

AGENDA

4:30 P.M.

CITY OF SEDONA, CITY COUNCIL MEETING

TUESDAY, OCTOBER 25, 2016

NOTES:

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

www.SedonaAZ.gov

GUIDELINES FOR PUBLIC COMMENT

PURPOSE:

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

PROCEDURES:

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

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

2. CITY'S VISION

3. CONSENT ITEMS - APPROVE

LINK TO DOCUMENT =

- Minutes - October 11, 2016 City Council Special Meeting - Executive Session.
- Minutes - October 11, 2016 City Council Regular Meeting.
- Approval of Proclamation, National Hospice and Palliative Care Month, November 2016.
- AB 2167 Approval of award of a Job Order Contract construction contract for the Police Department Armory Expansion Project to Skyline Builders and Restoration, Inc. in the approximate amount of \$127,739.58.

4. APPOINTMENTS - None.

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

6. PUBLIC FORUM

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

7. PROCLAMATIONS, RECOGNITIONS & AWARDS

- Presentation of Proclamation, National Hospice and Palliative Care Month, November 2016.

8. REGULAR BUSINESS

- AB 2146 **Discussion/possible direction** regarding proposals received by Taylor Waste and Waste Management in response to a request for proposals (RFP) issued by the City to provide residential trash and recycling services through a citywide city-managed, single-hauler program.
- AB 2178 **Discussion/possible action** regarding implications of Tlaquepaque's proposed reduction in cost-share to an amount of \$150,000 for the Soldier Wash Phase 4 Drainage Improvements.
- AB 2174 **Discussion/possible action** regarding a resolution and ordinance revising the Sedona City Code, Chapter 10.30, to add language related to regulation of parking meters.
- AB 2157 **Discussion/possible action** regarding the purchase of parking pay stations from T2 Systems in the approximate amount of \$175,164 for the Uptown Multi-Space Parking Pay Stations Project.
- Reports/discussion** on Council assignments.
- Discussion/possible action** on future meeting/agenda items.

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

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

Page 2, City Council Meeting Agenda Continued

9. EXECUTIVE SESSION

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

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

10. ADJOURNMENT

Posted: _____

By: _____

Susan L. Irvine, CMC
City Clerk

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

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

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

**Action Minutes
Special City Council Meeting
Vultee Conference Room, Sedona City Hall,
106 Roadrunner Drive, Sedona, Arizona
Tuesday, October 11, 2016, 3:30 p.m.**

1. Call to Order

Mayor Moriarty called the meeting to order at 3:30 p.m.

2. Roll Call

Roll Call: Mayor Sandy Moriarty, Vice Mayor John Martinez, Councilor Scott Jablow, Councilor Tom Lamkin, Councilor Jon Thompson, Councilor Jessica Williamson.

Staff in attendance: City Manager Justin Clifton, Assistant City Manager Karen Osburn, City Attorney Robert Pickels, Jr., City Clerk Susan Irvine.

3. Executive Session

Motion: Vice Mayor Martinez moved to enter into Executive Session at 3:31 p.m. **Seconded by Councilor Jablow. Vote:** Motion carried unanimously with six (6) in favor and zero (0) opposed.

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

- a. Discussion and consultation with legal counsel to consider the City's position and instruct its attorneys regarding Docket E-01345A-16-0036, the rate case filed with the Arizona Corporation Commission by Arizona Public Service on June 1, 2016. This matter is brought in executive session pursuant to A.R.S. 38-432.03(A)(3)&(4).
- b. Return to open session. Discussion/possible action on executive session items.

4. Adjournment

Mayor Moriarty adjourned the meeting at 3:58 p.m.

I certify that the above are the true and correct actions of the Special City Council Meeting held on October 11, 2016.

Susan L. Irvine, CMC, City Clerk

Date

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Action Minutes
Regular City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Tuesday, October 11, 2016, 4:30 p.m.

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

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

Roll Call: Mayor Sandy Moriarty, Vice Mayor John Martinez, Councilor Scott Jablow, Councilor Tom Lamkin, Councilor Jon Thompson, Councilor Jessica Williamson.

Staff Present: City Manager Justin Clifton, Assistant City Manager Karen Osburn, City Attorney Robert Pickels, Jr., Director of Community Development Audree Juhlin, Director of Finance Cherie Wright, Accounting Supervisor Derrick Beracy, Interim Chief of Police Ron Wheeler, Lieutenant James Pott, Sergeant Stephanie Foley, Detective Chris Stevens, Officer Nathan Dorfman, Police Records Clerk Jamie Rivero, Police Administrative Assistant Sherri O'Connor, City Clerk Susan Irvine.

2. City's Vision/Moment of Art

A video of the City's vision was played. Cherie Wright introduced Derrick Beracy who is a local musician and is also employed as the Accounting Supervisor for the City of Sedona. Mr. Beracy sang an original song titled "Racin' a Storm" accompanied with his guitar.

3. Consent Items

- a. **Minutes - September 27, 2016 City Council Regular Meeting.**
- b. **Approval of Proclamation, Domestic Violence Awareness Month, October 2016.**
- c. **Approval of Proclamation, Veterans History Project Day, October 22, 2016.**
- d. **Approval of Proclamation, Mitzvah (Good Deed) Day, November 6, 2016.**
- e. **AB 2163 Approval of a recommendation regarding a Liquor License Acquisition of Control application for the Series 11 Hotel/Motel Liquor License for Sedona Rouge LLC/Reds, 2250 West State Route 89A, Sedona, AZ (License #11133017).**
- f. **AB 2164 Approval of a Special Event Liquor License for a Democrats of the Red Rocks event scheduled for Tuesday, November 8, 2016, located at the Hub, 525 Posse Ground Road, Sedona, AZ.**
- g. **AB 2165 Approval of a Special Event Liquor License for a Red Earth Theatre event scheduled for Saturday, November 5, 2016 located at the Sedona Hub, 525-B Posse Grounds Road, Sedona, AZ.**

Motion: Councilor Williamson moved to approve consent items 3a, 3b, 3c, 3d, 3e, 3f, and 3g. Seconded by Councilor Jablow. Vote: Motion carried unanimously with six (6) in favor and zero (0) opposed.

4. Appointments

- a. **AB 2166 Discussion/possible action regarding the appointment of commissioners to the Planning and Zoning Commission.**

Presentation by Mayor Moriarty. Mayor Moriarty recognized Eric Brandt and Kathy Levin for their willingness to serve.

Motion: Councilor Jablow moved to reappoint Eric Brandt and Kathy Levin to seats on the Planning and Zoning Commission with terms beginning November 1, 2016 and ending October 31, 2019 or until a successor is appointed, whichever is later. Seconded by Councilor Williamson. Vote: Motion carried unanimously with six (6) in favor and zero (0) opposed.

