non-profit Organization as defined in Office of Management and Budget (OMB) Circular A-122;
- ☐ a For-profit Organization; and

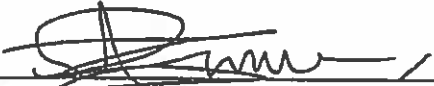
WHEREAS the Department is duly authorized to execute and administer contracts under A.R.S. §41-1954;

THEREFORE the Department and Contractor agree to abide by all the terms and conditions set forth in this Contract.

Contract Term: This contract shall be effective July 1, 2015, or date of last signature, whichever comes last, and shall terminate on June 30, 2020, unless extended in accordance with the Terms and Conditions.

BY SIGNING THIS FORM ON BEHALF OF THE CONTRACTOR, THE SIGNATORY CERTIFIES HE/SHE HAS THE AUTHORITY TO BIND THE CONTRACTOR TO THIS CONTRACT.

FOR AND ON BEHALF OF THE ARIZONA
DEPARTMENT OF ECONOMIC SECURITY:



Procurement Manager Signature
Pam Giroux

Typed Name
Procurement Manager

Title
5/4/2015

Date

DES Contract I.D. No.: ADES15-089117

5/11/15 original given to Tanya
or placed in Tanya's box.


Hi Patt!

Enclosed is a copy of
the new CAP contract
for your records.

Thanks very much!

Matth L.

FOR AND ON BEHALF OF THE CONTRACTOR:
NORTHERN ARIZONA COUNCIL OF GOVERNMENTS:



Signature of Authorized Individual
Chris Fetzner

Typed Name
Executive Director

Title
4/23/15

Date
Contractor FEI Number: 86-0262631

Contractor Mailing Address:

E.
119 W. Aspen Ave

Flagstaff, AZ 86001

Contact Name:
Title: Patricia Sprengeler Program Manager
Phone Number: 928-774-1895
Fax Number: 928-679-4224
E-Mail Address: psprengeler@nacog.org

TERMS AND CONDITIONS

- 1.0 Contract Term and Option to Extend**
1.1 The term of the resultant Contract shall be effective the date specified on the Contract Signature page and shall remain in effect for five (5) years or otherwise specified date, unless terminated, cancelled, or extended as otherwise provided herein.
1.2 The State has no obligation to extend or renew this Contract. However, this Contract may be extended or renewed for multiple periods, or may be established as a multi-year Contract in its entirety or in part at the sole option of the State.
1.3 The Contractor shall not provide services prior to Contract term commencing or after the end date of the Contract. (No billable activity outside of the effective dates).
- 2.0 Definitions**
2.1 "Attachment" means any item the Solicitation requires the Offeror to submit as part of the Offer.
2.2 "Award Date" means the date the Contract is executed by the Department. This may or may not be the same date as the "Effective Date" which is the date specified on the Offer and Award or Signature page.
2.3 "Contract" means the combination of the Request for Applications, Instructions to Applicants, Terms and Conditions, Scope of Work, Attachments, and Contract Amendments.
2.4 "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
2.5 "Contractor" means any person who has a Contract with the State.
2.6 "Days" means calendar days unless otherwise specified.
2.7 "Department" means the Arizona Department of Economic Security or ADES, unless otherwise indicated.
2.8 "Effective Date" means the date the Contractor is to start delivering services. The Effective Date is specified on the Offer and Award or Signature page.
2.9 "Equipment" means all vehicles, furniture, machinery, electronic data processing (EDP) equipment, software and all other equipment costing \$5,000.00 or more, including all normal and necessary expenses incurred to make the equipment ready for its intended use (e.g., axes, freight, installation, assembly and testing charges, etc.), and with a useful life of greater than one year. Equipment as used herein does not include real property (e.g., land, building, structures, or facilities' improvements).
2.10 "Exhibit" means any item labeled as an Exhibit.
2.11 "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
2.12 "Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
2.13 "May" indicates something that is not mandatory but permissible.
2.14 "Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
2.15 "Services" means the furnishing of labor, time or effort by a Contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
2.16 "Shall, Must" indicates a mandatory requirement.
2.17 "Should" indicates something that is recommended but not mandatory. If the Contractor fails to provide recommended information, the State may, at its sole option, ask the Contractor to provide the information.
2.18 "Subcontract" means any Contract, expressed or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
2.19 "State" means the State of Arizona and Department or Agency of the State that executes the Contract.
2.20 "State Fiscal Year" means the period beginning with July 1 and ending June 30.
2.21 "Vulnerable adult" means an individual who is eighteen years of age or older who is unable to protect himself from abuse, neglect or exploitation by others because of a physical or mental impairment.
- 3.0 Advertising, Publishing and Promotion of Contract**
3.1 The Contractor shall provide to the Department for review and approval all reports or publications (written, visual or sound) that are funded or partially funded under this Contract, a minimum of fifteen (15) calendar days prior to public release. All reports and publications whether written, visual or verbal shall contain the following statement: "This program was funded through a Contract with the Arizona Department of

Economic Security. Points of view are those of the author and do not necessarily represent the official position or policies of the Department."

- 3.2 The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

4.0 Amendments or Modifications

- 4.1 This Contract may be amended or modified at any time by mutual agreement. No agent, employee or other representative of either party is empowered to alter any of the terms of the Contract, unless done in writing and signed by the authorized representative of the respective parties.

- 4.2 Either party shall give written notice to the other party of any non-material alteration that affects the provisions of this Contract. Non-material alterations that do not require a written amendment are as follows:

- 4.2.1 Change of telephone number;

- 4.2.2 Change in authorized signatory; and/or

- 4.2.3 Change in the name and/or address of the person to whom notices are to be sent.

- 4.3 This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the Procurement Officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.0 Applicable Law

- 5.1 This Contract shall be governed and interpreted by the laws of the State of Arizona.

- 5.2 The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

- 5.3 Nothing in this Contract shall be construed as a waiver of an Indian tribe's sovereign immunity; nothing shall be construed as an Indian tribe's consent to be sued or as consent by an Indian tribe to the jurisdiction of any State Court.

- 5.4 The Contractor shall comply with the requirements related to reporting to a peace officer or child protective services incidents of crimes against children as specified in A.R.S. §13-3620 as may be amended.

- 5.5 The Contractor shall comply with P.L. 101-121, Section 319 (31 U.S.C. section 1352) as may be amended and 29 C.F.R. Part 93 as may be amended which prohibit the use of federal funds for lobbying and which state, in part: Except with the express authorization of Congress, the Contractor, its employees or agents, shall not utilize any federal funds under the terms of this Contract to solicit or influence, or to attempt to solicit or influence, directly or indirectly, any member of Congress regarding pending or prospective legislation. Indian tribes, tribal organizations and any other Indian organizations are exempt from these lobbying restrictions with respect to expenditures that are specifically permitted by other federal law.

- 5.6 The Contractor shall comply with all applicable state and federal statutes and regulations. This shall include A.R.S. § 23-722.01 as may be amended relating to new hire reporting, A.R.S. § 23-722.02 as may be amended relating to wage assignment orders to provide child support, and A.R.S. § 25-535 as may be amended relating to administrative or court-ordered health insurance coverage for children.

- 5.7 The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

- 5.8 Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

- 5.9 The Contractor shall comply with P. L. 105-285, Section 678F(a) which prohibits the use of funds for the purchase of improvement of land, or purchase, construction or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

- 5.10 The Contractor shall comply with P.L. 105-285, Section 678F(b) which prohibits the use of CSBG funds for the provision of services or the employment or assignment of personnel in a manner supporting any bi-partisan or non-partisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office; any activity to provide transportation to the polls or similar assistance in connection with and such election, any voter registration activity.

6.0 Arbitration

6.1 The parties to this Contract agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §12-1518, except as may be required by other applicable statutes (Title 41).

7.0 Assignment and Delegation

7.1 The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

8.0 Audit

8.1 In accordance with A.R.S. § 35-214, the Contractor shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Contract for a period of five years after completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce the original of any or all such records.

8.2 In compliance with the Federal Single Audit Act (31 U.S.C. Sections 7501-7507 as may be amended), Contractors designated as subrecipients, as described in the Office of Management and Budget (OMB) Circular A-133, expending Federal funds from all sources totaling \$500,000 or more, shall have a yearly audit conducted in accordance with the audit and reporting standards as prescribed in OMB Circular A-133 (A-133) as may be amended. As outlined in A-133 the audit Reporting Package shall include:

8.2.1 Financial statements and a Schedule of Expenditures of Federal Awards (SEFA)

8.2.2 Summary schedule of prior audit findings

8.2.3 Auditor's Reports (detailed in the A-133)

8.2.4 Corrective Action Plan.

8.3 The Department's Contract numbers and award amounts shall be included on the SEFA. A copy of the Single Audit Reporting Package and Management Letter, if issued, shall be submitted to the Department's Office of Audit and Management Services within thirty (30) days after completion of the audit or nine (9) months after the audited period and to the Department's person designated to receive notices as specified in the section 7.0 General Reporting Requirements in the Scope of Work.

8.4 All Contractors are subject to the programmatic and fiscal monitoring requirements of each Department program to ensure accountability of the delivery of all goods and services, as required under the Federal Single Audit Act. A minimum fiscal requirement for all Contractors designated as vendors is an annual financial audit which includes Department Contract numbers and award amounts. The Audit Report, Management Letter, if issued, and Auditor's Opinion shall be submitted within thirty (30) days after completion of the audit to the Department's person designated to receive notices as specified in the Reports Section in the Scope of Work.

8.5 As prescribed in OMB Circular A-133, for-profit subrecipients are subject to compliance requirements established by the Department. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, Department monitoring during the Contract, and post-award audits.

8.6 Audits of non-profit corporations receiving Federal or State monies required pursuant to Federal or State law shall be conducted as provided in 31 U.S.C. Section 7501 et seq. and A.R.S. Section 35-181.03 as may be amended and any other applicable statutes, rules, regulations and standards.

9.0 Availability of Funds

9.1 The Department may reduce payments or terminate this Contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated or allocated. The Director of the Department shall have the sole and unfettered discretion in determining the availability of funds. The Department and the Contractor may mutually agree to reduce reimbursement to the Contractor when the payment type is Fixed Price with Price Adjustment by executing a contract amendment.

9.2 Availability of Funds for the Current State Fiscal Year

9.2.1 Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the ADES may take any of the following actions without further recourse obligation or penalty:

9.2.2 Reduce payments or units authorized;

9.2.3 Accept a decrease in price offered by the Contractor;

9.2.4 Cancel the Contract; or

9.2.5 Cancel the Contract and re-solicit the requirements.

9.3 Availability of Funds for the Next State Fiscal Year

6.0 Arbitration

6.1 The parties to this Contract agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §12-1518, except as may be required by other applicable statutes (Title 41).

7.0 Assignment and Delegation

7.1 The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

8.0 Audit

8.1 In accordance with A.R.S. § 35-214, the Contractor shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Contract for a period of five years after completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce the original of any or all such records.

8.2 In compliance with the Federal Single Audit Act (31 U.S.C. Sections 7501-7507 as may be amended), Contractors designated as subrecipients, as described in the Office of Management and Budget (OMB) Circular A-133, expending Federal funds from all sources totaling \$500,000 or more, shall have a yearly audit conducted in accordance with the audit and reporting standards as prescribed in OMB Circular A-133 (A-133) as may be amended. As outlined in A-133 the audit Reporting Package shall include:

8.2.1 Financial statements and a Schedule of Expenditures of Federal Awards (SEFA)

8.2.2 Summary schedule of prior audit findings

8.2.3 Auditor's Reports (detailed in the A-133)

8.2.4 Corrective Action Plan.

8.3 The Department's Contract numbers and award amounts shall be included on the SEFA. A copy of the Single Audit Reporting Package and Management Letter, if issued, shall be submitted to the Department's Office of Audit and Management Services within thirty (30) days after completion of the audit or nine (9) months after the audited period and to the Department's person designated to receive notices as specified in the section 7.0 General Reporting Requirements in the Scope of Work.

8.4 All Contractors are subject to the programmatic and fiscal monitoring requirements of each Department program to ensure accountability of the delivery of all goods and services, as required under the Federal Single Audit Act. A minimum fiscal requirement for all Contractors designated as vendors is an annual financial audit which includes Department Contract numbers and award amounts. The Audit Report, Management Letter, if issued, and Auditor's Opinion shall be submitted within thirty (30) days after completion of the audit to the Department's person designated to receive notices as specified in the Reports Section in the Scope of Work.

8.5 As prescribed in OMB Circular A-133, for-profit subrecipients are subject to compliance requirements established by the Department. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, Department monitoring during the Contract, and post-award audits.

8.6 Audits of non-profit corporations receiving Federal or State monies required pursuant to Federal or State law shall be conducted as provided in 31 U.S.C. Section 7501 et seq. and A.R.S. Section 35-181.03 as may be amended and any other applicable statutes, rules, regulations and standards.

9.0 Availability of Funds

9.1 The Department may reduce payments or terminate this Contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated or allocated. The Director of the Department shall have the sole and unfettered discretion in determining the availability of funds. The Department and the Contractor may mutually agree to reduce reimbursement to the Contractor when the payment type is Fixed Price with Price Adjustment by executing a contract amendment.

9.2 Availability of Funds for the Current State Fiscal Year

9.2.1 Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the ADES may take any of the following actions without further recourse obligation or penalty:

9.2.2 Reduce payments or units authorized;

9.2.3 Accept a decrease in price offered by the Contractor;

9.2.4 Cancel the Contract; or

9.2.5 Cancel the Contract and re-solicit the requirements.

9.3 Availability of Funds for the Next State Fiscal Year

- 9.3.1 Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.
- 10.0 **Background Checks for Employment through the Central Registry** If providing direct services to children or vulnerable adults, the following shall apply:
- 10.1 The provisions of A.R.S. § 8-804 (as may be amended) are hereby incorporated in its entirety as provisions of this Contract.
- 10.2 The Department will conduct Central Registry Background Checks and will use the information contained in the Central Registry as a factor to determine qualifications for positions that provide direct service to children or vulnerable adults for:
1. Any person who applies for a contract with this State and that person's employees;
 2. All employees of a Contractor;
 3. A subcontractor of a Contractor and the subcontractor's employees; and
 4. Prospective employees of the Contractor or subcontractor at the request of the prospective employer.
- 10.3 Volunteers who provide direct services to children or vulnerable adults shall have a Central Registry Background Check which is to be used as a factor to determine qualifications for volunteer positions.
- 10.4
1. A person who is disqualified because of a Central Registry Background Check may apply to the Board of Fingerprinting for a Central Registry exception pursuant to A.R.S. § 41-619.57. A person who is granted a Central Registry exception pursuant to A.R.S. § 41-619.57 is not entitled to a Contract, employment, licensure, certification or other benefit because the person has been granted a Central Registry exception.
 2. Before being employed or volunteering in a position that provides direct services to children or vulnerable adults, persons shall certify on forms that are provided by the Department whether an allegation of abuse or neglect was made against them and was substantiated. The completed forms are to be maintained as confidential.
- 10.5 A person awaiting receipt of the Central Registry Background Check may provide direct services to ADES clients after completion and submittal of the Direct Service Position certification form if the certification states:
1. The person is not currently the subject of an investigation of child abuse or neglect in Arizona or another state or jurisdiction; and
 2. The person has not been the subject of an investigation of child abuse or neglect in Arizona, or another state or jurisdiction, which resulted in a substantiated finding. The Certification for Direct Service Position is located at:
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/ACY-1287AFORFF.doc>
- 10.6 If the Central Registry Background Check specifies any disqualifying act and the person does not have a Central Registry exception, the person shall be prohibited from providing direct services to ADES clients.
- 10.7 The Contractor shall maintain the Central Registry Background Check results and any related forms or documents in a confidential file for five (5) years after termination of the Contract. The Request for Search of Central Registry for Background Check form is located at: <https://www.azdes.gov/opac>.
- 11.0 **Cancellation for Conflict of Interest**
- 11.1 Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 12.0 **Certification of Cost or Pricing Data**
- 12.1 The Contractor certifies that, to the best of the Contractor's knowledge and belief, any cost or pricing data submitted is accurate, complete and current as of the date submitted or other mutually agreed upon date. Furthermore, the price to the State shall be adjusted to exclude any significant amounts by which the State finds the price was increased because the Contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date of submittal. Such adjustment by the State may include overhead, profit or fees.

- 13.0 Certification Regarding Lobbying**
13.1 The Contractor agrees by submittal of the Certification Regarding Lobbying form, compliance with 49 CFR part 20. (Attachment)
- 14.0 Code of Conduct**
14.1 The Contractor shall avoid any action that might create or result in the appearance of:
14.1.1 Inappropriate use or divulging of information gathered or discovered pursuant to the performance of its duties under the Contract;
14.1.2 Acting on behalf of the State without appropriate authorization;
14.1.3 Provided favorable or unfavorable treatment to anyone;
14.1.4 Made a decision on behalf of the State that exceeded its authority, could result in partiality, or have a political consequence for the State;
14.1.5 Misrepresent or otherwise impeded the efficiency, authority, actions, policies, or adversely affect the confidence of the public or integrity of the State; or
14.1.6 Loss of impartiality when advising the State.
- 15.0 Competitive Bidding**
15.1 The Contractor is authorized to purchase the supplies and equipment itemized in the Contract for utilization in the delivery of contract services. Contractor shall procure all such supplies and equipment at the lowest practicable cost and shall purchase all non-expendable items having a useful life of more than one year and an acquisition cost of \$1,000 or more, through generally accepted and reasonable competitive bidding processes. Any procurement in violation of this provision shall be considered a financial audit exception.
- 16.0 Confidentiality**
16.1 The Contractor shall observe and abide by all applicable State and federal statutes, rules and regulations regarding the use or disclosure of information including, but not limited to, information concerning applicants for and recipients of contract services. To the extent permitted by law, the Contractor shall release information to the Department and to the Attorney General's Office as required by the terms of this contract, by law or upon their request.
16.2 The Contractor shall comply with the requirements of Arizona Address Confidentiality Program, A.R.S. §41-161 et. seq. The Arizona Department of Economic Security will advise the Contractor as to applicable policies and procedures the Arizona Department of Economic Security has adopted for such compliance.
- 17.0 Cooperation**
17.1 The Department may undertake or award other contracts for additional work related to the work performed by the Contractor, and the Contractor shall fully cooperate with such other Contractors and State employees, and carefully fit its own work to such other Contractors' work. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor or by State employees. The Contractor shall cooperate as the State deems necessary, with the transfer of work, services, case records and files performed or prepared by the Contractor to other Contractor(s).
- 18.0 Cooperation with the Department's Investigation**
18.1 All contractors, providers, vendors and volunteers are to cooperate fully and truthfully with any ADES investigation, including but not limited to an investigation by Division or Internal Affairs. Failure to adhere to this policy may result in ADES taking whatever actions it deems appropriate, from removal of the subject and or witness from working with ADES clients up to terminating the contract with ADES.
- 19.0 Data Sharing Agreement**
19.1 When determined by the Department that sharing of confidential data will occur with the Contractor, the Contractor shall complete the ADES Data Sharing Request Agreement and submit the completed Agreement to the ADES Program Designated Staff prior to any work commencing or data shared. A separate Data Sharing Request Agreement shall be required between the Contractor and each ADES Program sharing confidential data.
- 20.0 Equipment**
20.1 If the Contractor is authorized to purchase Equipment, it shall be itemized in the Contract for utilization in the delivery of contract services. If Equipment is purchased as authorized by this Contract, the Contractor shall maintain complete and up-to-date inventory records for all Equipment purchased hereunder.

Equipment specifically designated within this Contract, to be purchased in whole or part with the Department funds, shall be reported in accordance with Department inventory policies and procedures. The Contractor shall report Equipment purchased with contract funds to the Department within thirty (30) days of purchase, perform an annual inventory of all equipment purchased with Department funds and submit the Equipment Inventory form to the Department person designated to receive notices.

- 20.2 The Department shall retain an equitable interest equal to the purchase price paid, or a fair estimate or appraisal of current market value, whichever is greater, in all Equipment purchased under this Contract. The Department shall be included as a co-insured on any insurance policy which covers Equipment purchased under this Contract.
- 20.3 The Contractor shall not dispose of any Equipment purchased under this Contract without the prior written consent of the Department during and after the contract term. Such consent, if given, may include direction as to the means of disposition and the utilization of proceeds, including any necessary adjustments to the contract.
- 20.4 Upon termination of this Contract, any Equipment purchased under this Contract shall be disposed of as directed by the Department and, if sold, the Department shall be compensated in the amount of its equitable interest.
- 20.5 Under a fixed price contract, Sections 20.1 through 20.4 do not apply unless specifically required by federal or state law.

21.0 Evaluation

- 21.1 The Department may evaluate, and the Contractor shall cooperate in the evaluation of, contract services. Evaluation may assess the quality and impact of contract services, either in isolation or in comparison with other similar services, and assess the Contractor's progress and/or success in achieving the goals, objectives and deliverables set forth in this Contract.
- 21.2 As requested by the Department, the Contractor shall participate in third party evaluations relative to contract impact in support of Department goals.

22.0 E-Verify Requirements

- 22.1 In accordance with ARS §41-4401 as may be amended, Contractor warrants compliance with all Federal Immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A as may be amended. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.")
- 22.2 A breach of a warrant regarding compliance with Immigration laws and regulations shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the Contract.
- 22.3 Failure to comply with a State audit process to randomly verify the employment records of Contractors and subcontractors shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the contract.
- 22.4 The Department retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 22.2.

23.0 Fair Hearings and Service Recipients' Grievances

- 23.1 The Contractor shall advise all applicants for and recipients of contract services of their right, at any time and for any reason, to present to the Contractor and to the Department any grievances arising from the delivery of contract services, including, but not limited to, ineligibility determination, reduction of services, suspension or termination of services, or quality of services. The Department may assert its jurisdiction to hear the grievance or refer the matter to the appropriate authority.
- 23.2 The Contractor, whenever authorized by law, shall maintain a formal system acceptable to and approved by the Department for reviewing and adjudicating grievances by service recipients or subcontractors arising from this contract.

24.0 Federal Immigration and Nationality Act

- 24.1 The Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal Immigration laws and regulations related to the immigration status of its employees. The Contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the ADES upon request.

These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Contract. I-9 forms are available for download at USCIS.GOV.

- 24.2 The State may request verification of compliance for any Contractor or subcontractor performing work under the Contract. Should the State determine that the Contractor or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to suspension of work, termination of the contract for default and suspension and/or debarment of the Contractor.

25.0 **Fees and Program Income**

- 25.1 Unless specifically authorized in the Contract, the Contractor shall impose no fees or charges of any kind upon recipients for contract services.

26.0 **Fingerprinting**

- 26.1 Contractor shall comply with, and shall ensure that all of Contractor's employees, independent contractors, subcontractors, volunteers and other agents comply with, all applicable (current and future) legal requirements relating to fingerprinting, fingerprint clearance cards, certifications regarding pending or past criminal matters, and criminal records checks that relate to contract performance.

- 26.2 Applicable legal requirements relating to fingerprinting, certification, and criminal background checks may include, but are not limited, to the following: A.R.S. §§ 38-594.01, 36-3008, 41-1964, and 46-141. All applicable legal requirements relating to fingerprinting, fingerprint clearance cards, certifications regarding pending or past criminal matters, and criminal records checks are hereby incorporated in their entirety as provisions of this Contract. The Contractor is responsible for knowing which legal requirements relating to fingerprinting, fingerprint clearance cards, certifications regarding pending or past criminal matters, and criminal records checks relate to contract performance.

- 26.3 To the extent A.R.S. § 46-141 is applicable to contract performance or the services provided under this Contract, the following provisions apply:

- 26.3.1 Personnel who are employed by the Contractor, whether paid or not, and who are required or allowed to provide services directly to juveniles or vulnerable adults shall have a valid fingerprint clearance card or shall apply for a fingerprint clearance card within seven working days of employment.

- 26.3.2 Except as provided in A.R.S. § 46-141, this Contract may be cancelled or terminated immediately if a person employed by the Contractor and who has contact with juveniles certifies pursuant to the provisions of A.R.S. § 46-141 (as may be amended) that the person is awaiting trial or has been convicted of any of the offenses listed therein in this State, or of acts committed in another state that would be offenses in this State, or if the person does not possess or is denied issuance of a valid fingerprint clearance card.

- 26.4 Federally recognized Indian tribes will submit and the Department of Economic Security shall accept certifications that state that no personnel who are employed or who will be employed during the contract term have been convicted of, have admitted committing or are awaiting trial on any offense as described in A.R.S. § 36-594.01 (as may be amended).

27.0 **Force Majeure**

- 27.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

- 27.2 Force Majeure shall not include the following occurrences:

- 27.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

- 27.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

- 27.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

- 27.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this

article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

- 27.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

28.0 Inclusive Contractor

- 28.1 Contractor is encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontractors for a percentage of the administrative or direct service being proposed. Contractor who is committing a portion of its work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning the Contractor's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

29.0 Indemnification

29.1 Indemnification for Contractor:

- 29.1.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this Contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the Contractor for the vicarious liability of the State as a result of entering into this Contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this Contract is responsible for its own negligence.

- 29.1.2 Public Agency Language Only Each Party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

- 29.1.3 Indemnification - Patent and Copyright The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the Contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

29.2 Indemnification Clause:

- 29.2.1 The parties to this Contract agree that the State of Arizona and the Department of Economic Security shall be indemnified and held harmless by Contractor for the vicarious liability of the State as a result of entering into this Contract. However, the parties further agree that the State of Arizona and the Department of Economic Security shall be responsible for their own negligence. Each party to this Contract is responsible for its own negligence.

This indemnity shall not apply if the Contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

29.3 Indemnification for Subcontractor:

- 29.3.1 In addition, the Contractor shall cause its Contractor(s) and subcontractors, if any, to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the Contractor or any of the directors, officers, agents, or employees or subcontractors of such Contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such Contractor from and against any and all claims. It is agreed that such Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

30.0 Insurance Requirements

- 30.1** Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.
- 30.2** The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

A. Minimum Scope And Limits Of Insurance: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

• General Aggregate	\$2,000,000
• Products – Completed Operations Aggregate	\$1,000,000
• Personal and Advertising Injury	\$1,000,000
• Blanket Contractual Liability – Written and Oral	\$1,000,000
• Fire Legal Liability	\$ 50,000
• Each Occurrence	\$1,000,000

- a. The policy shall be endorsed to include coverage for sexual abuse and molestation.
- b. The policy shall be endorsed to include the following additional insured language: *"The State of Arizona and the Department of Economic Security shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor".*
- c. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

This requirement may be satisfied with a policy combining General and Professional Liability, provided that the General Liability section of the policy is written on an occurrence basis, and includes coverage for contractual liability.

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: *"The State of Arizona and the Arizona Department of Economic Security shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor".*
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- c. This paragraph, Business Automobile Liability, shall not be applicable in the event Contractor (or its Subcontractors) does not utilize a vehicle in any manner in the performance of this Contract or if the utilization is

used only for commuting purposes. In the event Contractor (or its Subcontractors) subsequently utilizes the vehicle in the performance of the Contract or utilizes it for other than commuting purposes, this paragraph, Business Automobile Liability, shall be fully applicable, effective the date the utilization is changed.

3. **Worker's Compensation and Employers' Liability**

- Workers' Compensation Statutory
- Employers' Liability
 - Each Accident \$ 500,000
 - Disease – Each Employee \$ 500,000
 - Disease – Policy Limit \$1,000,000
- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH Contractor or subcontractor exempt under A.R.S. 23-901, AND when such Contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

4. **Professional Liability (Errors and Omissions Liability)**

- Each Claim \$1,000,000
- Annual Aggregate \$2,000,000
- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract, and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- b. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this Contract.

- B. **Additional Insurance Requirements:** The policies shall include, or be endorsed to include, the following provisions: The State of Arizona and the Arizona Department of Economic Security, wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

1. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
2. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

- C. **Notice Of Cancellation:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to the Arizona Department of Economic Security, Office of Procurement, 1789 W. Jefferson St. Suite Code 805Z, Phoenix, AZ 85007 unless the Scope of Work Reporting Requirements specifies otherwise and shall be sent by certified mail, return receipt requested.

- D. **Acceptability Of Insurers:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A-VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

If the Contractor utilizes the Social Service Contractors Indemnity Pool (SSCIP) or other approved insurance pool for insurance coverage, SSCIP or the other approved insurance pool is exempt

from the A.M. Best's rating requirements listed in this Contract. If the Contractor or subcontractor chooses to use SSCIP, AMRRP, or another approved insurance pool as its insurance provider, the Contract/subcontract would be considered as meeting the insurance requirements relating to the A.M. Best rating requirements.

Contractors or subcontractors submitting Certificates of Insurance identifying SSCIP, AMRRP, or another approved insurance pool will be considered as meeting the insurance requirements including those related to sexual abuse and molestation.

- E. **Verification Of Coverage:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to Arizona Department of Economic Security, Office of Procurement, 1789 W. Jefferson St. Site Code 805Z, Phoenix, AZ 85007 unless the Scope of Work Reporting Requirements specifies otherwise. The State of Arizona contract number and contract description shall be noted or referenced on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

- F. **Subcontractors:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. **Approval:** Any modification or variation from the *insurance requirements* in this Contract shall be made by the contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal contract amendment, but may be made by administrative action.
- H. **Exceptions:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

In the event that Contractor determines that it may not be able to comply fully with the insurance requirements set forth above in Section 30.0 of these Terms and Conditions, the Contractor may request that the insurance requirements be modified pursuant to paragraph 30.2(G), provided that such request be delivered in writing to ADES at least ten days prior to the solicitation due date or, if not a solicitation, prior to contract execution. Contractor shall include with such request Contractor's justification for the modification with supporting documentation.

As provided in paragraph 30.2(G), the Department of Administration, Risk Management Section, shall decide whether such modification may be permitted. If the Department of Administration, Risk Management, decides to grant permission, the ADES Chief Procurement Officer shall then decide whether to approve the modification.

Modifications that are approved will be done so on a case-by-case basis and shall not affect the insurance requirements of other Contractors for whom modifications have not been approved. If a Contractor's request has not been approved or a Contractor fails to deliver its request prior to the applicable deadline, then the Contractor shall be required to comply fully with the insurance requirements set forth in paragraph 30.0 above.

31.0 IT 508 Compliance

31.1 Unless specifically authorized in the Agreement, any electronic or information technology offered to the State of Arizona under this agreement shall comply with A.R.S. § 41-3531 and § 3532 as may be amended, and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

32.0 Levels of Service

32.1 If the Contractor determines service recipient eligibility, the Contractor shall maintain and regulate services set forth in this Contract to ensure continuity and availability of services to eligible persons during the term of this Contract and during any transition to a subsequent Contractor.

32.2 The Department makes no guarantee to purchase specific quantities of goods or services, or to refer eligible persons as may be identified or specified herein. Further, it is understood and agreed that this Contract is for the sole convenience of the Department and that the Department reserves the right to obtain like goods or services from other sources when such need is determined necessary by the Department.

32.3 Any administration within the Department may obtain services under this Contract.

32.4 Contract services may be moved or expanded to other site locations within the geographic area awarded only by a written contract amendment.

32.5 The Department makes no guarantee to purchase all of the service units authorized or to provide any number of referrals. If quantities of units are specified, they are estimates only and the Department may decrease and/or increase them by providing written notice to the Contractor.

32.6 When the method of compensation for the service is Fixed Price with Price Adjustment, the contract may be amended, by mutual agreement, to purchase additional services by increasing the contract service budget and/or budget summary.

33.0 Monitoring

33.1 The Department may monitor the Contractor and/or subcontractor and they shall cooperate in the monitoring of services delivered, facilities and records maintained and fiscal practices.

34.0 Non-Discrimination

34.1 The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

34.2 Unless exempt under Federal law the Contractor shall comply with Title VII of the Civil Rights Act of 1964 as amended. Contractor shall comply with the Age Discrimination in Employment Act. The Contractor shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap. The Contractor shall comply with the requirements of the Fair Labor Standards Act of 1938, as amended.

34.3 If Contractor is an Indian Tribal Government, Contractor shall comply with the Indian Civil Rights Act of 1968. It shall be permissible for an Indian Tribal Contractor to engage in Indian preference in hiring.

34.4 The Contractor shall comply with Title VI of the Civil Rights Act of 1964, which prohibits the denial of benefits of or participation in contract services on the basis of race, color, or national origin. The Contractor shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, in delivering contract services; and with Title II of the Americans with Disabilities Act, and the Arizona Disability Act, which prohibit discrimination on the basis of physical or mental disabilities in the provision of contract programs, services and activities.

34.5 The following shall be included in all publications, forms, flyers, etc. that are distributed to recipients of contract services:

"Under Titles VI and VII of the Civil Rights Act of 1964 (Title VI and VII) and the Americans with Disabilities Act of 1990 (ADA) Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975, *insert Contractor name here* prohibits discrimination in admissions, programs, services, activities or employment based on race, color, religion, sex, national origin, age, and disability. The *(insert Contractor name here)* must make a reasonable accommodation to allow a person with a disability to take part in a program, service, or activity. Auxiliary aids and services are available upon request to individuals with disabilities. For example, this means that if necessary, the *(insert Contractor name here)* must provide sign language interpreters for people who are deaf, a wheelchair accessible location, or enlarged print materials. It also means that the *(insert Contractor name here)* will take any other reasonable action that allows you to take part in and understand a program or activity, including making reasonable changes to an activity. If you believe that you will not be able to understand or take part in a program or activity because

of your disability, please let us know of your disability needs in advance if at all possible. To request this document in alternative format or for further information about this policy please contact *(insert Contractor contact person and phone number here)* Para obtener este documento en otro formato u obtener información adicional sobre esta política, *(insert Contractor contact person and phone number here)*

35.0 No Parole Evidence

35.1 Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

36.0 No Waiver

36.1 Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

37.0 Notices

37.1 All notices to the Contractor regarding this Contract shall be sent to the address indicated in Attachment 9.

37.2 All notices to the ADES regarding this contract shall be sent to the address indicated in section 4.0 Notices in the Scope of Work.

37.3 All notices shall reference the Contract number.

37.4 The Contractor shall give written notice to the Department of changes to the following, and a written amendment to the Contract shall not be necessary:

1. Change of telephone number;
2. Changes in the name and/or address of the person to whom notices are to be sent;
3. Changes in contract-related personnel positions of the Contractor which do not affect staffing ratios, staff qualifications or specific individuals required under this Contract.

37.5 In a fixed price with price adjustment contract, a written amendment shall not be necessary to shift costs among budget categories. The Contractor shall give written notice to the Department that includes justification for the change and may receive written approval by the Department. Any such increase must be offset by an equal value decrease in any budget category or categories.

38.0 Offshore Performance Of Work Prohibited

38.1 Due to security and identity protection concerns, direct services under this Contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the Contract. This provision applies to work performed by subcontractors at all tiers.

39.0 Order of Precedence

39.1 In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

1. Terms and Conditions;
2. Scope of Work;
3. Attachments;
4. Exhibits; and
5. Documents referenced or included in the Request for Application.

40.0 Ownership of Intellectual Property

40.1 Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this Contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this Contract shall own (for and on behalf of the State) the entire right, title and interest in the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative

actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this Contract.

40.2 Intellectual Property developed by the Contractor that is already in the public domain is exempt from this requirement.

41.0 **Pandemic Contractual Performance**

41.1 The State shall require a written plan that illustrates how the Contractor shall perform up to contractual standards in the event of a pandemic. The State may require a copy of the plan at anytime prior or post award of a Contract. At a minimum, the pandemic performance plan shall include:

1. Key succession and performance planning if there is a sudden significant decrease in Contractor's workforce.
2. Alternative methods to ensure there are services or products in the supply chain.
3. An up to date list of company contacts and organizational chart.

41.2 In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this Contract impossible or impracticable, the State shall have the following rights:

1. After the official declaration of a pandemic, the State may temporarily void the Contract(s) in whole or specific sections if the Contractor cannot perform to the standards agreed upon in the initial terms.
2. The State shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the Director of the Arizona Department of Administration per A.R.S. § 41-2537 as may be amended of the Arizona Procurement Code.
3. Once the pandemic is officially declared over and/or the Contractor can demonstrate the ability to perform, the State, at its sole discretion may reinstate the temporarily voided Contract(s).

42.0 **Payments**

42.1 Reimbursement to the Contractor shall be in accordance with actual allowable costs incurred consistent with each service budget and/or budget summary not to exceed the service reimbursement ceiling. The Contractor shall furnish the Department with an accounting of actual costs incurred consistent with the categories set forth in the service budget(s). Budget categories, to include cost items in a category, may be deleted, added, or modified by a contract amendment as specified in section 37.0 Notices of these Terms and Conditions. Any change to the service reimbursement ceiling shall be reflected in a contract amendment.

42.2 The Contractor shall report to the Department in the manner prescribed in section 7.0 Reporting Requirements in the Scope of Work. Upon receipt of applicable, accurate and complete reports, the Department will authorize payment or reimbursement in accordance with the type of payment indicated by this Contract.

42.3 If the Contractor is in any manner in default in the performance of any obligation under this Contract, or if audit exceptions are identified, the Department may, at its option and in addition to other available remedies, either offset the amount of payment or withhold payment up to the amount in dispute or default.

42.4 Under no circumstances shall the Department make payment to the Contractor that exceeds the units authorized or contract/service reimbursement ceilings indicated in the Service Budget(s), as may be amended.

42.5 Under no circumstances shall the Department make payment to the Contractor for services performed after the term of the Contract without timely extension or renewal of the Contract.

42.6 The Contractor may offer a price reduction adjustment at any time during the term of the Contract. Any price reduction shall be executed by a contract amendment.