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

Vice Mayor Martinez recognized Robert Pickels Jr's. on his 50th birthday. He also advised that Verde Valley Coalition Against Human Trafficking had a quarterly meeting on October 29th where the word was spread about human trafficking of teenage boys and girls in the Verde Valley. They also recently held a fundraiser for money to continue to educate the public about this issue. Councilor Jablow stated that this year's Main Street program for Halloween will include prizes for costumes for dogs. Vice Mayor Martinez advised that the annual Pumpkin Splash hosted by Parks and Recreation will take place on October 22nd.

6. Public Forum

John Biggers, Sedona spoke about his involvement with the City Police Department about a recent incident. He was very impressed with Officer Dorfman and how he handled the issue. He requested that the City Council increase the salary of each officer \$20,000 per year each. He also congratulated the Citizen's Academy and the department heads who he feels are also underpaid and encouraged everyone to attend in the future. His son has a program called Eco-polis Sedona which will take place on October 27th at 6:30 p.m.

7. Proclamations, Recognitions, and Awards

a. Presentation of Proclamation, Domestic Violence Awareness Month, October 2016.

Mayor Moriarty read the proclamation and presented it to Lizbeth Fullbright. Ms. Fullbright thanked the City Council for their recognition and bringing attention to this important issue.

b. Presentation of Proclamation, Veterans History Project Day, October 22, 2016.

Mayor Moriarty read the proclamation and presented it to Jolene Pierson. Ms. Pierson thanked the Council for their recognition and those with military service to share their stories.

c. Presentation of Proclamation, Mitzvah (Good Deed) Day, November 6, 2016.

Mayor Moriarty read the proclamation and presented it to Barbara Litrell. Ms. Litrell thanked the Council for their recognition and invited everyone to participate in the 10th annual Mitzvah Day.

8. Regular Business

a. AB 2173 Presentation/discussion from Coconino Community College regarding information about the College's proposed property tax override that will be voted on by Coconino County voters on November 8, 2016.

Presentation by Coconino Community College President Dr. Colleen Smith accompanied by Governing Board Member Dr. Nathaniel "Nat" White.

Questions from Council.

Presentation and discussion only. No action taken.

b. AB 2131 Discussion/possible direction regarding Docket E-01345A-16-0036, the rate case filed with the Arizona Corporation Commission by Arizona Public Service on June 1, 2016.

Introduction by Justin Clifton. Presentation by Stefanie Layton, APS Director of Revenue Requirements, Leland Snook, APS Director of Rates and Rate Strategies, Jenna Rowell, APS Manager of Community Affairs, Steve Quinn APS Northwest Division Manager, and Rick Romain, Consulting Engineer with Technology Coordinators, LLC.

Questions from Council.

Opened to the public at 6:45 p.m.

Philip Allen, Sedona, spoke against the APS rate case and the cost savings that are achieved by them no longer having to read analog over 1 million meters. He asked what total cost savings have been achieved and what the actual cost of reading the remaining analog meters is.

Brought back to Council at 6:47 p.m.

Additional questions and comments from Council.

Presentation and discussion only. No action taken.

Break at 7:04 p.m. Reconvened at 7:24 p.m.

c. AB 2170 Discussion/possible action regarding a resolution and ordinance amending the Sedona City Code, Chapter 5, relating to Short-Term Rental Regulations.

Presentation by Robert Pickels, Jr.

Questions from Council.

Opened to the public at 7:43 p.m.

Sean Donovan, Sedona, stated that he rents a room in his house which allows him to remain in his house. He felt the City should encourage these rentals and not discourage them.

Verna Fischer, Village of Oak Creek, spoke in favor of short-term rentals and felt that rentals in Sedona would have to be high-end to be successful.

Chetan Kane, West Sedona, stated that vacation rentals provide a higher quality of clientele than long-term rentals. She feels that this will improve what is going on in Sedona.

Brought back to Council at 7:50 p.m.

Comments from Council.

Motion: Councilor Thompson moved to approve Resolution No. 2016-29, a Resolution of the Mayor and Council of the City of Arizona, establishing as a public record the terms of proposed amendments to the City Code Chapter 5.25 (2016 Short-Term Rental Regulation Provisions). Seconded by Councilor Jablow. Vote: Motion carried unanimously with six (6) in favor and zero (0) opposed.

Motion: After 1st reading, Councilor Thompson moved to approve Ordinance No. 2016-06, an Ordinance of the City of Sedona, Arizona, amending the City Code Chapter 5.25 (Short Term Rental Regulation); providing for a savings clause; and providing for repeal of any Ordinance or parts of Ordinances or Code provisions in conflict herewith. Seconded by Councilor Williamson. Vote: Motion carried unanimously with six (6) in favor and zero (0) opposed.

d. Reports/discussion on Council assignments – None.

e. Discussion/possible action on future meeting/agenda items

Mayor Moriarty advised that there is not a work session tomorrow. Robert Pickels, Jr. inquired about hosting a legislative round table on December 14th.

9. Executive Session

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

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

No Executive Session was held.

10. Adjournment

Mayor Moriarty adjourned the meeting at 7:53 p.m. without objection.

I certify that the above are the true and correct actions of the Regular City Council Meeting held on October 11, 2016.

Susan L. Irvine, CMC, City Clerk

Date



City of Sedona Proclamation Request Form

Full Name of Contact Person	Lisa Long
Contact Phone Number	928-202-2053
Contact Mailing Address	203 S. Candy Lane, Suite 10A, Cottonwood, AZ 86326
Contact Email Address	lisa.long2@lhcgrou.com
Group, Organization, Activity or Event Being Recognized (Please make sure you provide complete and current information about the group or event)	The month of November to be proclaimed as National Hospice Month in Sedona and encourage support and participation of citizens by learning more about hospice and palliative care for the elderly, disabled, and infirm.
Website Address (if applicable)	
Name of the sponsor(s) of the Proclamation (2 Council members or the City Manager)	Sandy Moriarty,
What is the proclaimed day, days, week or month? (e.g. 10/11/12, October 11-17, 2012, October 2012)	November
Would you like to attend a Council meeting for formal presentation of the Proclamation or would you like to pick it up?	<input checked="" type="checkbox"/> Presentation at Meeting <input type="checkbox"/> Pick up Proclamation
If you would like the Proclamation presented at a Council meeting, please provide the full name and contact information (phone number and email address) of the party who will accept it on behalf of the group.	Lisa Long, 928-202-2053, lisa.long2@lhcgrou.com

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

Hospice provides humane and comforting support for terminally ill patients and their families, including pain control, palliative medical care and social, emotional and spiritual services. Over 114,000 professionals and hundreds of thousands of volunteers (the equivalent of 56,000 full time employees) provide comforting and supportive hospice services to over 1.5 million patients and their families in an estimated 3,800 hospice programs throughout the United States.

Northern Arizona Hospice (formerly Marcus J. Lawrence Hospice) has provided end-of-life-care for patients and their families in the Verde Valley since 1983. October of 2014, Northern Arizona Hospice, thanks to generous donations from the community, opened Valley View Assisted Living, the only sliding fee scale assisted living facility in the area.

PURPOSE: It's all about helping people.

MISSION: We provide exceptional care and unparalleled service to patients and families who have placed their trust in us.

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

Sedona and the surrounding area have an increasing elderly population. Many come to Sedona specifically to heal an illness. There is a need to increase public discussion about advances in pain control and the care options available to individuals of all ages, races, and backgrounds who are at the end of life.

Hospice utilizes services of hundreds of thousands of volunteers. Volunteers help meet patient needs along with assisting in community outreach and education. We will place the proclamation in the newspapers and on social media. Northern Arizona Hospice will further this community outreach and education by hosting an open house on November 16th, a tree of lights memorial service on December 8th and ongoing education and support.

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

*Office of the Mayor
City of Sedona, Arizona*



**Proclamation
National Hospice and Palliative Care Month
November 2016**

WHEREAS, hospice care provides humane and comforting support for terminally ill patients and their families, including pain control, palliative medical care, and social, emotional, and spiritual services; and

WHEREAS, hospice fulfills basic human needs of feeling comfortable in familiar surroundings and of attaining physical and emotional peace during the last stage of life; and

WHEREAS, over 114,000 professionals and hundreds of thousands of volunteers (the equivalent of 56,000 full time employees) provide comforting and supportive hospice services to over 1.5 million patients and their families in an estimated 3,800 hospice programs throughout the United States; and

WHEREAS, there is a need to increase public discussion about advances in pain control and the care options available to individuals of all ages, races, and backgrounds who are at the end of life; and

WHEREAS, Northern Arizona Hospice has joined the Hospice Association of America and an estimated 3,800 hospice providers in declaring November 2016 as National Hospice Month and are calling on all Americans to observe this occasion with appropriate ceremonies and activities.

NOW, THEREFORE, I, SANDY MORIARTY, MAYOR OF THE CITY OF SEDONA, ARIZONA, ON BEHALF OF THE SEDONA CITY COUNCIL, do hereby proclaim November 2016 as NATIONAL HOSPICE & PALLIATIVE CARE MONTH in the City of Sedona and encourage the support and participation of all citizens in learning more about the hospice concept of care for the elderly, disabled, and infirm.

Issued this 25th day of October, 2016.

Sandra J. Moriarty, Mayor

ATTEST:

Susan L. Irvine, CMC, City Clerk

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**CITY COUNCIL
AGENDA BILL**

**AB 2167
October 25, 2016
Consent items**

Agenda Item: 3d

Proposed Action & Subject: Approval of award of a Job Order Contract construction contract for the Police Department Armory Expansion Project to Skyline Builders and Restoration, Inc. in the approximate amount of \$127,739.58.

Department	Public Works, Police Department
Time to Present	N/A
Total Time for Item	
Other Council Meetings	None
Exhibits	A. Construction Contract

City Attorney Approval	Reviewed 10/18/16 RLP	Expenditure Required
		\$ 127,739.58
		Amount Budgeted
		\$ 150,000.00
City Manager's Recommendation	Approve the award of construction contract to Skyline Builders for the PD Armory Expansion.	Account No. 22-5510-89-6851 (Description) (Police Facility Renovations)
		Finance Approval <input checked="" type="checkbox"/>

SUMMARY STATEMENT

Staff is requesting City Council approval of a Construction Contract in the amount of \$127,739.58 for the Police Department Armory Expansion Project with Skyline Builders and Restoration, Inc. The scope of work includes construction of an armory station with two rooms, security devices, cleaning station and plumbing, and all associated HVAC and electrical work, in the basement of City Hall.

Background: Currently, all firearm and equipment maintenance activities take place in a designated, but standard, Police Department office.

The existing dedicated armory office area needs improvements in the following areas:

- Security
- General safety and protection against a discharge
- Area for cleaning and washing amenities
- Working space
- Location

The State JOC:

- State JOC price agreements utilized for consistent and fair proposals
- State JOC agreements managed by the Gordian Group
- The Gordian Group selects a contractor to provide a proposal based on the State's approved JOC database.
- Two proposals were received

The Contractor:

- Skyline Builders and Restoration, Inc. provided acceptable proposal within budget
- They have completed the following projects for the City of Sedona:
 - Wetlands Viewing Platform
 - West Sedona School Pathway

Schedule:

- Construction is anticipated to begin in November 2016 and be completed by February 2017.

Budget:

- Project budget \$150,000
- City staff value engineered proposal and design resulting in cost saving modifications and reduced proposal amount

Community Plan Consistent: Yes - No – [] Not Applicable

The improvements made by this project will result in an improvement of support to facilities and services that address health, safety, and welfare needs of the community, as laid out by the Sedona Community Plan. The result of a better armory will be a better maintained and prepared police force, which will positively affect the community.

Board/Commission Recommendation: Applicable – Not Applicable

Alternative(s): Not approving this project would result in the Police Department staff continuing to work in subpar conditions with little to no safety provisions or security.

MOTION

I move to: approve award of the construction contract with Skyline Builders and Restoration, Inc. for the Police Department Armory Expansion Project in an amount not to exceed \$127,739.58, subject to approval of the written contract by the City Attorney's Office.

CONTRACT

THIS CONTRACT, made and entered into this ____ day of _____, 2016 by and between the City of Sedona, Arizona, hereinafter called the "Owner", and **Skyline Builders and Restoration, Inc.**, hereinafter called the "Contractor."

WITNESSETH:

WHEREAS, the City has caused Contract Documents to be prepared for the construction of the **Police Department Armory Expansion Project (the "Project")**, City of Sedona, Arizona, as described therein; and

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

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

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

1. The Contractor promises and agrees to and with the City that it shall perform everything required to be performed and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services required to perform and complete in a workmanlike manner all of the work required in connection with construction of **the Project** all in strict accordance with the Specifications and Drawings, including any and all Addenda, and in strict compliance with the Contractor's Proposal and all other Contract Documents, which are a part of the Contract; and the Contractor shall do everything required by this Contract and the other documents constituting a part thereof.
2. The Contractor agrees to perform all of the work described above in accordance with the Contract Documents and comply with the terms therein for the initial estimated Contract price of **\$127,739.58**, subject to increase or decrease in accordance with the Contract Documents, and the Bid Schedule set forth therein; and the City agrees to pay the Contract Prices in accordance with the Bid Schedule for the performance of the work described herein in accordance with the Contract Documents.
3. The Contractor and the City agree that the terms, conditions, and covenants of the Contract are set forth in the Contract Documents and the Plans and Technical Specifications, and the Drawings numbered 1 through 11, all defined as the Contract Documents, and by this reference made a part hereof as if fully set forth herein.
4. The Contractor and the City agree that each will be bound by all terms and conditions of all of the Plans and Technical Specifications, and Contract Documents, as if the same were fully set forth herein, and hereby incorporate all of the foregoing into this Agreement.