42.7 Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

42.8 The Contractor shall be responsible for paying all applicable taxes.

42.9 The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

42.10 Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege

- taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
- 42.11 In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.
- 43.0 **Payment Recoupment**
- 43.1 The Contractor shall reimburse the Department upon demand or the Department may deduct from future payments the following:
- 43.1.1 Any amounts received by the Contractor from the Department for contract services which have been inaccurately reported or are found to be unsubstantiated;
- 43.1.2 Any amounts paid by the Contractor to a subcontractor not authorized in writing by the Department;
- 43.1.3 Any amount or benefit paid directly or indirectly to an individual or organization not in accordance with the "Substantial Interest Disclosure" section of these Terms and Conditions;
- 43.1.4 Any amounts paid by the Department for services which duplicate services covered or reimbursed by other specific grants, contracts, or payments;
- 43.1.5 Any amounts expended for items or purposes determined unallowable by the Department when this Contract provides for the reimbursement of costs, see the "Unallowable Costs" section of this Contract;
- 43.1.6 Any amounts paid by the Department for which the Contractor's books, records, and other documents are not sufficient to clearly substantiate that those amounts were used by the Contractor to perform contract services;
- 43.1.7 Any amounts received by the Contractor from the Department which are identified as a financial audit exception;
- 43.1.8 Any amounts paid or reimbursed in excess of the Contract or service reimbursement ceiling;
- 43.1.9 Any amounts paid to the Contractor which are subsequently determined to be defective pursuant to the "Certification of Cost or Pricing Data" section of these Terms and Conditions.
- 43.1.10 Any payments made for services rendered after the Contract termination date.
- 44.0 **Personnel**
- 44.1 The Contractor's personnel shall satisfy all qualifications, carry out all duties, and work the hours as set forth in this Contract.
- 45.0 **Predecessor and Successor Contracts**
- 45.1 The execution or termination of this Contract shall not be considered a waiver by the Department of any rights it may have for damages suffered through a breach of this or a prior Contract with the Contractor.
- 46.0 **Professional Standards**
- 46.1 The Contractor shall deliver contract services in a humane and respectful manner and in accordance with any and all applicable professional accreditation standards. Levels of staff qualifications, professionalism, and numbers of staff and individuals identified by name must be maintained as presented in the Contract.
- 47.0 **Reserve**
- 48.0 **Records**
- 48.1 Under A.R.S. § 35-214 and § 35-215 as may be amended, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 48.2 Contract service records will be maintained in accordance with this Contract. Records shall, as applicable, meet the following standards:
- 48.2.1 Adequately identify the service provided and each service recipient's application for Contract and subcontract activities;
- 48.2.2 Include personnel records which contain applications for employment, job titles and descriptions, hire and termination dates, a copy of the fingerprint clearance card, wage rates, and effective dates of personnel actions affecting any of these items;
- 48.2.3 Include time and attendance records for individual employees to support all salaries and wages paid;
- 48.2.4 Include records of the source of all receipts and the deposit of all funds received by the Contractor;
- 48.2.5 Include original copies of invoices, statements, sales tickets, billings for services, deposit slips, etc., and a cash disbursement journal and cancelled checks to reflect all disbursements applicable to the Contract;

- 48.2.6 Include a complete general ledger with accounts for the collection of all costs and/or fees applicable to the Contract; and.
- 48.2.7 Include copies of lease/rental agreements, mortgages and/or any other agreements that in any way may affect contract expenditures.
- 48.3 Any such records not maintained shall mandate an audit exception in the amount of the inadequately documented expenditures.
- 48.4 Contractor shall preserve and make available all records for a period of five (5) years from the date of final payment under this Contract except as may be provided in section 57.0 of these Terms and Conditions or if subject to Health Insurance Portability & Accountability Act which is six (6) years from the date of final payment
- 48.4.1 If this Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any such termination.
- 48.4.2 Records which related to disputes, litigation or the settlement of claims arising out of the performance of this Contract, or costs and expenses of this Contract to which exception has been taken by the state, shall be retained by the Contractor until such disputes, litigations, claims or exceptions have been disposed of.
- 49.0 Relationship of Parties**
- 49.1 The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 49.2 In the event that the Contractor or its personnel is sued or prosecuted for conduct arising from this Contract, the Contractor or their personnel will not be represented by the Department of the Attorney General.
- 49.3 Taxes or Social Security payments will not be withheld from a State payment issued hereunder and the Contractor shall make arrangements to directly pay such expenses, if any.
- 50.0 Reporting Requirements**
- 50.1 See section 7.0 Reporting Requirements in the Scope of Work.
- 50.2 Contractor shall submit programmatic and financial reports to the Department no later than the 25th day following the end of each month or the end of each other applicable reporting period during the term of the Contract, unless otherwise provided in this Contract. Contractor shall submit final program and fiscal reports no later than the 60th day following termination of the Contract. The final fiscal report for the contract term shall include all adjustments to prior financial reports submitted for the contract term. Failure to submit the final program and fiscal report within the above time period may result, at the option of the Department, in forfeiture of final payment.
- 50.3 All reports shall reference the contract number and be submitted to the person designated by the Department.
- 51.0 Responsibility for Payments Indemnification**
- 51.1 The Contractor shall be responsible for issuing payment for services performed by the Contractor's employees, subcontractors, suppliers, or any other third party incurred in the furtherance of the performance or the arising out of the Contract and will indemnify and save the Department harmless for all claims whatsoever out of the lawful demands of such parties. The Contractor shall, at the Department's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.
- 52.0 Right of Offset**
- 52.1 The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages.
- 53.0 Severability**
- 53.1 The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 54.0 State's Contractual Remedies**
- 54.1 Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to

provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Terms and Conditions or other rights and remedies available by law or provided by the Contract

- 54.1.1 For designated agencies, termination shall comply with Community Services Block Grant legislation.
- 54.2 **Stop Work Order.** The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 54.2.1 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the Contract shall be amended in writing accordingly.
- 54.3 **Non-exclusive Remedies.** The rights and the remedies of the State under this Contract are not exclusive.
- 54.4 **Nonconforming Tender.** Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- 55.0 **Subcontracts**
- 55.1 The Contractor shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of ADES. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 55.2 Prior to adding a subcontractor to the Contract, the Contractor shall submit a formal, written request to the Procurement Officer. The request shall:
 - 55.2.1 Be on the Contractor's company letterhead;
 - 55.2.2 Be signed by an authorized representative of the Contractor; and
 - 55.2.3 Contain the following information:
 - 1. The subcontractor's name, address, phone number, e-mail and primary point of contact;
 - 2. The certifications required of the subcontractor (if any);
 - 3. The subcontractor's small business status (if applicable);
 - 4. The type of goods and/or services to be provided by the subcontractor;
 - 5. The amount of time or effort (as a percent of total contract performance) that the subcontractor will perform in relation to total performance of the contract's requirements; and
 - 6. A description of the quality assurance measures that the Contractor shall use to monitor the subcontractor's performance.
- 55.2.4 The State reserves the right to request additional information deemed necessary about any proposed subcontractor.
- 55.3 The Contractor shall provide copies of each contract with a subcontractor relating to the provision of contract services to the Department upon five (5) calendar days of the request.
- 56.0 **Substantial Interest Disclosure**
- 56.1 Contractor shall not make any payments, either directly or indirectly, to any person, partnership, corporation, trust, or any other organization which has a substantial interest in Contractor's organization or with which Contractor (or one of its directors, officers, owners, trust certificate holders or a relative thereof) has a substantial interest, unless Contractor has made a full written disclosure of the proposed payments, including amounts, to the Department.
- 56.2 Leases or rental agreements or purchase of real property which would be covered by Section 55.1 shall be in writing and accompanied by an independent commercial appraisal of fair market rental, lease, or purchase value, as appropriate.
- 56.3 For the purpose of this Section, "relative" shall have the same meaning as in A.R.S. §38-502 as may be amended.
- 57.0 **Supporting Documents and Information**
- 57.1 In addition to any documents, reports or information required by any other section of this Contract, Contractor shall furnish the Department with any further documents and information deemed necessary by

the Department. Upon receipt of a request for information from ADES, the Contractor shall provide complete and accurate information no later than fifteen (15) days after the receipt of the request.

58.0 Suspension or Debarment

58.1 The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the State.

58.2 The Contractor shall submit the Certification Regarding Debarment, Suspension and Voluntary Exclusion Lower Tier Covered Transactions form Attachment 3.

59.0 Technical Assistance

59.1 The Department will provide technical assistance to the Contractor in the administration of contract services, or relating to the terms and conditions, policies and procedures governing this Contract. Notwithstanding the foregoing, the Contractor shall not be relieved of full responsibility and accountability for the provision of contract services in accordance with the terms and conditions set forth herein.

60.0 Termination

60.1 This agreement may be terminated by mutual agreement of the parties at any time during the term of this agreement.

60.2 Cancellation for Conflict of Interest: Pursuant to A.R.S. § 38-511 as may be amended, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511 as may be amended.

60.3 Gratuities: The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

60.4 Suspension or Debarment: The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the State.

60.5 Termination for Convenience: The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

60.6 Termination for Default

60.6.1 In addition to the rights reserved in the Contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

60.6.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

60.6.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems

appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

- 60.6.4 The Department may immediately terminate this Contract if the Department determines that the health or welfare or safety of service recipients is endangered.
- 60.6.5 For designated agencies, termination shall comply with Community Services Block Grant legislation.
- 60.7 Continuation of Performance Through Termination: The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 60.8 Termination for Any Reason: In the event the Contract is terminated, with or without cause, or expires, the Contractor, whenever determined appropriate by the Department, shall assist the Department in the transition of services or eligible persons to other Contractors. Such assistance and coordination shall include, but not be limited to, the forwarding of program and other records as may be necessary to assure the smoothest possible transition and continuity of services. The cost of reproducing and forwarding such records and other materials shall be borne by the Contractor. The Contractor must make provisions for continuing all management/administrative services until the transition of services or eligible persons is complete and all other requirements of this Contract are satisfied.
- 60.9 In the event of termination or suspension of the Contract by the Department, such termination or suspension shall not affect the obligation of the Contractor to indemnify the Department and the State for any claim by any other party against the State or Department arising from the Contractor's performance of this Contract and for which the Contractor would otherwise be liable under this Contract. To the extent such indemnification is excluded by A.R.S. §41-621 et seq. as may be amended or an obligation is unauthorized under A.R.S. §35-154 as may be amended, the provisions of this paragraph shall not apply.
- 60.10 In the event of early termination for any reason, any funds advanced to the Contractor shall be returned to the Department within ten (10) days after the date of termination or upon receipt of notice of termination of the Contract, whichever is earlier.
- 61.0 Third-Party Antitrust Violations
- 61.1 The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.
- 62.0 Transfer of Knowledge
- 62.1 The Contractor shall, whenever feasible, share strategies and techniques with Department staff to transfer the skills and knowledge acquired in the delivery of the contracted service.
- 63.0 Transition of Activities
- 63.1 In the event that a Contract is awarded to a new Contractor for services similar to those being performed by Contractor under this Contract, there shall be a transition of services period. During this period, the Contractor under this Contract shall work closely with the new Contractor's personnel and/or Department staff to ensure a smooth and complete transfer of duties and responsibilities. The Department's authorized representative will coordinate all transition activities. A transition plan will be developed in conjunction with the existing Contractor to assist the new Contractor and/or Department staff to implement the transfer of duties. The Department reserves the right to determine which projects/service delivery nearing completion will remain with the current Contractor of record.
- 64.0 Unallowable Costs
- 64.1 The cost principles set forth in the Code of Federal Regulations, 48 CFR, Chapter 1, Subchapter e, Part 31, (October 1, 1991), including later amendments and editions, on file with the Arizona Secretary of State and incorporated by this reference, shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions that provide for the reimbursement of costs. Those costs which are specifically defined as unallowable therein will not be submitted for reimbursement by the Contractor and may not be reimbursed with Department funds.
- 64.2 In addition, the Contractor shall comply with the following publications (including subsequent revisions), as applicable:
- 64.2.1 OMB Circular A-87 for State, local and Indian Tribal Governments.
- 64.2.2 OMB Circular A-122 for private non-profit organizations other than institutions of higher education, hospitals or others specified in A-122.

64.2.3 OMB Circular A-21 for educational institutions.

64.2.4 OMB Circular A-133 for audits of institutions of higher education and other non-profit institutions.

65.0 Visitation, Inspection and Copying

65.1 Contractor's and/or subcontractor's facilities, services and individuals served, books and records pertaining to the Contract shall be available for visitation, inspection and copying by the Department and any other appropriate agent of the State or Federal Government. At the discretion of the Department, visitation, inspection and copying may be at any time during regular business hours, announced or unannounced. If the Department deems it to be an emergency situation, it may at any time visit and inspect the Contractor's or subcontractor's facilities, services and individuals served, as well as inspect and copy their contract-related books and records.

65.2 Facilities Inspection and Materials Testing: The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

66.0 Warranties

66.1 The Contractor warrants that all services provided under this Contract shall conform to the requirements stated herein and any amendments hereto. The Department's acceptance of services provided by the Contractor shall not relieve the Contractor from its obligations under this warranty. In addition to its other remedies, the Department Procurement Officer may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all of the provisions of this Contract in the manner and to the same extent as the services originally furnished.

66.2 Liens: The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

66.3 Quality: Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

1. Of a quality to pass without objection in the trade under the Contract description;
2. Fit for the intended purposes for which the materials are used;
3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
4. Adequately contained, packaged and marked as the Contract may require; and
5. Conform to the written promises or affirmations of fact made by the Contractor.

66.4 Fitness: The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

66.5 Inspection/Testing: The warranties set forth in subparagraphs 66.2 through 66.4 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

66.6 Compliance With Applicable Laws: The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

66.7 Survival of Rights and Obligations after Contract Expiration or Termination:

66.7.1 Contractor's Representations and Warranties: All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

66.7.2 Purchase Orders: The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

66.8 Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

67.0 Limited English Proficiency

67.1 The Contractor shall ensure that all services provided are culturally relevant and linguistically appropriate to the population to be served following the ADES Policy, Limited English Proficiency; DES 1-01-34 (Exhibit 1).

68.0 Contract Documents

68.1 The following constitute an integral part of the Contract

68.1.1 Terms and Conditions

68.1.2 Scope of Work

68.1.3 Administrative Methodology

68.1.4 Service Methodologies

68.1.5 Attachments

68.1.6 Exhibits

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY****CHAPTER****01 Department of Economic Security****SUBJECT****34 Limited English Proficiency (LEP)****POLICY NUMBER****DES 1-01-34****Page 1****ARTICLE****01 Director****EFFECTIVE DATE****August 8, 2014****REVISION****2**

DES 1-01-34
Limited English Proficiency (LEP)

I. POLICY STATEMENT

The policy of the Department of Economic Security (the Department) is to provide quality and timely language assistance services to customers with Limited English Proficiency (LEP) to ensure meaningful access to programs, services, and activities. Each affected work unit of the Department shall:

- Develop and adhere to specific written procedures;
- Perform a needs and capacity assessment;
- Arrange for oral language assistance, as appropriate;
- Determine which of the Department documents meet the definition of a vital document;
- Translate vital documents into languages other than English;
- Provide notification to customers of the availability of language assistance services;
- Evaluate current Department Web sites for LEP compliance;
- Develop and implement standards to ensure LEP compliance on all future Web pages;
- Train all staff who are likely to have contact with Department customers and the management staff who support them;
- Develop and incorporate an accessible issue resolution process; and
- Monitor customer access to language assistance.

II. AUTHORITY

This LEP policy, in its entirety, applies to all Department entities and contractors who provide direct Department services to Department customers. The Department and all work units who provide services, information, or assistance to Department customers shall be responsible for development of procedures to ensure compliance with the Department LEP policy. Areas that do not provide services, information, or assistance to Department customers are not responsible for developing procedures but, at a minimum shall designate an LEP contact to ensure compliance.

The DES Director's Office of Equal Opportunity (DOEO) and the DES Policy and Planning Administration's (PPA) Policy Unit are responsible for review and approval of work unit LEP procedures. This review will be limited to ensuring the work unit LEP procedure is consistent and in compliance with the Department LEP policy.

III. PROCEDURES

This policy is supported by a departmental procedure which identifies how action related to this policy will be conducted, including responsibilities, time frames, and required actions. To view this procedure, access the link below.

DES 1-01-34-01 Limited English Proficiency Procedures

In addition, specific Division procedures can be found at this intranet Web page:
<http://intranet.azdes.gov/main.aspx?menu=84&id=14558>.

IV. AUTHORITY

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.
Arizona Constitution, Article 28

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d et seq. states, "No person in the United States shall on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Regulations implementing Title VI provide in part at 45 C.F.R. Section 80.3 (b):

- (1) "A recipient [the Department is a 'recipient' under this law] under any program to which this part applies [generally any program that receives federal funds] may not, directly or through contractual or other arrangements, on ground of race, or color, or national origin:
 - (i) Deny an individual any service, financial aid, or other benefit provided under the program;
 - (ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others in the program;
- (2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program or the class of individuals to whom, or the situations in which such services, financial aid or other benefits, or facilities will be provided ... *may not directly, or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination, because of their race, color or national origin, or have the effect of defeating or substantially impairing accomplishments of the objectives of the program with respect to individuals of a particular race, color, or national origin.*" (emphasis added)

V. DEFINITIONS

Customer: Any applicant, claimant, or recipient of Department services, including LEP customers.

Executive Leader: The Director, Deputy Director, Assistant Director, or their designee, with authority over a programmatic or administrative work unit.

Interpreter: Providing a verbal translation between two or more persons in a language other than English. This may be done by on-site trained Department staff, contractors, or through commercially available resources, including but not limited to telephonic interpretation services.

Language Used Significantly: A language, other than English, that is used by five percent or 1,000 persons (whichever is smaller) who are eligible for a Department service or are likely to be directly affected by a Department program or activity in a specific geographic area.

Limited English Proficiency (LEP) Contact: The person within a work unit who is responsible for ensuring their program or administrative work unit is LEP compliant.

Limited English Proficient (LEP) Customer: Any prospective, potential, or actual recipient of benefits or services from the Department who cannot speak, read, write, or understand the English language at a level that permits effective interaction with the Department. This includes LEP parents or guardians of minor children who are customers or LEP customers.

Non-Vital Documents: Documents that are not critical to access Department benefits and services.

Translate: Providing a written document in a language other than English.

Vital Document: A document that conveys information that affects the ability of the customer to make decisions about his or her participation in the program. The decision of whether a document is vital may depend upon the importance of the program information, encounter, or service involved, and the consequence to the LEP person if the information is not provided accurately or in a timely manner.

Work Unit: A program or administrative area within the Department. Work unit includes all Department work units as well as its contractors that provide direct service to Department customers.

VI. STANDARDS

A. Overview

Title VI of the Civil Rights Act of 1964, as amended, requires that agencies take reasonable steps to ensure meaningful access to their programs and activities for persons with limited English proficiency. For the purposes of this Policy, individuals with LEP are defined as individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.

The Department's LEP policy ensures that the Department and all Department services, regardless of funding source, comply with the requirements of Title VI of the Civil Rights Act of 1964 by setting out standards for its work units to follow. Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin by any entity receiving federal financial assistance. The Department prohibits administrative methods or procedures that have the effect of subjecting individuals to discrimination or defeating the objectives of these regulations.

In order to avoid discrimination on the grounds of national origin, all programs or activities administered by the Department shall take adequate steps to ensure that their procedures do not deny, or have the effect of denying, individuals with LEP equal access to benefits and services for which such persons qualify. This Policy defines Departmental responsibilities to ensure that individuals with LEP can communicate effectively.

B. General Statement

All Department staff shall provide services to Department customers in a manner that ensures the customer has meaningful access to their programs and activities for all persons, including those persons who have limited English proficiency.

C. Compliance and Enforcement

It is the responsibility of each Executive Leader overseeing a Department work unit, program, or administrative area to ensure that activities within the Executive Leader's work unit are conducted consistent with both the Department LEP policy and the specific work unit LEP procedures.

D. Work Unit Procedures

Each work unit identified as warranting language assistance services shall develop specific written procedures related to language assistance services applicable to its program activities. These procedures must be consistent with the standards listed in the Department LEP policy. Written procedures shall address the following areas:

1. Provision of language services generally;
2. Identification and assessment of language needs;
3. Oral language assistance services;
4. Written translations;
5. Oral and written notification of the availability of language services;
6. Issue resolution rights;
7. Staff training on language service provision; and
8. Monitoring access to language assistance.

E. Needs And Capacity Assessment

The Department shall employ a four-step process to determine the need and capacity for LEP services. Specifically, each work unit shall determine and indicate in writing if it has direct contact with Department customers. If a work unit determines that it does, then:

1. *Each work unit shall identify the steps in their service delivery process and identify the anticipated number of customer interactions that occur at each of these steps.* These steps could include points of contact with Department staff where customers get information or staff take an action that affects a customer's ability to meaningfully participate in a Department program or activity. These points of contact include Department offices, telephone numbers regularly used by the public, outreach activities, informational and operational Web sites, and written notices. These contacts may be face-to-face, telephonic, written, or electronic.

2. *The Department shall identify the languages used by the populations it serves. Both the Department and each work unit shall use this information to determine the incidences in which the Department and work unit expect to interact with customers in various languages other than English. The Department shall use the most recent census data to determine overall language trends in Arizona. Other demographic data sources include information from other state agencies, commercial marketing data, school systems, community organizations, national ethnic organizations, the Internet, and internally gathered Department data. These trends will be used to determine the LEP population's alternative language needs. The Department will update this information with the issuance of new census data.*
3. *Each work unit shall annually assess the language assistance needs of its LEP customers and the capacity of its programs to meet these needs. Work unit procedures shall include the methods used to conduct this assessment, including areas where it intends to use departmentally produced data, and the frequency with which it will complete the assessment.*
4. *Each work unit shall implement a process for gathering and recording LEP customer language preferences:*
 - a. *The work unit procedures shall include sufficient detail to identify how the work unit gathers language preference information, where it stores the information, and how it will make the information readily available for future contact with LEP customers and for statistics-gathering purposes.*
 - b. *Each work unit procedure shall include the use of an LEP language binder containing language preference materials in each local office. These LEP language binders are designed to provide an opportunity for LEP persons to self-declare their language preference during local office contacts. The Department shall prominently display the LEP language binders in all its offices in which customer interaction is anticipated. These binders are developed, transmitted, and maintained as a departmental function.*

F. Oral Language Assistance

1. *Each component, program, or administrative work unit of the Department shall arrange for oral language assistance to LEP customers in face-to-face and telephone contact: Work unit procedures shall identify the processes for providing oral language assistance and the method for obtaining these services. The oral language assistance portion of the work unit procedures for identifying individuals with LEP shall be consistent with those outlined in this policy. LEP services shall be provided free of charge upon the request of the customer. Work units may identify approaches specific to their work unit, but all procedures shall include the minimum Department standard of ensuring that the provision of bilingual/interpretive services is prompt and without undue delays. Necessary time frames may vary based upon the nature and importance of the service. For example, time frames for emergency services may be different from those time frames for non-emergency services. In most circumstances, this requires language services to be available within reasonable time frames during all operating hours by:*

- a. Establishing interpreter service contracts. The Department maintains contracts with multiple vendors to provide verbal interpretation. The Office of Procurement shall provide direction to all work units on how to access and use contracts for interpreter services. Work units shall, in their procedures, identify how they shall request and coordinate these services. In addition, services through commercially available telephonic interpretation services shall be available when needed.
 - b. Implementing a means to compensate bilingual staff. Subject to the availability of funds, the Department shall have a bilingual stipend program in place that compensates bilingual staff who meet required standards for performing verbal interpretation services. Work unit procedures shall identify the offices in which a need for bilingual staff has been established and which languages are needed.
 - c. Orally translating vital documents into languages other than English for LEP customers.
2. *Location and Accessibility of LEP Services:* Work units shall ensure that their procedures include provisions that respond to the language needs of the populations in each area in which the work unit provides services. Each work unit shall determine the most efficient and effective means to meet these needs. Accommodations such as translations of commonly requested documents, bilingual staff, and telephone interpreter services should be made available at locations that are readily accessible to the public, such as information desks, security checkpoints, and public information telephone lines.
3. *Use of Bilingual Staff:* The Department will make reasonable efforts to recruit and have bilingual staff employed in programs and activities where the number or percentage of LEP customers or potential LEP customers is statistically significant, or where the frequency of contact with such persons makes the employment of bilingual staff a more cost effective, efficient, and effective mode for communication:
- a. Each work unit shall make a decision to employ bilingual staff after a needs assessment, with due consideration given to the budgetary, personnel, and other constraints of the work unit.
 - b. Bilingual staff or contractors must be assessed for bilingual proficiency. Work units should ensure that individuals providing interpretative services possess a level of fluency and comprehension appropriate to the specific nature, type, and purpose of information at issue.
4. *Unacceptable Practices:* Work units should only use family members or friends to interpret for LEP customers if the LEP customer insists on using the friend or family member after Department-provided language services have been offered. Minor children should never be used to interpret, except in emergencies. If additional services are required, any information obtained utilizing a minor child as the interpreter shall be verified through an approved interpreter after the emergency situation has closed.

G. Translation of Written Materials

- 1. *Each work unit shall identify its vital documents.* Vital documents include, but are not limited to, the following for any service, benefit, program, or administrative work unit provided by or contracted with the Department:

- a. Applications;
 - b. Recertification or renewal applications;
 - c. Documents that require a response;
 - d. Letters or other written documents that contain information regarding participation in a program;
 - e. Notices of eligibility criteria, authorization or denial, applicant or participant rights, benefit or service changes, hearings, and actions affecting parental custody or child support;
 - f. Consent and complaint forms;
 - g. Appeal rights and grievance procedures;
 - h. Written tests that do not assess English language competency but test competency for a particular license, job, or skill for which knowing English is not required.
 - i. Notices advising LEP persons of free language assistance; and
 - j. Any other document that the work unit deems vital due to the importance of the program, information, encounter, or service involved and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.
2. *Each work unit shall translate its vital documents according to the requirements outlined in the DES Translation Requirements document. Documents identified as vital shall be translated into languages used significantly by its LEP customers. The Department maintains two approved processes for having written material, including required posters and signs, translated to languages other than English:*
- a. The Department Office of Graphics and Design; or
 - b. A state-approved translation contract.

Using one of these two processes ensures the quality of the translation activity. Department documents for official public use may not be translated using any other method. Work unit procedures shall identify which method for translation will be used within the work unit. The work unit procedure shall also include a listing of the documents that meet the definition of a vital document.

3. *Each work unit shall respond to written communications from LEP customers in a manner that is consistent with this policy. Work unit procedures shall address a process to ensure that LEP customer case records are noted as LEP when work unit staff receive information from a customer in a language other than English. Work unit staff shall interact with the individual in a manner consistent with the Department LEP policy unless the customer indicates otherwise.*

4. *Each work unit should be sensitive to the literacy levels of the LEP public. There are situations in which the use of translated written material may not meet the needs of some Department LEP customers. Some languages are historically unwritten or some LEP customers may be illiterate in their native language. Work unit procedures must ensure that staff use the most effective means to communicate with LEP individuals. This may include either verbal or written communication.*

H. Institutional Considerations for Translation

1. *Each work unit shall ensure that the public is aware of available interpretation and translation assistance. Each work unit shall include on all documents that are not translated into a language other than English a statement in each significantly used language indicating that all persons have the right to free language assistance and how the assistance can be obtained. This notification shall be included on all documents that are routinely disseminated to the public, including electronic text. This language shall be placed near the front of the document in a format that brings attention to it.*
2. *Each work unit shall ensure that its electronic sources for providing vital information are LEP compliant. The Department and each work unit shall ensure that its Web sites and other electronic sources for vital information or documents provide this information in significantly used languages other than English. Web sites shall prominently display access to non-English versions of this information on any page that may be used as the initial point of contact for LEP individuals. Web sites shall also identify methods to access language assistance free of charge.*
3. *The Department shall produce and each work unit shall readily make available to its customers, an LEP Rights pamphlet in English and all other significantly used languages. The pamphlet shall explain that LEP services are available from the Department free of charge and shall explain procedures for accessing these services.*
4. *Each work unit may translate non-vital documents into languages other than English, except to the extent prohibited by the Arizona Constitution, Article 28, English as the Official Language.*

I. Training

Training shall include a consistent message explaining why it is important for the Department to ensure that LEP customers are served in a manner consistent with this policy. Persons with specific knowledge of Title VI of the Civil Rights Act and the requirements contained therein shall develop this training. Training shall include, but not be limited to:

1. *General training. For all staff on the importance of providing services for individuals with LEP.*
2. *Work unit-specific training. To ensure that work unit staff that deal with or are likely to have contact with Department customers are trained on the LEP policies and procedures. This includes, but is not limited to, specific training for staff who have LEP customer contact to work effectively with in-person and telephone interpreters.*

3. *Technical assistance training.* For LEP contact staff.
4. *Management level training.* For supervisors and administrative staff assisting staff with direct customer contact.

J. Providing Notice to LEP Customers of the Availability of Language Assistance Services and Outreach

Work unit procedures shall identify how to inform LEP customers of the availability of free language assistance services. The work unit shall make the notification at the first point of contact. Notification includes signs in intake areas or other customer entry points, outreach documents such as brochures or booklets, LEP posters and pamphlets, and telephone menus in significantly used languages:

1. The work unit shall provide the notification of free language assistance in the language of the LEP customer. LEP persons should also be advised that they may use an interpreter of their own choosing at their own expense.
2. Consistent with its commitment to partnership and outreach, the Department engages in comprehensive outreach to ensure awareness by LEP persons of its programs and activities. Outreach includes the use of ethnic media such as radio, television, newspapers, magazines, Web sites, faith-based organizations, and community-based organizations at local levels that provide social services, healthcare, and classes. Work unit procedures shall acknowledge its commitment to support the Department's outreach efforts in relation to the programs it administers and the services it provides.
3. Work unit procedures shall include provisions to ensure that Web pages accessible to members of the general public include information on the availability of language assistance.
4. The Department shall maintain copies of written documents such as flyers or pamphlets intended to be used to notify the public of language assistance. Pamphlets shall be maintained in locations in which direct service to Department customers is provided and shall be readily available to customers without the need of Department staff intervention.

K. Monitor Access to Language Assistance

1. *Each work unit shall institute procedures to monitor the accessibility and quality of language assistance activities for LEP customers.* Work unit procedures shall include specific time frames and methods to reassess language assistance activities to ensure that the services provided by the work unit address the actual needs of the LEP customers based on actual experiences of the work unit. Work unit procedures shall ensure that such monitoring is completed no less than every 12 months. Work unit procedures should include a process for obtaining community and customer feedback in this activity through surveys, questionnaires, or other means. Data collection and record keeping are key to an effective monitoring and compliance system. In order to determine the validity of any language assistance complaints, it may be necessary to analyze and review data that reflect how the work unit provides services to LEP customers. Data collection also allows the work unit to obtain an overview of how their services are provided. The work unit procedure shall include data collection and record keeping requirements to ensure that these assessments are fact-based and reflect actual current activity. The work unit shall assess the effectiveness of its LEP policies based on:

- a. Current LEP populations in service areas or population or specific populations encountered;
 - b. Frequency of encounters with LEP customers;
 - c. Nature and importance of activities to LEP customers;
 - d. Availability of resources, including technological advances, additional resources, and the costs imposed;
 - e. Whether existing assistance is meeting the needs of the LEP customers;
 - f. Whether staff know and understand the LEP procedures; and
 - g. Whether identified sources for assistance are still available and viable.
2. *Each work unit shall develop and maintain a data collection system that ensures the availability of data that includes the race and ethnicity of, customers served in its programs, the frequency of contact, and the primary language of those persons. Work unit procedures shall require the collection of data on which the work unit has based language needs assessment; the number of LEP customers, by language group, who received language services; names and classifications of staff receiving training and dates of training. Work unit procedures shall include activities that are designed to ensure that the work unit:*
- a. Has up-to-date information on language needs in the communities it serves;
 - b. Has an adequate number of oral translators to ensure timely compliance with LEP needs;
 - c. Translates vital written documents into the languages needed by the communities being served;
 - d. Has adequate supplies of translated materials;
 - e. Trains those staff required to be trained in LEP activities; and
 - f. Keeps notification material up-to-date.

Work unit procedures shall also reflect those activities that it must perform in order to comply with overall Department monitoring practices.

L. Provision of Technical Assistance

Each work unit shall identify an LEP contact for work unit staff. Work unit procedures shall include a process to ensure that LEP-related questions that arise are addressed in a timely and efficient manner. The LEP contact shall be available to coordinate efforts towards compliance with the Department's LEP policy and the work unit's LEP procedures. Work unit procedures shall, at a minimum, include a process for direct service staff to elevate LEP questions to their LEP contact. The work unit procedure shall also include time frames for the LEP contact to respond or to elevate the question to the DOEO. The DOEO shall provide technical assistance to the LEP contact or solicit additional assistance from the Director's Office or the Office of the Attorney General.

M. Issue Resolution

1. **Work unit level process:** Work units shall create a procedure outlining an LEP issue-resolution process that shall be used to resolve a concern or dispute arising from any action or inaction taken by Department staff in administering programs or providing services. The work unit process shall be the Level I resolution process.
 - a. **Level I:** The Level I procedure shall require that Department customers are advised in writing of the appropriate procedure to raise an LEP-related concern. This notification also advises the customer of their right to file a complaint at any point in time with the federal agency responsible for the program for which they are applying.
 - b. Work units shall ensure that any forms needed to request review of LEP-related decisions are available at any location in which work unit customers may receive services.
 - c. The work unit shall conduct the Level I procedure in a language that is understandable by the person raising the concern. The work unit shall make appropriate use of interpreter services, contracted provider services, or other resources needed to facilitate the dispute resolution process.
 - d. The Level I process shall include the following:

The manager in charge at the site where an LEP-related concern is filed or his or her designee will review the complaint with the assistance of the work unit LEP contact. Staff shall reduce oral complaints to writing and shall place them in the appropriate case record. At any point in the process, the manager is empowered to resolve the complaint using methods and practices outlined in the Department LEP policy and the work unit LEP procedures. It is the intention of the Department and the work unit that most LEP issues will be resolved at this level. The Level I resolution process shall be completed no later than three days following the day of receipt of the complaint unless the LEP customer requests a delay in the process. The manager shall ensure that all reasonable measures are pursued to immediately verbally notify the LEP customer of the outcome of the issue resolution. The Department shall provide a written confirmation of the decision within five business days.
2. **Department Level Process:** The Department process is initiated whenever a LEP customer expresses in writing to the Department that the work unit attempt to resolve the issue at the Level I process has not met their need. This LEP issue escalation process ensures the rights of LEP customers to have concerns resolved in their preferred language. Inherent in this process is the availability of the DOEO to assist either the Department or the LEP customer in resolving a concern. This process conforms to other issue resolution/grievance processes in regard to required time frames, based upon the program(s) from which the LEP customer is seeking service.
 - a. **Level II:** If no resolution can be reached at Level I, the notification to the LEP customer shall include the right to pursue the grievance, the time frames, and the process to request verbally or in writing an Executive Leader review and decision. The Executive Leader may request assistance from the DOEO with the cooperation of the work unit LEP contact. Level II action shall occur within five working days of receipt of the request for review of the Level I decision from the LEP customer.

Exhibit B

Subaward Data

(i)	Subrecipient Name	City of Cottonwood - CAT
(ii)	Subrecipient Unique Entity Identifier:	10-0083-8775
(iii)	Federal Award Identification Number (FAIN):	1601AZSOSR
(iv)	Federal Award Date of Award to the Recipient by the Federal Agency:	June 1, 2017
(v)	Subaward Period of Performance Start Date:	July 1, 2107
	Subaward Period of Performance End Date:	June 30, 2018
(vi)	Amount of Federal Funds Obligated by this Action by the Pass-Through Entity to the Subrecipient:	\$23,524.00
(vii)	Total Amount of Federal Funds Obligated to the Subrecipient by the Pass-Through Entity Including the Current Obligation:	\$23,524.00
(viii)	Total Amount of the Federal Award Committed to the Subrecipient by the Pass-Through Entity:	\$23,524.00
(ix)	Federal Award Project Description:	Transportation
(x)	Name of Federal Awarding Agency:	DHHS
	Name of Pass-Through Entity:	ADES
	Contact Information for Federal Awarding Official:	Matt LeCrone
	Contact Information for NACOG Authorizing Official:	Chris Fetzer
	Contact Information for NACOG Project Director:	Patricia Sprengeler
(xi)	CFDA Number and Name:	SSBG 93.667
(xii)	Identification of Whether Subaward is R&D:	No
(xiii)	Indirect Cost Rate for [CAA] Federal Award:	7.4%
	Subrecipient Indirect Costs:	See <u>Exhibit D</u> – Approved Budget

Exhibit C

Approved Services

APPROVED SERVICES

This service provides or assists in obtaining various types of transportation for specific needs.

This service may include various types of transportation for employment, medical, training, or other supportive services with the exception of ambulance services. Service to assist eligible individuals and households with mobility needs for various purposes such as employment, medical and/or training reasons when they do not have any other means of transportation is also included. Services may be provided using contractor-operated vehicles and/or through vouchers for public transit.

The goal of this service is to provide or arrange for transportation for eligible individuals of all ages and abilities in order to access services or obtain medical care, or employment, (e.g., medical appointments, employment-related training, interviews). Case managers typically assist clients to access transportation to help increase or maintain client self-sufficiency.

Services in Yavapai County are to assist persons in accessing, employment, social services, medical and basic needs.

Exhibit D

Approved Budget

**NACOG Community Services Program
Budget/Monthly Expenditure Report/Funds Request
SSBG**

Agency: CAT/Verde Lynx

Contract #: YAV2-17-2018

Report Period From:

To:

Account Classification	Budget	Expenditures this period	Expenditures to date	Balance
SSBG Admin	\$ 23,524			
NACOG Code 3-32-242-6508				
TOTAL REIMBURSEMENT	\$ 23,524			

Signature: _____ Date: _____

Exhibit E

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements.

The undersigned, on behalf of City of Cottonwood Area Transit certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

City of Cottonwood

By: _____

Name: Tim Elinski

Title: Mayor

Date: _____

**NACOG Community Services Program
Budget/Monthly Expenditure Report/Funds Request
SSBG**

Agency: CAT/Verde Lynx

Contract #: YAV2-17-2018

Report Period From:

To:

Account Classification	Budget	Expenditures this period	Expenditures to date	Balance
SSBG Admin	\$ 23,524			
NACOG Code 3-32-242-6508				
TOTAL REIMBURSEMENT	\$ 23,524			

Signature: _____ Date: _____

City of Cottonwood, Arizona
City Council Agenda Communication

☐ Print

Meeting	July 18, 2017
Date:	
Subject:	Parks & Recreation Commission Appointments
Department:	Community Services
From:	Richard Faust, Community Services General Manager

REQUESTED ACTION

Appointments to fill vacant seats on the Parks and Recreation Commission by resolution.

SUGGESTED MOTION

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

“I move to approve Resolution Number 2898 appointing _____ a member of the Parks and Recreation Commission for a three year term which expires July 19, 2020.

“I move to approve Resolution Number 2899 appointing _____ a member of the Parks and Recreation Commission to fill the remainder of a three year term which expires August 16, 2019.

BACKGROUND

A three year term on the Parks and Recreation Commission was left vacant when Carol Nielsen's term expired on August 16, 2016, and remains to be filled.

Cynthia Burton resigned from the commission in February of 2017, creating a vacancy for the remainder of her three year term that expires August 16, 2019.

The above vacancies for the Parks & Recreation Commission were advertised off and on from September 2016 through this past month in the local newspaper.

Staff is requesting that Council appoint the two (2) applicants identified below to the current openings. This action would appoint a new member for a three year term and another to fill the remainder of the original 3 year term of Commissioner Burton.

Applicants are as follows:

- John Croslin

Cottonwood, Arizona

- Vanessa DaVee

Cottonwood, Arizona

The applicants' applications are attached.

JUSTIFICATION/BENEFITS/ISSUES

Appointing these applicants will fill the two current vacancies on the 7-seat Commission.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

File Name	Description	Type
7-18-17_DaVee_Application.pdf	Vanessa DaVee Application	Cover Memo
7-18-17_Croslin_Application.pdf	John Croslin Application	Cover Memo
res2898.doc	Resolution Number 2898	Cover Memo
res2899.doc	Resolution Number 2899	Cover Memo

Board/Commission Application

Application for PARKS & RECREATION COMMISSION
(Board/Commission/Committee)

First Name Vanessa

Last Name DaVee

Mailing Address REDACTED

City Cottonwood

State Az

Zip Code 86326

Street Address *Field not completed.*

City *Field not completed.*

State *Field not completed.*

Zip Code *Field not completed.*

Home Phone Number REDACTED

Work/Message Phone Number *Field not completed.*

Email Address vbd4@nau.edu

list aw
Please ~~check below~~ which items of your personal information we may release to the public, if requested (we recommend at least one):

E-mail Address

Professional Memberships, Registrations, Licenses, etc.: LEADERSHIP & COMMITTEES • NAU, Student Organization Leadership Team • NAU, Asset Mapping Team • NAU, Solar Bench Committee • Town of Prescott Valley, Prescott Valley Citizen's Academy

Education: EDUCATION Bachelor of Arts Northern Arizona University May 2015 • Major: Applied Human Behavior • Minor: Community Development & Sustainability

Work Experience:

Receptionist/Owner Nexus Southwest LLC (Land Surveying) 2010-Present • Serve visitors by greeting, welcoming, directing, and announcing them appropriately. • Answer, screen, and forward any incoming phone calls while providing basic information when needed. • Receive and sort daily mail/deliveries/couriers. • Maintain fiscal responsibility (QuickBooks and Billing) • Update appointment calendars and schedule meetings/appointments. • Perform other clerical duties such as: filing, photocopying, collating, faxing etc.

Please describe your qualifications for serving on this Board/Commission/Committee:

SKILLS & ABILITIES Applied Human Behavior and Community Development & Sustainability • CYMPO, Central Yavapai Metropolitan Planning Organization Community Program Planning, 2014, NAU Aided in conducting a high-level Rural Transportation Summit, additional duties included asset mapping for the local community, and development of personally designed and implementable programs based on a community needs assessment. • Northern Arizona University- Yavapai Technologies of Sustainability, 2014, NAU Attained direct knowledge of how local economic regions utilize and integrate sustainability technologies into their products and processes. Another aspect incorporated was the understanding that geographic characteristics play a vital role in the design, and implementation of sustainable technologies. • Community and Social Change, 2014, NAU Gained a thorough understanding of the process of change through the examination of past, present, and future knowledge on social change; while simultaneously applied it to local and current socio- cultural values. • **VOLUNTEER** • Northern Arizona University- Yavapai Community and Social Change, 2014, NAU-Y Participated in numerous soup kitchen opportunities while simultaneously remained actively engaged in community events. • Maximo Nivel (Cusco, Peru) Worked with underprivileged children to improve their educational, emotional, and hygiene conditions. • Prescott Area Women's Shelter • Helped create a safe, caring, supportive environment for homeless shelter guests by providing assistance to staff & giving informal support to shelter guests.

List any community service organizations or projects you have been involved with (include a brief description of activities):

LEADERSHIP & COMMITTEES • NAU, Student Organization Leadership Team • NAU, Asset Mapping Team • NAU, Solar Bench Committee • Town of Prescott Valley, Prescott Valley Citizen's Academy

Note: A YES response to either of the next two questions will not automatically disqualify applicants from consideration.

Have you ever been convicted of, or pled "no contest" to any crime, including any convictions that were later set aside or expunged?

Yes

If YES, please explain:

REDACTED

Does the City of Cottonwood employ any relative of yours?

No

If YES, please explain:

Field not completed.

Are you currently a resident of Cottonwood?

Yes

If YES, how long have you been a resident of the City?

6months

Do you currently own a business within the Cottonwood city limits?

No

If YES, what type of business?

Field not completed.

Note: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

The Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month, unless the date falls on a holiday. Council agendas can be found under the City Council tab on the City Website: www.cottonwoodaz.gov.

Date: 6/30/2017

I have filled this application out Yes
as completely and accurately as
possible and I certify I am the
person named on this
application.

Email not displaying correctly? [View it in your browser.](#)

Board/Commission Application

Application for
(Board/Commission/Committee) Parks & Recreation Commission

First Name John

Last Name Croslin

Mailing Address PO Box 1833

City Cottonwood

State Az

Zip Code 86326

Street Address REDACTED

City

State

Zip Code

Home Phone Number REDACTED

Work/Message Phone Number REDACTED

Email Address seadollar@hotmail.com

list aw
Please ~~check below~~ which items of your personal information we may release to the public, if requested (we recommend at least one):

Professional Memberships, Registrations, Licenses, etc.: ArizonaTeaching Certification Nevada Teaching Certification PADI Dive Master

Education: BS No. Arizona Univ. Flagstaff, Az Education MS No. Arizona Univ. Flagstaff, Az Vocational Education

Work Experience: Flagstaff Public Schools 7/1980 To 6/1996 Teacher Industrial Education / Physical Education Humboldt County School District Nevada 7/1996 To 7/2004

District Technology Director Retired Flagstaff Public
Schools 7/2004 To 6/2006 Retired

Please describe your
qualifications for serving on this
Board/Commission/Committee:

Have experience working with budgets, bid proposals
and contracts. Grant writing and Implementation

List any community service
organizations or projects you
have been involved with
(include a brief description of
activities):

Volunteer with National Park Service Coaching sports
AAU Competitive Swimming and water polo

Note: A YES response to either of the next two questions will not automatically
disqualify applicants from consideration.