5. The Contractor shall abide by all the laws of the United States of America, State of Arizona, Coconino/Yavapai Counties, and the City of Sedona, including a requirement that Contractor obtain an annual Sedona Business License for every year that they do business with Sedona or within the City limits.
6. The Contractor shall carry Workers' Compensation Insurance and require all Subcontractors to carry Workers' Compensation Insurance as required by the Law of the State of Arizona, and all other insurance as set forth in the General Conditions.
7. Contractor, its agents, employees, and subcontractors, shall not discriminate in any employment policy or practice. "Discrimination" means to exclude individuals from an opportunity or participation in any activity or to accord different or unequal treatment in the context of a similar situation to similarly situated individuals because of race, color, gender, gender identity, sexual orientation, religion, national origin or ancestry, marital status, familial status, age, disability, or veteran status. (Ordinance 2015-10 (2015)).
8. Work under this Contract shall commence on the date specified in the written Notice to Proceed from the City to the Contractor. Upon receipt of said Notice, the Contractor shall diligently and continuously prosecute and complete all work under this Contract within the time specified on page A-2.
9. The Contract Document consist of the following component parts, all of which are a part of this Contract whether herein set out verbatim, or attached hereto:

Price Proposal Summary Contract (this document)
Change Orders
Performance Bond, Labor and Material Payment Bond
Special Conditions
General Conditions
Technical Specifications
Notice of Award
Notice to Proceed
Plans and Drawings
Standard Specifications
Insurance Certificates

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

1. Change Orders
2. Contract (this document)
3. Payment and Performance Bonds
4. Notice of Award
5. Notice to Proceed

6. Special Conditions
7. Proposal
8. Technical Specifications
9. Plans and Drawings
10. General Conditions
11. Standard Specifications
12. State of Arizona Job Order Contract for General Contracting Technical Specifications

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

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

10. As part of the inducement for City to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress, or performance of the work.
- B. Contractor has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or those reports that otherwise may affect cost, progress or performance of the work, which were utilized by Design Engineer in the preparation of the Drawings and Specifications and which have been identified in the Contract Documents.
- C. Contractor has made or caused to be made examinations, investigations and tests, and studies of such reports and related data as he deems necessary for the performance of the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by Contractor for such purposes.
- D. Contractor has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- E. **Contractor has given the City Engineer written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents** and the written resolution thereof by City Engineer is acceptable to Contractor.

- 11.A. No assignment by a party hereto of any rights under or interest in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- B. City and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, and its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- C. Pursuant to Arizona Revised Statutes Section 38-511, the provisions of which are incorporated by reference as if fully set forth herein, all parties are hereby given notice that this Agreement is subject to cancellation by the City if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract or Contract Documents on behalf of the City is, at any time while the Contract or Contract Document or any extension thereof is in effect, an employee or agent of any other party to the Contract or Contract Documents in any capacity or a consultant to any other party to the Contract or Contract Documents with respect to the subject matter of the Contract or Contract Documents.
12. During the performance of this Agreement, Contractor may also be under contract with the City for performance of work on other projects. A breach in the performance of any of Contractor's obligations under this Agreement shall constitute a breach of Contractor's obligations under any other agreement with the City and the breach by Contractor under other agreement with the City shall also constitute a breach of Contractor's obligations under this Agreement. The City may offset any amounts owed by Contractor under any such other agreement from any amounts owed to Contractor under this Agreement.
13. The Contract Documents constitute the entire Agreement between the parties.

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

CITY: City of Sedona, Arizona

BY: _____

NAME: _____

TITLE: _____

(SEAL)

ATTEST:

BY: _____

NAME: _____

CONTRACTOR: Skyline Builders and Restoration, Inc.

BY: _____

NAME: _____

TITLE: _____

(SEAL)

ATTEST:

BY: _____

NAME: _____

APPROVED AS TO LEGAL FORM:

BY: _____

(City Attorney)

DATE: _____

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**CITY COUNCIL
AGENDA BILL**

**AB 2146
October 25, 2016
Regular Meeting**

Agenda Item: 8a
Proposed Action & Subject: Discussion/possible direction regarding proposals received by Taylor Waste and Waste Management in response to a request for proposals (RFP) issued by the City to provide residential trash and recycling services through a citywide city-managed, single-hauler program.

Department	City Manager's Office
Time to Present	15 Minutes
Total Time for Item	60 minutes
Other Council Meetings	March 23, 2016 May 25, 2016 July 12, 2016
Exhibits	A. Copies of Complete Proposals are Available for Review in the City Manager and City Clerk Offices

City Attorney Approval	Reviewed 10/17/16 RLP	Expenditure Required	\$ 0
City Manager's Recommendation	Review and discuss bids for trash and recycling services. Give serious consideration to ceasing further efforts to explore contract options.	Amount Budgeted	\$ 0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: On March 23, 2016, the City Council held a work session to discuss the way trash and recycling services are currently provided within the City of Sedona (City) and to explore the possibility of transitioning from the existing open system to a City managed system, by which the City contracts with a private hauler to provide citywide residential trash and recycling services.

The Council directed staff to develop a Request for Proposals (RFP) document to be issued to prospective haulers, the results of which would allow them to evaluate the merits of the various proposals and then make a more informed decision as to whether or not the proposed terms warranted the change to the existing service model.

On July 12, 2016, the City Council approved the RFP document and it was issued on August 1, 2016. Proposals from the haulers were due on September 26, 2016.

In response to the RFP, the City received proposals from the following companies:

- Taylor Waste (Taylor)
- Waste Management (WM)

Neither proposal's pricing was in the range the City expected or had hoped for. Given the absence of a cost savings component for residents and no greatly enhanced services being proposed, Council is being asked to provide further direction on whether or not the City should continue to pursue a single-hauler system.

PRELIMINARY FINANCIAL EVALUATION

Prior to issuing the RFP, the City and Burns & McDonnell conducted interviews with haulers currently providing services in the City. The haulers provided current program rate information. Current program rates have been compared to the financial proposals. The remainder of this section evaluates the financial proposals for each service level (i.e. solid waste services only, solid waste and recycling services).

Solid Waste Services Only

Current haulers reported that City residents who subscribe for only solid waste services pay \$14 to \$17 per month. Based on a City staff survey, Homeowners Associations (HOA) reported rates from \$7 to \$10 per month for solid waste services only. The tables below compare the proposed solid waste only rates to the \$14 to \$17 rates since the majority of residents receive services through direct subscription (78.8%) versus those receiving their solid waste services through an HOA contract (15.5%).

Assuming the City performs customer service and billing, and purchases the carts, Taylor's financial proposal, inclusive of the City's costs to perform customer service and billing and purchase the carts, of \$14.10 per month for only solid waste services is 0.7 percent higher than the minimum rate; 9.0 percent lower than the median rate, and 17.0 percent lower than the maximum rate reported by haulers under the current system.

WM's financial proposal of \$14.65 per month based on the City performing customer service and billing is \$0.55 per month higher than Taylor's lowest financial proposal. The proposed rates increased if the proposers were required to perform customer service and billing. Table 1 shows how the financial proposals compare with the reported current rates for solid waste services only.

Table 1 – Comparison of Current and Proposed Solid Waste Services Only Rates

	City Performs Customer Service and Billing	City Purchases Carts	Monthly Rate per Household	Difference⁴	Variance from Minimum⁵
Current Minimum ³	No	No	\$14.00	\$0.00	0.0%
Proposed Taylor ^{1, 2}	Yes	Yes	\$14.10	\$0.10	0.7%
Proposed WM ¹	Yes	No	\$14.65	\$0.65	4.6%
Proposed WM	No	No	\$14.80	\$0.80	5.7%
Proposed Taylor	No	No	\$15.50	\$1.50	10.7%
Current Median ³	No	No	\$15.50	\$1.50	10.7%
Current Maximum ³	No	No	\$17.00	\$3.00	21.4%

1. Includes costs for City to perform customer service and billing at an estimated cost of \$1.00 per customer per month.
2. Includes cost for City to purchase carts at an estimated cost of \$0.60 per cart per customer per month.
3. Current system minimum, median, and maximum rates as reported by current haulers.
4. Difference equals monthly rate for proposer/current program less monthly rate for current minimum.
5. Percent variance equals proposer/current program monthly rate less minimum monthly rate divided by minimum monthly rate.

Solid Waste and Recycling Services

For solid waste and recycling services, current haulers reported City residents pay \$17 to \$23 per month.¹ The preliminary financial evaluation assumes every other week single-stream recycling collection for all City residents² (universal service). The proposed rates for every other week single-stream recycling collection for all City residents are being evaluated since these rates were the most competitive. Pricing for weekly service and subscription service was also proposed by each hauler per the RFP, but was more costly. Taylor also provided a weekly dual-stream recycling option, in partnership with Sedona Recycles, that was priced slightly higher than the every other week single stream recycling option.

Assuming the City performs customer service and billing and purchasing the carts, Taylor’s financial proposal, inclusive of the City’s costs to perform customer service and billing and purchase the carts, of \$19.20 per month for solid waste and recycling services is 12.9 percent higher than the minimum rate under the current system, but 4.0 percent and 16.5 percent lower than the median and maximum rates under the current program. WM’s financial proposal of \$20.69 per month based on the City performing customer service and billing is \$1.49 higher than Taylor’s financial proposal. Like the rates for solid waste services only, the proposed rates increased if the proposers were required to perform customer service and billing. Taylor’s proposed rate increased further if Taylor was required to

¹ Recycling services provided every week (WM) or every other week (Taylor) under the current program.

² All proposals based on single-stream collections. Taylor also provided a proposal for universal weekly dual stream recycling services. No proposals were received for multi-stream/curb sort recycling services.

purchase the carts. Table 2 shows how the financial proposals compare with the reported current rates for solid waste and recycling services.

Table 2 – Comparison of Current and Proposed Solid Waste and Recycling Services Rates

Proposer	City Performs Customer Service and Billing	City Purchases Carts	Monthly Rate per Household	Difference ⁴	Variance ⁵
Current Minimum ³	No	No	\$17.00	\$0.00	0.0%
Proposed Taylor ^{1, 2}	Yes	Yes	\$19.20	\$2.20	12.9%
Current Median ³	No	No	\$20.00	\$3.00	17.6%
Proposed WM ¹	Yes	No	\$20.69	\$3.69	21.7%
Proposed WM	No	No	\$20.84	\$3.84	22.5%
Proposed Taylor	No	No	\$21.00	\$4.00	23.5%
Current Maximum ³	No	No	\$23.00	\$6.00	35.2%

1. Includes costs for City to perform customer service and billing at an estimated cost of \$1.00 per customer per month.
2. Includes cost for City to purchases carts at an estimated cost of \$0.60 per cart per customer per month.
3. Current system minimum, median, and maximum rates as reported by current haulers.
4. Difference equals monthly rate for proposer/current program less monthly rate for current minimum.
5. Percent variance equals proposer/current program monthly rate less current minimum monthly rate divided by current minimum monthly rate.

POTENTIAL OPPORTUNITIES TO REDUCE RATES

After proposals were received consultant Burns & McDonnell contacted each proposer to discuss opportunities to reduce their proposed rates. The opportunities identified related to technical and policy contract provisions. Should the Council wish to identify ways to further reduce costs, the City could consider asking the companies how much they have included in their proposals for the categories listed below, and evaluate the costs with and without these amounts. Should those amounts be material, and contract term adjustments palatable to the Council, the RFP could be reissued with modified terms in an attempt to further bring costs down.

The following are opportunities identified by the vendors to reduce the proposed rates:

- **Initial contract term.** Section 2 of the contract grants an initial term of five years. Vendors will base proposals on recouping costs over the initial term since renewal terms are optional. A proposer stated that a longer initial term, such as seven years, will reduce the proposed rates.
- **Administrative charges.** The draft contract allows the City to impose administrative charges in the event that performance is inconsistent with the contract. Section 15 of the draft contract includes administrative charges for missed collections, failure to complete

collections during hours of operation, failure to distribute public education and outreach, and other identified instances of non-compliance with contract requirements. A proposer stated that amendments to the administrative charges, such as an opportunity to address infractions prior to assessment of administrative charges, will reduce the proposed rates.

- **Recordkeeping and reporting requirements.** The recordkeeping and reporting requirements are outlined in Section 18 of the draft contract. The successful vendor is required to maintain records and submit reports as to missed collections, complaints, inquiries, and amount of material collected. In addition, the successful vendor is required to report on recycling set out rates, recyclable profits/losses, and other program information. A proposer stated that the recordkeeping and reporting requirements increased personnel costs and consequently their proposed rates.

- **Residential service opt-out provision.** Section 4.05 of the draft contract and Addendum 1 provides residents the option to stop services for two or more months. A proposer stated that current Homeowner's Association contracts do not allow residents to opt-out, therefore reducing the cost per household under these agreements. A proposer stated that the residential service opt-out provision increased their proposed costs.

- **Performance bond requirements.** The performance bond requirements are described in Section 32 of the draft contract. The successful vendor must maintain a performance bond in an amount equal to or greater than the amount of 12 months of fees to be paid to the contractor. The cost of a performance bond is approximately 1.5 percent of the value of the bond. A proposer stated that reducing the amount of the performance bond will reduce its proposed rates.

- **Insurance requirements.** Like a performance bond, the amount of insurance required impacts the proposed rates. Addendum 1 described the insurance requirements. A proposer identified the required insurance coverage of \$2,000,000 for automobile liability/bodily injury/property damage as an example of an insurance requirement which increased their proposed rates.

- **Consider solid waste proposals only.** The RFP required haulers to provide proposals for both solid waste collection and a recycling program as prescribed by the City (single stream, dual stream, or curb sort only). The Council could consider accepting proposals for only solid waste and/or other recycling.

CONCLUSION

Based on the preliminary financial evaluation, the lowest proposed rates assume the City will perform customer service and billing and purchase the carts. Assuming the City performs customer service and billing and purchasing the carts, Taylor's financial proposed rates inclusive of the City's costs to perform customer service and billing and purchase the carts are slightly higher than the minimum rate for solid waste services only and somewhat higher than the minimum rate for solid waste and recycling services for the current program as reported by the haulers. These rates are based on a weekly trash pickup and a bi-weekly single stream recycling pick up. The proposed rates are even less competitive with the current program if the City does not perform customer service and billing and purchase the carts, and if other service models such as weekly single stream or dual stream are preferred.