Have you ever been convicted
of, or pled "no contest" to any
crime, including any convictions
that were later set aside or
expunged?

No

If YES, please explain:

Field not completed.

Does the City of Cottonwood
employ any relative of yours?

No

If YES, please explain:

Field not completed.

Are you currently a resident of
Cottonwood?

Yes

If YES, how long have you been
a resident of the City?

5 years

Do you currently own a business
within the Cottonwood city
limits?

No

If YES, what type of business?

Field not completed.

Note: All applicants are strongly encouraged to attend the Council meeting at which
their application will be considered. It is important for Council members to be able
to assess applicants' qualifications and backgrounds during the selection process,
and be able to ask questions for clarification.

The Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month, unless the date falls on a holiday. Council agendas can be found under the City Council tab on the City Website: www.cottonwoodaz.gov.

Date: 6/12/2017

I have filled this application out as completely and accurately as possible and I certify I am the person named on this application. Yes

Email not displaying correctly? [View it in your browser.](#)

RESOLUTION NUMBER 2898

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, APPOINTING _____, A MEMBER OF THE CITY OF COTTONWOOD PARKS AND RECREATION COMMISSION AND ESTABLISHING ____ TERM OF OFFICE.

WHEREAS, the term of Carol Nielson as a member of the city's Parks and Recreation Commission expired August 16, 2016; and

WHEREAS, it therefore is necessary to appoint a new member to said Commission to maintain the requisite number of seven members;

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

THAT, in accordance with Section 2.68.030 of the City Code, Carol Nielson, a resident of the City of Cottonwood, is hereby appointed a member of the City of Cottonwood Parks and Recreation Commission for a three year term expiring July 19, 2020.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 18TH DAY OF JULY 2017.

Tim Elinski, Mayor

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

RESOLUTION NUMBER 2899

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING _____
A MEMBER OF THE CITY OF COTTONWOOD PARKS AND RECREATION COMMISSION AND ESTABLISHING ____ TERM OF OFFICE.

WHEREAS, Cynthia Burton resigned as a member of the Parks and Recreation Commission leaving a vacant term that expires August 21, 2019, and

WHEREAS, it therefore is necessary to appoint a new member to said Commission to maintain the requisite number of seven members;

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

THAT, in accordance with Section 2.68.030 of the City Code, _____, a resident of the City of Cottonwood, is hereby appointed a member of the City of Cottonwood Parks and Recreation Commission to fill the remainder of a three year term which expires August 21, 2019.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 18TH DAY OF JULY 2017.

Tim Elinski, Mayor

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

City of Cottonwood, Arizona
City Council Agenda Communication

☐ Print

Meeting Date:	July 18, 2017
Subject:	Procurement of a Freestyle Motocross Performance from Brigade FMX.
Department:	Community Services
From:	Thunder Valley Rally Committee

REQUESTED ACTION

The TVR Committee is requesting council's approval to procure a Brigade FMX Motocross show at The Freedom Bird Entertainment Park & Campground for the annual Thunder Valley Rally event.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is: "I move to contract with Brigade FMX to perform at the City's annual Thunder Valley Rally program, subject to approval of the final form of agreement by the City Attorney."

BACKGROUND

This year marks another year of change for TVR by hosting programs at both Riverfront Park and in Old Town. The change was born out of a necessity to account for the program's growth and to conciliate the continued partnership with merchants in Old Town. Once ratified by Council the TVR Committee began working on making the 2017 event as successful as possible. Adding Riverfront Park brings many opportunities, but also many challenges. The TVR Committee feels that to be successful at Riverfront Park additional attractions must be implemented. Thus, after seeing performances by Brigade FMX at AZ Bike Week for many years the TVR Committee reached out to determine the viability. Brigade came back in budget and excited as some of their riders are from the area. Brigade will provide their own ramps, and the City will work with Yavapai Fence to locate a perimeter fence around their performance. They will perform scheduled shows both Friday and Saturday of the event. Attached is an example of the service agreement that the City would provide Brigade with, which includes the City's standard indemnification and insurance requirements.

JUSTIFICATION/BENEFITS/ISSUES

Provides a large draw for Riverfront Park, which in turn will hopefully boast revenues. In addition, bring more attendees to the event. Provides entertainment for area youth as well. However, there are safety and liability risks associated with this type of activity.

COST/FUNDING SOURCE

The TVR Committee will offset the cost through sponsorship dollars.

ATTACHMENTS:

File Name	Description	Type
Brigade_FMX_Agreement.docx	Brigade FMX Agreement	Cover Memo

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of this 29th day of March, 2017, between the CITY OF COTTONWOOD, an Arizona municipal corporation (the "City") and Action Sports Entertainment, LLC, DBA Brigade FMX (the "Consultant").

AGREEMENT

In consideration of the following mutual covenants and conditions, the City and the Consultant hereby agree as follows:

- A. Term of Agreement.** This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until completion of performances.
- B. Scope of Work.** The Consultant shall provide the Services as set forth in the attached Scope of Work, which is marked as Exhibit A and incorporated by reference herein.
- C. Compensation.** The City shall pay the Consultant a fixed contract price of three thousand dollars (\$3,000.00) for the Services as set forth in the attached Scope of Work, which is marked as Exhibit A and incorporated by reference herein.
- D. Payments.** The City shall pay the Consultant subject to the Consultant submitting an invoice to the City for payment. Invoice shall itemize all Services completed to the date of the invoice and provide sufficient detail to justify payment.
- E. Insurance.** The Consultant shall maintain during the term of this Agreement insurance policies described below issued by companies licensed in Arizona with a current AM Best rating of A:VIII or better. The City's Risk Management reserves the right to review and make an exception for substitute/alternative coverage. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option

Before the City signs this Agreement, the Consultant shall furnish the City's Risk Manager with certificates of insurance evidencing the coverages, conditions, and limits required by this Agreement, at the following address:

City of Cottonwood
Risk Manager
816 N Main Street
Cottonwood, AZ 86326
Telephone: (928) 340-2713 / Fax: (928) 634-3727

The insurance policies, except Worker's Compensation and Professional Liability, shall be endorsed to name the City of Cottonwood, its agents, officers, officials, employees, and volunteers as additional insureds with corresponding endorsement relative to the additional insured indemnification and with the following language:

The City of Cottonwood, its agents, officers, officials, employees, and volunteers are hereby named as additional insureds as their interest may appear.

If any insurance policies are written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the Consultant's work or services and must be evidenced by annual certificates of insurance. The insurance policies shall be endorsed stating that they shall not expire, be cancelled, suspended, voided or materially changed without thirty (30) days written notice by certified mail to the City of Cottonwood Risk Manager. The Consultant's insurance must be primary, and any insurance

or self-insurance maintained by the City shall not be contributed to it. Consultant's insurance policy shall not exclude spectators. If any part of this Contract is subcontracted, these insurance requirements also apply to all subcontractors. The following policies are required:

1. **Commercial General Liability** insurance with an unimpaired limit of not less than five million dollars (\$5,000,000) per occurrence for bodily injury, property damage, personal injury, products and completed operations, including but not limited to, the liability assumed under the indemnification provisions of this Contract. Excess or umbrella policies may be combined with a commercial general liability policy to reach the five million dollar (\$5,000,000) requirement.
2. **Automobile Liability** insurance with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000) each occurrence with respect to the Consultant's owned, hired, and non-owned vehicles.
3. **Worker's Compensation** insurance with limits statutorily required by any Federal or state law and **Employer's Liability** insurance of not less than one million dollars (\$1,000,000) for each accident, one million dollars (\$1,000,000) disease for each employee.

F. Indemnification. To the fullest extent permitted by law, the Consultant shall defend, indemnify, and hold harmless the City of Cottonwood, its agents, officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses (including but not limited to attorney fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of the Consultant, its agents, employees, or any tier of Consultant's subcontractors in the performance of this Agreement. The requirements in Paragraph E will not be construed as limiting the scope of this indemnification.

G. Applicable Law; Venue. In the performance of this Agreement, the Consultant shall abide by and conform to any and all laws, codes and ordinances of the United States, State of Arizona and City of Cottonwood, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

H. Termination; Cancellation

1. **For City's Convenience.** This Agreement is for the convenience of the City and, as such, may be immediately terminated without cause after receipt by the Consultant of written notice by the City. Upon termination for convenience, the Consultant shall be paid for all undisputed services performed to the termination date.
2. **For Cause.** This Agreement may be terminated by either party upon thirty (30) days written notice should the other party breach any of its terms or otherwise violate the law in connection with the performance of any duty imposed on the party by the terms of this Agreement. In the event of such termination, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.
3. **Due to Work Stoppage.** This Agreement may be terminated by the City upon thirty (30) days written notice to the Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.
4. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is,

at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the Agreement's subject.

5. **Gratuities.** The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant an amount equal to one hundred fifty percent (150%) of the gratuity.
6. **Fund Appropriation Contingency.** The Consultant understands that the continuation of this Agreement after the close of any given fiscal year of the City, which ends on June 30, shall be subject to the budget of the City providing for the contract item as expenditure. The City cannot assure that the budget item for funding this Agreement will be approved in the future; as such assurance would be a legislative and policy determination of the City Council at the time of the adoption of the budget. Should the funding of the Agreement not be approved by City Council, the City may terminate this Agreement as of the close of its fiscal year.

I. Miscellaneous

1. **Independent Contractor.** The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. The Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of the Consultant, its employees or subcontractors. The Consultant, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as the Consultant meets the requirements of its agreed scope of work as set forth in Section 2 above. The Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere.
2. **Laws and Regulations.** The Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including the following: (i) existing and future City and County ordinances and regulations, (ii) existing and future state and federal laws and (iii) existing and future Occupational Safety and Health Administration ("OSHA") standards.
3. **Amendments.** This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Consultant.
4. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.
5. **Severability.** The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

6. **Relationship of the Parties.** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and the Consultant agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.
7. **Entire Agreement; Interpretation; Parol Evidence.** This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.
8. **Assignment.** No right or interest in this Agreement shall be assigned by the Consultant without prior, written permission of the City and no delegation of any duty of the Consultant shall be made without prior, written permission of the City. Any attempted assignment or delegation by the Consultant in violation of this provision shall be a breach of this Agreement by the Consultant.
9. **Subcontracts.** No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used.
10. **Rights and Remedies.** No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.
11. **Attorneys' Fees.** In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.
12. **Liens.** All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.
13. **Notices and Requests.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

Contractor: _____

City of Cottonwood (Owner)

c/o _____

c/o Contract/Purchasing Administrator

816 N. Main Street

Cottonwood, AZ 86326

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (i) when delivered to the party, (ii) three (3) business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

14. **Confidentiality of Records.** The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform the Consultant's duties under this Agreement. Persons requesting such information should be referred to the City. The Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees, agents or officers of the Consultant as needed for the performance of duties under this Agreement.
15. **Public Records.** Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Consultant acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Consultant understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Consultant, the City agrees to provide the Consultant with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Consultant specified in 9.13. Within ten (10) days of City notice by the City, the Consultant will inform the City in writing of any objection by the Consultant to the disclosure of the requested information. Failure by the Consultant to object timely shall be deemed to waive any objection and any remedy against the City for disclosure. In the event the Consultant objects to disclosure within the time specified, the Consultant agrees to handle all aspects related to the request, including properly communicating with the requestor and timely responding with information the disclosure of which the Consultant does not object thereto. Furthermore, the Consultant agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.
16. **Conflicting Terms.** In the event of a conflict between the Exhibit and this Agreement, the terms of this Agreement shall govern.

17. **Compliance with Federal Immigration Laws and Regulations.** Consultant warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214.A. Consultant acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.
18. **Israel Boycott Disclosure.** Consultant agrees not to participate in during the term of the contract a boycott of Israel in accordance with A.R.S. §35-393.01. Consultant understands that entire response and any related contract documents will become public record in accordance with A.A.C. R2-7-C317.

Consultant

Company Name

Printed Name

Signature

Date of Signing

Title

City of Cottonwood

Tim Elinski, Mayor

Date of Signing

Attest:

Marianne Jiménez, City Clerk

Approved as to form:

Steve Horton, City Attorney

Exhibit A

Scope of Work

Scope of Services

Action Sports Entertainment LLC, Brigade FMX will perform “Freestyle Motocross” performances during the City of Cottonwood Thunder Valley Rally program on September 15th & 16th, 2017 at Riverfront Park. These performances will be provided each day of the event between the hours of 4 PM – 10 PM each day. Brigade FMX will provide all the necessary equipment to perform safe “freestyle” demonstrations.

The entertainment to be provided by the Performer is generally described as One(1) Freestyle Motocross performance consisting of our demo format show with two fmx riders and the portable take- off and landing ramp with announcer. This performance will be provided each day of the Thunder Valley Rally Event.

Brigade FMX will not be required to perform during severe weather determined by Brigade FMX. Inspection of the designated performance surface is the responsibility of Brigade FMX to ensure specifications are met. Brigade FMX will be permitted to sell their own merchandise and recoup 100% of those sales.

City Responsibilities

- The City of Cottonwood will provide a flat, level performance area measuring 280 ft. x 20 ft. with a ceiling height of no less than 50 feet.
- The City of Cottonwood will be responsible for providing suitable power and electricity for the Performance.
- The City of Cottonwood will provide a suitable area with reasonable visibility and accessibility to facilitate merchandising.

City of Cottonwood, Arizona
City Council Agenda Communication

☐ Print

Meeting Date:	July 18, 2017
Subject:	Pima Street Parking-General Plan Amendment - Resolution Number 2900
Department:	Community Development
From:	Berrin Nejad, Community Development Manager

REQUESTED ACTION

A request for a minor amendment to the Land Use Map associated with the Cottonwood General Plan, changing the land use designation from Medium Density Residential to General Commercial.

SUGGESTED MOTION

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

I move to approve Resolution Number 2900 amending General Plan designation for the subject property from MR-Medium Density Residential to GC-General Commercial.

BACKGROUND

Jerome Properties L.L.C., owned by Eric Jurisin, is requesting to build a parking lot on his property, 16,298 SF in size, located on the south side of Pima Street. Currently, the property is zoned R-1 Single Family Residential which does not allow for a parking lot use. The applicant would like to rezone it to C-1 Light Commercial to be able to build the parking lot. The General Plan depicts this area as MR- Medium Density Residential. Therefore, it needs to be amended to GC-General Commercial designation in order to allow the proposed use.

HISTORY:

The Applicant held the required neighborhood meeting on May 19, 2017. One neighbor attended and had no issues with the project.

On June 8, 2017, the site was posted by the applicant.

On June 11, 2017, Legal notices were published in the newspaper for the Planning and Zoning Commission and City Council hearings on this matter.

The General Plan Amendment was reviewed and recommended for approval by the

Planning & Zoning Commission on June 26, 2017.

JUSTIFICATION/BENEFITS/ISSUES

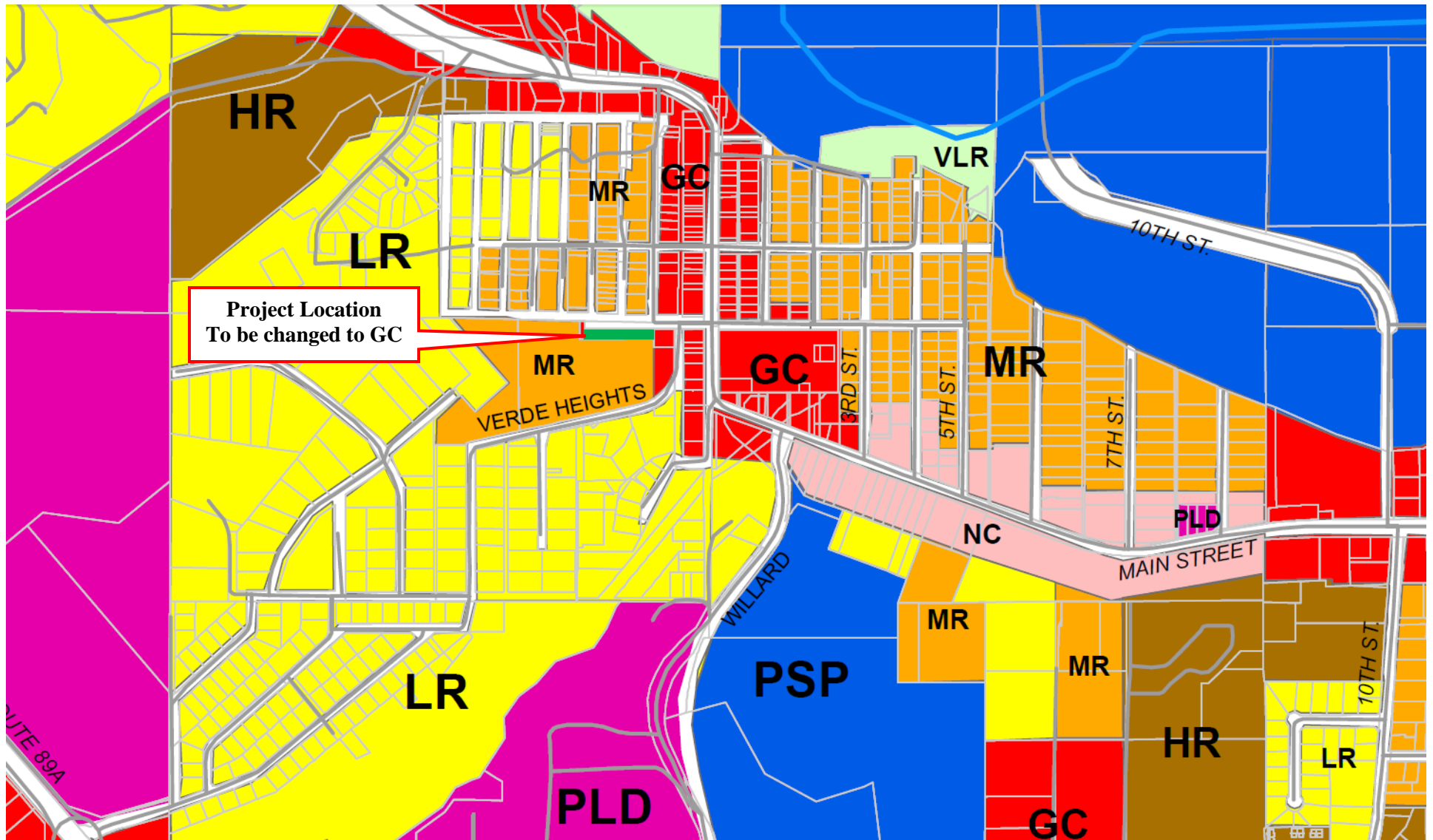
The City's General Plan contemplates a mix of uses including commercial, retail, office, cultural, residential, entertainment, and civic uses. This proposed use of the subject property supports the objectives of revitalization of the historic Old Town area (Goal 3-5).

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

File Name	Description	Type
7-18-17_Land_Use_Map_3.pdf	Land Use Map	Cover Memo
General_Plan_Review.docx	General Plan Review	Cover Memo
res2900.doc	Resolution Number 2900	Cover Memo



GENERAL PLAN REVIEW

Parking Lot Rezoning

ARS 9-462.01. F. Zoning regulations; public hearing; definitions

F. All zoning and rezoning ordinances or regulations adopted under this article shall be consistent with and conform to the adopted general plan of the municipality, if any, as adopted under article 6 of this chapter. In the case of uncertainty in construing or applying the conformity of any part of a proposed rezoning ordinance to the adopted general plan of the municipality, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the general plan. A rezoning ordinance conforms with the land use element of the general plan if it proposes land uses, densities or intensities within the range of identified uses, densities and intensities of the land use element of the general plan.

LAND USE ELEMENT

GOAL 3-1 SUPPORT ORDERLY PATTERNS OF GROWTH AND DEVELOPMENT WITH A WELL- BALANCED MIX OF QUALITY RESIDENTIAL, COMMERCIAL, INSTITUTIONAL AND RECREATIONAL LAND USES.

Objective 3-1. A Protect existing neighborhoods from incompatible land uses.

Objective 3-1. B Encourage mixed use development with focused, compact centers comprised of residential, retail, office, entertainment and recreational uses in order to promote walkable neighborhoods.

GOAL 3-5: CONTINUE SUPPORT FOR REVITALIZATION OF THE HISTORIC OLD TOWN AREA AS A COMMUNITY WIDE ASSET AND SOURCE OF PRIDE.

Objective 3-5. A Support a well-balanced mix of residential, specialty retail, office, commercial, entertainment, cultural and civic uses as part of Old Town..

ECONOMIC DEVELOPMENT ELEMENT

FOCUS AREA # 4: OLD TOWN

GOAL 12-12: PROMOTE THE HISTORIC “OLD TOWN” DOWNTOWN AREA AS THE CITY'S ARTS AND CULTURAL CENTER AND UNIQUE DESTINATION DISTRICT.

Objective 12-12. A Continue support for efforts to develop the historic downtown area as a major, mixed-use activity center that includes a variety of housing choices and retail, restaurants, galleries, wine-related uses, office, government, arts and culture, entertainment, and other services.

RESOLUTION NUMBER 2900

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, APPROVING A MINOR AMENDMENT TO THE CITY'S GENERAL PLAN.

WHEREAS, Jerome Properties, LLC, (Eric Jurisin) has requested to have a parcel of land approximately 16,298 square feet in size that is currently designated under the general plan as MR-Medium Density Residential re-designated as GC-General Commercial, to allow for the rezoning of that parcel; and

WHEREAS, following the required procedures, the City's Planning and Zoning Commission has recommended approval of that request, subject to certain conditions and stipulations; and

WHEREAS, the requirements of A.R.S. § 9-461.06 have been met; and

WHEREAS, the City Council finds that the requested re-designation, as recommended by the Planning and Zoning Commission, is in the best interests of the City and the general public.

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

Section 1. That the General Plan of the City of Cottonwood, Yavapai County, Arizona, is hereby amended such that the parcel of land more particularly described in Ordinance 595 shall be re-designated as GC--General Commercial.

Section 2. That this Resolution shall become effective as provided by law.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 18TH DAY OF JULY 2017.

Tim Elinski, Mayor

RESOLUTION NUMBER 2900

Page 2

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

City of Cottonwood, Arizona
City Council Agenda Communication

☐ Print

Meeting	July 18, 2017
Date:	
Subject:	Pima Street Parking Rezone Request
Department:	Community Development
From:	Berrin Nejad, Community Development Manager

REQUESTED ACTION

A request for a zone change from R-1 Single Family Residential to C-1 Light Commercial in order to develop a parking lot on vacant land.

SUGGESTED MOTION

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

No legal action required at this time. This is Public Hearing and first reading only.

BACKGROUND

The Jerome Properties L.L.C., owned by Eric Jurisin acquired a strip of property on the south side of Pima Street. The parcel lies along the street, just beneath the hills of a larger parcel located on the south. The property size is 16,298 SF (45 feet in depth by 330 feet in width).

Initially, Mr. Jurisin intended to develop a 25-space parking lot south of Pima Street entirely on private property and improving the south half of Pima Street. Later, he proposed to improve the full street width of Pima Street and develop 14 additional parking spaces for the public to use on the north side of Pima Street.

The design proposes 32 parking spaces on the applicant's property and 14 more on the north side of Pima Street on City property, open to public use. Applicant's property is an extension of a large residential property on the hill and zoned R-1- Single Family Residential. This piece at the base of the hill is not suitable for residential homes or any type of residential use. The adjacent larger property is currently in the process of being rezoned to PAD for development. With the applicant's request to build private parking in this location, this property would be utilized very well since little else can be built on such a narrow parcel. Parking areas are allowed in commercial zoning, therefore, this request requires a zone change to C-1-Light Commercial.

The Applicant held the required neighborhood meeting on May 19, 2017 and one (1)

neighbor was present and had no issues with the project.

On June 8, 2017, the site was posted by the applicant.

On June 11, 2017, legal notices were published in the newspaper for the Planning and Zoning Commission and City Council hearings.

The rezoning request was reviewed and recommended for approval by the Planning & Zoning Commission on June 26, 2017 with the following stipulations:

1. That the project conforms to code review board comments dated March 21, 2017.
2. Any other required supporting documentation is submitted to staff and approved (i.e. drainage reports, surveys, etc.).
3. A Certificate of Zoning Compliance documenting the completion of conditions shall be issued within twenty four (24) months from this meeting. (June 26, 2019)
4. That a building permit be issued within twelve (12) months or the action is null and void.
5. That the project is developed in accordance to the plans submitted for the P&Z meeting.

JUSTIFICATION/BENEFITS/ISSUES

Staff believes the proposed use is well-suited for this property. However, one neighboring landowner has expressed concern regarding potential chemical contamination as a result of the development of a different project that includes a grape vineyard directly above the parcel that is the subject of this rezoning request, coupled with how this project may affect the drainage pattern for the area.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

File Name	Description	Type
2017-05-02_NOVUS_City_staff_comments_on_conceptual_design.pdf	Code Review Comments	Exhibit
2017-07-05_Staff_Report_P_Z_Pima_St_Parking.pdf	Planning and Zoning Staff Report	Exhibit
2017-05-02_NOVUS_Pictures_of_Existing_conditions.pdf	Project Photos	Exhibit
Zoning_Map.docx	Land Use Map	Exhibit
Full_page_photo_(2).pdf	Site Plan	Exhibit
Full_page_photo.pdf	Landscape Plan	Exhibit
ord626.docx	Ordinance 626 Information	Cover Memo

7-6-17_Roscoe_Letter.pdf

from Dr.
Roscoe

Cover
Memo



VIA EMAIL

March 23, 2017

Bob Backus
385 Airpark Road
Cottonwood, AZ 86326

Re: CRB # 17-013 Pima Street Parking

Dear Mr. Backus,

Thank you for attending the March 21st Code Review Meeting, we look forward to working with you on this project. This project is required to go to the Planning & Zoning Commission and City Council for approval.

Below is a process summary and comments regarding this project.

DEPARTMENT COMMENTS REGARDING SUBMITTAL

Planning – Scott Ellis, sellis@cottonwoodaz.gov (928) 634-5505 x3321

1. **The Code Review comments below apply to the plans as shown during the Code Review meeting. Any changes to the final plan may result in different or additional comments that must be adhered to.**
2. A ten (10) foot landscape buffer is required between the edge of the parking lot/sidewalk on the north side of Pima Street and the adjacent residential property.
3. A six (6) foot screen wall is required to be placed along the property line between the edge of the landscape buffer and the residential property on the north side of Pima Street.
4. The private parking lot on the south side of Pima Street will be required to be rezoned to accommodate the use. The rezone process must be completed and approved by the Planning & Zoning Commission and City Council prior to any work being performed on the site.
5. Both parking lots must have the required number of ADA parking stalls.
6. A landscape plan will be required for the landscape buffer.

Engineering – Robert Winiecke, rwiniecke@cottonwoodaz.gov (928) 634-8033

1. Type “A” barricades per MAG Std Det 130 shall be erected at the end of Pima Street.
2. All lighting shall be compliant with the City’s Dark Skies Ordinance.
3. A parking lot is not an official use for land zoned R-1.
4. Vehicles backing from a parking lot onto City Right of Way is prohibited by City Code.
5. A Drainage Report and Grading Plan shall be prepared for the proposed parking lot and associated Pima Street Extension.
6. Include a bike rack at the corner of Pima and Cactus Streets.
7. All disturbed areas shall be hydroseeded or stabilized.
8. Pima Street to the west of Cactus Street shall be signed as a Dead End Street.
9. Install chokers at the intersection of Pima and Cactus Street and possibly other intersections (Catclaw & Creosote) along this stretch of Pima Street.
10. Traffic control at the intersection of Pima and Cactus Street should be studied with a recommended implementation plan prepared by a licensed Arizona Professional Engineer (i.e. Stop Signs). Proposed signage shall include street name signage. Signage identifying the public parking from the private parking shall be considered.
11. A driveway shall be graded from the end of the fire truck turn around to the private lot north on Creosote Street.
12. A minimum width of 50-feet shall be maintained for the Pima Street Right of Way. This is not indicated on the plan provided.
13. The intersection of Creosote Street should be constructed with curb and gutter, ADA ramps and sidewalk typical of any intersection of City Streets.
14. Access to Catclaw Street needs to be maintained either by a driveway entrance or rolled curb. Consider the installation of a Type “A” barricade per MAG Std Detail 130 behind the proposed sidewalk.
15. There are 3 proposed parking spaces that are shown to fall within the platted right of way for Catclaw Street. This will not be allowed unless the right of way is abandoned.

16. One of the public parking spaces should be accessible per ADA standards. It is recommended that this parking stall be placed at the eastern most edge of the public parking area. This parking stall will require access to the sidewalk via a curb ramp.
17. ADA accessible sidewalk ramps should be constructed at the intersection of Pima and Cactus Streets.
18. Please clearly identify the proposed right of way abandonment desired.
19. Please identify on the plan which portion of the constructed features on Parcel 406-22-049 will be removed that are currently shown encroaching on the right of way.
20. The 6' masonry fence along the north side of Pima Street appears to cross the Catclaw Street right of way. This will not be allowed since Catclaw is a platted street.
21. The existing power poles along the south side of Pima Street between the proposed parking stalls will be highly susceptible to vehicle strikes based upon the proposed parking. Extra protection for these poles will be required.
22. Please include a pavement section on the plans.
23. Any retaining walls 4' or higher shall be designed and sealed by a licensed Arizona Registered Professional Engineer.
24. A significant portion of the proposed private parking lot is within the public right of way. Who will be responsible for the maintenance?
25. A thickened edge shall be provided for the asphalt pavement section at the end of the firetruck turn around per MAG Std Detail 201.
26. If the parking is allowed to back into the street we will need a non-vehicular access easement granted from the Maynard/Stubner parcel so access is never taken from Pima and this never becomes a busy street.
27. The placement of vertical curb and gutter across the end of Pima and Creosote Streets should be eliminated. This should be replaced with a ribbon curb or thickened edge asphalt pavement per MAG Standards.
28. The current City standard for sidewalk width is 5-feet. The City Council has expressed the desire to have sidewalk in the right of way be installed at 6-feet in width. Please consider constructing 6-foot wide sidewalks as part of this project.

Utilities – Mike Traynor, mtraynor@cottonwoodaz.gov (928) 634-0186

1. Please contact for comments.

Fire Department- Rick Contreras, rcontreras@cottonwoodaz.gov (928) 634-2741

All plans and designs shall fully comply with the 2012 International Fire code and the 2009 International Building code and per the Cottonwood Fire Departments Conditions.

1. The Fire apparatus turn around lane shall be painted red with 4" hatched striping with 6" letters stating "No Parking Fire Lane" painted on the asphalt. One red retro reflective Fire Lane sign stating "No parking by order of the Fire Marshal is also required for Fire apparatus turn around location.
2. Fire lanes shall be provided and shall be maintained to be a minimum of 20' wide and have a vertical clearance of 13'6".
3. Fire Hydrants shall be available and clear of all debris and materials at all times in accordance to fire code requirements.
4. Address shall be posted plainly visible from the street frontage in not less than 6" tall numerals. Address shall be similarly posted on monument signage {if applicable}. Coordinate addressing with the Cottonwood Fire and Medical Department.
5. If there are any questions please feel free to contact the Cottonwood Fire Department 928} 634-2741.
6. **Final determinations, comments and approvals will be provided upon review of the final sets of plans submitted. No Certificate of Occupancy will be signed or issued by the Fire Marshal until all Fire Department conditions and requirements are fully met.**

Building Department- Steve Jackson, sjackson@cottonwoodaz.gov (928) 634-5505 x3317

1. Please contact for comments.

Yavapai County Community Health Services – John Alden, john.alden@yavapai.us (928) 634-6893

1. No comments.

NOTE: All plan submittals shall be through the Community Development Department. All change orders which occur following issuance of a building permit must be approved by City Staff.

Please call if you have any questions.

Sincerely,

Scott Ellis
Planner



STAFF REPORT

TO: Planning and Zoning Commission

FROM: Berrin Nejad, Community Development Director

HEARING DATE: June 26, 2017

PROJECT NUMBER: **GP 17-001 and Z 17-002 Pima Street Parking**

Applicant is requesting a zone change from R-1 Single Family Residential to C-1 Light Commercial in order to develop a parking lot on vacant land.

A minor amendment to the Land Use Map associated with the Cottonwood General Plan, changing the land use designation from Residential/Medium Density to General Commercial, is also required and requested by the applicant.

PROJECT DATA AND FACTS:

Property Owners	Jerome Properties, LLC
Representative	Rudy Stadelman
Location of Property	77 W. Pima Street - South side of Pima Street, between Cactus St. and Norwood Streets (406-32-02 3B)
Present Zoning and Land Use	R-1 – Single Family Residential – Vacant land
Description of Applicant's Request	Rezone to C-1 (Light Commercial Zone) to construct a private parking lot.

LAND USE:

Adjacent Land Uses and Zoning	
North:	Pima Street, and across; R-2 Zone – Single/Multi Family Zone) with residential and C-1 – Light Commercial-Hotel.
South:	R-1 (Single Family Residential) Vacant Land (Proposed PAD in process).
East (across Verde Heights Dr.):	C-1 (Light Commercial) Vacant lot and City owned parking/offices.
West:	R-1 (Single Family Residential) Vacant Land (Proposed PAD in process).

PROJECT PROPOSAL:

Background
<p>The Jerome Properties L.L.C., owned by Eric Jurisin, acquired a strip of property on the south side of Pima Street. Currently, the parcel lies along the street, just beneath the hills of a larger parcel located on the south. The property size is 16,298 SF (45 feet in depth by 330 feet in width).</p> <p>Initially, Mr. Jurisin, intended to develop a 25-space parking lot south of Pima Street entirely on private property and improving the south half of Pima. Later, he proposed to improve the full street width of Pima and develop 12-15 additional parking spaces for the public use on the north side of Pima Street. This option required the city to abandon a portion of the Pima Street right-of-way which totals 3,249 SF in area, 6 to 14 feet wide and 330 feet long. The City of Cottonwood, City Council heard this request at their May 2, 2017 meeting and the request was approved. The applicant is also proposing to dedicate a small portion of right-of-way (25 feet x 30 feet) to the City in order to extend Pima Street to the West.</p> <p>The design proposes 32 parking spaces on the applicant's property and 14 more on the north side of Pima Street on City property, open to public use. Applicant's property is an extension of a large residential property on the hill and zoned R-1 – Single Family Residential. This piece at the base of the hill is not suitable for residential homes or any type of residential use. This adjacent property is currently in the process of being rezoned to PAD for development. With applicant's request to build a private parking in this spot, this piece property would be utilized perfectly since nothing else can be built in such a narrow piece of property. Parking areas are allowed in commercial zoning, therefore, this request requires a zone change to C-1- Light Commercial.</p> <p>The General Plan depicts this area as MR- Medium Density Residential, therefore, a Minor General Plan Amendment is required in order to change the zoning.</p> <p>The applicant held the required neighborhood meeting on May 19, 2017 and one (1) neighbor was present with no issues with the project.</p>

Structure Design

There is no structure but parking surface will be built with some landscaping and two islands to break the parking area. These islands will have landscaping and lighting for the parking area. Also, there will other lighting at the end of the parking area that will meet code requirements.

Utilities:

All utilities are available to the site.

CRB Review:

This project was reviewed by the Code Review Board on March 21, 2017. The applicant will comply with all comments prior to development of site.

REZONING:

Analysis: As per Arizona Revised Statutes (ARS), a change of zoning must conform to the adopted General Plan of the municipality as relates to the range of uses, densities and intensities indicated in the land use element. Such conditions are specifically described through the Land Use Map. The applicable section of ARS Title 9 (Cities) is as follows:

ARS 9-462.01. Zoning regulations; public hearing; definitions

F. All zoning and rezoning ordinances or regulations adopted under this article shall be consistent with and conform to the adopted general plan of the municipality, if any, as adopted under article 6 of this chapter. In the case of uncertainty in construing or applying the conformity of any part of a proposed rezoning ordinance to the adopted general plan of the municipality, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the general plan. A rezoning ordinance conforms to the land use element of the general plan if it proposes land uses, densities or intensities within the range of identified uses, densities and intensities of the land use element of the general plan.

GENERAL PLAN CONFORMANCE / MINOR GENERAL PLAN AMENDMENT:

The General Plan 2025 indicates the Land Use classification for this area as MR- Medium Density Residential.

The State Statute allows such rezoning requests to be considered in terms of goals and policies of the General Plan. In addition, the applicable State Statute section describes the method for making such determination as such: “the [rezoning] ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the general plan.” In this case, the General Plan depicts the area as Medium Density Residential, but surrounding uses are commercial. The Old Town is in need of more parking and the proposed rezoning to C-1 Light Commercial is reasonable as it meets the general goals.

STAFF REVIEW:

After reviewing the submittal, staff believes the proposed use is a well suited function for this unique sized property and supports the General Plan amendment and zoning change.

RECOMMENDATION:

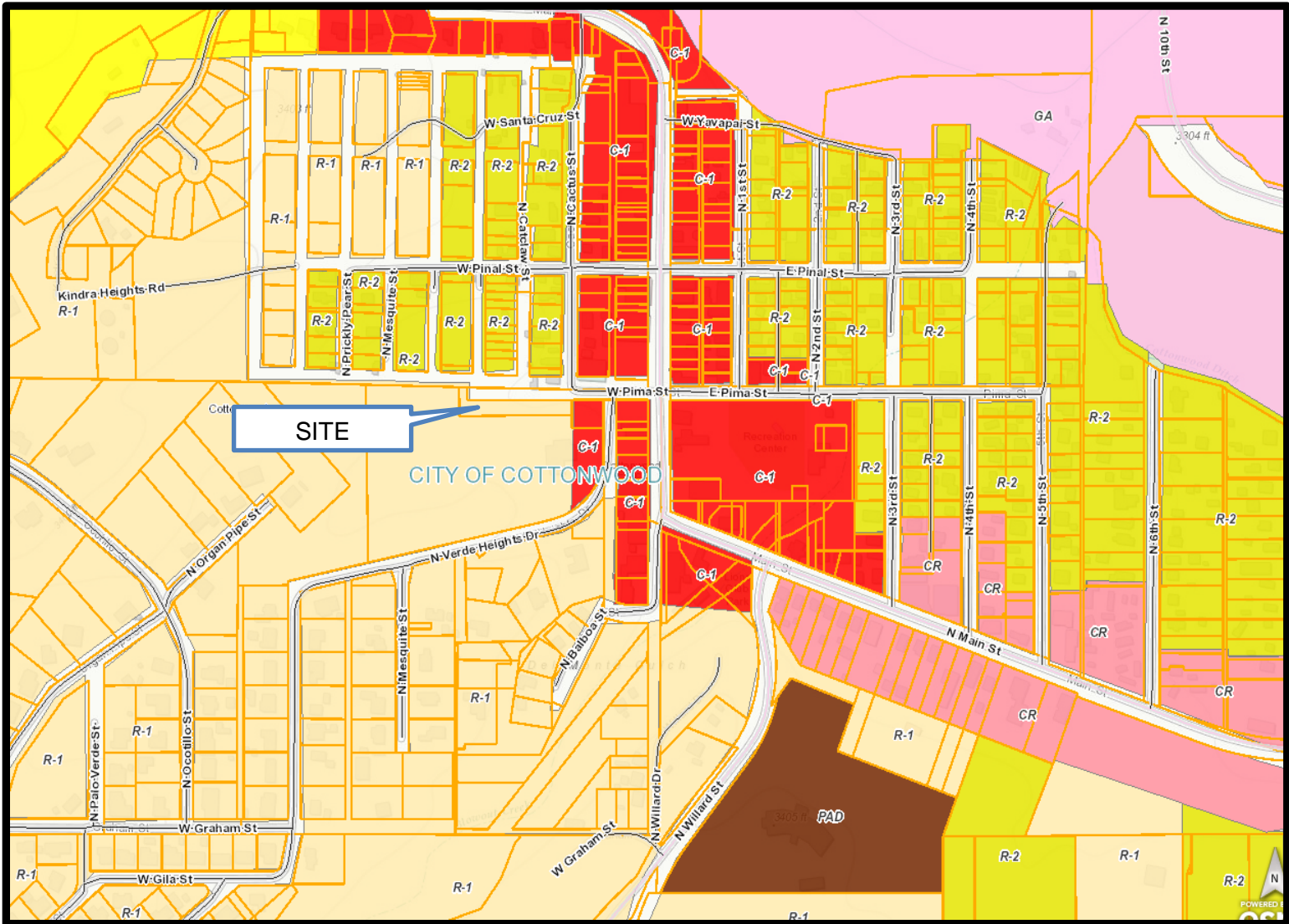
Staff recommends approval of GP- 17-001 and Z 17-002 subject to following stipulations:

1. That the project conforms to code review board comments dated March 21, 2017.
2. Any other required supporting documentation is submitted to staff and approved (i.e. drainage reports, surveys, etc.).
3. A Certificate of Zoning Compliance documenting the completion of conditions shall be issued by the timeframe specified.
4. That a building permit be issued within two years or the action is null and void.
5. That the project is developed in accordance to the plans submitted for the P&Z meeting.
6. Any other stipulations the commission deems necessary as part of the P&Z Commission and City Council review.

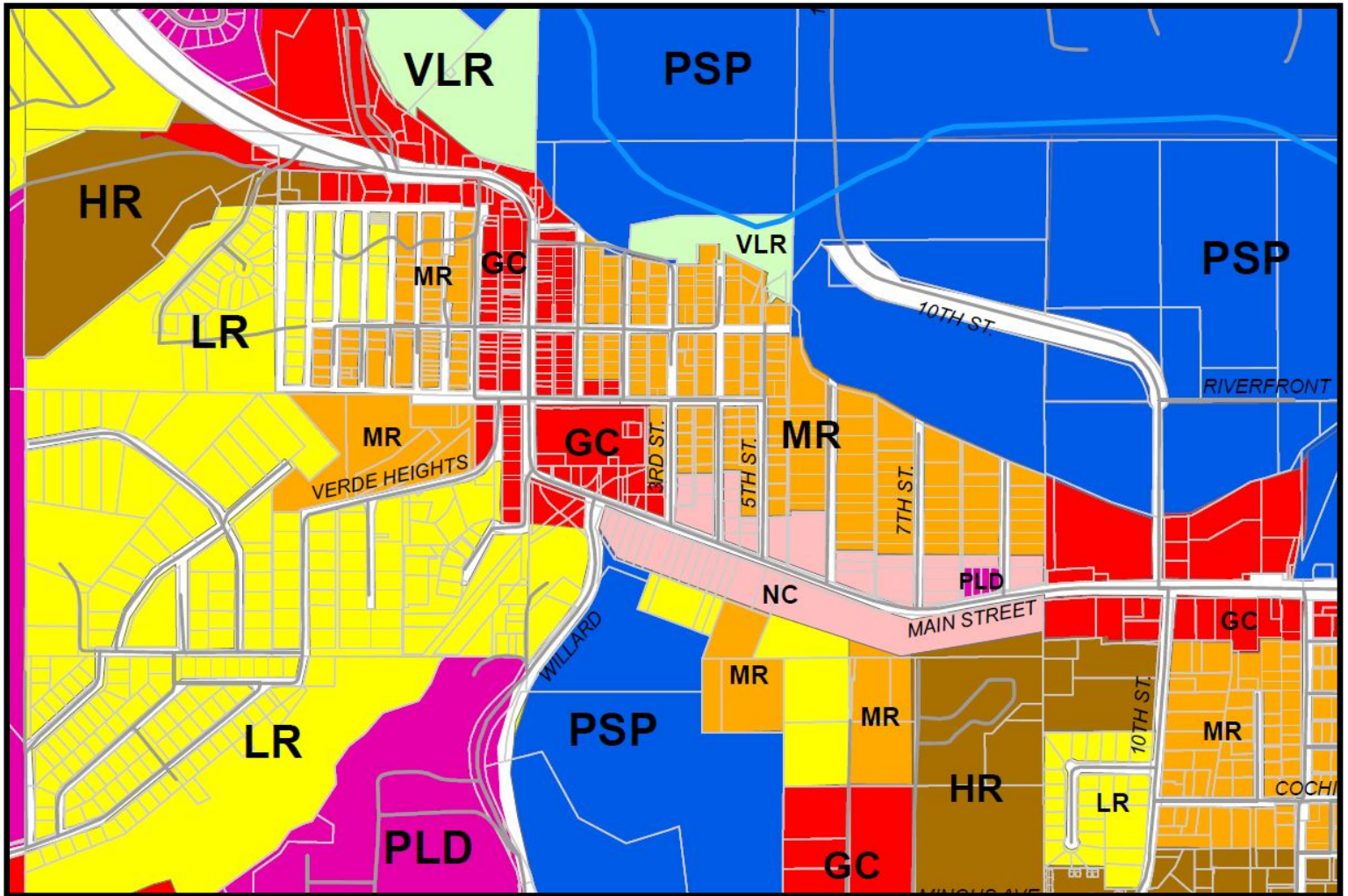
5 Page



ZONING MAP:



LAND USE MAP:



Attachments:

- 1- Intent Letter
- 2- Site Plan
- 3- Landscaping Plan
- 4- Screen Wall Elevation
- 5- Site Photos

Pictures of Existing Conditions



Image 1: Aerial image of area with project area outlined in red



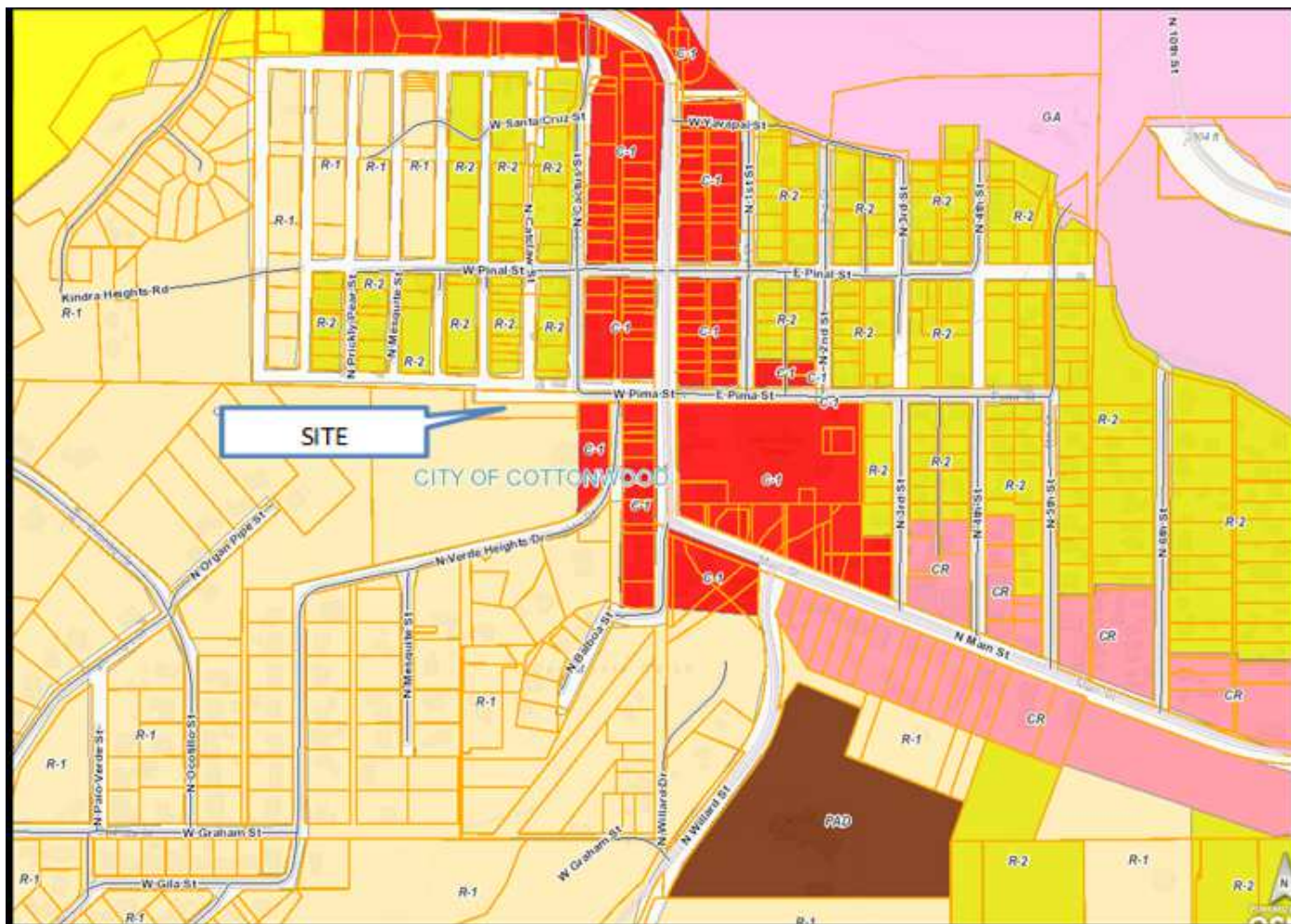
Image 2: Pima Street near Verde Heights looking west toward project location

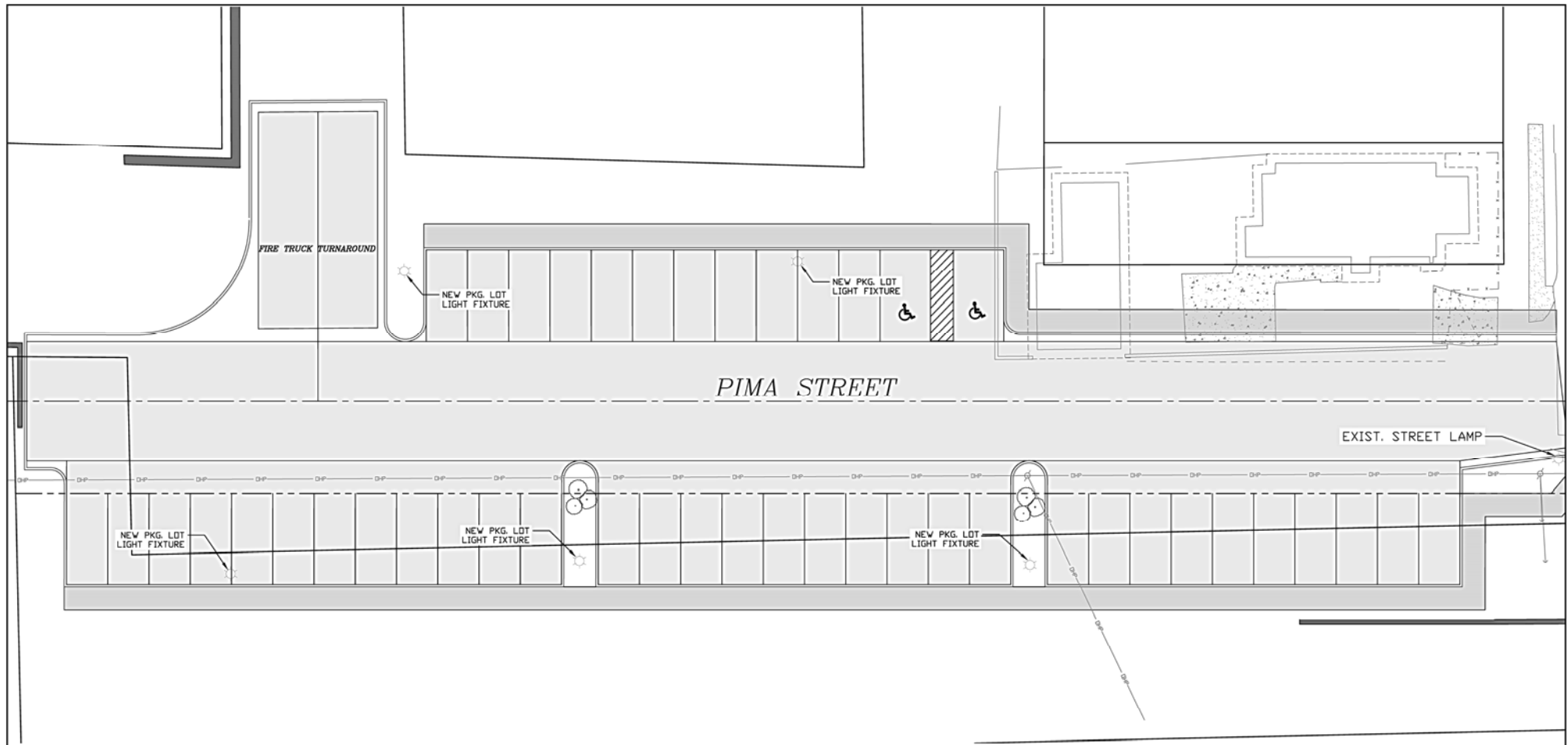


Image 3: Picture taken from the old Masonic Lodge looking north and west toward project location



Image 4: picture taken from northwest of project looking southeast





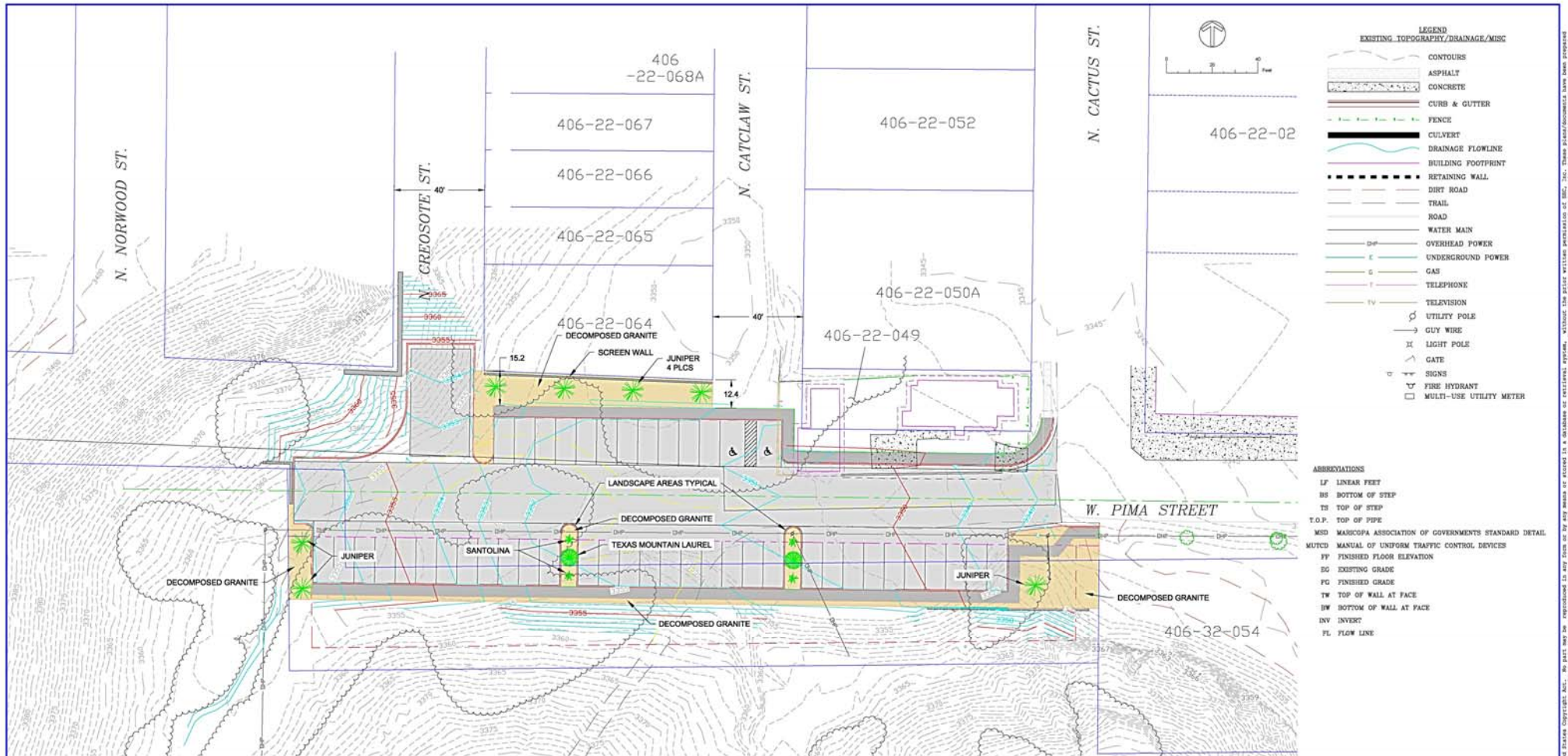
LIGHTING SCHEDULE

EXISTING STREET LAMP 1 TYPE V DISTRIBUTION @ 10,000 LUMEN = 10,000
 NEW PARKING LOT FIXTURES 5 EACH TYPE III DISTRIBUTION @ 9,500 LUMENS EACH = 47,500
 TOTAL PROPOSED SITE LIGHTING = 57,500 LUMENS
 TOTAL ALLOWED = 0.66 ACRE X 100,000 LUMENS/ACRE = 66,000 LUMENS



PRELIMINARY. NOT FOR CONSTRUCTION. FOR REVIEW ONLY			
PIMA STREET PARKING			
ZONE CHANGE EXHIBITS			
LIGHTING EXHIBIT			
DATE	DRAWN	SHEET	
5/16/17	NWP	1 OF 1	
SCALE	CHECKED	PROJECT NO.	
AS SHOWN	KD	16-0902CE	

2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2744, 2745, 2746, 2747, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2755, 2756, 2757, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 2765, 2766, 2767, 2768, 2769, 2770, 2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789, 2790, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2832, 2833, 2834, 2835, 2836, 2837, 2838, 2839, 2840, 2841, 2842, 2843, 2844, 2845, 2846, 2847, 2848, 2849, 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857, 2858, 2859, 2860, 2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869, 2870, 2871, 2872, 2873, 2874, 2875, 2876, 2877, 2878, 2879, 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899, 2900, 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913, 2914, 2915, 2916, 2917, 2918, 2919, 2920, 2921, 2922, 2923, 2924, 2925, 2926, 2927, 2928, 2929, 2930, 2931, 2932, 2933, 2934, 2935, 2936, 2937, 2938, 2939, 2940, 2941, 2942, 2943, 2944, 2945, 2946, 2947, 2948, 2949, 2950, 2951, 2952, 2953, 2954, 2955, 2956, 2957, 2958, 2959, 2960, 2961, 2962, 2963, 2964, 2965, 2966, 2967, 2968, 2969, 2970, 2971, 2972, 2973, 2974, 2975, 2976, 2977, 2978, 2979, 2980, 2981, 2982, 2983, 2984, 2985, 2986, 2987, 2988, 2989, 2990, 2991, 2992, 2993, 2994, 2995, 2996, 2997, 2998, 2999, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3030, 3031, 3032, 3033, 3034, 3035, 3036, 3037, 3038, 3039, 3040, 3041, 3042, 3043, 3044, 3045, 3046, 3047, 3048, 3049, 3050, 3051, 3052, 3053, 3054, 3055, 3056, 3057, 3058, 3059, 3060, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3069, 3070, 3071, 3072, 3073, 3074, 3075, 3076, 3077, 3078, 3079, 3080, 3081, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3089, 3090, 3091, 3092, 3093, 3094, 3095, 3096, 3097, 3098, 3099, 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3152, 3153, 3154, 3155, 3156, 3157, 3158, 3159, 3160, 3161, 3162, 3163, 3164, 3165, 3166, 3167, 3168, 3169, 3170, 3171, 3172, 3173, 3174, 3175, 3176, 3177, 3178, 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3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355, 3356, 3357, 3358, 3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366, 3367, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377, 3378, 3379, 3380, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388, 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3398, 3399, 3400, 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413, 3414, 3415, 3416, 3417, 3418, 3419, 3420, 3421, 3422, 3423, 3424, 3425, 3426, 3427, 3428, 3429, 3430, 3431, 3432, 3433, 3434, 3435, 3436, 3437, 3438, 3439, 3440, 3441, 3442, 3443, 3444, 3445, 3446, 3447, 3448, 3449, 3450, 3451, 3452, 3453, 3454, 3455, 3456, 3457, 3458, 3459, 3460, 3461, 3462, 3463, 3464, 3465, 3466, 3467, 3468, 3469, 3470, 3471, 3472, 3473, 3474, 3475, 3476, 3477, 3478, 3479, 3480, 3481, 3482, 3483, 3484, 3485, 3486, 3487, 3488, 3489, 3490, 3491, 3492, 3493, 3494, 3495, 3496, 3497, 3498, 3499, 3500, 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513, 3514, 3515, 3516, 3517, 3518, 3519, 3520, 3521, 3522, 3523, 3524, 3525, 3526, 3527, 3528, 3529, 3530, 3531, 3532, 3533, 3534, 3535, 3536, 3537, 3538, 3539, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, 3550, 3551, 3552, 3553, 3554, 3555, 3556, 3557, 3558, 3559, 3560, 3561, 3562, 3563, 3564, 3565, 3566, 3567, 3568, 3569, 3570, 3571, 3572, 3573, 3574, 3575, 3576, 3577, 3578, 3579, 3580, 3581, 3582, 3583, 3584, 3585, 3586, 3587, 3588, 3589, 3590, 3591, 3592, 3593, 3594, 3595, 3596, 3597, 3598, 3599, 3600, 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613, 3614, 3615, 3616, 3617, 3618, 3619, 3620, 3621, 3622, 3623, 3624, 3625, 3626, 3627, 3628, 3629, 3630, 3631, 3632, 3633, 3634, 3635, 3636, 3637, 3638, 3639, 3640, 3641, 3642, 3643, 3644, 3645, 3646, 3647, 3648, 3649, 3650, 3651, 3652, 3653, 3654, 3655, 3656, 3657, 3658, 3659, 3660, 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, 3670, 3671, 3672, 3673, 3674, 3675, 3676, 3677, 3678, 3679, 3680, 3681, 3682, 3683, 3684, 3685, 3686, 3687, 3688, 3689, 3690, 3691, 3692, 3693, 3694, 3695, 3696, 3697, 3698, 3699, 3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713, 3714, 3715, 3716, 3717, 3718, 3719, 3720, 3721, 3722, 3723, 3724, 3725, 3726, 3727, 3728, 3729, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3738, 3739, 3740, 3741, 3742, 3743, 3744, 3745, 3746, 3747, 3748, 3749, 3750, 3751, 3752, 3753, 3754, 3755, 3756, 3757, 3758, 3759, 3760, 3761, 3762, 3763, 3764, 3765, 3766, 3767, 3768, 3769, 3770, 3771, 3772, 3773, 3774, 3775, 3776, 3777, 3778, 3779, 3780, 3781, 3782, 3783, 3784, 3785, 3786, 3787, 3788, 3789, 3790, 3791, 3792, 3793, 3794, 3795, 3796, 3797, 3798, 3799, 3800, 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813, 3814, 3815, 3816, 3817, 3818, 3819, 3820, 3821, 3822, 3823, 3824, 3825, 3826, 3827, 3828, 3829, 3830, 3831, 3832, 3833, 3834, 3835, 3836, 3837, 3838, 3839, 3840, 3841, 3842, 3843, 3844, 3845, 3846, 3847, 3848, 3849, 3850, 3851, 3852, 3853, 3854, 3855, 3856, 3857, 3858, 3859, 3860, 3861, 3862, 3863, 3864, 3865, 3866, 3867, 3868, 3869, 3870, 3871, 3872, 3873, 3874, 3875, 3876, 3877, 3878, 3879, 3880, 3881, 3882, 3883, 3884, 3885, 3886, 3887, 3888, 3889, 3890, 3891,



LANDSCAPE PLAN NOTES

1. ALL PROPOSED VEGETATION IS NATIVE AND REQUIRES LITTLE TO NO WATER. THEREFORE NO IRRIGATION SYSTEM IS PROPOSED

PRELIMINARY, NOT FOR CONSTRUCTION, FOR AGENCY REVIEW ONLY.

PIMA STREET PARKING ZONE CHANGE EXHIBITS		
LANDSCAPE		
DATE 5/16/17	DRAWN MMK	SHEET 1 OF 1
SCALE AS SHOWN	CHECKED KG	PROJECT NO. 16-0902CE

ORDINANCE NUMBER 626

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR A PARCEL OF LAND LOCATED AT 77 WEST PIMA STREET (APN 406-32-023B) SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF R-1 (SINGLE FAMILY RESIDENTIAL,) TO C-1 (LIGHT COMMERCIAL.)

WHEREAS, the Planning & Zoning Commission held a public hearing on June 26, 2017, concerning the rezoning of properties owned by Jerome Properties, LLC, (Eric Jurisin) and has recommended approval of this request; and

WHEREAS, the requirements of A.R.S. § 9-462.04 have been met.

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

Section 1: That the following described parcel of land located at 77 West Pima Street, APN 406-32-023B, lying within the City of Cottonwood, Yavapai County, Arizona, shall be and is hereby reclassified from R-1 (Single Family Residential) to C-1 (Light Commercial,) subject to the applicant's compliance with the conditions and stipulations set forth under Section 2 below.

Legal Descriptions

A Parcel of land located in the Northeast Quarter of Section 33, Township 16 North, Range 3 East of the Gila and Salt River Meridian, Yavapai County, Arizona, City of Cottonwood, being a strip of land 45 feet wide and also being a portion of Parcel No. 1 and Parcel No. 2 per Instrument 2015-0049319, Yavapai County, Arizona, henceforth referred to as (R3);

COMMENCING at the locally accepted Northeast corner of said Section 33, monumented by a found 5/8 inch rebar with no cap or tag, from which the locally accepted North 1/4 corner of said Section 33 lies North 88°50'45" West, used as a Basis of Bearings of this description, a measured distance of 2595.92 feet, recorded as North 88°53'21" West a distance of 2596.35 feet per Book 126 of Land Surveys, Page 91, Yavapai County, Arizona, monumented by a found 1/2 inch rebar with brass tag stamped "PLS 48100";

Ordinance Number 626

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THENCE from said Northeast corner of said Section 33, along the north line of said Section 33, North 88°50'45" West a distance of 179.22 feet, recorded as North 88°53'21" West a distance of 180.00 feet, per (R3) to a point;

THENCE South 00°27'21" West feet a distance of 30.04 feet to a found 5/8 inch rebar and cap stamped "SEC INC LS 40829", marking the northeast corner of a parcel per Instrument 2014-0047413 and per Results of Survey recorded in Instrument 2015-0049991, Yavapai County, Arizona;

THENCE South 89°26'19" West a measured distance of 100.08 feet, distance recorded as 100 feet per Ellefson Addition recorded in Book 3 of Maps and Plats, Page 17, Yavapai County, Arizona, to a found 5/8 inch rebar and cap stamped "SEC INC LS 40829", marking the northwest corner of a parcel per Instrument 2014-0047413 and per Results of Survey recorded in Instrument 2015-0049991, Yavapai County, Arizona, also being an angle point on the north line of said Parcel No. 1 per (R3), at the TRUE POINT OF BEGINNING;

THENCE South 00°27'21" West a measured distance of 45.01 feet to a set 5/8 inch rebar and plastic cap stamped "SEC INC LS 40829";

THENCE South 89°26'19" West a measured distance of 354.18 feet to a set 5/8 inch rebar and plastic cap stamped "SEC INC LS 40829";

THENCE North 00°33'41" West a measured distance of 88.68 feet to a set 5/8 inch rebar and plastic cap stamped "SEC INC LS 40829", on the north line of said Section 33;

THENCE South 88°50'45" East along the north line of said Section 33, a measured distance of 25.00 feet to a found 1/2 inch rebar and attached brass tag stamped "SEC INC RLS 40829", marking an angle point on the north line of said Parcel No. 1 per (R3);

THENCE South 00°38'49" East a measured distance of 42.93 feet to a found 1/2 inch rebar and plastic cap stamped "RLS 37582", marking an angle point on the north line of said Parcel No. 1 per (R3);

THENCE North 89°26'19" East a measured distance of 209.88 feet, recorded as North 89°24'39" East a distance of 210.00 feet per (R3) to a found bent 1/2 inch rebar and attached brass tag stamped "SEC INC RLS 40829", marking the northwest corner of

said Parcel No. 2 per (R3);

THENCE continuing North 89°26'19" East a measured distance of 29.97 feet to a found 1/2 inch rebar and plastic cap stamped "RLS 37582", marking the northeast corner of said Parcel No. 2 per (R3);

THENCE CONTINUING North 89°26'19" East a measured distance of 90.07 feet recorded as North 89°24'39" East a distance of 90.00 feet per (R3), to the TRUE POINT OF BEGINNING.

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

1. That the project conforms to code review board comments dated March 21, 2017.
2. Any other required supporting documentation is submitted to staff and approved (i.e. drainage reports, surveys, etc.)
3. A Certificate of Zoning Compliance documenting the completion of conditions shall be issued within twenty four (24) months from this meeting.
4. That a building permit be issued within twelve (12) months or the action is null and void.
5. That the project is developed in accordance to the plans submitted for the P&Z meeting.

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

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

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

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, THIS ____ DAY OF AUGUST 2017.

Ordinance Number 626
Page 4

Tim Elinski, Mayor

APPROVED AS TO FORM:

ATTEST:

Steve Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

Mayor and Council Members,

06/23/2017

Please except this information to be included in your decision making process for the Galileo 33 project and the Pima St. improvement. The enclosed letter was read into the public record at the June 19th Planning and Zoning meeting as well as much of the information concerning the chemicals used on the vineyard. I will be submitting a written statement to be read into the record at the July 6th meeting as I will be out of town for that week. I do plan on attending the July 18th meeting so I'm looking forward to meeting all of you then.

Sincerely;

A handwritten signature in black ink that reads "Herb Roscoe, DC". The signature is written in a cursive, flowing style.

Dr Herb Roscoe

Hello, my name is Dr Herb Roscoe of Flagstaff. Last June I purchased a piece of property lot # 406-22-064 on Pima St. which is directly across the street from the proposed winery. At that time I was unaware of any of the projects that are happening in that area. I was planning on building a retirement home in old town since I practiced for nearly 20 years in Cottonwood and am enamored by the changes that have taken place in old town.

I don't have a lot of comments but there are 2 sticking points for me.

#1. The use of chemicals on the vineyard.

While the winery is a fantastic use of the old lodge on the hill and a very exciting addition to downtown, I'm concerned about the use of toxic chemicals on the vineyard so close to residential areas and Main St. I have brought each of you information on the chemicals being used on the vines. I have placed an asterisk on some of the salient points. I brought you this information so that everyone here is well informed on the possible health and environmental hazards of using these chemicals. Don't be fooled by the term "organic". There are many organic chemicals that are hazardous to the environment. I hope all of you will look over this information to help you make an informed decision as to whether it is a good idea to use these chemicals in such close proximity to residential areas.

#2. Drainage

A. The site plan shows increased drainage in zones 2 + 3 which will drain directly toward my property. I do not wish any of these chemical residues to drain onto my property or onto the public road where they can be picked up by foot traffic and brought into homes. I can assure you I will be testing for any chemicals in the drainage on my property and in the gutter of the public roadway.

B. The Pima St project, as I understand it, wants to put a retention pond at the end of Pima St. This is a very bad idea as many of the chemicals can't be used near standing water. In my opinion you would be creating a cesspool of toxic sludge which may overflow in a flood situation and flood the downtown area.

I believe it is your responsibility to assure the health of the public, animals and the environment is safe from chemicals that have adverse effects.

Thank you for your time and I hope that you will all do your homework.

Merkin Vineyards Organic Pest Management Chemicals

These OMRI certified organic pesticides are used as part of an Integrated Pest Management system, and only when conditions favor economically significant crop damage:

Fungicides-

Microthiol Disperss
Serenade ASO
Oxidate 2.0
MilStop
Suffoil-X

Insecticides-

Entrust SC
Pyganic 5.0
DiPel DF
Surround WP
M-Pede

Herbicides-

Suppress EC

Chris Turner
Merkin Vineyards- Vineyard Manager
928 202 8219

3/16

NOTIFICATION

JUL 25 2008

MICROTHIOL® DISPERSS®

MICRONIZED WETTABLE SULFUR

ACTIVE INGREDIENT:

Sulfur	80.0%
OTHER INGREDIENTS	<u>20.0%</u>
TOTAL	100.0%

KEEP OUT OF REACH OF CHILDREN

CAUTION

FIRST AID

IF ON SKIN OR CLOTHING:

- Take off contaminated clothing.
- Rinse skin immediately with plenty of water for 15-20 minutes.
- Call a poison control center or doctor for treatment advice.

IF SWALLOWED:

- Call a poison control center or doctor for treatment advice.
- Have person sip a glass of water if able to swallow.
- Do not induce vomiting unless told to do so by poison control center or doctor.
- Do not give anything by mouth to an unconscious person.

IF INHALED:

- Move person to fresh air.
- If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth if possible.
- Call a poison control center or doctor for treatment advice.

Have the product container or label with you when calling a poison control center or doctor, or going for treatment.

EPA Reg. No. 70506-187

EPA Est. No. 44420-FR-1

Net Contents: _____

United Phosphorus, Inc.
630 Freedom Business Center, Suite 402
King of Prussia, PA 19406

**PRECAUTIONARY STATEMENTS
HAZARDS TO HUMANS (AND DOMESTIC ANIMALS)**

CAUTION

Harmful if swallowed, inhaled, or absorbed through skin. Avoid breathing dust or spray mist. Avoid contact with skin, eyes, or clothing.

PERSONAL PROTECTIVE EQUIPMENT

Some materials that are chemical-resistant to this product are listed below. If you want more options, follow the instructions for category A on an EPA chemical-resistance category selection chart.

Applicators and other handlers must wear:

- long-sleeved shirt and long pants
- chemical resistant gloves made of any waterproof material such as polyethylene or polyvinyl chloride
- shoes plus socks

Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry

USER SAFETY RECOMMENDATIONS

Users should:

Wash hands before eating, drinking, chewing gum, using tobacco or using the toilet.

Remove clothing immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.

ENVIRONMENTAL HAZARDS

Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not apply where runoff is likely to occur. Do not contaminate water when disposing of equipment washwaters.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling, and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 24 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is:

- coveralls
- shoes plus socks
- chemical resistant gloves made of any waterproof material
- protective eyewear

NON-AGRICULTURAL USE REQUIREMENTS

The requirements in this box only apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries, or greenhouses.

For non-agricultural turf and grass uses (golf courses, home lawns, and landscapes around buildings) do not enter or allow entry into treated area until sprays have dried.

APPLICATION INSTRUCTIONS

Apply through any type of handheld, knapsack, mechanical or pneumatic spraying equipment.

MIXING: Pour the required amount of MICROTHIOL DISPERSS into the indicated amount of water while stirring. MICROTHIOL DISPERSS disperses instantly.

Dilute Application:

Field: Specified rate in 20 to 60 gallons of water per acre.

Orchard: Specified rate in 100 to 800 gallons of water per acre.

Concentrated Application:

Field: Specified rate in 5 to 10 gallons of water per acre.

Orchard: Specified rate in 20 to 100 gallons of water per acre.

Aerial Application:

Field: Specified rate in 3 to 20 gallons of water per acre. Orchard: Specified rate in 10 to 20 gallons of water per acre.

COMPATIBILITY

MICROTHIOL DISPERSS is compatible with most Bordeaux mixtures, copper fungicides, liquid fertilizers, organic fungicides, insecticides, acaricides and herbicides.

USE INSTRUCTIONS

Some crops may be damaged by sulfur under certain climatic conditions, such as when temperature is high. Cerexagri does not recommend application if temperature will exceed 90° F within the three days following spraying, due to the risk of crop injury. Crops grown in greenhouses may be more sensitive to sulfur injury, so the lowest labeled rate (or below labeled rates) should be tried initially. Do not use on any crop unless sulfur has been shown to be safe in your locality. Do not allow spray to drift onto sulfur-sensitive crops such as apricots, cranberries, spinach and d'Anjou pears.

Do not use within two weeks of an oil spray treatment, except for Dormant, Delayed Dormant, or Postharvest applications with a suitable oil. For citrus, do not apply within 21 days of an oil spray. Spreader/stickers are not required for use with MICROTHIOL DISPERSS. If spreader/stickers are used with MICROTHIOL DISPERSS, foliar injury may be enhanced under high temperatures. When growing crops for processing, consult the processor before applying sulfur.

NOTE: The application rates specified for each crop are the maximum that may be applied. These amounts may be reduced if experience or local practice indicates that lesser amounts may be effective. Consult State Agriculture Experiment Station or State Extension Service specialist for rates recommended in your local area.

VEGETABLE CROPS

Crop	Pest	Rate Lbs/A	Directions
Artichokes (all varieties)	Leaf Spot	10-20	Begin when disease first appears and repeat at 7- to 10-day intervals or as needed.
Asparagus	Rust	10-30	Apply after cutting, irrigate and cultivate before applying. Repeat at 7- to 10-day intervals, or as needed, through fern growth season.



Safety Data Sheet

United Phosphorus, Inc.

Preparation Date 01-May-2015

Revision date 01-May-2015

Revision Number: 1

1. Identification of the Substance/Preparation and of the Company/Undertaking

Product identifier

Product Description:

Microthiol® Disperss®

Other means of identification

Item#:

12-373

Synonyms

Not Available

Registration number(s)

70506-187

Recommended use of the chemical and restrictions on use

Recommended use

Micronized Wettable Sulfur.

Uses advised against

Activities contrary to label recommendation

Details of the Supplier of the Safety Data Sheet

Supplier Address

UPI

630 Freedom Business Center

Suite 402

King of Prussia, PA 19406

Emergency telephone number

Company Phone Number

Emergency telephone number

1-800-438-6071

Chemtrec: (800) 424-9300 (24hrs) or (703) 527-3887

Medical: Rocky Mountain Poison Control Center

(866) 673-6671 (24hrs)

2. Hazards Identification

Classification

OSHA Regulatory Status

This chemical is considered hazardous by the 2012 OSHA Hazard Communication Standard (29 CFR 1910.1200)

Acute toxicity - Oral	Category 4
Acute toxicity - Dermal	Category 4
Acute toxicity - Inhalation (Vapors)	Category 2
Skin Corrosion/Irritation	Category 2

Label elements

EMERGENCY OVERVIEW

DANGER

hazard statements

HARMFUL IF SWALLOWED

Harmful in contact with skin

Fatal if inhaled

CAUSES SKIN IRRITATION



appearance amber

Physical state solid

Odor Rotten egg-like

Precautionary Statements - Prevention

Wash face, hands and any exposed skin thoroughly after handling
 Do not eat, drink or smoke when using this product
 Wear protective gloves/protective clothing/eye protection/face protection
 Do not breathe dust/fume/gas/mist/vapors/spray
 Use only outdoors or in a well-ventilated area
 In case of inadequate ventilation wear respiratory protection

IF ON SKIN: Wash with plenty of soap and water

Call a POISON CENTER or doctor if you feel unwell

If skin irritation occurs: Get medical advice/attention

Take off contaminated clothing and wash before reuse

IF INHALED: Remove victim to fresh air and keep at rest in a position comfortable for breathing

Immediately call a POISON CENTER or doctor/physician

IF SWALLOWED: Call a POISON CENTER or doctor/physician if you feel unwell

Rinse mouth

Precautionary Statements - Storage

Store in a well-ventilated place. Keep container tightly closed

Store locked up

Precautionary Statements - Disposal

Dispose of contents/container to an approved waste disposal plant

Hazards Not Otherwise Classified (HNOC)**OTHER INFORMATION**

- Harmful to aquatic life with long lasting effects
- Toxic to aquatic life

3. Composition/information on Ingredients

Chemical name	CAS-No	Weight %	Trade secret
Sulfur	7704-34-9	80	

If CAS number is "proprietary", the specific chemical identity and percentage of composition has been withheld as a trade secret.

4. First aid measures

FIRST AID MEASURES**Eye contact**

Hold eye open and rinse slowly and gently with water for 15 - 20 minutes. Remove contact lenses, if present, after 5 minutes, then continue rinsing eye. Call a poison control center or doctor for treatment advice.

Skin contact

Rinse skin immediately with plenty of water for 15-20 minutes. Call poison control center or doctor for treatment advice. Remove contaminated clothing and shoes.

Inhalation

Move person to fresh air. If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth if possible. Call a physician or poison

control center immediately.

Ingestion

Call a physician or poison control center immediately. Never give anything by mouth to an unconscious person. Do not induce vomiting without medical advice.

Most Important Symptoms and Effects, Both Acute and Delayed**Most Important Symptoms and Effects**

No information available.

Indication of Any Immediate Medical Attention and Special Treatment Needed**Notes to physician**

No information available. Treat symptomatically.

5. Fire-fighting measures**Suitable extinguishing media**

Use extinguishing measures that are appropriate to local circumstances and the surrounding environment.

Unsuitable extinguishing media No information available.

Specific hazards arising from the chemical

No information available.

Explosion data**Protective equipment and precautions for firefighters**

Use personal protective equipment. As in any fire, wear self-contained breathing apparatus pressure-demand, MSHA/NIOSH (approved or equivalent) and full protective gear.

6. Accidental release measures**Personal precautions, protective equipment and emergency procedures****Personal Precautions**

Use personal protective equipment. Avoid contact with skin, eyes and clothing.

Environmental Precautions**Environmental precautions**

Consult a regulatory specialist to determine appropriate state or local reporting requirements, for assistance in waste characterization and/or hazardous waste disposal and other requirements listed in pertinent environmental permits. Do not flush into surface water or sanitary sewer system. Local authorities should be advised if significant spillages cannot be contained.

Methods and material for containment and cleaning up**Methods for Clean-Up**

Sweep up and shovel into suitable containers for disposal. Shovel or sweep up.

7. Handling and Storage**Precautions for safe handling****Handling**

Avoid breathing dust. Keep away from heat, sparks and open flame. - No smoking. Avoid contact with skin, eyes and clothing. In case of insufficient ventilation, wear suitable respiratory equipment.

Conditions for safe storage, including any incompatibilities**Storage**

Store in an area where cross-contamination with pesticides, fertilizers, food or feed could not occur. Store in a dry place and/or in closed container. Keep containers tightly closed in a cool, well-ventilated place.

incompatible materials

Strong oxidizing agents.