The opportunities cited above may result in decreased rates while providing the benefits of a citywide program (i.e. increased recycling, reduced road wear, decreased fuel consumption and emissions). If the City elects to further investigate how much the pricing could be reduced under new RFP/contract terms, the two proposers could be engaged to make those

determinations. Should that yield positive results and Council desires to continue to pursue a single hauler contracted system, another RFP would need to be reissued with the new terms to provide a fair and open competitive process.

Community Plan Consistent: Yes - No - Not Applicable

Sustainability is cited as an inclusive goal of the plan. The Community Plan Summary states that “Sustainability is a fundamental goal of this Community Plan. Sustainability as envisioned by the Community Plan is not just about reducing our impact on the environment, but is equally about maintaining and enhancing the connections and ties that bind individuals and form Sedona’s community fabric. Sustainability in the Sedona of today and tomorrow will lead to policies and actions by government and citizens that enhance our natural and built environments, create a diversified economy, improve individual and collective quality of life, and create an educated, equitable and prosperous community.”

There are six major outcomes identified in the Community Plan Summary. These are explanations of what we want the community to look and feel like in 2020 and beyond. One outcome is Commitment to Environmental Protection, which states that “Sedona has become an international model for the successful balancing of environmental protection and human wants and needs. To protect our unique setting for future residents, Sedona’s city government and residents have working in tandem to achieve and promote sustainable living, and to develop best practices for maintaining sustainable business and recreational philosophies.”

Environmental stewardship is a Vision Theme of the Community Plan. The Plan states that “Sedona is known for practices that respect and protect the natural environment, and as the responsible caretaker of one of the world’s greatest treasures.”

In Chapter 5 of the Plan, Environment, the Plan states “Protection of the environment is the community’s top priority, and sustainability is a fundamental goal of the Plan. This chapter addresses our impacts to the environment, locally and globally, from conserving non-renewable resources to protecting the health of the ecosystem. While some of these issues may not seem to be a problem today, if the current rates of consumption and impacts continue, the long-term results will be a significant decline in the health of the environment, the availability of vital resources, and the community’s quality of life.”

Policy eight on page 78 of the Environment Section of the Plan is to reduce harmful emissions and policy thirteen is to support recycling and other waste stream reduction efforts. Action item seven, which is part of the priorities for years 6-10 of the Environment Action Plan (page 79) is to develop an action plan that would focus on methods to improve energy efficiency and conservation and reduce harmful emissions.

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

MOTION

I move to: for discussion and direction only.



**CITY COUNCIL
AGENDA BILL**

**AB 2178
October 25, 2016
Regular Agenda**

Agenda Item: 8b
Proposed Action & Subject: Discussion/possible action regarding implications of Tlaquepaque's proposed reduction in cost-share to an amount of \$150,000 for the Soldier Wash Phase 4 Drainage Improvements.

Department	Public Works
Time to Present	10 minutes
Total Time for Item	60 minutes
Other Council Meetings	February 26, 2013 (AB No. 1536) November 12, 2013 (AB No. 1696) September 9, 2014 (AB No. 1840) April 28, 2015 (AB No. 1932) January 26, 2016 (AB No. 2048) March 8, 2016 (AB No. 2050)
Exhibits	A. Map B. Phase 2 Cost-Sharing Agreement (Tlaquepaque) C. Phase 4 Preliminary Construction Scope Summary D. Project Budget Sheets

City Attorney Approval	Reviewed 10/17/16 RLP	Expenditure Required	
		Includes FY17 and FY18	\$1,700,000 (City) \$300,000 (outside sources)
City Manager's Recommendation	Discuss and provide direction regarding cost share for Soldier Wash Drainage Improvements. Consider stopping work until cost sharing partnership is restored.	Amount Budgeted	
		Includes FY17 and FY18	\$1,500,000 (City) \$500,000 (outside sources)
		Account No. (Description)	22-5320-89-6820 Drainage Improvements
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Staff is requesting discussion and possible action regarding a proposal from Tlaquepaque for a cost-share reduction from \$250,000 to \$150,000 for the Soldier Wash Phase 4 Drainage Improvements. Construction work of the Phase 4 improvements was anticipated to be split

over FY17 and FY18. The proposed Phase 4 improvements for Soldier Wash will create capacity in the wash to meet the City standard of the 25-year storm event (2,200 cubic feet of runoff per second - CFS) from the downstream side of the Brewer Road crossing to Oak Creek. Per the February 2013, Soldier Wash Interim Improvements Feasibility Study by Shephard-Wesnitzer, Inc., the current capacity of Soldier Wash in the subject area after the completion of the Phase 1, 2, and 3 improvements is 1,084 CFS, or roughly half of the ultimate design capacity.

Background: At the Council Meeting held on February 26, 2013, the Soldier Wash Interim Improvements Study, completed by SWI, was reviewed and Council approved moving forward with the recommendations provided in that study. Initially, Phases 3 and 4 were not part of the immediate plan; however, during the budget seasons that followed, all parties showed a willingness to proceed with and partner on these ultimate design phases. Therefore, these improvements were proposed and approved in the budget. This was with the understanding that neighboring properties (Tlaquepaque and Los Abrigados) would contribute \$250,000 each for Phase 4. Tlaquepaque would like to reduce their contribution to \$150,000. The board of Los Abrigados has verified they will only be willing to contribute \$150,000 toward Phase 4 if that amount is approved for Tlaquepaque.

The Phases:

- Phase 1 included placing Jersey barrier along the top of the wash banks upstream of Portal Lane to increase channel capacity and reduce flooding of the overbanks. This phase also included removing existing obstructions to increase the flow area. Completed in February 2014.



- Phase 2 occurred downstream of Portal Lane and included placing Jersey barrier and increasing the heights of existing walls along the top of the wash banks to increase channel capacity and reduce flooding of the overbanks. This phase also included removing existing obstructions to increase the flow area. Completed in August 2015.



- Phase 3 included replacing double box culverts at Portal Lane and the pedestrian walkway between the Tlaquepaque and Los Abrigados properties and replacing them with structures having more drainage capacity. Completed in June 2016.



- Phase 4 design includes channel improvements to increase the capacity, to City standard, of Soldier Wash from the downstream side of Brewer Road to Oak Creek. The design of this phase is on schedule to be completed

in November 2016. The construction of Phase 4A (Portal Lane to Oak Creek) is budgeted, and has been anticipated to begin in January 2017, and be complete in April 2017.