8. Exposure Controls/Personal Protection

Exposure guidelines	This product does not contain any hazardous materials with occupational exposure limits established by the region specific regulatory bodies.
Engineering controls	Investigate engineering techniques to reduce exposures. Local mechanical exhaust ventilation is preferred. Consult ACGIH ventilation manual or NFPA Standard 91 for design of exhaust systems. PESTICIDE APPLICATORS & WORKERS. THESE WORKERS MUST REFER TO PRODUCT LABELING AND DIRECTIONS FOR USE IN ACCORDANCE WITH EPA WORKER PROTECTION STANDARD 40 CFR PART 170.
Personal protective equipment	
Eye/Face Protection	Avoid contact with eyes. Goggles.
Skin protection	Long sleeved clothing. Long pants. Chemical resistant gloves. waterproof gloves. Socks and footwear.
Respiratory protection	Where airborne exposure is likely, use NIOSH approved respiratory protection equipment appropriate to the material and/or its components. Full facepiece equipment is recommended and, if used, replaces need for face shield and/or chemical goggles. If exposures cannot be kept at a minimum with engineering controls, consult respirator manufacturer to determine appropriate type equipment for given application. Observe respirator use limitations specified by NIOSH or the manufacturer. For emergency and other conditions where there may be a potential for significant exposure, use an approved full face positive-pressure, self-contained breathing apparatus. Respiratory protection programs must comply with 29 CFR 1910.134.
General hygiene considerations	
Avoid contact with skin, eyes and clothing.	

9. Physical and Chemical Properties

Information on basic physical and chemical properties

Physical state	solid		
appearance	amber	Odor	Rotten egg-like
color	No information available		
Property	VALUES	Remarks/ - Method	
pH	No information available		
Melting point/freezing point	115 °C / 239 °F		
Boiling Point/Range	No information available		
Flash Point	207 C		
Evaporation Rate	No information available		
flammability (solid, gas)	No information available		
Flammability limit in air			
Upper Flammability Limit	No information available		
Lower Flammability Limit	No information available		
vapor pressure	0.0086 mbar		
Vapor Density	No information available		
Specific gravity	No information available		
Water solubility	No information available		
Solubility in Other Solvents	No information available		
Partition coefficient: n-octanol/water	No information available		
Autoignition temperature	232 C		
decomposition temperature	No information available		
Viscosity, kinematic	No information available		
Dynamic viscosity	No information available		
Explosive properties	No information available		
Oxidizing properties	No information available		

OTHER INFORMATION

Softening point	No information available
molecular weight	No information available
VOC Content	No information available
density	No information available
Bulk density	0.86-1.00 (Tap) g/ml

10. Stability and Reactivity

Reactivity

no data available

Chemical stability

Stable under recommended storage conditions.

Possibility of hazardous reactions

None under normal processing.

Conditions to avoid

Extremes of temperature and direct sunlight.

Incompatible materials

Strong oxidizing agents.

Hazardous decomposition products

No information available.

11. Toxicological Information

Information on Likely Routes of Exposure

Product information

Single exposure studies indicate:

Oral : No more than slightly toxic to rats (LD50 >2,000 mg/kg)

Dermal: Slightly toxic to rats (LD50 2,000 mg/kg)

Inhalation: Slightly toxic to rats (4hr LC50 1.35 mg/l)

Eye Irritation: Non irritating to rabbits

Skin Irritation: Non irritating to rabbits

No skin allergy was observed in guinea pigs following repeated exposure.

Inhalation

Harmful by inhalation.

Eye contact

May cause irritation.

Skin contact

May be harmful if absorbed through the skin.

Ingestion

HARMFUL IF SWALLOWED.

Chemical name	LD50 Oral	LD50 Dermal	LC50 Inhalation
Sulfur 7704-34-9	LD50 > 2000 mg/kg bw (rat - OECD 401)	LD50 > 2000 mg/kg bw (rat - OECD 402)	LC50 (4h) > 5.43 g/m³ (dust) (rat - EPA OPP 81-3)

Information on Toxicological Effects

Symptoms

No information available.

Delayed and immediate effects as well as chronic effects from short and long-term exposure

sensitization

No information available.

Mutagenic effects

No information available.

Carcinogenicity

There are no known carcinogenic chemicals in this product.

Reproductive effects

Not Available.

STOT - Single Exposure

No information available.

STOT - repeated exposure

No information available.

Aspiration hazard

No information available.

Numerical Measures of Toxicity - Product information

LD50 Oral	> 2000 mg/kg (rat)
LD50 Dermal	2000 mg/kg (rat)
LC50 Inhalation:	Inhalation LC50 1.35 mg/l (4-hr)

12. Ecological Information

ecotoxicity

Do not apply directly to water to areas where surface water is present or to intertidal areas below the mean high water mark. Do not clean equipment or dispose of equipment washwater in a manner that will contaminate water resources or arable land. Do not apply when weather conditions favor drift from treated areas.

Persistence/Degradability

No information available.

Bioaccumulation/ Accumulation

No information available.

Other Adverse Effects

No information available

13. Disposal Considerations

Waste Treatment Methods

Waste Disposal Method

Pesticide wastes are acutely hazardous. Improper disposal of excess pesticide or rinsate is a violation of Federal law. If the wastes cannot be disposed of by use or according to label instructions, contact your State Pesticide or Environmental Control Agency, or the Hazardous Waste representative at the nearest EPA Regional Office for guidance.

Contaminated packaging

Refer to product label.

14. Transport Information

DOT

NOT REGULATED

TDG

NOT REGULATED

IATA

NOT REGULATED

IMDG/IMO

NOT REGULATED

15. Regulatory Information

This chemical is a pesticide product registered by the Environmental Protection Agency and is subject to certain labeling requirements under federal pesticide law. These requirements differ from the classification criteria and hazard information required for safety data sheets, and for workplace labels of non-pesticide chemicals. Following is the hazard information as required on the pesticide label:

signal word

CAUTION

Ventilation Control

PESTICIDE APPLICATORS & WORKERS THESE WORKERS MUST REFER TO

**PRODUCT LABELING AND DIRECTIONS FOR USE IN ACCORDANCE WITH EPA
WORKER PROTECTION STANDARD 40 CFR PART 170.**

Keep out of Reach of Children. Harmful if swallowed or absorbed through the skin.

International Inventories

USINV	Not determined
DSL/NDL	Not determined
EINECS/	Does not comply
ELINCS	
ENCS	Does not comply
China	Complies
KECL	Complies
PICCS	Complies
AICS	Complies
TSCA	Complies

TSCA - United States Toxic Substances Control Act Section 8(b) Inventory
 DSL/NDL - Canadian Domestic Substances List/Non-Domestic Substances List
 EINECS/ELINCS - European Inventory of Existing Commercial Chemical Substances/EU List of Notified Chemical Substances
 ENCS - Japan Existing and New Chemical Substances
 IECSC - China Inventory of Existing Chemical Substances
 KECL - Korean Existing and Evaluated Chemical Substances
 PICCS - Philippines Inventory of Chemicals and Chemical Substances
 AICS - Australian Inventory of Chemical Substances

Federal Regulations

SARA 313

Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). This product does not contain any chemicals which are subject to the reporting requirements of the Act and Title 40 of the Code of Federal Regulations, Part 372.

SARA 311/312 Hazardous

Categorization

Acute health hazard	yes
Chronic health hazard	NO
Fire hazard	No
Sudden release of pressure hazard	No
Reactive Hazard	No

CERCLA

SARA Product RQ 0

RCRA

Pesticide Information

Component	FIFRA - Restricted Use	FIFRA - Pesticide Product Other Ingredients	FIFRA - Listing of Pesticide Chemicals	California Pesticides - Restricted Materials
Sulfur 7704-34-9 (80)			X	

State Regulations

State Right-to-Know

Chemical name	Massachusetts	New Jersey	Pennsylvania	Illinois	Rhode Island
Sulfur	X	X	X		

International regulations

U.S. EPA Label information

EPA Pesticide registration number 70506-187

SERENADE® ASO

[Alternate Brand Names: Serenade® Biofungicide, Serenade® Soil]
[An Aqueous Suspension Biofungicide]

[Optional/Alternate Statement: "NOP Logo: For Organic Production"]

[Optional/Alternate Statement: "NOP Logo: Can be Used for Organic Production"]

[USE IN FIELD APPLICATIONS, GREENHOUSES, GLASSHOUSES, NURSERIES, SHADEHOUSES, LANDSCAPES, INTERIORSCAPES, SEEDLING PRODUCTION SITES, AND FOREST SEEDLING PRODUCTION SITES]

[USE IN APPLICATION MIXES WITH OTHER COMMERCIAL SEED TREATMENT PRODUCTS]

[USE IN RESISTANCE MANAGEMENT PROGRAMS]

[FOR AGRICULTURAL USE]

[FOR USE ON ORNAMENTALS, TREES, SHRUBS, TURF, LAWNS, SOD, SEEDLINGS, AND CONIFERS]

[USE IN PRODUCTION OF CONIFERS FOR REFORESTATION]

ACTIVE INGREDIENT:

QST 713 strain of *Bacillus subtilis**1.34%

OTHER INGREDIENTS98.66%

TOTAL100.00%

*Contains a minimum of 1×10^9 cfu/g

KEEP OUT OF REACH OF CHILDREN
CAUTION

[See attached label booklet for First Aid, Precautionary Statements, Conditions For Sale and Warranty, Storage and Disposal Instructions and Directions for Use.]

[Peel back tab for First Aid, Precautionary Statements, Conditions For Sale and Warranty, Storage and Disposal Instructions and Directions for Use.]

USE OF PRODUCT INDICATES ACCEPTANCE OF "CONIDITIONS FOR SALE AND WARRANTY"

EPA Registration No. 69592-12

EPA Est. No.:

01	02	03	04	05	06	07	09
69592-MEX-1	67545-AZ-1	66728-GA-2	37429-GA-2	69592-CA-1	34704-MS-2	42625-NJ-1	61933-FL-10
10	14						
47857-CA-1	84961-PA-1						

[Superscript corresponds to last two digits of container lot number.]

AgraQuest, Inc.
1540 Drew Avenue
Davis, CA 95618
www.agraquest.com

U.S. Patent Nos. 6,060,051, 6,103,228, 6,291,426, and 6,417,163 on QST 713 strain of *Bacillus subtilis*

Net Contents:

PRECAUTIONARY STATEMENTS**HAZARDS TO HUMANS & DOMESTIC ANIMALS****CAUTION**

Harmful if inhaled. Avoid breathing spray mist. Remove and wash contaminated clothing before reuse.

FIRST AID**IF INHALED:**

- Move person to fresh air.
- If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth if possible.
- Call a poison control center or doctor for further treatment advice.

Have the product container or label with you when calling a poison control center or doctor or going for treatment.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

The PPE requirements below apply to both Worker Protection Standard (WPS) uses (in general, agricultural-plant uses are covered by the Worker Protection Standard (40 CFR Part 170)) and Non-WPS uses.

Applicators and other handlers must wear:

- Long-sleeved shirt and long pants
- Waterproof gloves
- Shoes plus socks

Mixers/loaders and applicators must wear a dust/mist filtering respirator meeting NIOSH standards of at least N-95, R-95, or P-95. Repeated exposure to high concentrations of microbial proteins can cause allergic sensitization.

Follow manufacturer's instructions for cleaning and maintaining PPE. If no instructions are available, use detergent and hot water for washables. Keep and wash PPE separately from other laundry.

[OPTIONAL: ENGINEERING CONTROLS]

[OPTIONAL STATEMENT: When handlers use closed systems, enclosed cabs, or aircraft in a manner that meets requirements listed in the Worker Protection Standard (WPS) for agricultural pesticides [40 CFR 170.240(d)(4-6)], the handler PPE requirements may be reduced or modified as specified in the WPS.]

[IMPORTANT: When reduced PPE is worn because a closed system is being used, handlers must be provided all PPE specified above for "applicators and other handlers" and have such PPE immediately available for use in an emergency, such as a spill or equipment break-down.]

USER SAFETY RECOMMENDATIONS**Users should:**

- Wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet.
- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

For terrestrial uses: Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwater or rinsate. Do not apply when weather conditions favor drift or run-off from treated areas.

EMERGENCY INFORMATION

For emergencies such as leaks or spills, call 24-hour, toll-free CHEMTREC hotline at 1.800.424.9300.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

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71

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the State or Tribal agency responsible for pesticide regulation.

For Seed Treatment Use: [Not for use on agricultural establishments in hopper-box, planter-box, slurry-box or other seed treatment applications at or immediately before planting.] The U.S. Environmental Protection Agency requires the following statements on containers containing seed treated with Serenade ASO:

- Store treated seed away from food and feedstuff
- Do not allow children, pets or livestock to have access to treated seeds.
- Treated seeds exposed on soil surface may be hazardous to wildlife.
- Cover or collect treated seeds spilled during loading and planting (such as in row ends).
- Dispose of all excess treated seed by burying seed away from bodies of water.
- Dispose of seed packaging or containers in accordance with local requirements.

NON-AGRICULTURAL USE REQUIREMENTS

The requirements in this box apply to uses that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries, or greenhouses.

Keep unprotected persons from handling portions of harvested agricultural plants that have been treated until sprays have dried.

GENERAL USE INFORMATION

Serenade ASO is a broad spectrum biofungicide seed treatment for the prevention, suppression and control of soil borne diseases that attack root systems. Serenade ASO enhances germination and plant growth by suppressing soil diseases such as those caused by *Rhizoctonia*, *Pythium*, *Fusarium*, *Aspergillus* and *Phytophthora*. Additionally, Serenade ASO has been shown to increase nodulation of nitrogen-fixing bacteria when used on many legumes.

DO NOT USE SERENADE ASO AS A FOLIAR APPLICATION UNLESS SPECIFIED ON THIS LABEL.

INTEGRATED PEST MANAGEMENT (IPM)

Integrate Serenade ASO into an overall disease and pest management strategy whenever fungicide use is necessary. Follow practices known to reduce disease development. Consult local agricultural authorities for specific IPM strategies developed for your crop(s) and location.

Be sure use of this product conforms to resistance management strategies, which may include rotating and/or tank mixing with other products with different modes of action.

USE RATE DETERMINATION

Carefully read and follow all label directions, use rates and restrictions. Prepare only the amount of product solution required to treat the amount of seed required.

IMPORTANT: READ CONDITIONS FOR SALE AND WARRANTY BEFORE USE

APPLICATION INSTRUCTIONS

Serenade ASO as a seed treatment may be applied as a water-based slurry alone or with other registered seed treatment insecticides and fungicides through standard slurry or mist commercial seed treatment equipment. Note: This product does not contain colorant. To comply with 40 CFR §153.155, all seed treated commercially with this product must be colored with an EPA approved dye or colorant or a suitable color to prevent accidental use as food for man or feed for animals. Under moderate to severe disease pressure, for improved performance, increase rates or use Serenade ASO in a program with other registered fungicides for seed treatment.

MIXING INSTRUCTIONS

MIXING: Serenade ASO may be mixed with other registered pesticides to enhance seed germination. This product cannot be mixed with any product with prohibition against such mixing. When mixing Serenade ASO with other registered pesticides, always read and follow all use directions, restrictions, and precautions of both Serenade ASO and the mix partner(s). Use of the resulting mix must be in accordance with the more restrictive label limitations and precautions. Do not exceed label dosage rates.

OxiDate® 2.0

BROAD SPECTRUM FUNGICIDE/BACTERICIDE

Treatment for the Prevention and Control of Plant Pathogenic Diseases in Field Grown Crops

SPECIMEN LABEL

ACTIVE INGREDIENTS:

Hydrogen Dioxide	27.1%
Peroxyacetic Acid	2.0%
OTHER INGREDIENTS:	70.9%
TOTAL:	100.0%

KEEP OUT OF REACH OF CHILDREN DANGER - PELIGRO

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle.
(If you do not understand this label, find someone to explain it to you in detail.)

First Aid

If in eyes

- Hold eye open and rinse slowly and gently with water for 15–20 minutes.
- Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye.
- Call a poison control center or doctor for treatment advice.

If on skin or clothing

- Take off contaminated clothing.
- Rinse skin immediately with plenty of water for 15–20 minutes.
- Call a poison control center or doctor for treatment advice.

If swallowed

- Call a poison control center or doctor immediately for treatment advice.
- Have person sip a glass of water if able to swallow.
- Do not induce vomiting unless told to do so by the poison control center.
- Do not give anything by mouth to an unconscious person.

If inhaled

- Move person to fresh air.
- If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth if possible.
- Call a poison control center or doctor for treatment advice.

Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 1-800-222-1222 for emergency medical treatment information.

NOTE TO PHYSICIAN

Probable mucosal damage may contraindicate the use of gastric lavage.

PRECAUTIONARY STATEMENTS HAZARDS TO HUMANS AND DOMESTIC ANIMALS DANGER

CORROSIVE: Causes irreversible eye damage. Causes skin irritation or temporary discoloration on exposed skin. May be fatal if swallowed. Harmful if inhaled. Do not breathe vapor. Do not get in eyes, on skin or on clothing. Wear protective eyewear (goggles or face shield) and rubber gloves. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet. Remove and wash contaminated clothing before reuse.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Handlers who may be exposed to the undiluted product through mixing, loading, application, or other tasks must wear: coveralls over long-sleeved shirt and long pants, rubber gloves, chemical resistant footwear plus socks, and

FOR AGRICULTURE USE

Net Contents:

2.5, 5, 30, 55, 275 gallons

EPA Registration No. 70299-12

Sold by BioSafe Systems LLC

22 Meadow Street, East Hartford, CT 06108

1-888-273-3088 (toll-free) www.biosafesystems.com

 BioSafe Systems

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protective eyewear (goggles or face shield). Handlers who may be exposed to the dilute through application or other tasks must wear: long-sleeved shirt and long pants, and shoes plus socks. Follow manufacturer's instructions for cleaning and maintaining PPE. Discard clothing and other absorbent materials that have been drenched or heavily contaminated with this product. Do not reuse them. If no such instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

USER SAFETY RECOMMENDATIONS

Users should remove clothing immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing. Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

For terrestrial uses: This pesticide is toxic to birds who eat treated seed exposed on soil surface. Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwaters or rinsate. Do not apply directly to treated, finished drinking water reservoirs or drinking water receptacles when the water is intended for human consumption.

PHYSICAL AND CHEMICAL HAZARDS

Corrosive. Strong oxidizing agent. Do not use in undiluted form. Mix only with water in accordance with label instructions. Never bring undiluted product in contact with other pesticides, cleaners or oxidative agents.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the State or Tribal Agency responsible for pesticide regulation.

Agricultural Use Requirements

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification and emergency assistance.

It also contains specific instructions and exceptions pertaining to the statements on this label about Personal Protective Equipment (PPE), notification to workers, and Restricted-Entry Interval (REI). The requirements in this box only apply to the uses of this product that are covered by the Worker Protection Standard.

Handlers who may be exposed to the undiluted product through mixing, loading, application, or other tasks must wear: coveralls over long-sleeved shirt and long pants, rubber gloves, chemical resistant footwear plus socks, and protective eyewear (goggles or face shield). Handlers who may be exposed to the dilute through application or other tasks must wear: long-sleeved shirt and long pants, and shoes plus socks.

For enclosed environments:

There is a restricted entry of one (1) hour for this product when applied via fogging or spraying to growing plants, surfaces, equipment, structures and non-porous surfaces in enclosed environments such as glasshouses and greenhouses. PPE requirement for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil or water, is coveralls worn over long-sleeved shirt and pants, waterproof gloves and shoes plus socks.

There is a restricted entry of zero (0) hours for pre-plant dip, seed treatment, soil drench, mop, sponge, dip, soak, rinse or other non-spraying or fogging application methods when used in enclosed environments such as glasshouses and greenhouses.

For field applications:

Keep unprotected persons out of treated areas until sprays have dried.

Non-Agricultural Use Requirements

The requirements in this box apply to uses of this product that are not within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries or greenhouses.

Keep unprotected persons out of treated areas until sprays have dried.

INTRODUCTION

OxiDate 2.0 is a liquid bactericide/fungicide used to treat and control plant pathogens on field grown crops. Apply OxiDate 2.0 up to and including the day of harvest. See the label for a complete list of plant pathogens.

Use OxiDate 2.0 as a treatment for the prevention and control of plant pathogens on surfaces, equipment and structures used in processing post-harvest commodities.

FOLIAR APPLICATIONS

Solution Preparation:

OxiDate 2.0 works best when diluted with water containing low levels of organic or inorganic materials and having a neutral pH (pH value of 7.0). pH can be measured using a pH meter or indicator test strips. Measuring total suspended solids and EC (Electrical Conductivity) can help in determining concentration of organic and inorganic content in the water. Thoroughly rinse out mixing tank with water before mixing. OxiDate 2.0 will readily mix with clean, neutral water and does not require agitation.

Oxidate 2.0 is formulated with minimal surfactant for plants having waxy or hairy surfaces. In order to increase the effectiveness of OxiDate 2.0, additional non-ionic surfactant may be added, for treatment of plants with difficult to reach surfaces, or for plants having waxy or hairy surfaces. Only non-ionic surfactants are compatible with OxiDate 2.0.

OxiDate 2.0 works by surface contact with the plants and materials being treated. It is important to ensure that all surfaces are thoroughly wetted. OxiDate 2.0 does not produce any visible residue, distinct odor or deleterious effects to plants when used in accordance with label directions.

Tank mixes of metal-based chemicals and OxiDate 2.0 that have a pH of less than 7.0 may cause excessive foaming and phytotoxicity. Consult

specific product labels for additional information or restrictions concerning tank mixing. Observe the most restrictive limitations and precautions of the labeling of all products used in mixtures.

OxiDate 2.0 is a strong oxidizing agent and may react with residues of metal-based fungicides or supplements. Do not apply OxiDate 2.0 as a foliar spray immediately following foliar applications of metal-based products. Allow at least 24 hrs. after application of metal-based products before applying OxiDate 2.0 as a foliar spray. Check the label of the metal-based product prior to application for specific instructions for use with other fungicide products.

Note: Use spray solution the same day it is prepared, do not store and reuse mixed spray solution.

Compatibility:

OxiDate 2.0 is compatible as a direct injection or tank-mix with many commonly used pesticides, fertilizers, adjuvants and non-ionic surfactants but has not been fully evaluated with all of these. Do not direct inject or tank mix OxiDate 2.0 in to the irrigation system or in spray tank with pesticides, surfactants or fertilizers before conducting a compatibility test to show it is physically compatible, effective and non-injurious under your use conditions. Do not tank mix OxiDate 2.0 with copper or other pesticide containing metals at a dilution rate stronger than 1:100.

To ensure compatibility, evaluate them prior to use as follows: Using a suitable container, add proportional amounts of product to water. Add wettable powders first, followed by water dispersible granules, then by liquid flowables and lastly, emulsifiable concentrates. Mix thoroughly and let stand for at least five minutes. If the combination stays mixed or can be remixed, it is physically compatible. Test the combination on a small portion of the crop to be treated to ensure that a phytotoxic response will not occur as a result of application.

Plant Sensitivity Testing:

For foliar applications, only use OxiDate 2.0 at labeled dilutions. Solutions more concentrated than prescribed on this label may result in leaf necrosis for some plants. OxiDate 2.0 has been designed to provide a balanced source of the active ingredient directly to the plant surface. OxiDate 2.0 has been used and tested on many varieties of plant material; however, the nature of the target plant, environmental conditions, plant vigor, and the use of other pesticides can all affect plant sensitivity to OxiDate 2.0. The safety of OxiDate 2.0 has not been determined on all plants and crops. Plants grown in greenhouses vary greatly from those grown under field conditions. Determine if OxiDate 2.0 can be safely used prior to application. Before treating large numbers of plants, test OxiDate 2.0 or tank mixes of OxiDate 2.0 and other pesticides or fertilizers at labeled rates on a separate set of plants and observe for symptoms of sensitivity prior to use. Symptoms on foliage include yellow or brown spotting, "burned" tips and/or yellow or brown scorching along the leaf edges.

When using OxiDate 2.0 for control of organisms living on the plant tissue (such as downy and powdery mildew), treatment may result in lesions on plant tissue. OxiDate 2.0 will oxidize parasitic organisms living in plant tissue that are not always visible to the naked eye. Resulting oxidative effects may include spotting, or drying of the plant tissue where organisms inhabited tissue.

Read the entire label before using this product. Use only according to label directions. Do not use OxiDate 2.0 above labeled rates.

USE RATES AND DIRECTIONS

Pre-Plant Dip Treatment:

Use OxiDate 2.0 for the control of damping-off, root disease and stem rot disease caused by *Pythium*, *Phytophthora*, *Rhizoctonia*, *Fusarium* or *Thielaviopsis*, on seeds, seedlings, bulbs, or cuttings. **Remove dead or dying foliage prior to dipping.**

1. Use a dilution of 1:100 or 64-ll. oz. OxiDate 2.0 per 50 gallons of water.
2. Immerse plants or cuttings; remove and allow to drain. Do not rinse.
3. Excessive foaming or bubbling during the dipping process is an indication of high levels of disease contamination.

Seed Treatment:

Use OxiDate 2.0 for the control of damping-off, root disease and stem rot disease caused by *Pythium*, *Phytophthora*, *Rhizoctonia*, *Fusarium* or

Thielaviopsis, on seeds of seed sprout crops such as mung bean, red clover, soybeans and alfalfa, and on crops grown exclusively for seed for planting.

1. Use a dilution of 1:100 or 64-fl. oz. OxiDate 2.0 per 50 gallons of water.
2. Immerse seeds and let soak for two minutes; remove and allow to drain. Do not rinse. Plant seed according to seed package directions.

Bean Sprout Production:

Use OxiDate 2.0 to prevent bacterial and fungal diseases in bean sprout production process and packing lines. Treat tank and spray system water with a dilution of 1.28 fl. oz. of OxiDate 2.0 for every 10 gallons of water or use a dilution rate of 1:1,000. Allow a minimum contact time of one (1) minute with the solution

FIELD APPLICATIONS

Use OxiDate 2.0 to treat plant diseases on field grown crops and tree crops, through soil drench, irrigation and foliar applications. For specific foliar applications refer to **Application Instructions chart**.

Soil Drench

OxiDate 2.0 is effective for the control of soil-borne plant diseases such as Pythium, Phytophthora, Rhizoctonia, Thielaviopsis or Fusarium. Use as a soil drench at the time of seeding or transplanting, as well as a periodic drench throughout the plant's life. Use OxiDate 2.0 on potting soil and growing mediums prior to planting.

- 1) Use a dilution of 1:100-1:500 or 12.8 - 64 fl. oz. OxiDate 2.0 per 50 gallons of water on potting soil and growing mediums prior to planting.
- 2) Use a rate of 1:200-1:500 when plants are present.
- 3) Apply to soil or growing media to the point of saturation.
- 4) Wait fifteen minutes before planting or watering.
- 5) Apply every five to seven days as a preventative treatment.

To Treat Setting Water:

Add OxiDate 2.0 to transplant water or starter fertilizer and make in-furrow or dibble application at the time of plant set.

1. Use ½ to 1 gallon OxiDate 2.0 per treated acre in 50-200 gallons of water.
2. Add OxiDate 2.0 to transplant water or starter fertilizer and make in furrow or dibble applications just prior to seed drop or plant set.
3. In fields with a history of disease pressure, use the high rate.

Surface or Banded Applications:

1. Use ½ to 1 gallon of OxiDate 2.0 per 100 gallons of water.
2. Apply OxiDate 2.0 as a foliar spray with sufficient water to achieve runoff to soil.
3. Repeat applications every 7 days through infectious season.
4. Typical applications use 30 to 100 gallons of spray solution per acre.
5. During periods of wet, cloudy or rainy weather, use stronger rates and volumes and reduce spray intervals.

To Apply Through Irrigation Systems

1. Use ½ to 1 gallon of OxiDate 2.0 per treated acre in 500 to 1,000 gallons of water.
2. Apply through drip trickle, center pivot, lateral move, end tow, side wheel roll, traveler, solid set, hand move or flood basin irrigation systems. Refer to Chemigation Directions for Use for specific instructions on using this product through irrigation systems.

Foliar Spray Treatments For Field Grown Crops

OxiDate 2.0 works immediately on contact with any plant surface for control of plant diseases – see Application Instructions chart. Good coverage and wetting of the foliage is required. For increased coverage and penetration of spray, use a compatible non-ionic wetting agent/surfactant. For drift reduction and to aid spray deposition, use BioSafe Systems' product 'HOLDIT'. Do not spray OxiDate 2.0 during conditions of intense heat, drought or poor plant vigor.

Curative application rates:

1. For best results, apply at first sign of disease. Spray diseased plants using a 1:100 dilution rate, or 128 fl. oz. of OxiDate 2.0 per 100 gallons of water. Under heavy disease pressure or when conditions are favorable

for rapid disease development; apply at a 3-5 day intervals until control is achieved and then follow directions for preventative treatments. Concentrations up to 1:40 (2.5% v/v) can be used on berries (excluding strawberries), bulb vegetables, cereal grains & commodities, citrus crops, cranberries, cucurbit crops, fruiting vegetables, hops, peanuts, pome fruits, roots & tuber vegetables, stone fruits, tree nuts and tropical/subtropical fruits after testing to ensure the rate is safe on plants. Do not apply 1:40 rate while crops are in bloom. Always test for phytotoxicity by spraying on few plants before using on a large scale. Apply consecutive applications until control is achieved and then follow directions for preventative treatment.

2. Apply 30-400 gallons of spray solution per treated acre.

Preventative application rates:

1. Begin when plants are small. Use a rate of 1:200 to 1:400, or 64 to 32 fl. oz. of OxiDate 2.0 per 100 gallons of water.
2. Maintain a 5-10 day spray schedule
3. Apply 30-400 gallons of spray solution per treated acre.

Electrostatic Spray Applications:

- For electrostatic sprayers, use the 1:100 curative rate applied in 10 to 25 gallons of spray solution per treated acre. Follow spray equipment manufacturer's instructions for final spray volume to obtain adequate coverage.

AERIAL SPRAY TREATMENTS FOR FIELD-GROWN CROPS AND TREE CROPS

Spray Drift Management - Avoiding spray drift is the responsibility of the applicator.

- Do not apply when wind conditions favor drift away from the intended area for treatment. Many factors including droplet size, equipment type and weather related factors determine the potential for spray drift.
- To ensure optimum product performance, use at the foliar application rate indicated in sufficient water for adequate coverage of plant foliage. Apply between 3 to 20 gallons per acre of total spray solution. Do not make applications at a height greater than 10 ft. above the plant canopy, unless a greater height is required for aircraft safety. Making applications at the lowest height that is safe reduces exposure of droplets to wind and evaporation. Do not exceed the maximum application rate or apply more often than labeled in the Application Instructions for that crop.

Pre-harvest clean-up sprays for spoilage and decay causing organisms on crops:

Use OxiDate 2.0 as a foliar spray for control of spoilage and decay causing organisms up to and including day of harvest. Use a 1% v/v (1:100) solution. Use adequate spray solution to ensure complete coverage of foliage and plant material. For increased coverage and penetration of spray, use a compatible non-ionic wetting agent/surfactant.

Treatment of Agricultural Water used for Pesticide Spray Solutions:

Use OxiDate 2.0 as a bactericide/microbiocide to treat and suppress algae, bacteria and fungi in water collected from open or closed sources including but not limited to wells, ditches, canals, reservoirs, and ponds, used for pesticide spray solutions and mixtures. Add OxiDate 2.0 at a 1:300-1:1,000 dilution rate (42.6-12.8 fl. oz. of OxiDate 2.0 per 100 gallons of water) to water in spray or mix tank. Mix and allow a contact time of 3-5 minutes before adding other pesticides to spray solution.

Foliar Application Instructions

Crops and Diseases (Alphabetical by Crop Grouping)

See Crop Specific Directions, Rates And Usage Section For Additional Instructions.

To improve coverage and adhesion of applied spray, use a compatible non-ionic spreader/sticker such as AquaSil. For drift reduction and better deposition of applied spray, use biosafe systems' product HoldIt.

Run a plant sensitivity test when considering using higher spray concentrations $\geq 1.0\%$ v/v (1:100) by following instructions under "plant sensitivity testing". If plants show symptoms of phytotoxicity, decrease the spray solution concentration to a level that does not demonstrate symptoms.



MilStop®

Broad Spectrum Foliar Fungicide

FOR ORGANIC PRODUCTION

A FUNGICIDE FOR THE CONTROL OF POWDERY MILDEW AND OTHER DISEASES ON TERRESTRIAL AND INDOOR ORNAMENTAL PLANTS, GREENHOUSE AND AGRICULTURAL CROPS.

5 Pounds can treat up to 1 acre at the recommended maximum treatment rate.

ACTIVE INGREDIENT:

Potassium bicarbonate85.00%

OTHER INGREDIENTS:.....15.00%

TOTAL:100.00%

EPA Reg. No. 70870-1-68539 EPA Est. No. 67187-NY-01

Net weight: 5 lbs. (2.27 kg), 25 lbs. (11.35 kg) Batch code: _____

KEEP OUT OF REACH OF CHILDREN CAUTION

PRECAUTIONARY STATEMENTS HAZARD TO HUMANS & DOMESTIC ANIMALS

CAUTION: Harmful if swallowed. Causes moderate eye irritation. Avoid contact with eyes or clothing.

FIRST AID

If swallowed:	<ul style="list-style-type: none">• Call poison control center or doctor immediately for treatment advice• Have person sip a glass of water if able to swallow.• Do not induce vomiting• Do not give anything by mouth to an unconscious person
If in eyes:	<ul style="list-style-type: none">• Hold eye open and rinse slowly and gently with water for 15 – 20 minutes.• Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye.• Call a poison control center or doctor for treatment advice

HOT LINE NUMBER

Have a product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact the National Pesticide Information Center (NPIC) at 1-800-858-7378 between the hours of 6:30 a.m. to 4:30 p.m. Pacific Time, seven days a week for emergency medical treatment information.

PERSONAL PROTECTIVE EQUIPMENT

Applicators and other handlers must wear: Long-sleeved shirt and long pants and shoes plus socks. Follow manufacturer's instructions for cleaning and maintaining PPE. If no such instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

USER SAFETY RECOMMENDATIONS

Users should: Wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet. Remove clothing immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing. Remove PPE immediately after handling this product. Wash outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

For terrestrial uses, do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when cleaning equipment or disposing of equipment washwaters and rinsate.

DIRECTIONS FOR USE: It is a violation of Federal Law to use this product in a manner inconsistent with it's labeling.
Do not apply this product in a way that will contact workers or other persons,

either directly or through drift. Only protected handlers may be in the area during application. For any requirement specific to your State or Tribe, consult the State or Tribal agency responsible for pesticide regulation. Do not apply this product through any type of irrigation system.

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

There is a restricted entry of one (1) hour for this product.

PPE requirement for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is: coveralls over short sleeved shirt and short pants, waterproof gloves and shoes plus socks.

NON-AGRICULTURAL USE REQUIREMENTS

The requirements in this box apply to uses of this product not within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries, or greenhouses.
Keep unprotected persons out of treated areas until sprays have dried.

STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage or disposal.

PESTICIDE STORAGE: Store in original container in a cool, dry place. Prevent exposure to moisture. Keep container tightly closed and out of reach of children. Avoid contamination with other pesticides or fertilizers.

PESTICIDE SPILL PROCEDURE: In case of a spill, carefully sweep up the material to avoid generating dust. Store in a labeled container for disposal.

PESTICIDE DISPOSAL: Wastes resulting from use of this product may be disposed of on site or at an approved waste disposal facility.

CONTAINER DISPOSAL: (For pails with liner) Nonrefillable container. Do not reuse or refill this container. Offer for recycling, if available. Offer liner for recycling, if available, or dispose of in a sanitary landfill or by incineration. If pail is contaminated, triple rinse promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or mix tank. Fill the container ¼ full of water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times.

(For plastic bags) Nonrefillable container. Do not reuse or refill this container. Completely empty bag into application equipment by shaking and tapping sides and bottom to loosen clinging particles. Then offer for recycling, if available, or dispose of empty bag in a sanitary landfill or by incineration. Do not burn unless allowed by state and local ordinances. If burned, stay out of smoke.

GENERAL INFORMATION: MilStop is a broad spectrum, contact foliar fungicide that controls a variety of diseases on terrestrial and indoor woody and herbaceous ornamental plants, and on greenhouse, nursery, agricultural crops, and on turf. MilStop is applied using a sufficient volume of water to insure complete coverage of all stems and foliage.

NOTICE TO USER: Due to variability within species and in application techniques and equipment, and possible tank mix combinations, neither the manufacturer nor the seller has determined whether MilStop can be safely used on all varieties and species of ornamentals, greenhouse, and agricultural plants under all conditions. Therefore, the professional user should determine if MilStop can be used safely before broad usage by applying the prescribed use rate under the conditions expected to be encountered to a small test area. Any adverse effects should be visible within 14 days. For curative disease control on sensitive crops apply at a rate of 2.5 pounds of MilStop per 100 gallons of water per week and increase the rate each week in 0.25 pound increments. Do not exceed a use rate of 5.0 pounds per acre per application.

IMPORTANT: Read the entire label before using MilStop. Consult your State Agricultural Experiment Station or Extension Service Specialist for additional information on timing of applications, rates, and any additional requirements or restrictions.

MIXING INSTRUCTIONS: MilStop must be diluted with water before applying. Carefully measure and mix the product and water. Fill tank with ½ to ¾ of the selected volume of water prior to the addition of MilStop. Start mechanical or hydraulic agitation. Slowly add the required amount of MilStop to the tank. Continue to fill the tank with water to the desired volume while agitating to promote uniform distribution and prevent settling.

DO NOT MIX WITH OTHER SOLUBLE PESTICIDES OR FERTILIZERS NOT COMPATIBLE WITH MILD ALKALINE SOLUTIONS. THE ADDITION OF SURFACTANT OR WETTING AGENT TO SPRAY IS NOT REQUIRED. PRODUCT IS PRE-FORMULATED WITH THESE PRODUCTS FOR BEST PERFORMANCE. DO NOT ADJUST SPRAY SOLUTION pH AFTER MIXING OF PRODUCT. ACIDIFICATION OF SOLUTION WILL CAUSE REDUCED PRODUCT PERFORMANCE.

SPRAY APPLICATION METHOD: Do not apply this product through any type of irrigation system. Do not apply directly to soil as a directed spray or drench. For best results, use a properly calibrated sprayer or similar equipment, and check equipment calibration frequently.

CLEANING SPRAY EQUIPMENT: Clean application equipment thoroughly using a detergent or commercial sprayer cleaner according to the manufacturer's directions before and after applying this product.

FIELD APPLICATION: Apply at a rate of 2.0 to 5.0 pounds of per acre. Use a sufficient volume of spray solution to obtain complete coverage of foliage and stems. Uniform and complete coverage of the foliage is essential for the most effective results. Spray volume per acre of treatment can vary depending upon plant type and stage of development. Concentration of spray solution and frequency of application will depend upon disease pressure. Do not exceed a use rate of 5.0 pounds of MilStop per acre, per application. Do not store unused spray solution. Dispose of unused solution on site.

GREENHOUSE APPLICATION: Apply at a rate of 1.25 to 5.0 pounds of MilStop per 100 gallons of water. Use a sufficient volume of spray solution to obtain complete coverage of foliage and stems. Uniform and complete coverage of the foliage is essential for the most effective results. Spray volume per unit of treated area can vary depending upon plant type and stage of development. Concentration of spray solution and frequency of application will depend upon disease pressure. Do not exceed a use rate of 0.5 pounds of MilStop per 4350 sq. ft. or 1.15 pounds per 10,000 sq. ft., per application. Do not store unused spray solution. Dispose of unused solution on site.

See special instructions for use on poinsettia, impatiens and pansy.

Small Volume Application Chart: Use the chart below to determine MilStop quantities for small area applications. Adjust to desired concentration for low disease pressure or as a curative treatment.

Chart Treatment Rate: 2.5 lbs. per 100 gallons

Amount of MilStop	Amount of Water	Square feet treated
1 Tbsp	1 gallon	500
2 Tbsp	2 gallons	1,000
4 Tbsp	4 gallons	2,000
1/8 cup	2 gallons	1,000
¼ cup	4 gallons	2,000
½ cup	8 gallons	4,000
1 oz. (28 grams)	2.5 gallons	1,100
2 oz. (57 grams)	5 gallons	2,200
4 oz. (113 grams)	10 gallons	4,400

ELECTROSTATIC SPRAYERS: Apply at a rate of 0.625 pounds (10 ounces) to 1.125 pounds (18 ounces) per 2 gallons of water per 10,000 sq. ft. Do not exceed a rate of 1.5 pounds (24 ounces) per 2 gallons of water.

THERMAL FOGGERS: Apply at a rate of 0.38 pounds (6 ounces) to 0.75 pounds (12 ounces) per 1 gallon of water per 10,000 sq. ft. Use the 0.38 pounds (6 ounces) per 1 gallon of water rate for plants that are in flower. Do not exceed 0.75 pounds (12 ounces) per 1 gallon of water..

APPLICATION TIMING: Start application at first sign of disease. For best protection, repeat at one to two week intervals until conditions are no longer favorable for disease development. Shorten the interval during rainy weather or during periods of high relative humidity. For appropriate crops, apply MilStop as a post-harvest treatment to remaining foliage to decrease overwintering inoculum.

PREHARVEST INTERVAL: MilStop can be applied up to and including the day of harvest.

ORNAMENTAL APPLICATIONS: MilStop is for use in the following use sites: Greenhouse, Lathhouse, Shadehouse, Commercial and Residential Landscapes, Interiorscapes, Nursery, Container Production and Field Applications.

ORNAMENTAL PLANT TYPES: MilStop is for use on the following plant types: Annual and Perennial Flowers, Bedding Plants, Foliage Plants, Ground Covers, Woody and Ornamental Shade Trees, Woody and Herbaceous Ornamentals, and Ornamental Nut and Fruit Trees.

FOR USE ON: Ageratum, Ajuga, Almond-Ornamental, Alyssum, Andromeda, Aphelandra, Apple-Ornamental, Apricot-Ornamental, Artemisia, Aster, Azalea, Begonia¹, Boxwood, Calendula, Carnation, Centaurea montana, Cherry-Ornamental, Chrysanthemum, Cineraria, Citrus, Coleus, Columbine, Coral Bells (Heuchera), Clematis¹, Crabapple-Ornamental¹, Crape Myrtle, Crassula, Croton, Daylily¹, Delphinium, Dianthus, Dizygotheca, Dogwood, English Ivy, Episcia, Euonymus, Fern, Fir¹, Forsythia, Gazania, Geranium, Gerbera daisy¹, Ginseng¹, Gladiolas, Gloxinia, Gypsophila, Hawthorn, Heliopsis scabra, Hibiscus, Holly, Hoya, Hydrangea, Impatiens*, India hawthorn¹, Iris, Juniper, Kalanchoe, Lavender, Lemon balm, Lilac¹, Lipstick balm, Lipstick Vine (Aeschynanthus), Marigold, Monarda (Bee balm), Nectarine-Ornamental, Pachysandra, Palm, Pansy*, Peach-Ornamental, Peony¹, Peperomia, Periwinkle, Philodendron, Phlox, Photinia, Pilea, Pine, Pittosporum, Plum-Ornamental, Poinsettia*, Poppy, Pothos, Primrose, Privet, Protea, Prune-Ornamental, Pulmonaria, Pyracantha, Rhododendron, Rose, Rose-of-Sharon, Schefflera, Snapdragon, Spruce¹, Statice, Tree Ivy, Verbena, Viburnum, Violet, Zinnia.

¹Not For Use In California

DISEASES CONTROLLED: Alternaria blight, Anthracnose, Blackspot, Botrytis blight, Botrytis gray mold, Cercospora leaf spot, Corynespora leaf spot, Downy mildew¹, Monilinia fruit and blossom rot¹, Penicillium spp.¹, Phomopsis blight, Powdery mildew, Rust¹, Scab, Septoria leaf spot.

¹Not For Use In California

***SPECIAL INSTRUCTIONS:** Poinsettia: For control of intense powdery mildew, apply weekly at a rate of 0.25 pounds per 4350 sq. ft. or 1/10 acre during vegetative growth prior to bract formation, and apply every 14 days at 0.5 pounds per 4350 sq. ft. thereafter. A rate of 0.5 pounds per 4350 sq. ft applied weekly during vegetative growth has the potential to cause marginal burn to newly developing leaves, but does not injure developing bracts when applied biweekly.

Impatiens: For New Guinea impatiens, apply at a rate of 0.25 pounds per 4350 sq. ft. or 1/10 acre during vegetative growth; discontinue spraying when blossom buds are visible.

Pansy: Do not use on pansies at early stages of growth.

AGRICULTURAL APPLICATIONS: MilStop is for use in the following use sites: Greenhouse, Orchard, Nursery and Field Applications.

FOR USE ON: Acorn squash, Almonds, Apples, Apricots, Alfalfa, Avocado, Barley, Basil, Blueberries, Broccoli, Cabbage, Caneberries, Cantaloupe, Cauliflower, Celery¹, Cherries, Chicory, Citrus, Crabapple¹, Crenshaw melon, Cucumber, Dry beans, Dry Onion¹, Eggplant, Endive, Escarole, Grapes, Green Onion¹, Honeydew, Hops, Kale, Lettuce, Lima bean, Mango, Muskmelon, Mustard greens, Okra, Onion¹, Oregano, Peaches, Pears, Peas, Pecans, Peppers, Pistachio, Plums, Potatoes, Prunes, Pumpkin, Radicchio, Rosemary, Sage, Scallion¹, Snap beans, Snow peas, Soybeans, Spinach, Strawberries, Sugar beets, Summer squash, Sweet potatoes, Thyme, Tobacco¹, Tomatoes, Turnip, Walnut, Watermelon, Wheat, Winter squash, Zucchini. ¹Not For Use In California

DISEASES CONTROLLED: Alternaria leaf spot, Anthracnose, Botrytis, Cercospora leaf spot¹, Downy mildew, Fly speck¹, Monilinia fruit and blossom rot¹, Penicillium spp.¹, Phomopsis blight¹, Powdery mildew, Septoria leaf spot¹. ¹Not For Use In California

NOTICE: Buyer assumes all responsibility for safety if use is not in accordance with label instructions.

IMPORTANT NOTICE: DISCLAIMER AND LIMITATIONS OF LIABILITY:

This product has been researched to provide necessary data to support its use on the ornamental and agricultural plants listed on the label. However, it is understood that tests may not have been carried out on all varieties or cultivars and under all growing conditions on all plants listed on the label. Always follow the label directions. Exercise care when using this product on a given variety until familiar with the results under your growing conditions.

NO WARRANTY OR REPRESENTATION IS MADE, EXPRESS OR IMPLIED, CONCERNING THE RESULTS OBTAINED FROM THE USE OF THIS PRODUCT IF NOT USED IN ACCORDANCE WITH DIRECTIONS OR ESTABLISHED SAFE PRACTICE. To the extent allowable by state law the exclusive remedy of the user or Buyer, and the limit of liability of BioWorks, Inc. or any other Seller, for any and all losses, injuries or damages resulting from the use or handling of this product shall be the purchase price paid by the user or Buyer for the quantity of this product involved. The Buyer and all users are deemed to have accepted the terms of this Notice, which may be varied only by agreement in writing, signed by a duly authorized representative of BioWorks, Inc.

Manufactured in the USA for:



BioWorks, Inc.
100 Rawson Rd, Suite 205
Victor, NY 14564
(800) 877-9443

SuffOil-X[®]

Spray Oil Emulsion Fungicide, Insecticide and Miticide

FOR ORGANIC PRODUCTION



ACTIVE INGREDIENT:

Mineral Oil*80.0%

OTHER INGREDIENTS:.....20.0%

TOTAL:.....100.0%

*Contains petroleum distillates

Unsulfonated Residue of Petroleum Oil92.0% min.

EPA Reg. No. 48813-1-68539

EPA Est. No. 48813-IL-1

Net Contents: 1 Gallon, 2.5 Gallons, 30 Gallons

**KEEP OUT OF REACH OF CHILDREN
CAUTION**

FIRST AID

If On Skin Or Clothing:

- Take off contaminated clothing.
- Rinse skin immediately with plenty of water for 15-20 minutes.
- Call a poison control center or doctor for treatment advice.

If Swallowed:

- Immediately call a poison control center or doctor for treatment advice.
- Do not induce vomiting unless told to do so by the poison control center or doctor.
- Do not give ANY liquid to the person.
- Do not give anything by mouth to an unconscious person.

If In Eyes:

- Hold eye open and rinse slowly and gently with water for 15-20 minutes.
- Remove contact lenses, if present, after the first 5 minutes. Then continue rinsing eye.
- Call a poison control center or doctor for treatment advice.

If Inhaled:

- Move person to fresh air.
- If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth
- Call a poison control center or doctor for further treatment advice.

HOT LINE NUMBER

Have the product container or label with you when calling a poison control center or doctor or going for treatment. You may also contact the National Pesticide Information Center at 1-800-858-7378 for emergency medical treatment information.

NOTE TO PHYSICIAN

Contains petroleum distillate – do not induce vomiting since vomiting may pose aspiration pneumonia hazard.

PRECAUTIONARY STATEMENTS

HAZARDS TO HUMANS AND DOMESTIC ANIMALS

CAUTION: Harmful if absorbed through skin. Avoid contact with eyes, skin, or clothing. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Some materials that are chemical-resistant to this product are barrier laminate, nitrile rubber, neoprene rubber or viton. If you want more options, follow the instructions for category (G) on the EPA chemical resistance category selection chart.

Mixers, loaders, applicators, flaggers, and other handlers must wear:

- long-sleeve shirt and long pants
- chemical-resistant gloves made of Barrier Laminate or Viton, and
- shoes plus socks.

Follow manufacturer's instructions for clean/maintaining PPE. If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry. Discard clothing and other absorbent material that have been drenched or heavily contaminated with the product's concentrate. Do not reuse them.

ENGINEERING CONTROLS: Pilots must use an enclosed cockpit that meets the requirements listed in the WPS for agricultural pesticides [40 CFR 170.240(d)(6)].

USER SAFETY RECOMMENDATIONS

Users should

- Wash hands before eating, drinking, chewing gum, using tobacco or using the toilet.
- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwater or rinsate.

Drift and runoff may be hazardous to aquatic organisms in water adjacent to treated areas.

Apply this product only as specified on the label.

DIRECTIONS FOR USE

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

This product may be used on tree crops, vegetables (row crop and field crop), greenhouse vegetables, small fruits, shade trees, shrubs, ornamentals, flower and foliage plants, Christmas trees, and greenhouse ornamentals.

Do not apply this product through any type of irrigation system (i.e., via chemigation).

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted entry intervals. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow entry into treated areas during the restricted entry interval (REI) of 4 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is: coveralls, chemical resistant gloves made of any water proof material and shoes plus socks.

NON-AGRICULTURAL USE REQUIREMENTS

The requirements in this box apply to uses of this product that are not within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries and greenhouses.

Do not enter or allow others to enter until sprays have dried.

PRODUCT INFORMATION

This insecticide's mode of action is through suffocation of eggs, larvae and nymphs of insects and mites and adults of soft-bodied insects. This mode of action necessitates total spray coverage. As a fungicide this product interferes with the attachment of the pathogen to the host and acts as a suffocant. Use enough spray solution to completely penetrate the leaf canopy and cover both top and bottom of all of the leaves until wet without significant runoff. Most mature trees will require 20 to 500 gallons of spray solution per acre although citrus trees may require 15 to 1000 gallons of spray solution per acre. Row crops generally require 20 to 100 gallons of spray solution per acre. Greenhouse Use – Apply at the rates of 20 to 100 gallons of spray solution per acre for control of the greenhouse pest. (Be sure to check with your equipment and local recommendations.)

This product may be used to control mite and insect pests in the egg stage, including: spider mites, eriophyid mites, armored scale, soft scale, mealybugs, psyllids, whiteflies, aphids, leafrollers, leaf tiers, webworms, cankerworms, plant bugs, leafhoppers and adelgids. This product will kill other immature insect forms if the spray covers the insect. See APPLICATION RATES tables for species claimed to be controlled on specific types of plants. Use this product only on the types of plants identified in the APPLICATIONS RATES tables.

USE PRECAUTIONS AND RESTRICTIONS — All horticultural oils interfere with or slow plant transpiration and respiration during periods of evaporation. DO NOT apply during periods of drought or when plants exhibit moisture stress.

SPRAY DRIFT MANAGEMENT

A variety of factors including weather conditions (e.g., wind direction, wind speed, temperature, and relative humidity) and method of application (e.g., ground, aerial, and airblast) can influence pesticide drift. The applicator and grower must evaluate all factors and make appropriate adjustments when applying this product.

WIND SPEED: Do not apply at wind speeds greater than 15 mph at the application site.

TEMPERATURE INVERSIONS: If applying at wind speeds less than 3 mph, the applicator must determine if a) conditions of temperature inversion exist, or b) stable atmospheric conditions exist at or below nozzle height. Do not make applications into areas of temperature inversions.

DROPLET SIZE: Apply as a medium or coarser spray (ASABE standard 572), and the minimum volume mean diameter (VMD) for spinning atomizer nozzles.

GROUND-BASED APPLICATIONS: Apply using a nozzle height of no more than 4 feet above the ground or crop canopy. Do not apply at wind speeds greater than 15 mph at the application site. Apply as a medium or coarser spray (ASABE standard 572), and the minimum volume mean diameter (VMD) for spinner atomizer nozzles.

AIRBLAST APPLICATIONS: For airblast applications, turn off outward pointing nozzles at row ends and when spraying outer row. To minimize spray loss over the top in orchard applications, spray must be directed into the canopy.

AERIAL APPLICATIONS OF AGRICULTURAL PRODUCTS: Do not release spray at a height greater than 10 feet above the ground, top of crops, or above the orchard canopy. Apply as a medium or coarser spray (ASABE standard 572), and the minimum volume mean diameter (VMD) for spinning atomizer nozzles.

Boom Length: The boom length must not exceed 75% of the wingspan or 90% of the rotor blade diameter.

Swath Adjustment: When applications are made with a cross-wind, the swath will be displaced downwind. The applicator must compensate for this displacement at the downwind edge of the application area by adjusting the path of the aircraft upwind. Leave at least one swath unsprayed at the downwind edge of the treated field.

COMPATIBILITY — SuffOil-X is compatible with most commonly used insecticides and fungicides. Read and follow all precautions and limitations on labeling of all products used in tank mixtures. DO NOT use in combination with or immediately before or after spraying with fungicides such as captan, folpet, oxythiquinox (Morestan) or any product containing sulfur. Also do not use with Carbaryl (Sevin) or dimethoate (Cygon). Do not use with any product whose label recommends the use of no oils. Do not use in combination with NPK foliar fertilizer applications.

TIMING THE TREATMENT — You must determine the precise timing to fit local growth and climatic conditions. This product can be applied up to day of harvest.

MIXING DIRECTIONS — Add sufficient water to the mixing tank to allow proper agitation. Add the correct amount of SuffOil-X to tank. Maintain agitation until solution is used. If other pesticides are to be added, do so after SuffOil-X has been thoroughly mixed.

APPLICATION INSTRUCTIONS

Use enough spray solution to completely penetrate the leaf canopy and cover both top and bottom of all leaves until wet without significant runoff. Most mature trees will require 20 to 500 gallons of spray solution per acre, although citrus trees may require 15 to 1000 gallons of spray solution per acre. Row crops generally require 20 to 100 gallons of spray solution per acre. (Be sure to check with the instructions for the equipment used and with local Agricultural Extension agents.) Aerial application – Apply a minimum of 20 gallons of spray solution per acre.

MIXING DIRECTIONS — Add sufficient water to the mixing tank to allow proper agitation. Add the correct amount of this product to tank. Maintain agitation until solution is used. If other pesticides are to be added, do so after this product has been thoroughly mixed.

APPLICATION RATES

TREE CROPS

CROP	PEST	APPLICATION RATE Gallons of SuffOil-X per 100 Gallons of Water	TIME OF APPLICATION
Almond, Apricot, Cherry, Plum, Prune	Aphids, Fruit Tree Leaf Roller, Mites, Scales, Whiteflies	1-2	As Needed
Apple (all varieties)	Aphids, Bugs (including Apple Red Bug), Fruit Tree Leaf Roller, Mites (including European Red Mite), Powdery Mildew, Scales (Hard, Soft, Scurfy), Whiteflies	1-2	As Needed
Avocado, Banana, Cocoa, Coffee, Macadamia, Papaya	Bugs, Leafhoppers, Scales, Sigatoka, Leafroller, Thrips	1-2	As Needed
Citrus*	Blackfly, Greasy Spot, Mites, Scales (Glover, Chaff, Purple, Yellow, Red, Snow, Brown and California), Sooty Mold, Whiteflies	1-2	Fall Early Winter Post-bloom March-April
Hops	Aphids, Leaf Roller, Mites, Powdery Mildew, Scales, Whiteflies	1-2	As Needed
Nectarines, Peach, Pecan	Aphids, Fruit Tree Leaf Roller, Mites, Scales, Whiteflies	1-2	As Needed
Pear (all varieties)	Aphids, Fruit Tree Leaf Roller, Mites (including Pear leaf Blister Mite), Pear Psylla, Powdery Mildew, Scales, Whiteflies	1-2	As Needed
Pineapple	Aphids, Mealybugs, Mites, Scales	1-2	As Needed
Fig, Kiwi, Olive, Pistachio, Walnut**	Aphids, Mites, Scales	1-2	As Needed

* Citrus — Oils applied after October may increase cold damage to trees; applied in August and September may affect solids content, retard color. **DO NOT** exceed a maximum of 159 pounds of active ingredient (in a maximum volume of 1500 gallons of spray mix per acre) when treating citrus in Florida and Texas. **DO NOT** exceed a maximum of 212 pounds of active ingredient (in a maximum volume of 2000 gallons of spray mix per acre) when treating citrus in California.

** Walnut — Apply late spring to mid-summer only. Do not apply after husk split.

VEGETABLES (ROW CROP AND FIELD CROP)

CROP	PEST	APPLICATION RATE Gallons of SuffOil-X Per 100 Gallons of Water	TIME OF APPLICATION
Asparagus, Pepper, Bean Pumpkin, Cucumber Radish, Eggplant, Squash, Melon, Tomato, Peanut	Aphids, Beetle larvae, Leafhoppers, Leaf Miners, Mites, Powdery Mildew, Thrips, Whiteflies	1-2	As Needed
Cabbage, Cauliflower, Celery, Cole Crops, Lettuce, Onion	Aphids, Leafhopper, Leaf Miners, Loopers, Mites, Plant Bugs, Thrips, Whiteflies	1-2	As Needed
Corn (Sweet, Field, Seed), Popcorn, Sugar Beet	Aphids, Leaf Miners, Mites, Whiteflies	1-2	As Needed
Cotton	Aphids, Bollworm eggs and larvae, Leafhoppers, Loopers, Mites, Plant Bugs, Thrips, Whiteflies	1-2	As Needed
Grasses (Grown for Seed)	Mites, Powdery Mildew, Rust	1-2	As Needed
Potato Sweet Potato	Aphids, Leaf Miners, Mites, Whiteflies	1-2	As Needed
Tobacco	Leaf Miners Mites Whiteflies	1-2	As Needed

GREENHOUSE VEGETABLES

CROP	PEST	APPLICATION RATE Gallons of SuffOil-X Per 100 Gallons of Water	TIME OF APPLICATION
Asparagus Bean Cucumber Eggplant Melon Peanut Pepper Pumpkin Radish Squash Tomato	Aphids Beetle larvae Leafhoppers Leaf Miners Mites Powdery Mildew Thrips Whiteflies	1-2	As Needed
Cabbage Cauliflower Celery Cole Crops Lettuce Onion	Aphids Leafhopper Leaf Miners Loopers Mites Plant Bugs Thrips Whiteflies	1-2	As Needed
Corn (Sweet, Field, Seed) Popcorn Sugar Beet	Aphids Leaf Miners Mites Whiteflies	1-2	As Needed
Potato Sweet Potato	Aphids Leaf Miners Mites Whiteflies	1-2	As Needed

SMALL FRUITS

CROP	PEST	APPLICATION RATE Gallons of SuffOil-X Per 100 Gallons of Water	TIME OF APPLICATION
Bushberries, Caneberries, Strawberry	Aphids, Mites, Powdery Mildew, Rust, Sawfly, Scales, Whiteflies	1-2	As Needed
Grape	Botrytis, Leafhoppers, Leaf Miners, Mealybugs, Mites, Powdery Mildew, Scales, Whiteflies	1-2	As Needed

SHADE TREES, SHRUBS, ORNAMENTALS, FLOWER AND FOLIAGE PLANTS, CHRISTMAS TREES

CROP	PEST	APPLICATION RATE Gallons of SuffOil-X Per 100 Gallons of Water	TIME OF APPLICATION
Conifers, Flower, Foliage and Bedding Plants, Ornamentals*, Shade Trees, Shrubs, Christmas Trees*	Aphids, Black Spot, Leaf Miners, Mites, Plant Bugs, Powdery Mildew, Psyllids, Rust, Sawfly, Scales, Whiteflies	1-2	As Needed

*ORNAMENTALS, CHRISTMAS TREES - Oil might remove the glaucous (blue) bloom from such evergreens as Colorado Blue Spruce and Koster Spruce. Use with caution and reduced dosage for summer application on Japanese Red Maple, Amur Maple and Black Walnut. Use with caution and reduced dosage for dormant application on Sugar Maple and Redbud.

GREENHOUSE ORNAMENTALS

CROP	PEST	APPLICATION RATE Gallons of SuffOil-X Per 100 Gallons of Water	TIME OF APPLICATION
Azalea, Camellia, Carnation, Fuchsia, Gladiola, Hibiscus, Iris, Lily, Mums, Orchids, Poinsettia, Rhododendron, Rose, Vines	Aphids, Fungus Gnat, Leaf Miners, Mealy Bugs, Mites, Powdery Mildew, Rust, Scales, Thrips, Whiteflies	1-2	As Needed

STORAGE AND DISPOSAL

Do not contaminate water, food, or feed by storage or disposal.

PESTICIDE STORAGE: Store in a cool, dry, locked area out of reach of children. Protect from excessive heat. Keep container tightly closed in storage to prevent entry of water.

PESTICIDE DISPOSAL: Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.

For liquid dilutable formulations in 5 gallon or larger nonrefillable containers:

CONTAINER HANDLING/DISPOSAL: Nonrefillable container. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container ¼ full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure 2 more times. Offer for recycling or reconditioning if available, or puncture and dispose of in a sanitary landfill, or by incineration, or if allowed by state and local authorities, by burning. If burned, stay out of smoke.

For liquid dilutable formulations in nonrefillable containers small enough to shake (i.e., with capacities equal to or less than 5 gallons):

CONTAINER HANDLING/DISPOSAL: Nonrefillable container. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container ½ full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Offer for recycling if available, or puncture and dispose of in a sanitary landfill, by incineration, or, if allowed by state and local authorities, by burning. If burned, stay out of smoke.

IMPORTANT: READ BEFORE USE

Read the entire Directions for Use, Conditions, Disclaimer of Warranties and Limitations of Liability before using this product. If terms are not acceptable, return the unopened product container at once.

By using this product, user or buyer accepts the following Conditions, Disclaimer of Warranties and Limitations of Liability.

CONDITIONS: The Directions for Use of this product are believed to be adequate and must be followed carefully. However, it is impossible to eliminate all risks associated with the use of the product. Crop injury, ineffectiveness or other unintended consequences may result because of such factors as weather conditions, presence of other materials, or the manner of use of application, all of which are beyond the control of BioWorks, Inc. To the extent permitted by applicable law, all such risks shall be assumed by the user or buyer.

DISCLAIMER OF WARRANTIES: To the extent consistent with applicable law, BioWorks, Inc. makes no other warranties, express or implied, of merchantability or of fitness for a particular purpose or otherwise, that extend beyond the statements made on this label. No agent of BioWorks, Inc. is authorized to make any warranties beyond those contained herein or to modify the warranties contained herein. To the extent consistent with applicable law, BioWorks, Inc. disclaims any liability whatsoever for special, incidental or consequential damages resulting from the use or handling of this product.

LIMITATIONS OF LIABILITY: To the extent consistent with applicable law, the exclusive remedy of the user or buyer for any and all losses, injuries or damages resulting from the use or handling of this product, whether in contract, warranty, tort, negligence, strict liability or otherwise, shall not exceed the purchase price paid or at BioWorks, Inc.'s election, the replacement of product.

Distributed By:



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(800) 877-9443

www.bioworksinc.com



EMERGENCY INFORMATION AND STORAGE GUIDE / DANGEROUS GOODS DECLARATION

ENTRUST™ SC NATURALYTE™ INSECT CONTROL

Substance: Liquid insecticide containing Spinosad (Spinosyn A: CAS No. 131929-60-7 & Spinosyn D: CAS No. 131929-63-0)
Proper shipping name: ENVIRONMENTALLY HAZARDOUS SUBSTANCE, LIQUID, N.O.S. (SPINOSAD)

UN No.:	DG Class:	Subsidiary Risk Class:	Packing Group:	Flash Point (°C):	HAZCHEM:	Marine Pollutant:	Land Transport Schedule ¹ Exemption Quantity:
3082	9	None	III	> 100°C	2X	Yes	250L
HSNO Classifications: 6.9B, 9.1A, 9.4A				Tracking Required: No		Approved Handler: Required only when using product	IER Guide No: 47

EMERGENCY PROCEDURES

24 HOUR ADVICE IN AN EMERGENCY ONLY: 0800 844 455

IF THIS HAPPENS	DO THIS
Tanker/Vehicle Accident	Switch off engine and electrical equipment. Keep people away, warn other traffic. Check for spills, leaks. Call the emergency services: Dial 111
Spill or leak	DO NOT touch or walk through spilled material. Wear overalls (buttoned to neck and wrist), gloves and boots. Stop leak if safe to do so. Dike area and prevent entry into waterways and drains. Small spills: Absorb with materials such as clay, dirt or sand. Collect spilled product and place into sealable container for disposal. Spill residues may be cleaned using water and detergent. Contain and absorb wash water for disposal. Seek advice from the SDS, product label or Dow AgroSciences regarding disposal. Large spills/leaks: Report large spills to Dow AgroSciences Emergency Services at 0800 844 455.
Fire	Call the Fire Service: Dial 111. Fumes and combustion products produced in a fire may be toxic and/or irritating. Small fire: Use water fog, CO ₂ , dry chemical or foam. Large fire: Use foam, CO ₂ or Dry Chemical. If safe to do so, move undamaged containers from fire area. Deny unnecessary entry. Do not allow material or run-off to enter waterways.

FIRST AID

If Swallowed:	No emergency medical treatment necessary.
If in Eyes:	Hold eyes open and rinse slowly and gently with water for 15 – 20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eyes. If effects occur, consult a physician, preferably an ophthalmologist.
If on Skin:	Take off contaminated clothing. Wash skin immediately with plenty of water for 15 – 20 minutes. Call a poison control centre or doctor for treatment advice.
If Inhaled:	Move person to fresh air. If person is not breathing, call an emergency responder or ambulance, then give artificial respiration; if by mouth to mouth use rescuer protection (pocket mask etc). Call a poison control centre or doctor for treatment advice.

STORAGE AND SEGREGATION

Storage: Store in tightly closed original container in a cool, dry well-ventilated area out of direct sunlight when not in use. This product can be stored in an unheated building. Do not store with food, feedstuffs, fertilizers and seeds. See product label for further handling/storage precautions relative to the end use of this product

AGGREGATE STORAGE VOLUME THRESHOLDS: When stored with substances of the same hazard the aggregate quantity must be considered. For full details refer to the current NZS8409 Management of Agrichemicals or the Hazardous Substances Regulations.

Location Certificate ² :	Hazardous Atmosphere Zone ³ :	Number of Fire Extinguishers ⁴ :	Hazard Class & Emergency Action Signage ⁵ :	Emergency Information ⁶ :	Emergency Plan ⁷ :	Secondary Containment ⁸ :
Not Required	Not Required	Not Applicable	100 L	100 mL	100 L	100 L

Note: Farms ≥ 4 ha are exempt⁹ but with controls.

DO NOT STORE OR LOAD¹⁰ WITH:

DG Classes: 1, food items.

SEGREGATE^{11 & 12} FROM:

DG Classes: None required
 HSNO Classes: None required

Segregation: Check the Hazardous Substances Regulations and the Land Transport Rule Dangerous Goods 2005, Rule 45001/1 for additional information. Sea transport may require additional segregation. Refer NZS5433, sea segregation for details.

PLEASE TURN OVER

DISCLAIMER: The information provided above is based upon sources believed to be accurate. However, Dow AgroSciences (NZ) Limited assumes no responsibility for the accuracy, completeness or suitability of this information. The consignor and consignee are responsible to determine the suitability of this information for their particular purposes by consulting the relevant legislation, regulations, standards or codes. HazNote™ - Trademark of Agcam Incorporated The New Association for Animal Health and Crop Protection Entrust™ SC Naturalyte™ - Trademark of The Dow Chemical Company ("Dow") or an affiliated company of Dow. Issued/revised: 1st April 2016



No & Kind of Packages:	Gross Wgt: kg	Volume: m ³
Consignor:	Consignee:	
Dangerous Goods Declaration: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name and are classified, packaged, marked and labelled, and are in all respects in proper condition for transport according to the applicable international and national rules, regulations and legislation. If NOT a Dangerous Good cross out this box/statement.	Name: Title: Signature: Date:	

- ¹ Quantity limits for dangerous goods transported for domestic or recreational purposes, for use as tools-of-trade, for agricultural use or for a commercial purpose, but not transported for hire or direct reward. Schedule 1 of the *Land Transport Rule Dangerous Goods 2005 Rule 45001/1*.
- ² See the *Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001*, Regulation 55.
- ³ Requirements for hazardous atmosphere zones are provided in *Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001*, Regulation 58 - 59 and the *Hazardous Substances (Classes 1 to 5 Controls) Regulations 2004*, Regulation 5.
- ⁴ Details for number, location and type are provided in *Hazardous Substances (Emergency Management) Regulations 2001* regulations 21 - 23 and *Hazardous Substances (Emergency Management) Amendment Regulations 2004* regulations 16 and 17.
- ⁵ Requirements for signage are provided in *Hazardous Substances (Emergency Management) Regulations 2001* regulation 42
- ⁶ Requirements for emergency information are provided in *Hazardous Substances (Emergency Management) Regulations 2001* Parts 2 and 3 and the *Hazardous Substances (Emergency Management) Amendment Regulations 2004*.
- ⁷ Requirements for emergency information are provided in *Hazardous Substances (Emergency Management) Regulations 2001* Part 4 and the *Hazardous Substances (Emergency Management) Amendment Regulations 2004*.
- ⁸ Requirements for secondary containment are provided in *Hazardous Substances (Emergency Management) Regulations 2001* regulations 35 - 41 and the *Hazardous Substances (Emergency Management) Amendment Regulations 2004* regulations 20 - 22.
- ⁹ See *Hazardous Substances (Pesticides) Transfer Notice 2004 (As Amended)* page 43 Regulation 81
- ¹⁰ See Schedule 3 *Land Transport Rule: Dangerous Goods 2005 Rule 45001/1*. For good stewardship Dow AgroSciences does not recommend loading with food, feed or seed unless a suitable segregation device is fitted.
- ¹¹ See Schedule 3 *Land Transport Rule: Dangerous Goods 2005 Rule 45001/1*. For good stewardship Dow AgroSciences does not recommend loading with food, feed or seed unless a suitable segregation device is fitted.
- ¹² See *Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001* regulation 76 and *Hazardous Substances (Classes 1 to 5 Controls) Amendment Regulations 2004* regulation 13.

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Prevention:

P202: Do not handle until all safety precautions have been read and understood.
P261: Avoid breathing dust/fume/gas/mist/vapours/spray.
P270: Do not eat, drink, or smoke when using this product.
P273: Avoid release to the environment.
P280: Wear protective gloves/protective clothing/eye protection/face protection.

Response:

P305+P351+P338: IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.
P303+P361+P353: IF ON SKIN (or hair): Remove/Take off immediately all contaminated clothing. Rinse skin with water/shower.
P301+P312: IF SWALLOWED: Call a POISON CENTER or doctor/physician if you feel unwell.
P304+P340: IF INHALED: Remove victim to fresh air and keep at rest in a position comfortable for breathing.

Storage:

P403+P233: Store in a well-ventilated place. Keep container tightly closed.

Disposal:

P501: Dispose of contents/container to an approved waste disposal plant.

COMMENTS: This material is considered hazardous by the 2012 OSHA Hazard Communication Standard [29 CFR 1910.1200(a)(1)], and the G.H.S.

3. COMPOSITION / INFORMATION ON INGREDIENTS

Chemical Name	Wt. %	CAS
Pyrethrins	5	8003-34-7

COMMENTS: Ingredients not identified are proprietary or non-hazardous. Values are not product specifications.

4. FIRST AID MEASURES

EYES: Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. Call a poison control center or doctor for treatment advice.

SKIN: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.

INGESTION: If swallowed, IMMEDIATELY call a poison control center or doctor for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or a doctor. Never give anything by mouth to an unconscious person.

INHALATION: Remove affected person to fresh air. If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth if possible. Call a poison control center or doctor for further treatment advice.

NOTES TO PHYSICIAN: For skin effects, a highly efficient therapeutic agent for pyrethrin exposure is topical application of tocopherol acetate (Vitamin E).

5. FIRE FIGHTING MEASURES

FLAMMABLE CLASS: This product is NOT classified as flammable or combustible by OSHA.

EXTINGUISHING MEDIA: Foam, carbon dioxide or dry chemical.

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1. PRODUCT AND COMPANY IDENTIFICATION

PRODUCT NAME: PyGanic® Crop Protection EC 5.0 ii
PRODUCT DESCRIPTION: An Insecticide for Organic Crop Protection
PRODUCT CODE: 7444, EPA REG. NO. : 1021-1772
ACTIVE INGREDIENT(S): Pyrethrins

MANUFACTURER

McLaughlin Gormley King Company
8810 10th Avenue North
Minneapolis, MN 55427
Emergency Contact: SafetyCall®
Emergency Phone: 1(888) 740-8712
Alternate Emergency Phone: 1(952) 852-9509
Product Stewardship: 1(800) 645-6466
E-Mail: mgk-sds@mgk.com

24 HR. EMERGENCY TELEPHONE NUMBERS

FOR TRANSPORTATION:

CHEMTREC® U.S. and CANADA: 1(800) 424-9300
CHEMTREC® All Other Areas: 1(703) 527-3887

COMMENTS: MGK® Hours of operation are 8:00 am to 4:30 pm CST, 14:00 to 22:30 GMT.

For MEDICAL EMERGENCIES or PESTICIDE INCIDENTS, call 24 hours a day to 1-888-740-8712.

2. HAZARDS IDENTIFICATION

GHS CLASSIFICATIONS

Health:

Skin Sensitization, Category 1B
Acute Toxicity (Inhalation), Category 4
Acute Toxicity (Oral), Category 4

Environmental:

Acute Hazards to the Aquatic Environment, Category 1

GHS LABEL



Exclamation
mark
(GHS 07)



Environment
(GHS 09)

SIGNAL WORD: WARNING

HAZARD STATEMENTS

H317: May cause an allergic skin reaction.
H332: Harmful if inhaled.
H302: Harmful if swallowed.
H400: Very toxic to aquatic life.

PRECAUTIONARY STATEMENT(S)

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HAZARDOUS COMBUSTION PRODUCTS: Under fire conditions this product may support combustion and may decompose to give off toxic gases such as carbon monoxide, carbon dioxide, and nitrogen oxides.

FIRE FIGHTING PROCEDURES: Treat as an oil fire. Use a full-faced self-contained breathing apparatus along with full protective gear. Keep nearby containers and equipment cool with a water stream.

6. ACCIDENTAL RELEASE MEASURES

SMALL SPILL: Stop release, if possible without risk. Dike or contain release, if possible, and if immediate response can prevent further damage or danger. Isolate and control access to the release area. Take actions to reduce vapors. Absorb with appropriate absorbent such as sand, or vermiculite. Clean spill area of residues and absorbent.

LARGE SPILL: Stop release, if possible without risk. Dike or contain release, if possible, and if immediate response can prevent further damage or danger. Isolate and control access to the release area. Take actions to reduce vapors. Collect product into drums, storage tanks, etc., via drains, pumps, etc. Absorb with appropriate absorbent such as sand or vermiculite. Clean spill area of residues and absorbent.

ENVIRONMENTAL PRECAUTIONS

WATER SPILL: Contains Pyrethrins, which are toxic to fish and other aquatic invertebrates. Contaminated absorbent and wash water should be disposed of according to local, state, and federal regulations.

7. HANDLING AND STORAGE

HANDLING: Mixers, loaders, and other handlers:

Wear a long-sleeved shirt and long pants, shoes and socks.

Wear chemical-resistant gloves such as Barrier Laminate, Neoprene Rubber, Nitrile Rubber, or Viton.

Applicators using hand-held foggers in an enclosed-area must also wear the following additional PPE:

Wear a MSHA/NIOSH-approved respirator, such as a half-face, full-face, or hood-style NIOSH-approved respirator with a dust/mist filtering cartridge (MSHA/NIOSH approval number prefix TC-21C), or a canister approved for pesticides (MSHA/NIOSH approval number prefix TC-14G), or a cartridge or canister with any R, P or HE filter.

Do not contaminate water, food or feedstuffs by storage, handling, or disposal.

READ AND OBSERVE ALL PRECAUTIONS AND INSTRUCTIONS ON THE PRODUCT LABEL.

STORAGE: Store in a cool, dry (preferably locked) area that is inaccessible to children and animals. Keep this product in its tightly-closed, original container when not in use.

KEEP OUT OF REACH OF CHILDREN

8. EXPOSURE CONTROLS / PERSONAL PROTECTION

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EXPOSURE GUIDELINES

OSHA HAZARDOUS COMPONENTS (29 CFR1910.1200)					
		EXPOSURE LIMITS			
		OSHA PEL		ACGIH TLV	
Chemical Name		ppm	mg/m ³	ppm	mg/m ³
Pyrethrins	TWA		5		5

ENGINEERING CONTROLS: Ventilate treatment area thoroughly before re-entry.

PERSONAL PROTECTIVE EQUIPMENT

EYES AND FACE: Take prudent precautions to avoid contact with eyes.

SKIN: Wear chemical-resistant gloves such as Barrier Laminate, Neoprene Rubber, Nitrile Rubber, or Viton, and wear protective clothing.

RESPIRATORY: Applicators using hand-held foggers in an enclosed-area must also wear the following additional PPE:

Wear a MSHA/ NIOSH-approved respirator, such as a half-face, full-face, or hood-style NIOSH-approved respirator with a dust/ mist filtering cartridge (MSHA/ NIOSH approval number prefix TC-21C), or a canister approved for pesticides (MSHA/ NIOSH approval number prefix TC-14G), or a cartridge or canister with any R, P or HE filter.

PROTECTIVE CLOTHING: Wear a long-sleeved shirt and long pants, shoes and socks.

WORK HYGIENIC PRACTICES: DO NOT SMOKE, EAT, OR DRINK, OR APPLY COSMETICS IN WORK AREA!

Wash promptly if skin becomes contaminated. Wash at the end of each work shift and before eating, smoking, or using the toilet.

OTHER USE PRECAUTIONS: AGRICULTURAL USE REQUIREMENTS:

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR, Part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on the label about personal protective equipment (PPE), and restricted-entry interval. The requirements listed below only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 12 hours.

PPE required for early entry to treated areas that is permitted under Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is:

Long-sleeved shirt and long pants;

Chemical-resistant gloves, such as Barrier Laminate, Nitrile Rubber, Neoprene Rubber, or Viton;

Shoes plus socks.

COMMENTS: NON-AGRICULTURAL USE REQUIREMENTS:

The requirements in this section apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR, Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries or greenhouses.

Do not enter or allow others to enter until vapors, mists, and aerosols have dispersed, and the treated area has been thoroughly ventilated.

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Do not enter or allow others to enter until sprays have dried.

9. PHYSICAL AND CHEMICAL PROPERTIES

PHYSICAL STATE: Liquid

ODOR: Sweet surfactant odor.

APPEARANCE: Clear, amber-brown colored liquid.

pH: 5.9

Notes: @ 5% in water.

FLASHPOINT AND METHOD: > 93.3°C (200°F) TAG Closed Cup

VAPOR DENSITY: Heavier than air.

FREEZING POINT: Not Available

SOLUBILITY IN WATER: Partially miscible in water.

SPECIFIC GRAVITY: 0.932 (Water = 1) at 20°C (68°F)

VISCOSITY #1: 34.8 CPS at 24°C (75.2°F) Brookfield

(VOC): 0 %

10. STABILITY AND REACTIVITY

STABLE: Yes

HAZARDOUS POLYMERIZATION: No

CONDITIONS TO AVOID: Not compatible with strong acids or bases. Not compatible with strong oxidizers.

11. TOXICOLOGICAL INFORMATION

ACUTE

DERMAL LD₅₀: > 2000 mg/kg

Notes: Albino rabbit.

ORAL LD₅₀: > 2000 mg/kg

Notes: Albino rat.

INHALATION LC₅₀: > 2.12 mg/L

Notes: Rats exposed for 4 hours to test atmosphere. The Acute Inhalation LC₅₀ of this material places it in EPA Toxic Category IV.

EYE EFFECTS: Irritation clearing within 48 hours.

SKIN EFFECTS: Slight irritation at 72 hours. Primary Irritation Index = 1.3.

SENSITIZATION: Positive.

COMMENTS: None of the components present in this material at concentrations equal to or greater than 0.1% are listed by IARC, NTP, OSHA or ACGIH as being carcinogens.

Carcinogenicity/ Oncogenicity - Slightly elevated incidences of benign tumors of the thyroid and liver were seen in rats following lifetime administration of high doses of Pyrethrins. Further detailed scientific studies into the mode of action responsible for these

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effects show that:

- 1) Because of biological species differences, the rat thyroid tumors are not relevant to humans.
- 2) The rat liver tumors occur in animals only at doses greatly exceeding human exposure levels and that cause cell proliferation (mitogenesis).

Based on these data, the USEPA has classified Pyrethrins as "Not Likely to be Carcinogenic to Humans," at doses that do not cause a mitogenic response in the liver/ cell proliferation. Thus, Pyrethrins can be considered to be non-carcinogenic at exposure levels relevant to human use of Pyrethrins-containing products.

12. ECOLOGICAL INFORMATION

ECOTOXICOLOGICAL INFORMATION: This product is toxic to aquatic organisms, including fish and invertebrates. Drift and runoff may be hazardous to aquatic organisms in water adjacent to treated areas. This product may contaminate water through runoff. This product has a potential for runoff for several weeks after application. Poorly draining soils and soils with shallow water tables are more prone to produce runoff that contains this product.

This product is highly toxic to bees exposed to direct treatment on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds while bees are actively visiting the treatment area.

Do not apply directly to water, or to areas where surface water is present, or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwaters or rinsate.