The Partnership Understanding:

- As a result of monsoon flooding events that occurred in the lower Soldier Wash area during the summers of 2009 and 2011, meetings were held in 2012 and 2013 between the City Manager, the City Attorney, the City Engineer/Public Works Director, the Tlaquepaque owners, and the Los Abridados executives.
- The initial position of the City was that the flooding problems inherent with these two commercial properties were a private issue that was exacerbated by encroachment of the floodplain area with development.
- It was only through protestation and demands from Tlaquepaque ownership and their attorneys that the City acquiesced and agreed to an equitable financial partnership with Tlaquepaque and Los Abridados to pay for the construction of the Soldier Wash drainage improvements. The City also agreed to pay for the associated design costs and handle the construction administration duties.
- It is current staff's understanding that the outcome of the above mentioned meetings provided for a willingness for the three parties to work together to equitably share the costs of the Soldier Wash drainage improvements. However, no Memorandum of Understanding or other documentation was ever created to memorialize the partnership.
- In the past, Tlaquepaque ownership has expressed concern regarding the level of coordination with plan development and budgetary issues for the project.



The Cost-Sharing Agreements:

- All of the design costs for Phase 1 through Phase 4 have been paid by the City. These design costs total \$354,240.
- Phase 1 construction costs were evenly split between the City and Tlaquepaque at \$33,473 each. This project took place on the City and Tlaquepaque properties only.
- Phase 2 construction costs were evenly split between the City, Tlaquepaque, and Los Abridados at \$46,645 for each of the three parties. This project took place on all three properties.
- Phase 3 construction costs of \$471,889 for the Portal Lane Bridge improvements were paid entirely by the City. The Portal Lane Bridge project took place on the City and Los Abridados properties only. For the replacement of the pedestrian bridge that connects Los Abridados with Tlaquepaque, Los Abridados paid \$196,689 plus the costs associated with removing an existing building. The Pedestrian Bridge Project took place on all three properties, but since it serves as a link between the two private properties, the City did not deem it as a public facility and did not contribute financially to the new bridge construction. Although Los Abridados and Tlaquepaque at one time considered sharing in the cost of the pedestrian bridge replacement, Tlaquepaque ultimately decided not to share in the cost. Los Abridados decided to pay the entire cost rather than lose the pedestrian bridge all together.

- The understanding for the Phase 4 construction costs up to June 1, 2016, was that Tlaquepaque and Los Abridados would contribute \$250,000 each through Cost-Sharing Agreements, and the City would cover the balance of approximately \$1,500,000. Of the Phase 4 construction area, the approximate land ownership areas are as follows: City = 54%, Los Abridados = 26%, and Tlaquepaque = 20%. At this point, Tlaquepaque is only willing to contribute \$150,000 toward the Phase 4 construction costs (a 7.5% share of the costs). Los Abridados is still willing to contribute \$250,000, but wants their share to be equitable with contributions from other parties. The Los Abridados board has made the decision that they will not contribute more than Tlaquepaque for the Phase 4 construction.

Phase 4 Tree Removals and Funding Commitments:

- As requested, a Preliminary Construction Scope Summary for Phase 4 (Exhibit C) was developed and delivered to Tlaquepaque ownership on October 27, 2015. This one page summary clearly indicates that many trees would need to be removed for the construction of the Phase 4 drainage improvements.
- Sixteen days after the Preliminary Construction Scope Summary (which discussed tree removals) was sent to Tlaquepaque ownership, there was email discussion that expressed a monetary commitment of up to \$300,000 on their part for Phase 4 (an amount established by preliminary cost estimates).
- On January 26, 2016, an email was received stating that Tlaquepaque would not have the \$300,000 funding available in Calendar Year 2016, due to other financial obligations. The email went on to point out that Tlaquepaque ownership wants to finalize and complete Phase 4 of the drainage project, but needs to look at a different timeline of late calendar year 2017 for making their financial contribution.
- Between June 2016 and September 2016, staff coordinated with Tlaquepaque ownership addressing concerns related to the level of tree removal and financial contribution for the project.
- Staff has determined tree removal is necessary for this flood/safety/welfare improvement. A Landscape/Tree Revegetation Plan has been developed as part of the Phase 4 design.
- Recently, Tlaquepaque ownership has decided they could only agree to a maximum contribution of \$150,000 toward Phase 4 construction.

In Summary: Tlaquepaque ownership has recently decided they will only contribute \$150,000 toward the approximate \$2,000,000 cost of the Phase 4 drainage improvements (a 7.5% share vs the 12.5% share of \$250,000). The basis for Tlaquepaque ownership's decision to reduce funding is the excessive tree removal that will be necessary to construct a channel that can convey the runoff from a 25-year storm event. They also believe their current taxes should cover their share of the drainage improvements. The Los Abridados Board has let it be known that they are willing to contribute \$250,000 toward Phase 4, but they will not contribute more than Tlaquepaque. Due to the budget deficit, staff is requesting direction on how the project should or should not continue.

Community Plan Consistent: Yes - No - Not Applicable

Chapter 5 of the Community Plan addresses the Environment. One of the five major goals of this chapter is to reduce the impacts of flooding and erosion on the community and

environment. Key issues cited here include addressing the negative impacts of flooding which has resulted in property damage and other impacts, including negative impacts on habitat and the water quality of Oak Creek. Page 76 of the Community Plan provides a dedicated discussion of the importance of stormwater management and the prioritization of drainage improvements.

Board/Commission Recommendation: **Applicable** - **Not Applicable**

- 1) **Alternative(s):** Not approving the project would result in: Continued high risk of flooding for properties adjacent to the project areas for storm frequencies with flow levels above the capacity of the existing facilities. In addition, the Brewer Road crossing of Soldier Wash cannot be improved to increase capacity without the downstream Phase 4 improvements being in place.

MOTION

I move to: direct staff to develop Cost-Sharing Agreements for Phase 4 with the reduced amounts of \$150,000 each for Tlaquepaque and Los Abrigados.