13. DISPOSAL CONSIDERATIONS

DISPOSAL METHOD: Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.

EMPTY CONTAINER: Non-refillable container. DO NOT reuse or refill this container.

Triple-rinse or pressure rinse (or equivalent) container promptly after emptying. Then, offer for recycling or reconditioning, or puncture and dispose of container in a sanitary landfill, or by other procedures approved by State and Local authorities.

Triple-rinse as follows for containers of 5 gallons or less (< 5 gallons): Empty the remaining contents into application equipment or a mix-tank and drain for 10 seconds after the flow begins to drip. Fill the container $\frac{1}{4}$ full with water and re-cap. Shake for 10 seconds. Pour rinsate into application equipment or a mix-tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times.

Triple-rinse as follows for containers greater than 5 gallons (> 5 gallons): Empty the remaining contents into application equipment or a mix-tank. Fill the container $\frac{1}{4}$ full with water. Replace and tighten closures. Tip container on its side and roll back and forth, ensuring at least one complete revolution, for 20 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix-tank or store rinsate for later use or disposal. Repeat this procedure two more times.

Pressure-rinse as follows: Empty the remaining contents into application equipment or a mix-tank. Hold container upside down over application equipment or mix-tank or collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container, and rinse at about 40 p.s.i. for at least 30 seconds. Drain for 10 seconds after the flow begins to drip.

RCRA/EPA WASTE INFORMATION: This product contains the following RCRA/CERCLA Hazardous wastes/substances:

Component, RCRA ID#, CERCLA RQ:

Pyrethrins, N/A, 1 Lb.

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14. TRANSPORT INFORMATION**DOT (DEPARTMENT OF TRANSPORTATION)**

PROPER SHIPPING NAME: UN3082, Environmentally Hazardous Substance, Liquid, N.O.S., RQ (Pyrethrins)

PRIMARY HAZARD CLASS/DIVISION: 9

PACKING GROUP: III

REPORTABLE QUANTITY (RQ) UNDER CERCLA: 1 Lb. (Pyrethrins/ Pyrethrum)

OTHER SHIPPING INFORMATION: This material is not regulated as a hazardous material by the DOT in quantities less than < 20 Lbs.

Shipping name for quantities more than > 20 Lbs.: UN3082, Environmentally Hazardous Substance, Liquid, N.O.S., RQ (Pyrethrins), Class 9, Packing Group III

AIR (ICAO/IATA)

SHIPPING NAME: UN3082, Environmentally Hazardous Substance, Liquid, N.O.S., RQ (Pyrethrins)

PRIMARY HAZARD CLASS/DIVISION: 9

PACKING GROUP: III

VESSEL (IMO/IMDG)

SHIPPING NAME: UN3082, Environmentally Hazardous Substance, Liquid, N.O.S.

PRIMARY HAZARD CLASS/DIVISION: 9

PACKING GROUP: III

MARINE POLLUTANT #1: Pyrethrins/ Pyrethrum

15. REGULATORY INFORMATION**UNITED STATES****SARA TITLE III (SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT)**

FIRE: No PRESSURE GENERATING: No REACTIVITY: No ACUTE: Yes

313 REPORTABLE INGREDIENTS: This product contains no SARA Title III Section 313 chemicals that exceed the reporting limits.

302/304 EMERGENCY PLANNING

EMERGENCY PLAN: There are no SARA Title III Section 302 extremely hazardous substances present in this formulation (40 CFR 355).

See Section 13 of this MSDS for the components that are subject to emergency requirements under CERCLA Section 103(a)(40 CFR 302.4).

TSCA (TOXIC SUBSTANCE CONTROL ACT)

TSCA STATUS: All chemical substances found in this product comply with the Toxic Substances Control Act's inventory reporting requirements.

REGULATIONS**STATE REGULATIONS:**

VOLATILE ORGANIC COMPOUNDS (VOC):

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This product contains no VOC's (0%).

FIFRA (FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT):

NOTE: This chemical is a pesticide product registered by the United States Environmental Protection Agency and is subject to certain labeling requirements under federal pesticide law. These requirements differ from the classification criteria and hazard information required for Safety Data Sheets, and for workplace labels of non-pesticide chemicals. The following is the hazard information as required on the pesticide label:

CAUTION. Causes moderate eye irritation. Harmful if swallowed or absorbed through the skin. Avoid contact with skin, eyes, and clothing. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals.

Personal Protective Equipment (PPE):

Mixer's, loaders, applicators, and other handlers:

Wear a long-sleeved shirt and long pants, shoes and socks.

Wear chemical-resistant gloves such as Barrier Laminate, Neoprene Rubber, Nitrile Rubber, or Viton.

Applicators using hand-held foggers in an enclosed-area must also wear the following additional PPE:

Wear a MSHA/ NIOSH-approved respirator, such as a half-face, full-face, or hood-style NIOSH-approved respirator with a dust/ mist filtering cartridge (MSHA/ NIOSH approval number prefix TC-21C), or a canister approved for pesticides (MSHA/ NIOSH approval number prefix TC-14G), or a cartridge or canister with any R, P or HE filter.

16. OTHER INFORMATION

REVISION SUMMARY: This MSDS replaces the 2/3/2010 MSDS. Revised: Section 1: PRODUCT CODE. Section 2: EMERGENCY OVERVIEW - IMMEDIATE CONCERNS POTENTIAL HEALTH EFFECTS (SKIN, SKIN ABSORPTION, INHALATION, INGESTION). Section 4: CHRONIC EFFECTS. Section 7: HANDLING, STORAGE. Section 8: PERSONAL PROTECTIVE EQUIPMENT (PROTECTIVE CLOTHING). Section 9: (VOC). Section 11: ACUTE (INHALATION LC₅₀ (rat), INHALATION LC₅₀ (rat)). Section 12: ECOTOXICOLOGICAL INFORMATION. Section 13: DISPOSAL METHOD, EMPTY CONTAINER. Section 14: AIR (ICAO/IATA) - UN/NA NUMBER DOT (DEPARTMENT OF TRANSPORTATION) - UN/NA NUMBER VESSEL (IMO/IMDG) (MARINE POLLUTANT #1, PRIMARY HAZARD CLASS/DIVISION, PACKING GROUP). Section 15: STATE REGULATIONS.

HMIS RATING

HEALTH	<input type="checkbox"/>	2
FLAMMABILITY	<input type="checkbox"/>	1
PHYSICAL HAZARD	<input type="checkbox"/>	1
PERSONAL PROTECTION	<input type="checkbox"/>	

HMIS RATINGS NOTES: We assign HMIS ratings to this product based on the hazards of its ingredients(s). Since the customer is most aware of the applications and conditions of use, he or she must ensure that the proper Personal Protective Equipment is provided, consistent with the information contained in Section's 2, 7, and 8 of this MSDS.

COMMENTS: The data contained herein are based on information currently available to McLaughlin Gormley King Company and, to the best of our knowledge, are accurate and based on sound expert opinion. Our statements herein, however, are not to be taken as a warranty or representation for which McLaughlin Gormley King Company assumes legal responsibility.

MSDS Prepared by T. Azzivitto

DiPel DF Biological Insecticide Dry Flowable

SDS# VBC-0031 Revision 0

ISSUED 04/26/15

1. IDENTIFICATION OF THE SUBSTANCE/PREPARATION AND OF THE COMPANY**1.1 Product Identifier****MATERIAL NAME:** DiPel DF Biological Insecticide Dry Flowable**Synonyms:** Dipel WG, DiPel WDG, Bactospeine WG, DiPel Pro DF, DiPel 6.4 WG, Bactospeine DF, BioMax DF, BioBit DF**EPA Reg No.:** 73049-39**Code Number:** 80250**List Number:** 12046**Chemical Family:** Microbial, B.t.k. strain ABTS-351**Substance Registration Number(s)[REACH]:** N/A**1.2 Relevant Identified Uses and Uses Advised Against****Identified Uses:** Agricultural Insecticide**Uses Advised Against:** It is a violation of Federal law to use this product in a manner inconsistent with its FIFRA pesticide labeling.**1.3 Details of the supplier of the Safety Data Sheet****Supplied By:** Valent BioSciences Corporation
870 Technology Way
Libertyville, Illinois 60048**1.4 EMERGENCY TELEPHONE NUMBERS****Emergency Health or Spill:**

Outside the United States: 651-632-6184

Within the United States: 877-315-9819

2. HAZARDS IDENTIFICATION**2.1 Classification of the Substance or Mixture**

Not Classified

2.2 Labeling Elements**Symbol(s)**

Symbols not required

Signal Word

WARNING

Hazard Statement(s)

DiPel DF Biological Insecticide Dry Flowable

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ISSUED 04/26/15

None

Precautionary Statement:
Prevention

Avoid breathing dust /mistspray
Wash thoroughly after handling
Contaminated work clothing should not be allowed out of the workplace
Wear protective clothing/eye protection/face protection
Avoid release to the environment

Response

IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.
If eye irritation persists: Get medical advice/ attention.
IF ON SKIN: Wash with soap and water.
Take off contaminated clothing and wash it before reuse.

Disposal

Dispose of contents/container in accordance with local/regional/national regulations.

Safety

Avoid contact with skin and eyes
In case of contact with skin or eyes, rinse immediately w/ plenty of water and seek medical advice.
Wear suitable protective clothing and eye/face protection

2.3 Other Hazards

None identified.

3. COMPOSITION/INFORMATION ON INGREDIENTS

CAS #	Component Name	EC No.	(Classification)	Percent
68038-71-1	Btk Fermentation solids		Not classified	54.0
Trade Secret	Other ingredients		Not classified	46.0

4. FIRST AID MEASURES
4.1 Description of First Aid Measures

GENERAL: In all cases of doubt, seek medical attention.

EYES: Remove from source of exposure. Flush with copious amounts of water. Remove contact

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lenses, if present and easy to do, after the first 5 minutes, then continue rinsing. If irritation persists or signs of toxicity occur, seek medical attention. Provide symptomatic /supportive care as necessary.

SKIN: Remove from source of exposure. Take off contaminated clothing. Flush with copious amounts of water. Cover irritated skin with an emollient. If irritation persists or signs of toxicity occur, seek medical attention. Provide symptomatic/supportive care as necessary.

INGESTION: Remove from source of exposure. Move person to fresh air. Do NOT induce vomiting. Give large quantities of water. If signs of toxicity occur, seek medical attention. Provide symptomatic /supportive care as necessary.

INHALATION: Remove from source of exposure. If signs of toxicity occur, seek medical attention. Provide symptomatic/supportive care as necessary. If person is not breathing, call 911, then give artificial respiration.

4.2 Most important Symptoms and Effects, both Acute and Delayed
Acute

Eye irritation, skin sensitization

Delayed

No information on significant adverse effects

4.3 Indication of any Immediate Medical Attention and Special Treatment Needed

Treat symptomatically and supportively

5. FIRE FIGHTING PROCEDURES
5.1 Extinguisher Media
Suitable Extinguisher Media

Dry chemical, water spray, foam or carbon dioxide. Use appropriate medium for the underlying cause of the fire.

Unsuitable Extinguisher Media

None known

5.2 Specific Hazards Arising from the Chemical

None known

Thermal decomposition products

Carbon oxides, nitrogen oxides

5.3 Advice to Firefighters
Fire Fighting Measures

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Areas containing this material should have fire-safe practices and electrical equipment in accordance with applicable governmental regulations for products with the flashpoint as shown in Section 9 (Physical and Chemical Properties).

Protective Equipment and precautions for firefighters

Fire fighter should wear full-face, self-contained breathing apparatus and impervious protective clothing. Fire fighters should avoid inhaling combustion products. See Section 8 (Exposure Controls / Personal Protection)

Fire & Explosive hazard

Not expected to be flammable.

6. ACCIDENTAL RELEASE MEASURES**6.1 Personal Precautions, Protective Equipment and Emergency Procedures**

Use in a well-ventilated area. Respiratory protection is not needed during normal product use. Wear eye protection appropriate to handling activities. Wear impervious gloves. Wear appropriate body coverings if contact may occur. Where exposure level is not known, wear respirator protection suitable for expected level of exposure, in addition to the personal protection as recommended in Section 8.

6.2 Environmental Precautions

Keep out of drains, sewers, ditches and waterways. Avoid runoff to waterways and sewers.

6.3 Methods and Materials for Containment and Cleaning Up

Ventilate area. Wear appropriate personal protective equipment. Recover product with inert material (earth, sand, vermiculite), place into appropriate container for disposal. Do not flush to sewer.

6.4 Reference to Other Sections

See Section 7 for Handling Procedures. See Section 8 for Personal Protective Equipment recommendations. See Section 13 for Disposal Considerations.

US Regulations may require reporting spills of hazardous materials: See Section 15: REGULATORY INFORMATION for details on reportable quantities, if any.

7. HANDLING AND STORAGE**7.1 Precautions for Safe handling**

Ventilate. Avoid breathing dust or vapor. Avoid contact with eyes, skin or clothing. Wash thoroughly after handling. Do not eat, drink or smoke while working with product, obey reasonable safety precautions and practice good housekeeping. For filling operations respiratory

DiPel DF Biological Insecticide Dry Flowable

SDS# VBC-0031 Revision 0

ISSUED 04/26/15

protection may be recommended particularly in enclosed areas.

7.2 Conditions for Safe Storage, Including Incompatibilities

Protect against physical damage. Close containers of unused material. Store in a dry, cool, ventilated place, away from direct sunlight.

Incompatibilities

None Known

7.3 Specific End Use(s)

Agricultural insecticide.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION**8.1 Control Parameters****Component Exposure Limits**

None

Derived No Effect Levels (DNELs)

No DNELs available

Predicted No Effect Concentrations (PNECs)

No PNECs available

8.2 Exposure Controls**Appropriate Engineering Controls**

Provide general ventilation. Where adequate general ventilation is unavailable use process enclosure, local exhaust ventilation, or other engineering controls

SKIN PROTECTION:

Wear protective clothing, including boots and gloves. Wear gloves made of Latex or other impervious materials. Wash thoroughly with soap and water after handling.

EYE PROTECTION:

Wear goggles, safety glasses with side shields or full-face shield when splashing or spraying of materials is likely.

RESPIRATORY PROTECTION:

For filling operations if dust/mist is produced respiratory protection is recommended or where respiratory protection is warranted, use dust/mist filtering respirator (MSHA/NIOSH approved number prefix TC-21C or a NIOSH approved respirator with any N, P, R or HE filter). Wash thoroughly with soap and water after handling.

SURROUND® WP CROP PROTECTANT

Date of Issue: December 2016

1. IDENTIFICATION

Product Identifier: **Surround® WP Crop Protectant**

Other Means of Identification: Surround WP

Recommended Use of the Chemical and Restrictions on Use: **Crop Protectant**

Details of Manufacturer or Importer: AgNova Technologies Pty Ltd
Suite 3/935 Station Street
Box Hill North Vic 3129 Australia
(03) 9899 8100
www.agnova.com.au

Emergency Phone Number: 1800 033 111 (24 hrs)

2. HAZARD(S) IDENTIFICATION

GHS Classification of the Substance: The substance is not classified according to the Globally Harmonized System (GHS).

Label Elements:

GHS Label Elements: Non-Regulated Material
Hazard Pictograms: Non-Regulated Material
Signal Word: Non-Regulated Material
Hazard Statements: Non-Regulated Material

ADG Classification: Not classified as Dangerous Goods for land transport under the Australian Code for Transport of Dangerous Goods by Road and Rail – refer section 14.

SUSMP Classification: Not scheduled
(Standard for Uniform Scheduling of Medicines and Poisons)

3. COMPOSITION AND INFORMATION ON INGREDIENTS

Ingredients:	CAS Number:	Concentration (% w/w):
Kaolin	1332-58-7	95

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4. FIRST AID MEASURES

If poisoning occurs, immediately contact a doctor or Poisons Information Centre (Phone 13 11 26), and follow the advice given. Show this Safety Data Sheet to a doctor.

Description of Necessary First Aid Measures:

Ingestion:	Not toxic. If adverse effects occur, contact a doctor or Poisons Information Centre (Telephone 13 11 26) and follow the advice given. Only induce vomiting at the instruction of a physician. Never give anything by mouth to an unconscious person.
Inhalation:	Move person to fresh air. Aid in breathing, if necessary, and get medical attention.
Skin Contact:	Flush skin with large amounts of water. If irritation persists, get medical attention.
Eye Contact:	In case of contact, immediately flush eyes with copious quantities of water for at least 15 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. If irritation persists, get medical attention.
First Aid Facilities:	Provide washing facilities in the workplace.
Symptoms Caused by Exposure:	Dust may cause irritation of lungs, eyes or skin.
Medical Attention and Special Treatment:	None specified

5. FIRE FIGHTING MEASURES

Suitable Extinguishing Equipment:	Use dry chemical, foam, CO ₂ or water. Use firefighting measures that suit the environment.
Specific Hazards Arising from the Chemical:	No relevant information available.
Special Protective Equipment and Precautions for Fire Fighters:	Wear full protective clothing and self-contained breathing apparatus with a full-face piece operated in positive pressure mode.

SURROUND® WP CROP PROTECTANT

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6. ACCIDENTAL RELEASE MEASURES
**Personal Precautions,
Protective Equipment
and Emergency
Procedures:**

Not required.

**Environmental
Precautions:**

DO NOT apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. DO NOT contaminate water when disposing of equipment wash water or rinsate.

**Methods and Materials
for Containment and
Cleaning Up:**

 Absorb with liquid-binding material (i.e. sand, diatomite, acid binders, universal binders, sawdust).
Dispose contaminated material as waste according to section 13.
Ensure adequate ventilation.

7. HANDLING AND STORAGE
**Precautions for Safe
Handling:**

 Ensure good ventilation/exhaustion at the workplace.
Avoid contact with skin, eyes and clothing
Keep protective respiratory device available.
Refer to the Product Label for further information.

**Conditions for Safe
Storage, including any
Incompatibilities:**

 Store in a well-ventilated, secure area out of reach of children and domestic animals.
Do not store food, beverages, or tobacco products in the storage area.
Product is slippery when wet.

8. EXPOSURE CONTROLS AND PERSONAL PROTECTION

Personnel who handle this product in its end-use application should use this product in accordance with its pesticide labelling.

Exposure Standards:	Chemical	OSHA - PEL	ACGIH TLV	REL
	Kaolin	Long-term value: 15* 5** mg/m ³ *total dust **respirable fraction	Long-term value: 2* mg/m ³ E; as respirable fraction	Long-term value: 10* 5** mg/m ³ *total dust **respirable fraction
Biological Monitoring:	No data available			

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Engineering Controls:	Use effective engineering controls to comply with occupational exposure limits.
Individual Protection Measures, for example, Personal Protective Equipment (PPE):	<p>Keep away from foodstuffs, beverages and feed. Wash hands before breaks and at the end of work. Personal protective equipment not generally required.</p> <p><i>Hand and Skin Protection for use in situations where PPE is required to minimise exposure:</i> Wear gloves. Wear protective work clothing. Wash contaminated clothing before reuse.</p> <p><i>Eye Protection for use in situations where PPE is required to minimise exposure:</i> Wear tightly sealed goggles and face protection.</p> <p><i>Respiratory Protection:</i> Not generally required. However, use NIOSH approved respiratory protection when airborne concentrations exceed exposure limits.</p>

9. PHYSICAL AND CHEMICAL PROPERTIES
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Appearance:	White powder
Odour:	Odourless
Vapour Pressure:	Not available
Vapour Density:	Not available
Bulk Density:	288.3 kg/m ³
Boiling Point:	Not applicable
Melting/Freezing Point:	Not determined
Solubility (in water):	Insoluble
pH:	Not applicable
Flash Point:	Not applicable
Flammability:	Not flammable
Flammability (explosive) Limits:	Not applicable
Auto-Ignition Temperature:	Not available
Decomposition Temperature:	Not available

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10. STABILITY AND REACTIVITY

Chemical Stability:	Stable under normal use and storage conditions
Possibility of Hazardous Reactions:	Will not occur
Conditions to Avoid:	Avoid all sources of ignition, heat or open flame. Avoid prolonged exposure to excessive temperatures.
Incompatible Materials:	Avoid contact with oxidizing agents, acids or alkalis
Hazardous Decomposition Products:	None known

11. TOXICOLOGICAL INFORMATION

Acute Toxicity:	
Oral Toxicity:	LD ₅₀ Rat > 5,000 mg/kg (kaolin)
Dermal Toxicity:	No data available
Inhalation Toxicity:	No data available
Skin Corrosion/Irritation:	Mildly irritating
Serious Eye Damage/Irritation:	Mildly irritating
Respiratory or Skin Sensitisation:	No data available
Additional Toxicological Information:	The product is not subject to toxicological classification according to internally approved calculation methods for preparations. When used and handled according to specifications, the product does not have any harmful effects according to our experience and the information provided to us.
Carcinogenicity:	None of the ingredients is listed as a carcinogen by IARC, NTP or OSHA

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12. ECOLOGICAL INFORMATION

Do not contaminate water when disposing of equipment wash waters.

This information is based on the active ingredient: Kaolin
Ecotoxicity:
Aquatic Toxicity: No relevant information available

Bird Toxicity: No relevant information available

Persistence and Degradability: No relevant information available

Bioaccumulative Potential: No relevant information available

Mobility in Soil: No relevant information available

Other Adverse Effects: No further relevant information available

13. DISPOSAL CONSIDERATIONS
Disposal Containers and Methods:

Do not contaminate water, food, or feed by storage and disposal.

Product Storage: Store in a dry, sheltered location.

Product is slippery when wet. In case of spill or leak, avoid breathing dust, clean up and dispose of wastes in compliance with applicable local regulations.

Product Disposal: Spray mixture or rinsate that cannot be used according to label instructions must be disposed of according to applicable local procedures.

Container Disposal: Completely empty bag into application equipment. Dispose of empty bag according to local regulations.

14. TRANSPORT INFORMATION
Transport Classification:
Road and Rail Transport: Not classified as dangerous goods under the ADG7

Marine and Air: Not classified as dangerous goods for transport by sea and air according to IMDG & IATA.

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UN Number: Not classified, none allocated**Proper Shipping Name
or Technical Name:** Not classified, none allocated**Transport Hazard
Class:** Not classified, none allocated**Packing Group:** Not classified, none allocated**Environmental Hazards
for Transport
Purposes:** Not a marine pollutant**Special Precautions for
User:** None required**Additional Information:** None required**Hazchem Code:** None allocated**15. REGULATORY INFORMATION****APVMA** Exempt from registration according to the Agricultural and Veterinary Chemicals Act 1988.**SUSMP** Not scheduled**16. OTHER INFORMATION****Trademark Information:** Surround® is a registered trademark of Tessenderlo Kerley, Inc.
All rights reserved.**Abbreviations and
Acronyms:** ACGIH – American Conference of Governmental Industrial Hygienists, Inc.
ADG7 – Australian Dangerous Goods Code for Road and Rail Transport, 7th Edition
APVMA – Australian Pesticides and Veterinary Medicines Authority
GHS – Globally Harmonized System of Classification and Labelling of Chemicals
IARC – International Agency for Research on Cancer (USA)

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IATA – International Air Transport Association
IBC – Intermediate Bulk Container
IMDG – International Maritime Dangerous Goods
NIOSH – National Institute of Occupational Safety and Health (USA)
NTP – National Toxicology Program (USA)
OSHA – Occupational Safety & Health Administration (USA)
PEL – Permissible Exposure Limit
SUSMP – Standard for the Uniform Scheduling of Medicines and Poisons
TLV – Threshold Limit Value
TWA – Time Weighted Average

Date of Preparation or Revision: December 2016

Reason for Revision: To comply with GHS

Data Sources: Manufacturer product safety data and published data

This SDS summarises our best knowledge of the health and safety hazard information of the product and how to safely handle and use the product in the workplace. Each user should read this SDS and consider the information in the context of how the product will be handled and used in the workplace including in conjunction with other products.

The opinions expressed herein are those of qualified experts with the manufacturer. Since the use of this information and of these opinions and the conditions of use of this product are not within the control of AgNova Technologies Pty Ltd, it is the user's obligation to determine the conditions of safe use of the product.

END OF SDS



MATERIAL SAFETY DATA SHEET

1. PRODUCT AND COMPANY IDENTIFICATION

Formulator: Gowan Company
P.O. Box 5569
Yuma, Arizona 85366-5569
(800) 883-1844

For 24-Hour Emergency
Assistance (Spill, Leak, Fire, or
Exposure), Call CHEMTREC®:

Inside the U.S.: (800) 424-9300
Outside the U.S.: (703) 527-3887
(888) 478-0798

For Medical Emergency:

Product: M-Pede® Insecticide Miticide Fungicide

EPA Signal Word: Warning

EPA Registration No.: 10163-324

Active Ingredient: Potassium Salts of Fatty Acids (49.0%)

CAS No.: 067701-09-1

Chemical Name: Potassium Laureate

Chemical Class: Soap

2. HAZARDS IDENTIFICATION

EMERGENCY OVERVIEW

Yellow liquid with a musty odor.

Health/Environmental Hazards: May cause eye irritation and corneal injury. May cause skin irritation.

OSHA Hazard Communication Standard

This product is a "hazardous Chemical" as defined by the OSHA Hazard Communication Standard, 29 CFR 1910.1200.

3. COMPOSITION/INFORMATION ON INGREDIENTS

INGREDIENT NAME	CAS #	W/W%
Potassium Salts of Fatty Acids	067701-09-1	49.0
Propylene Glycol	000057-55-6	37.4

Only the identities of the active ingredient(s) and any hazardous inert ingredients are listed. Specific information on all of this product's ingredients can be obtained by the treating medical professional or spill emergency responder for the management of exposures, spills, or safety assessments.

4. FIRST AID MEASURES

- Eye Contact: Hold eyes open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eyes. Call a poison control center or doctor for treatment advice.
- Skin Contact: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center for doctor for treatment advice. Never give anything by mouth to an unconscious person.
- Ingestion: Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to so swallow. Do not induce vomiting unless told to do so by the poison control center or doctor. Never give anything by mouth to an unconscious person.
- Inhalation: Move person to fresh air. If person is not breathing, call an emergency responder or ambulance, then give artificial respiration; if by mouth to mouth use rescuer protection (pocket mask, etc.). Call a poison control center for treatment advice.

4. FIRST AID MEASURES - continued

Note to Physician

Respiratory symptoms, including pulmonary edema, may be delayed. Persons receiving significant exposure should be observed 24-48 hours for signs of respiratory distress. Maintain adequate ventilation and oxygenation of the patient. No specific antidote. Treatment of exposure should be directed at the control of symptoms and the clinical condition of the patient. Have the Safety Data Sheet, and if available, the product container or label with you when calling a poison control center or doctor, or going for treatment.

FOR MEDICAL EMERGENCIES INVOLVING THIS PRODUCT, CALL TOLL FREE: (888) 478-0798

5. FIRE FIGHTING MEASURES

Flashpoint (test method): 160°C

Flammable Limits (% in air): Not determined

Appropriate Extinguishing Media

Foam, CO₂, or dry chemical

Fire Fighting Guidance

Use positive-pressure, self-contained breathing apparatus and full protective equipment.

Unusual Fire, Explosion, and Reactivity Hazards

Foam fire extinguishing system is preferred because uncontrolled water can spread possible contamination. Toxic irritating gases may be formed under fire conditions.

6. ACCIDENTAL RELEASE MEASURES

In Case of Spills or Leaks

Steps to be Taken if Material is released or Spilled: Contain spilled material if possible. Small spills: Absorb with materials such as clay, dirt, sand, or Zorb-all®. Sweep up. Collect in suitable and properly labeled containers. Large spills: Contact Gowan Company for clean-up assistance.

Personal Precautions: Use appropriate safety equipment. For additional information, refer to section 8, Exposure Controls and Personal Protection.

Environmental Precautions: Prevent from entering into soil, ditches, sewers, waterways and/or groundwater. See Section 12, Ecological Information.

7. HANDLING AND STORAGE

Handling

General Handling: Keep out of reach of children. Do not swallow. Avoid breathing vapor or mist. Avoid contact with eyes, skin, and clothing. Use with adequate ventilation. Wash thoroughly after handling.

Other precautions: Containers, even those that have been emptied, can contain vapors. Do not cut, drill, grind, weld, or perform similar operations on or near empty containers.

Storage

Store in a dry place. Store in original container. Keep container tightly closed when not in use. Do not store near food, foodstuffs, drugs or potable water supplies.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

These precautions are suggested for conditions where the potential for exposure exists. Emergency conditions may require additional precautions.

Exposure Guidelines

Propylene Glycol: AIHA WEEL is 50 ppm total, 10 mg/M³ aerosol only

Potassium Hydroxide: ACGIH TLV is 2 mg/M³

Engineering Controls

Provide general and/or local exhaust ventilation to control airborne levels below the exposure guidelines

Recommendations for Manufacturing, Commercial Blending, and Packaging Employees

Eye/Face

Use chemical goggles

Skin Protection

Use protective clothing chemically resistant to this material. Selection of specific items such as face shield, boots, apron, or full body suit will depend on the task.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION - continued

Hand protection:	Use gloves chemically resistant to this material when prolonged or frequently repeated contact could occur. Examples of preferred glove barrier materials include: chlorinated polyethylene, neoprene, polyethylene, ethyl vinyl alcohol laminate (EVAL), polyvinyl chloride (PVC or vinyl), Viton. Examples of acceptable glove barrier materials include: butyl rubber, natural rubber (latex), nitrile/butadiene rubber (nitrile or NBR), polyvinyl alcohol (PVA).
Respiratory Protection	Use an approved respirator. Selection of air purifying or positive pressure supplied-air will depend on the specific operation and the potential airborne concentration of the material. For emergency, use an approved positive-pressure self-contained breathing apparatus. The following should be effective types of air-purifying respirators: organic vapor cartridge with a particulate pre-filter.
Applicators/Handlers	Refer to the product label for personal protective clothing and equipment.

9. PHYSICAL AND CHEMICAL PROPERTIES

Appearance:	Yellow liquid
Odor:	Musty
Density:	1.02 g/mL @ 20°C
pH:	10.2
Boiling Point:	No test data available.
Solubility in H ₂ O	No test data available.

10. STABILITY AND REACTIVITY

Stability:	Stable under normal storage conditions.
Hazardous	
Polymerization:	Not known to occur
Decomposition	
Products:	None known.
Conditions	
To Avoid:	None known.

11. TOXICOLOGICAL INFORMATION

EYE: May cause moderate eye irritation. May cause corneal injury. Mist may cause eye irritation. Effects may be delayed.

SKIN: Brief contact may cause skin irritation with local redness. Prolonged contact may cause severe skin irritation with local redness and discomfort. Effects may be delayed. Prolonged skin contact is unlikely to result in absorption of harmful amounts. The dermal LD50 has not been determined.

INGESTION: Low toxicity if swallowed. Small amounts swallowed incidentally as a result of normal handling operations are not likely to cause injury; however, swallowing larger amounts may cause injury. Swallowing may result in irritation of the mouth, throat, and gastrointestinal tract. Single dose oral LD50 has not been determined.

INHALATION: Mist may cause irritation of upper respiratory tract (nose and throat) and lungs. May cause pulmonary edema (fluid in the lungs). The aerosol LC50 has not been determined.

SYSTEMIC (OTHER TARGET ORGAN) EFFECTS: In rare cases, repeated excessive exposure to propylene glycol may cause central nervous system effects.

CANCER INFORMATION: Propylene glycol did not cause cancer in laboratory animals.

TERATOLOGY (BIRTH DEFECTS): Propylene glycol did not cause birth defects or any other fetal effects in laboratory animals.

REPRODUCTIVE EFFECTS: For propylene glycol, in animal studies, did not interfere with production. In animal studies, did not interfere with fertility.

12. ECOLOGICAL INFORMATION

ENVIRONMENTAL FATE

MOVEMENT & PARTITIONING: No relevant information found.

DEGRADATION & PERSISTENCE: No relevant information found.

ECOTOXICOLOGY: No relevant information found.

13. DISPOSAL CONSIDERATION

If wastes and/or containers cannot be disposed of according to the product label directions, disposal of the material must be in accordance with your local or area regulatory authorities. This information presented below only applies to the material as supplied. The identification based on characteristic(s) or listing may not apply if the material has been used or otherwise contaminated. It is the responsibility of the waste generator to determine the toxicity and physical properties of the material generated to determine the proper waste identification and disposal methods in compliance with the applicable regulations. If the material as supplied becomes a waste, follow all applicable regional, national and local laws.

14. TRANSPORT INFORMATION

DOT Classification

Non-bulk: Not regulated

Bulk (greater than 11,235 pounds): UN3082, RQ, Environmentally Hazardous Substance, Liquid, N.O.S., (contains Potassium Hydroxide), 9, PGIII

IMDG Classification

UN3082, Environmentally Hazardous Substance, Liquid, N.O.S., (contains Potassium Hydroxide), 9, PGIII

IATA Classification

UN3082, Environmentally Hazardous Substance, Liquid, N.O.S., (contains Potassium Hydroxide), 9, PGIII

15. REGULATORY INFORMATION

SARA Title III Classification

Section 302/304:

Section 311/312:

Immediate (acute) health hazard

Section 313 chemical(s):

Not applicable

State Right-To-Know: The following product components are cited on certain state lists as mentioned. Non-listed components may be shown in the composition section of the MSDS:

<u>Chemical Name</u>	<u>CAS Number</u>	<u>List</u>
Propylene Glycol	000057-55-6	PA1
Potassium Hydroxide	001310-58-3	NJ3, PA1

Proposition 65

Not applicable

CERCLA Reportable Quantity (RQ)

<u>Chemical Name</u>	<u>CAS Number</u>	<u>RQ</u>	<u>% in product</u>
Potassium Hydroxide	001310-58-3	1,000 lb.	9%

RCRA Classification

Under RCRA, it is the responsibility of the product user to determine at the time of disposal, whether a material containing the product or derived from the product should be classified as a hazardous waste.

TSCA Status

All ingredients are on the TSCA inventory or are not required to be listed.

16. OTHER INFORMATION

NFPA Hazard Ratings

Health: 2
Flammability: 1
Reactivity: 0

0	Least
1	Slight
2	Moderate
3	High
4	Severe


Prepared By:

sds@gowanco.com


Notice: The information and recommendations contained herein are provided in good faith and are based upon data believed to be correct. However, no guarantee or warranty of any kind, expressed or implied, is made with respect to the information herein.

M-Pede® is a registered trademark of Gowan Company, L.L.C.

1. PRODUCT AND COMPANY IDENTIFICATION

TRADE NAME:  SUPPRESS® Herbicide EC, EPA Reg. No. 51517-9
MANUFACTURER'S NAME: Westbridge Agricultural Products
ADDRESS: 1260 Avenida Chelsea, Vista, CA 92081
TELEPHONE NO.: (800) 876-2767
POISON CONTROL TELEPHONE: (800) 222-1222
COMPOSITION: Fatty Acids (Caprylic-Capric Acids)
RECOMMENDED USE: A Liquid Herbicide Concentrate For Agricultural Use.

2. HAZARD IDENTIFICATION

CLASSIFICATION: Irritant 

SIGNAL WORD: **WARNING.** Causes substantial but temporary eye injury. Do not get in eyes or on clothing. Avoid contact with skin and clothing. Wear protective eyewear such as goggles, face shield, or safety glasses. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet. Remove and wash contaminated clothing before reuse.

OTHER HAZARDS: SUPPRESS® Herbicide EC does not contain toxic chemicals in concentrations subject to the reporting requirements of OSHA or Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 or 40 CFR Part 372.

3. COMPOSITION INFORMATION

<u>COMPOSITION</u>	<u>Concentration %</u>	<u>CAS Number</u>
Caprylic Acid	47.0%	124-07-2
Capric Acid	32.0%	334-48-5
Inert Ingredients	21.0%	N/A

4. FIRST AID MEASURES

If on Skin OR Clothing:	Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.
If on Eyes:	Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, and then continue rinsing. Call a poison control center or doctor for treatment advice.
If Inhaled:	Move person to fresh air. If person is not breathing, call 911 or an ambulance, and then give artificial respiration. Call poison control center or doctor for treatment advice.
If Swallowed:	Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to by a poison control center or doctor. Do not give anything to an unconscious person.

MEDICAL CONDITIONS AGGRAVATED BY EXPOSURE: None known.

NOTES TO PHYSICIAN: Treat patient symptomatically.

5. FIRE-FIGHTING MEASURES

GENERAL INFORMATION: THIS PRODUCT IS NOT FLAMMABLE
FLASH POINT: N/A
TEST METHOD: N/A
EXTINGUISHING MEDIA: N/A
SPECIAL FIRE FIGHTING PROCEDURES: N/A

AUTOIGNITION TEMPERATURE: N/A
FLAMMABLE: This product is not flammable
UNUSUAL FIRE AND EXPLOSION HAZARD: N/A

6. ACCIDENTAL RELEASE MEASURES

STEPS TO BE TAKEN IF MATERIAL IS RELEASED OR SPILLED: Do not touch or walk through spilled material. Avoid breathing vapor or mist. Provide adequate ventilation. Wear appropriate respirator when ventilation is inadequate. Put on appropriate personal protective equipment (see section 8).

Stop leak if without risk. Move containers from spill area. Approach release from upwind. Prevent entry into sewers, water courses, basements or confined areas. Wash spillages into an effluent treatment plant or proceed as follows. Contain and collect spillage with non-combustible, absorbent material e.g. sand, earth, vermiculite or diatomaceous earth and place in container for disposal according to local regulations (see section 13). Dispose of via a licensed waste disposal contractor. Contaminated absorbent material may pose the same hazard as the spilled product.

NEUTRALIZING CHEMICALS: N/A

7. HANDLING AND STORAGE

HANDLING REQUIREMENTS:

- Eating, drinking and smoking should be prohibited in areas where this material is handled, stored and processed.
- Workers should wash hands and face before eating, drinking and smoking.
- Wear appropriate respirator when ventilation is inadequate.
- Wear face mask or face shield.
- Wear impermeable or chemical resistant gloves.
- Remove contaminated clothing and protective equipment before entering eating areas.
- Do not ingest. Avoid contact with eyes, skin and clothing. Avoid breathing vapor or mist.

STORAGE REQUIREMENTS:

- **KEEP OUT OF REACH OF CHILDREN.**
- Store in a dry and cool area above freezing and below 95°F and out of direct sunlight.
- Keep in the original container or an approved alternative made from a compatible material.
- Keep container tightly closed when not in use.
- Do not store in unlabeled containers.
- Do not reuse empty containers.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

VENTILATION REQUIREMENTS: Indoor use - adequate mechanical ventilation

SPECIFIC PERSONAL PROTECTIVE EQUIPMENT

EYE PROTECTION: Wear goggles or face shield.

RESPIRATORY PROTECTION: Wear appropriate respirator when ventilation is inadequate. Do not intentionally breathe dust/spray.

HAND PROTECTION: Impermeable or chemical resistant gloves.

OTHER EQUIPMENT: Wear suitable protective clothing, such as face shield or face mask.

9. PHYSICAL AND CHEMICAL PROPERTIES

APPEARANCE AND ODOR:	Clear, liquid with fatty odor. Rancid.
pH:	3.26 ± 0.5
BOILING POINT, 760 MM HG:	100°C
MELTING POINT:	N/A
FLASH POINT:	>95°C
SPECIFIC GRAVITY (H₂O=1):	0.9061
EVAPORATION RATE (BUTYLACETATE=1):	N/A
FLAMMABLE:	This product is not flammable
VAPOR PRESSURE:	Not known
VAPOR DENSITY (AIR=1):	Not known
SOLUBILITY IN H₂O:	Insoluble.
AUTOIGNITION TEMPERATURE:	N/A
% VOLATILES BY VOL:	None

Note: These physical data are typical values based on material tested but may vary from sample to sample. Typical values should not be construed as a guaranteed analysis of any specific lot or as specification items.

10. STABILITY AND REACTIVITY DATA

GENERAL INFORMATION: Stable under recommended storage conditions.

CORROSIVE: ☒ YES ☐ NOSTABILITY: ☒ stable ☐ unstable

INCOMPATIBILITY (materials to avoid): N/A

HAZARDOUS DECOMPOSITION/COMBUSTION PRODUCTS: N/A

HAZARDOUS POLYMERIZATION: N/A

11. TOXICOLOGICAL INFORMATION**SYMPTOMS OF OVEREXPOSURE**

INHALATION: None expected.

SKIN ABSORPTION: None expected.

INGESTION: None expected.

SKIN CONTACT: Potential mild skin irritation.

EYE CONTACT: Causes substantial but temporary eye injury.

EFFECTS OF OVEREXPOSURE

ACUTE OVEREXPOSURE: Expected toxicity none to slight.

CHRONIC OVEREXPOSURE: Expected toxicity none.

SUSPECTED CANCER AGENT?☒ NO: This product's ingredients are not found in the lists below.☐ YES: ☐ Federal OSHA ☐ NTP ☐ IARC ☐ Cal/OSHA ☐ Prop 65**12. ECOLOGICAL INFORMATION**

ENVIRONMENTAL EFFECTS: No known significant effects or critical hazards.

13. DISPOSAL PROCEDURES

WASTE DISPOSAL METHOD: Follow all applicable Federal, State and local regulations. Empty containers or liners may retain some product residues. This material and its container must be disposed of in a safe way. Dispose of surplus and non-recyclable products via a licensed waste disposal contractor. Disposal of this product, solutions and any byproducts should at all times comply with the requirements of environmental protection and waste disposal legislation and any regional local authority requirements.

CAUTION: Do not contaminate soil, surface water, drains, sewers or ditches with product or used containers.

14. TRANSPORT INFORMATION

D.O.T.: Not D.O.T. Regulated.

IATA CLASSIFICATIONS: Substances Not Regulated.

IATA HAZARD CLASS/DIVISION: Substances Not regulated

PACKING MATERIALS: HDPE Containers

15. REGULATORY INFORMATION

EPA REG. NO.: 51517-9

ORGANIC CERTIFICATION: Yes – Organic Materials Review Institute (OMRI)

PROPOSITION 65 (CA): N/A.

SARA TITLE III, SECTION 313 TOXIC CHEMICALS: None.

16. OTHER INFORMATION

All information, recommendations and suggestions appearing herein concerning our products are based upon tests and data believed to be reliable. However, it is the user's responsibility to determine the safety, toxicity and suitability for his own use of the product described herein. Since the actual use by others is beyond our control, we make no guarantee, expressed or implied, as to the effects of such use, the results to be obtained, or the safety and toxicity of the product; nor do we assume any liability arising out of use, by others, of the product referred to herein. The information herein is not to be construed as absolutely complete since additional information may be necessary or desirable when particular or exceptional conditions or circumstances exist or because of applicable laws or government regulations.

®SUPPRESS is a registered trademark of Westbridge Agricultural Products.

PREPARED BY: Ivonne Sanchez, Regulatory/R&D Coordinator at Westbridge Agricultural Products

PREPARED DATE: November 25, 2013 REV. DATE: September 25, 2014 IS

☐ Print

Meeting Date:	July 18, 2017
Subject:	Vineyards at Cottonwood - Proposed First Amendment to Development Agreement and Phase 1 Assurance Agreement.
Department:	Attorney
From:	Steve Horton, City Attorney

REQUESTED ACTION

Council discussion, consideration and possible legal action regarding a proposed First Amendment to the Development Agreement and Phase 1 Assurance Agreement for the Vineyards at Cottonwood residential/mixed use development.

SUGGESTED MOTION

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

"I move to approve the proposed First Amendment to the Development Agreement and Phase 1 Assurance Agreement for the Vineyards at Cottonwood development, subject to approval of the final form of agreement by the City Attorney and Special Counsel to the City."

BACKGROUND

Since the Council's recent approval of the Final Plat for Phase 1 of the Vineyards at Cottonwood development (and associated legal documents, including a Development Agreement and Phase Assurance Agreement), several issues have arisen for which the developer has requested what it characterizes as necessary and project-critical changes to those agreements.

The issues are as follows. First, the development agreement as drafted and approved requires all of the approved Phase 1 infrastructure - including water and wastewater infrastructure; street improvements; and curb, gutter and sidewalk - to be completed before the developer can begin building any homes. At first, this did not seem to be an issue, because the developer had planned on completing the infrastructure in approximately 60 days, and still plans on doing so as quickly as possible.

However, the developer has recently sought permission to begin constructing four homes - two model homes and two "spec" homes, at two separate locations within Phase 1 - before the infrastructure is complete. Initially, they had proposed, and the Council approved, the construction of four adjacent models following the completion of the Phase 1 infrastructure, and so, if the Council approves, the Development Agreement will have to be amended to allow for these changes.

City staff have been working closely with the developer and special counsel on these proposed changes over the last several weeks, and have determined that as long as certain conditions related to public safety are met, it would be reasonable and appropriate for Council to approve the necessary changes. The first of these conditions is that the lots on which the model homes and spec homes are to be constructed have street addresses assigned to them (which is a County GIS function) so that EMS, fire and police can be quickly and accurately dispatched to those locations in an emergency.

The second condition is that the complete water and fire suppression system for Phase 1 be installed and approved in accordance with the approved engineering plans for that system prior to the commencement of any vertical construction involving combustible materials.

The final change that the developers request concerns the timing for drawing down the letter of credit that they have posted to secure their financial obligations to install the approved infrastructure. Under the current, approved

arrangement, these financial assurances would presumptively remain in place until the Phase 1 infrastructure is complete and accepted, at which time they could be drawn down to a substantially lesser amount sufficient to secure the developer's warranty obligations during the two-year warranty period.

By all accounts, the current arrangement is a fairly common model for when and how to take down financial assurances for public infrastructure installed in connection with a large residential development. However, and notwithstanding the fact that this is how the current documents read, the developers' own experience and expectations - and reportedly that of their lender as well - were that the assurances would be drawn down, with the City's consent, as the work was completed and accepted, less a 10 percent retention during construction.

After significant and prolonged negotiations, the parties and their legal counsel have reached a tentative agreement on this issue as well, which staff believes will accommodate the developers' request and stated need to free up the funds that would otherwise be tied up in the Letter of Credit until all of the Phase 1 infrastructure is complete, while also ensuring that the City is not subject to undue or unreasonable financial exposure in the unlikely (presumably/hopefully) event that the project does not proceed as planned and scheduled.

JUSTIFICATION/BENEFITS/ISSUES

The attached proposed amendment is the product of prolonged and detailed discussions and negotiations between City staff, the developers, and legal counsel (including the City Attorney, Special Counsel, and the developers' counsel), and strikes what staff believes is a reasonable balance between protecting the City and its taxpayers (and potential homebuyers, to the extent the City can do that), and the developers' requests and stated need to 1) begin constructing model homes and spec homes sooner than is allowed for under the current DA (and in separate locations); and 2) their need to free up funds that would otherwise be tied up in the letter of credit until the Phase 1 infrastructure is completed, inspected and approved by the City.

COST/FUNDING SOURCE

N/A

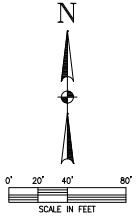
ATTACHMENTS:

File Name	Description	Type
Model_and_Spec_Homes_Exhibit_A.pdf	Exhibit A	Cover Memo
First_Amendment_to_Development_Agreement_and_Assurance_Agreement_(The_Vi....docx	Vineyards at Cottonwood - First Amendment to Development Agreement and Phase 1 Assurance Agreement	Cover Memo

EXHIBIT A



THE VINEYARDS AT COTTONWOOD
PHASE 1




- LEGEND:
- LINE OF SUBDIVISION BOUNDARY
 - - - LINE OF RIGHT-OF-WAY
 - - - LINE OF SECTION OR MID-SECTION
 - - - LINE OF LOTS/OPEN SPACE, U.N.O.
 - - - LINE OF HISTORIC RIGHT-OF-WAY
 - - - LINE OF EXISTING EASEMENT
 - - - LINE OF NEW EASEMENT BY THIS PLAT
 - - - LINE OF BUILDING SETBACK
 - - - LINE OF 100-YEAR FLOODPLAIN
 - - - LINE OF NON-MOTORIZED PUBLIC TRAIL

- LEGEND:
- FOUND ALUMINUM CAP STAMPED "NOT ROW 2009 RLS 40622", UNLESS NOTED OTHERWISE.
 - FOUND AS NOTED.
 - LOT CORNER MONUMENT TO BE SET.
 - CENTERLINE MONUMENT TO BE SET.
 - APN. ASSESSOR'S PARCEL NUMBER
 - BK. BOOK
 - EX. EXISTING
 - INST. INSTRUMENT
 - L.S. LAND SURVEYS
 - M.P. MAPS AND PLATS
 - O.R. OFFICIAL RECORDS
 - PG. PAGE
 - P.U.E. PUBLIC UTILITY EASEMENT
 - R.O.W. RIGHT-OF-WAY
 - SEC. SECTION
 - S.F. SQUARE FEET
 - U.N.O. UNLESS NOTED OTHERWISE
 - V.N.A.E. VEHICULAR NON-ACCESS EASEMENT
 - Y.C.R.O. YAVAPAI COUNTY RECORDERS OFFICE
 - ① SEE MONUMENT NOTES.

NOTE:
SEE SHEET 2 FOR LINE AND CURVE TABLE

- MONUMENT NOTES:
- ① FOUND BENT REBAR WITH ALUMINUM CAP "RLS 40622 2009".
 - ② FOUND 5/8" REBAR WITH PLASTIC CAP "LS 13015".
 - ③ FOUND 5/8" REBAR, NO CAP OR TAG, SET TAG "LS 48100".
 - ④ FOUND 5/8" REBAR WITH ILLEGIBLE PLASTIC CAP, SET TAG "LS 48100".
 - ⑤ FOUND 1/2" REBAR WITH PLASTIC CAP "LS 48100" AS PREVIOUSLY SET BY THIS FIRM.

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N44°38'55"W	30.00'



KELLEY/WISE ENGINEERING, INC.
146 GROVE AVENUE
PRESCOTT, AZ 86301
PHONE: (928) 771-1730
E-MAIL: dkelley@kelley-wise.com

REVISED 3.27.17

JOB NO.	15-078	DRAWN	CK	CHECKED	CK
DATE	2.3.17	SHEET	3 OF 3		

WHEN RECORDED, RETURN TO:

City of Cottonwood
Office of the City Clerk
827 N. Main Street
Cottonwood, Arizona 86326

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT AND
FIRST AMENDMENT TO ASSURANCE AGREEMENT
(THE VINEYARDS AT COTTONWOOD)**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “**Amendment**”) is dated as of July __, 2017 and is made and entered into by and among THE VINEYARDS AT COTTONWOOD I, L.L.C., an Arizona limited liability company (the “**Vineyards**”), GRANITE MOUNTAIN ASSET MANAGEMENT, LLC, an Arizona limited liability company (“**GMAM**” and, together with Vineyards, collectively, “**Developer**”), and the CITY OF COTTONWOOD, a municipal corporation (the “**City**” and together with Developer, each a “**Party**” and collectively, the “**Parties**”).

RECITALS

A. City and Developer entered into that certain Development Agreement dated as of June 16, 2017 and recorded on June 16, 2017 as Document No. 2017-0030591 in the Official Records of the County Recorder of Yavapai County (the “**Development Agreement**”) in connection with the development of a phased master planned development commonly known as “The Vineyards at Cottonwood,” and pursuant to the Development Agreement entered into that certain Assurance Agreement (Phase I of the Vineyards of Cottonwood) dated June 16, 2017, recorded in the Office of the Yavapai County Recorder as Document No. 2017-0030602 All capitalized terms used herein, unless otherwise specified, shall have the same meaning given to such terms in the Development Agreement, or if not defined therein, as defined in the Assurance Agreement.

B. The Parties have agreed to amend the Development Agreement and Assurance Agreement in accordance with the terms of this Amendment.

AGREEMENT

NOW, THEREFORE, based on the foregoing recitals, the Parties agree as follows:

1. **Incorporation of Recitals.** All Recitals are incorporated herein and agreed to by the Parties.

2. Model Homes. Section 4(d) of the Development Agreement is hereby amended. Developer has requested the right to construct two (2) Model and two (2) Spec Homes within Phase 1 (the “**Limited Purpose Model and Spec Homes**”) on the lots shown on Exhibit “A” (the “**Approved Model and Spec Home Locations**”) prior to the completion, dedication and acceptance of the Infrastructure required to use the Model and Spec Homes for their intended purpose. City hereby consents to the commencement of construction of the Limited Purpose Model and Spec Homes in the Approved Model and Spec Home Locations subject to the Developer’s satisfaction of the following express conditions prior to commencement of construction of any vertical improvements for the Limited Purpose Model and Spec Homes:

a. Developer shall have confirmed with the City that the City has assigned addresses to the Approved Model and Spec Home Locations. City shall reasonably cooperate with Developer to assign addresses to the Approved Model and Spec Home Locations.

b. Developer shall have constructed and installed, at Developer’s cost, all water and fire suppression infrastructure within or required for Phase 1 and have obtained City approval. Sewer infrastructure shall not be required to be completed before the Limited Purpose Model and Spec Homes are constructed, but shall be required to be completed before the Limited Purpose Model and Spec Homes can be used for sales.

Nothing contained in this Section 2 shall limit the City’s right to review and approve plans for the Limited Purpose Model and Spec Homes in accordance with the City’s standard practices and procedures or the Developer’s obligation to obtain all necessary permits for the Limited Purpose Model and Spec Homes, and in all events, Developer’s construction of the Limited Purpose Model and Spec Homes must comply with the Laws and Regulations. In no event shall a certificate of occupancy be issued for any of the Limited Purpose Model and Spec Homes, nor shall Developer sell or contract to sell any of the Limited Purpose Model and Spec Homes, until all Infrastructure required to be constructed within or in connection with Phase 1 has been completed and accepted by the City in accordance with the Development Agreement.

3. Reduction of Assurances.

a. The City may, in its sole discretion, elect to reduce the letter of credit provided by Developer prior to completion of all work. Any reduction shall not in any event lessen or reduce the obligation of Developer or of any successor in title to complete all work as required and any reduction shall not constitute an approval of work or partial acceptance of work. If Developer requests such a reduction, then Developer shall pay the costs of the City for additional inspection in advance and as a condition to the additional inspection. The City may also require evidence that the Developer's lender has approved the work for which a reduction in the assurance is requested. Developer and Developer's lender (by execution of the consent attached hereto) acknowledge and agree that the City has no obligation to make reductions for every disbursement made by Developer's lender and the City has sole discretion as to whether and as to when to make reductions prior to completion of all work. Any and all reductions approved by the City will be subject to a ten percent retention until such time as the improvements are fully completed, approved and accepted by the City (including any punch-list items), and the warranty period has commenced, at which time the

retention/letter of credit balance shall be reduced to five percent of the initial letter of credit amount to secure, in whole or in part, as the case may be, the Developer's warranty obligations.

- b. In addition to other rights and remedies, if Developer fails to diligently complete all work required for the Property, the City shall have a first lien on the Property to secure payment of any and all costs and fees incurred by the City as a result not adequately secured by the letter of credit, including any costs and fees to complete any work that the City may, in its sole discretion, cause to be completed or partially completed in the interests of public health and safety. Such lien may be foreclosed in the same manner as a mortgage or mechanics lien and shall be due upon demand.

4. Amendment to Development Agreement. To the extent that the terms and conditions of this Amendment modify or conflict with any provision of the Development Agreement or Assurance Agreement, the terms of this Amendment shall control. All other terms of the Development Agreement and Assurance Agreement not modified by this Amendment shall remain the same.

5. Counterparts. This Amendment may be signed in multiple counterparts, all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective as of the date first set forth above.

[Signatures follow]

[Signature page to Amendment]

CITY:

CITY OF COTTONWOOD, a municipal
corporation

By: Mayor of the City of Cottonwood

ATTEST:

APPROVED AS TO FORM:

City Attorney

STATE OF ARIZONA)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017,
by Tim Elinski, as Mayor of the CITY OF COTTONWOOD, a municipal corporation, on behalf of
the municipal corporation.

Notary Public

My Commission Expires:

[Signature page to Amendment]

VINEYARDS:

THE VINEYARDS AT COTTONWOOD I,
L.L.C., an Arizona limited liability company

By:_____

Name:_____

Title:_____

STATE OF ARIZONA)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me this ____ day of _____,
2017 by _____, as _____ of THE VINEYARDS AT
COTTONWOOD I, L.L.C., an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

[Signature page to Amendment]

GMAM:

GRANITE MOUNTAIN ASSET
MANAGEMENT, LLC, an Arizona limited
liability company

By:_____

Name:_____

Title:_____

STATE OF ARIZONA)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me this ____ day of _____,
2017 by _____, as _____ of GRANITE MOUNTAIN
ASSET MANAGEMENT, LLC, an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

VINEYARDS' LENDER'S CONSENT

AULTMAN LAND & CATTLE, LLC, an Arizona limited liability company (“**Beneficiary**”), as Beneficiary under that Deed of Trust recorded March 31, 2016 as Document No. 2016-0014919, Official Records of Yavapai County, Arizona (the “**Deed of Trust**”), hereby (i) consents to the recording of this Amendment to Development Agreement and Assurance Agreement; (ii) agrees that the lien and charge of the Deed of Trust upon the Land and Beneficiary’s rights and privileges pursuant to the Deed of Trust are and shall remain junior and subordinate to the Development Agreement and Assurance Agreement, as amended; and (iii) agrees that in the event Beneficiary seeks to enforce any default under the Deed of Trust by foreclosure or other proceeding, the Development Agreement and Assurance Agreement shall not be terminated.

DATED this ____ day of _____, 2017.

AULTMAN LAND & CATTLE, LLC, an Arizona
limited liability company

By: MINGUS MOUNTAIN ENTERPRISES, LLC,
an Arizona limited liability company, its
Manager

By _____
Name _____
Title _____

STATE OF ARIZONA)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, as _____ of MINGUS MOUNTAIN ENTERPRISES, LLC, an Arizona limited liability company, the Manager of AULTMAN LAND & CATTLE, LLC, an Arizona limited liability company, on behalf of the limited liability company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal the day and year in this certificate first above written.

Notary Public

My Commission Expires: _____

VINEYARDS' LENDER'S CONSENT

FOOTHILLS BANK, DIVISION OF GLACIER BANK, chartered in the United States of America under the laws of the State of Arizona (“**Beneficiary**”), as Beneficiary under that Construction Deed of Trust recorded May 16, 2017 as Document No. 2017-0024494, Official Records of Yavapai County, Arizona, and as Lender under that Assignment of Rents recorded May 16, 2017 as Document No. 2017-0024495, Official Records of Yavapai County, Arizona (collectively, the “**Deed of Trust**”), hereby (i) consents to the recording of this Amendment to Development Agreement and Assurance Agreement; (ii) agrees that the lien and charge of the Deed of Trust upon the Land and Beneficiary’s rights and privileges pursuant to the Deed of Trust are and shall remain junior and subordinate to the Development Agreement and Assurance Agreement, as amended; and (iii) agrees that in the event Beneficiary seeks to enforce any default under the Deed of Trust by foreclosure or other proceeding, the Development Agreement and Assurance Agreement shall not be terminated.

DATED this ____ day of _____, 2017.

FOOTHILLS BANK, DIVISION OF GLACIER
BANK, chartered in the United States of America
under the laws of the State of Arizona

By _____
Name _____
Title _____

STATE OF ARIZONA)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, as _____ of FOOTHILLS BANK, DIVISION OF GLACIER BANK, chartered in the United States of America under the laws of the State of Arizona, on behalf thereof.

IN WITNESS WHEREOF, I hereunto set my hand and official seal the day and year in this certificate first above written.

Notary Public

My Commission Expires: _____

GMAM'S LENDER'S CONSENT

AULTMAN LAND & CATTLE, LLC, an Arizona limited liability company (“**Beneficiary**”), as Beneficiary under that Deed of Trust recorded March 31, 2016 as Document No. 2016-0014926, Official Records of Yavapai County, Arizona (the “**Deed of Trust**”), hereby (i) consents to the recording of this Amendment to Development Agreement and Assurance Agreement; (ii) agrees that the lien and charge of the Deed of Trust upon the Land and Beneficiary’s rights and privileges pursuant to the Deed of Trust are and shall remain junior and subordinate to the Development Agreement and Assurance Agreement, as amended; and (iii) agrees that in the event Beneficiary seeks to enforce any default under the Deed of Trust by foreclosure or other proceeding, the Development Agreement and Assurance Agreement shall not be terminated.

DATED this _____ day of _____, 2017.

AULTMAN LAND & CATTLE, LLC, an Arizona
limited liability company

By: MINGUS MOUNTAIN ENTERPRISES, LLC,
an Arizona limited liability company, its
Manager

By _____
Name _____
Title _____

STATE OF ARIZONA)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, as _____ of MINGUS MOUNTAIN ENTERPRISES, LLC, an Arizona limited liability company, the Manager of AULTMAN LAND & CATTLE, LLC, an Arizona limited liability company, on behalf of the limited liability company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal the day and year in this certificate first above written.

Notary Public

My Commission Expires: _____

WESTERN ALLIANCE BANK'S CONSENT

Western Alliance Bank, an Arizona corporation ("**Assignee**"), as Assignee under that certain Collateral Assignment of Notes and Deeds of Trust and Security Agreement recorded May 25, 2017 as Document No. 2017-0026235, Official Records of Yavapai County, Arizona (the "**Collateral Assignment of Deeds of Trust**"), hereby (i) consents to the recording of this Amendment to Development Agreement and Assurance Agreement; (ii) agrees that the lien and charge of the Deed of Trust recorded March 31, 2016 as Document No. 2016-0014919, Official Records of Yavapai County, Arizona (the "**Vineyards Deed of Trust**"), and the rights and privileges of Assignee pursuant to the Vineyards Deed of Trust and the Collateral Assignment of Deeds of Trust with respect to the Vineyards Deed of Trust are and shall remain junior and subordinate to the Development Agreement and Assurance Agreement, as amended; (iii) agrees that the lien and charge of the Deed of Trust recorded March 31, 2016 as Document No. 2016-0014926, Official Records of Yavapai County, Arizona (the "**Granite Mountain Deed of Trust**"), and the rights and privileges of Assignee pursuant to the Granite Mountain Deed of Trust and the Collateral Assignment of Deeds of Trust with respect to the Granite Mountain Deed of Trust are and shall remain junior and subordinate to the Development Agreement and Assurance Agreement; and (iv) agrees that in the event Assignee seeks to enforce any default under the Vineyards Deed of Trust or the Granite Mountain Deed of Trust by foreclosure or other proceeding, the Development Agreement and Assurance Agreement shall not be terminated.

DATED this ____ day of _____, 2017.

WESTERN ALLIANCE BANK, an Arizona
corporation

By _____
Name _____
Title _____

STATE OF ARIZONA)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, as _____ of WESTERN ALLIANCE BANK, an Arizona corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal the day and year in this certificate first above written.

Notary Public

My Commission Expires: _____

City of Cottonwood, Arizona
City Council Agenda Communication

☐ Print

Meeting	July 18, 2017
Date:	
Subject:	Discussion and direction to staff regarding the Civic Center renovation project.
Department:	Attorney Steve Horton, City Attorney
From:	Jeff Cook, Purchasing Manager Doug Bartosh, City Manager Rudy Rodriguez, Deputy City Manager

REQUESTED ACTION

Discussion and direction to staff regarding whether to proceed with partially completing the proposed Civic Center renovation project within the current project budget of approximately \$645,000.00, or to designate additional available funds to allow for the completion of the entire scope of work as designed.

SUGGESTED MOTION

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

N/A. Direction only. The Council's direction will be incorporated into proposed legal action to be taken on August 1.

BACKGROUND

Following the preparation of the design, plans and specifications for the Civic Center renovation project by the Project Architect, a formal invitation for bids was issued in cooperation with NACOG. Four bids were received, three of which were determined to be responsive. The three responsive bids ranged in price from a low of \$819,545.00 to a high of \$865,003.00, with the third bid coming in at \$834,805.00. The relatively narrow (+/- 5%) range of these three bids suggests that this range reflects the actual market value for the project as currently designed.

Through a combination of CDBG grants awarded to the City (\$235,943.00) and to Yavapai County (\$285,000.00), which has generously agreed to dedicate those funds to this project, plus an additional \$125,000.00 previously budgeted by the Council for the HVAC system, the City currently has a total of approximately \$645,000.00 budgeted for this project, including approximately \$30,000.00 in contingency funds. This leaves a shortfall of approximately \$175,000.00 relative to the low bid.

Given this, staff have been working with NACOG, the architect and the low bidder, Kinney Construction Services, to reduce the scope of the project to fit the budget. Unfortunately, because of how the project was designed and programmed, it is proving very challenging to re-configure the scope of the project in a way that doesn't potentially prejudice the other responsive bidders.

Also, there is no way to carve \$175,000.00 out of the project without making substantial changes in the scope (which may require the project to be re-bid), and leaving significant portions of the project uncompleted. Accordingly, staff have come up with an alternative for the Council to consider. That alternative is to cover the balance of completing the project as designed with a substantial portion of a refund of approximately \$264,000.00 that the City has received from our previous health insurance carrier, APEHP.

These funds are currently available for this purpose, should the Council decide to use them in this way, because they have not yet been committed to any other use.

JUSTIFICATION/BENEFITS/ISSUES

Pros: Funding the balance of the project as designed with proceeds from the City's APEHP refund will allow the project to be completed as designed, by a contractor with whom the City has successfully partnered on numerous other projects. It will also avoid having an unfinished project, at least for a time, and paying twice for contractor mobilization costs.

Lastly, completing the entire scope of work will avoid the possibility of having to re-bid the project, to the extent that it can't be reconfigured in a way that doesn't prejudice the other responsive bidders.

Cons: The funds expended for this purpose out of the APEHP refund will not be available for other purposes and priorities.

COST/FUNDING SOURCE

Refund of premiums from the Arizona Public Employers Health Pool.

ATTACHMENTS:

File Name	Description	Type
Cottonwood_Bid_Summary.xlsx	Civic Center Renovation Bid Summary	Cover Memo

	<u>Kinney</u>	<u>BEC</u>	<u>G&G</u>	<u>Stratton</u>
1 wheelchair lift	20,897.00	17,873.00	20,503.00	31,450.00
2 ADA restroom	36,618.00	63,167.00	112,228.00	85,850.00
3 windows	25,366.00	24,580.00	23,631.00	34,320.00
4 ceiling & stair demo	12,465.00	18,798.00	27,689.00	8,990.00
5 R-40 roof deck	21,455.00	46,699.00	21,102.00	11,100.00
6 Fire Suppression	64,496.00	68,615.00	85,839.00	42,720.00
7 HVAC	235,644.00	195,884.00	215,962.00	74,135.00
8 Electrical & lighting	185,752.00	203,094.00	183,791.00	82,225.00
9 Ceiling replacement	85,963.00	57,208.00	44,712.00	41,112.00
10 painting	40,569.00	39,901.00	36,262.00	20,778.00
11 wood floor	44,544.00	19,991.00	29,640.00	35,678.00
12 tile floors basement bathrooms	5,644.00	3,005.00	3,066.00	35,035.00
13 restore doors	7,564.00	14,176.00	9,338.00	9,694.00
14 IT/Audio/Visual		11,636.00	4,472.00	21,873.00
15 Stone Wall/Railings	2,568.00	20,178.00	16,768.00	24,040.00
16 Contingency	30,000.00	30,000.00	30,000.00	30,000.00
TOTAL	819,545.00	834,805.00	865,003.00	589,000.00

City of Cottonwood, Arizona
City Council Agenda Communication

☐ Print

Meeting Date: July 18, 2017
Subject: Special Event Liquor License Application for the Chamber of Commerce.
Department: City Clerk
From: Marianne Jiménez, City Clerk

REQUESTED ACTION

Consideration of recommendation of approval or denial of a Special Event Liquor License application submitted by Christian Oliva del Rio, applicant for the Cottonwood Chamber of Commerce.

SUGGESTED MOTION

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

"I move to recommend approval of the Special Event Liquor License Application submitted by Christian Oliva del Rio, applicant for the Cottonwood Chamber of Commerce, for a Chamber mixer scheduled for July 20, 2017, at the new Cottonwood Chamber of Commerce office located at 849 Cove Parkway, Suites B & C."

BACKGROUND

Christian Oliva del Rio has submitted a Special Event Liquor License Application on behalf of the Cottonwood Chamber of Commerce for a Chamber mixer scheduled for July 20, 2017, at the new Cottonwood Chamber of Commerce office located at 849 Cove Parkway, Suites B & C.

JUSTIFICATION/BENEFITS/ISSUES

All Special Event Liquor License applications that are submitted to the Arizona Department of Liquor Licenses & Control (ADLLC) for events located within the City of Cottonwood are presented to the Council for its recommendation of approval or denial of the application. The Council's recommendation is taken into consideration by the ADLLC prior to their final approval of the application.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

File Name	Description	Type
-----------	-------------	------

7-18-17_Chamber_LLA.pdf

7-20-17 Chamber LLA

Cover
Memo



Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

FOR DLLC USE ONLY

Event Date(s):

Event time start/end:

CSR:

License:

APPLICATION FOR SPECIAL EVENT LICENSE

Fee= \$25.00 per day for 1-10 days (consecutive)

A service fee of \$25.00 will be charged for all dishonored checks (A.R.S. § 44-6852)

IMPORTANT INFORMATION: This document must be fully completed or it will be returned.

The Department of Liquor Licenses and Control must receive this application ten (10) business days prior to the event. If the special event will be held at a location without a permanent liquor license or if the event will be on any portion of a location that is not covered by the existing liquor license, this application must be approved by the local government before submission to the Department of Liquor Licenses and Control (see Section 15).

SECTION 1 Name of Organization: Cottonwood Chamber of Commerce

SECTION 2 Non-Profit/IRS Tax Exempt Number: 86-0209700

SECTION 3 The organization is a: (check one box only)

- ☐ Charitable ☒ Fraternal (must have regular membership and have been in existence for over five (5) years)
☐ Religious ☐ Civic (Rotary, College Scholarship) ☐ Political Party, Ballot Measure or Campaign Committee

SECTION 4 Will this event be held on a currently licensed premise and within the already approved premises? ☐ Yes ☒ No

Name of Business

License Number

Phone (include Area Code)

SECTION 5 How is this special event going to conduct all dispensing, serving, and selling of spirituous liquors? Please read R-19-318 for explanation (look in special event planning guide) and check one of the following boxes.

- ☐ Place license in non-use
☐ Dispense and serve all spirituous liquors under retailer's license
☒ Dispense and serve all spirituous liquors under special event
☐ Split premise between special event and retail location

(If not using retail license, submit a letter of agreement from the agent/owner of the licensed premise to suspend the license during the event. If the special event is only using a portion of premise, agent/owner will need to suspend that portion of the premise.)

SECTION 6 What is the purpose of this event? ☒ On-site consumption ☐ Off-site (auction) ☐ Both

SECTION 7 Location of the Event: Cottonwood Chamber of Commerce

Address of Location: 849 Cove Parkway, Suite B & C Cottonwood Yavapai AZ 86326
Street City COUNTY State Zip

SECTION 8 Will this be stacked with a wine festival/craft distiller festival? ☐ Yes ☒ No

SECTION 9 Applicant must be a member of the qualifying organization and authorized by an Officer, Director or Chairperson of the Organization named in Section 1. (Authorizing signature is required in Section 13.)

1. Applicant: Oliva del Rio Christian V 08/29/1966
Last First Middle Date of Birth
2. Applicant's mailing address: 1010 S. Main St. Cottonwood AZ 86326
Street City State Zip
3. Applicant's home/cell phone: (928) 301-3347 Applicant's business phone: (928) 634-7593
4. Applicant's email address: Christian@cottonwoodchamberaz.org

SECTION 10

1. Has the applicant been convicted of a felony, or had a liquor license revoked within the last five (5) years?
☐ Yes ☒ No (If yes, attach explanation.)
2. How many special event licenses have been issued to this location this year? 2
(The number cannot exceed 12 events per year; exceptions under A.R.S. §4-203.02(D).)
3. Is the organization using the services of a promoter or other person to manage the event? ☐ Yes ☒ No
(If yes, attach a copy of the agreement.)
4. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds. The organization applying must receive 25% of the gross revenues of the special event liquor sales. Attach an additional page if necessary.

Name Cottonwood Chamber of Commerce Percentage: 100%
Address 1010 S. Main St. Cottonwood AZ 86326
Street City State Zip
Name _____ Percentage: _____
Address _____
Street City State Zip

5. Please read A.R.S. § 4-203.02 Special event license; rules and R19-1-205 Requirements for a Special Event License.

Note: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY.

"NO ALCOHOLIC BEVERAGES SHALL LEAVE SPECIAL EVENT UNLESS THEY ARE IN AUCTION SEALED CONTAINERS OR THE SPECIAL EVENT LICENSE IS STACKED WITH WINE /CRAFT DISTILLERY FESTIVAL LICENSE"

6. What type of security and control measures will you take to prevent violations of liquor laws at this event?
(List type and number of police/security personnel and type of fencing or control barriers, if applicable.)

0 Number of Police 4 Number of Security Personnel ☐ Fencing ☐ Barriers

Explanation: Staff and Bartender hold Certificates for Title 4 Management & Basic Liquor Law Training.

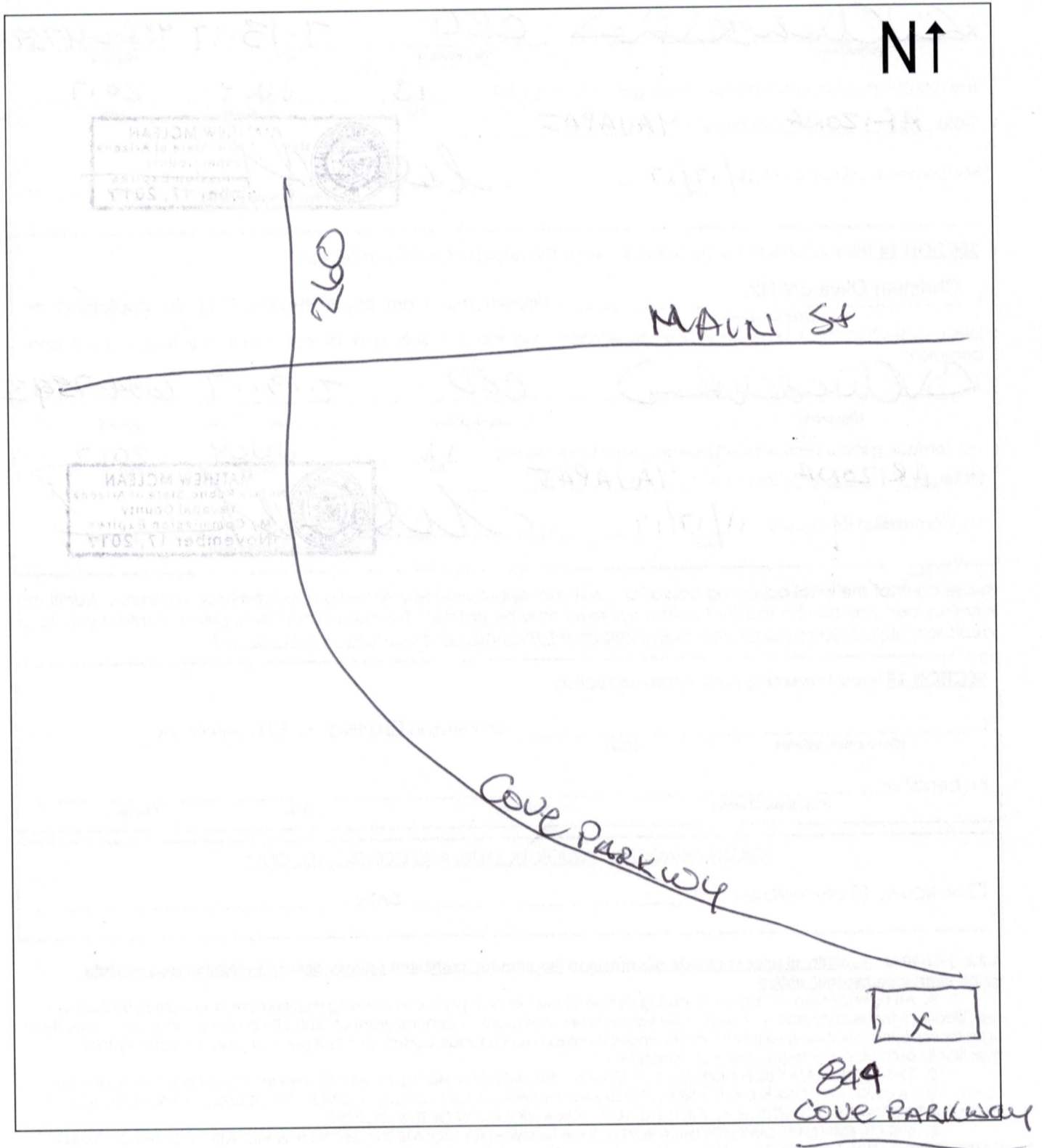
TiPS Concessions Trained: ID# 2689196 and ID# 2689200

Staff-Security at front door and serving area. Event is being held at a place of business.

- SECTION 11** Date(s) and Hours of Event. May not exceed 10 consecutive days.
See A.R.S. § 4-244(15) and (17) for legal hours of service.

	Date	Day of Week	Event Start Time AM/PM	License End Time AM/PM
DAY 1:	<u>07/20/2017</u>	<u>Thursday</u>	<u>6:00 PM</u>	<u>8:00 PM</u>
DAY 2:	_____	_____	_____	_____
DAY 3:	_____	_____	_____	_____
DAY 4:	_____	_____	_____	_____
DAY 5:	_____	_____	_____	_____
DAY 6:	_____	_____	_____	_____
DAY 7:	_____	_____	_____	_____
DAY 8:	_____	_____	_____	_____
DAY 9:	_____	_____	_____	_____
DAY 10:	_____	_____	_____	_____

SECTION 12 License premises diagram. The licensed premises for your special event is the area in which you are authorized to sell, dispense or serve alcoholic beverages under the provisions of your license. The following space is to be used to prepare a diagram of your special event licensed premises. Please show dimensions, serving areas, fencing, barricades, or other control measures and security position.



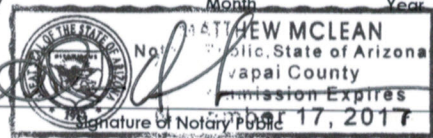
SECTION 13 To be completed only by an Officer, Director or Chairperson of the organization named in Section 1.

I, Christian Oliva del Rio declare that I am an OFFICER, DIRECTOR, or CHAIRPERSON
(Print Full Name)
appointing the applicant listed in Section 9, to apply on behalf of the foregoing organization for a Special Event
Liquor License.

x [Signature] CEO 7.13.17 928-634-7593
(Signature) Title/ Position Date Phone #

The foregoing instrument was acknowledged before me this 13 JULY 2017
Day Month Year
State ARIZONA County of YAVAPAI

My Commission Expires on: 11/17/17
Date



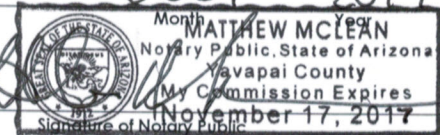
SECTION 14 This section is to be completed only by the applicant named in Section 9.

I, Christian Oliva del Rio declare that I am the APPLICANT filing this application as
(Print Full Name)
listed in Section 9. I have read the application and the contents and all statements are true, correct and
complete.

x [Signature] CEO 7.13.17 634-7593
(Signature) Title/ Position Date Phone #

The foregoing instrument was acknowledged before me this 13 JULY 2017
Day Month Year
State ARIZONA County of YAVAPAI

My Commission Expires on: 11/17/17
Date



Please contact the local governing board for additional application requirements and submission deadlines. Additional
licensing fees may also be required before approval may be granted. For more information, please contact your local
jurisdiction: http://www.azliquor.gov/assets/documents/homepage_docs/spec_event_links.pdf.

SECTION 15 Local Governing Body Approval Section

I, _____ recommend ☐ APPROVAL ☐ DISAPPROVAL
(Government Official) (Title)

on behalf of _____
(City, Town, County) Signature Date Phone

FOR DEPARTMENT OF LIQUOR LICENSES AND CONTROL USE ONLY

☐ APPROVAL ☐ DISAPPROVAL BY: _____ DATE: _____

A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.

CLAIMS EXCEPTIONS REPORT OF JULY 18, 2017			
FUND	VENDOR NAME	DESCRIPTION	TOTAL
All	City of Cottonwood	Payroll 07/14/2017	\$ 565,783.88
All	APS	Utilities	71,924.48
Airport	C & S Engineers	Apron Reconstruction 2nd Half	16,171.00
Utilities	Felix Construction Company	Riverfront Water Reclamation Facility	665,656.67
Hurf	Hansen Enterprises Fleet Repair LLC	Vehicle Maintenance	6,310.84
Utilities	HD Supply Water Works	Water Supplies	7,052.71
Gen	Mikkel Jordahl	Prosecuting Atty Fees	7,500.00
Gen	NAMWUA	Membership FY2018	5,246.80
All	Reese's Tire and Auto	Vehicle Maintenance	14,299.34
Hurf	Route Match Software	Tech Support & Annual Maint.	5,973.53
All	SC Fuels	Fuel	11,568.03
Airport	Southwest Risk Services	FY18 Airport Liability Insurance	10,839.00
Hurf	Traffic and Parking Control Inc.	Pedestrian crossing	8,627.72
Utilities	US Postmaster	Postage	10,500.00
Gen	Waste Management Inc.	Solid Waste Roll-Off	13,027.92
Utilities	Allstate Electric Motor Co. Inc.	Pump repair	12,138.02
All	APS	Utilities	10,096.96
All	Arizona Municipal Risk Retention Pool	Worker's Compensation Insurance 4th Quarter FY 2017	95,573.00
All	Arizona Public Employers Health Pool	June Health Insurance Premiums	183,280.94
Grants	C & S Engineers Inc.	Airport Apron Phase 2	6,202.50
Utilities	CDW Government Inc.	Phone System upgrades	6,241.49
Gen	Creative Culture Insignia LLC	Badges	5,663.00
Utilities	Ferguson Waterworks	Utility Supplies	14,085.17
Gen	Fireworks Productions	July 4th Fireworks	22,900.00
Gen	Icon Enterprises Inc.	Mobile App development	6,878.49
Utilities Gen	Inspiron Logistics	Annual WENS Renewal	6,500.00
Utilities	Northern Arizona Council of Governments	Utility Payment Assistance Program FY 2018	10,750.00
Gen	Pima Paving Inc.	Cottonwood Village Drainage Project	136,427.01
Capital Utilities	Shephard Wesnitzer Inc.	Drainage Master Plan - Supplemental Engineering Inspection	9,502.00
TOTAL			\$ 1,946,720.50