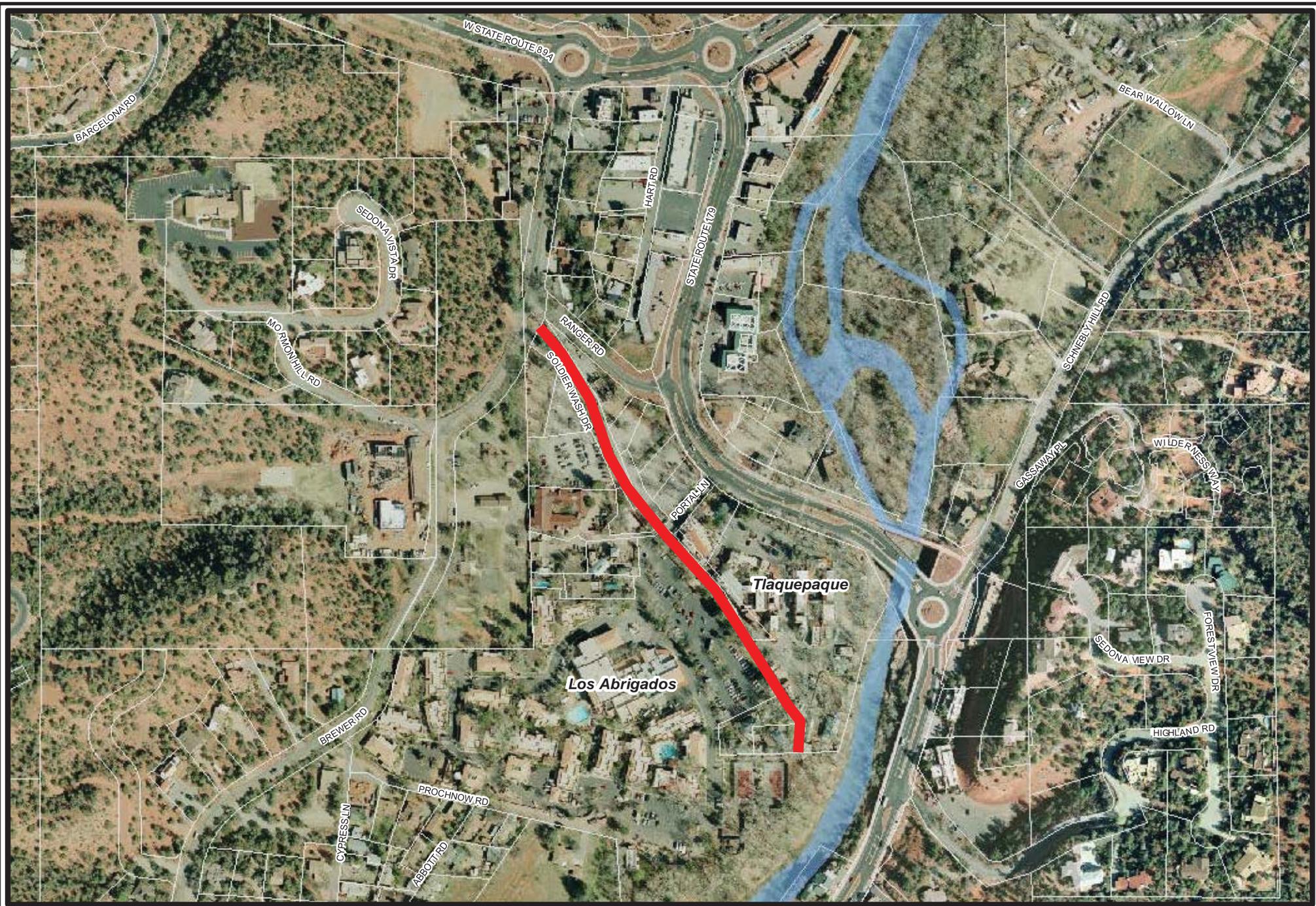
or

I move to: place the Phase 4 drainage improvements on hold until such time as the outside funding sources agree to cover at least 25 percent of the construction cost through Cost-Sharing Agreements.

or

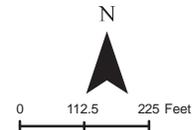
I move to: place the Phase 4 drainage improvements on hold indefinitely.

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Project Location Map
 Brewer Road/Tlaquepaque Drainage Improvements

-  Project Area
-  Parcel Boundary
-  Oak Creek



This map is designed to provide as-is information only. The data is not accurate to engineering or surveying standards. The City of Sedona is not liable or responsible for loss or damages arising from the data contained on this map.
 GIS, City of Sedona, 02/13/2013
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RESOLUTION NO. 2015-10

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA, ESTABLISHING AS A PUBLIC RECORD, PUBLIC INFRASTRUCTURE
COST-SHARING AGREEMENTS FOR THE BREWER ROAD/TLAQUEPAQUE
DRAINAGE IMPROVEMENTS PROJECT – PHASE 2.**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA as set forth in the Agreements between the City of Sedona, Tlaq Partners, LLC, and “Los Abrigados” to share in the as awarded construction cost, funded one-third from the City, one-third from Tlaq Partners, LLC, and one-third from “Los Abrigados” (which is comprised of ILX Acquisition, Inc., Sedona Vacation Club, Inc., and the Inn at Los Abrigados Owners Association) of the Brewer Road/Tlaquepaque Drainage Improvements Project – Phase 2.

At least three (3) copies of this public record shall be filed in the office of the City Clerk and kept available for public use and inspection.

APPROVED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 12th day of May, 2015.


Sandra J. Moriarty, Mayor

ATTEST:


Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:


Mike Goimarac, City Attorney

Public Infrastructure Cost-Sharing Agreement

This Public Infrastructure Cost-Sharing Agreement (“Agreement”) is entered into as of this 12th day of May, 2015, by and between the City of Sedona (“City”), and Tlaquepaque, LLC (“Tlaquepaque”). City and Tlaquepaque may be referred to individually as “Party” and collectively as the “Parties”.

RECITALS

- A. Tlaquepaque is an Arizona Limited Liability Company, and is the owner of real property located within the limits of the City and on the eastern bank of a natural drainage channel known as “Soldier Wash.”
- B. Upon incorporation in 1988, the City of Sedona acquired the prior rights and obligations to the Soldier Wash drainage channel that had previously been held by Coconino County, Arizona.
- C. The natural drainage channel known as Soldier Wash, which is located on the west side of the Tlaquepaque property, south of the Portal Lane crossing, and as depicted in the attached Exhibit “A,” has in years past been the location of catastrophic flooding. This natural channel has undergone significant man-made modification in years preceding the incorporation of the City in order to accommodate private development. These changes include, but are not limited to, man-made embankments, bridges, and walkways.
- D. Arizona Revised Statutes § 9-500.05 authorizes the City to enter into a development agreement with a land owner or any other person having an interest in real property to facilitate development of the real property by providing for, among other things, the conditions, terms, restrictions, and requirements for public infrastructure and the financing of public infrastructure.
- E. On May 12, 2015 (the “Effective Date”), the City Council adopted Resolution No. 2015- 10, which approved and authorized the execution and delivery of this Agreement.
- F. In 2013, the City paid for an engineering study to propose improvements that could be made to Soldier Wash. This study, conducted by Shephard-Wesnitzer, Inc., identified three successive construction and improvement alternatives that could be built to mitigate future flooding. These three channel improvement alternatives are identified as follows:
 - 1. Alternative 1: Identifying and removing the existing obstructions at the channel banks to increase flow area.
 - 2. Alternative 2: Construction of training walls near the top of banks to increase channel capacity and prevent flooding of the overbanks.
 - 3. Alternative 3: Removal of the existing double box culverts at Portal Lane and the pedestrian walkway between the Los Abridados and Tlaquepaque properties and replacement with clear span bridge crossings, and removal/replacement of bank stabilization to increase channel flow area.

G. The Alternatives indicated in Recital F were restructured into the following phases of design and construction:

- Phase 1 – The portion of Alternatives 1 and 2 between Brewer Road and Portal Lane. Construction of this phase was completed in February 2014.
- Phase 2 – The remainder of Alternatives 1 and 2 downstream of Portal Lane (the “Phase 2 Improvements Project ” or “Project”). The construction of the Phase 2 Improvements is expected to begin in May 2015, and be completed by July 2015. This Agreement is only binding for Phase 2 Improvements.
- Phase 3 – The work described in Alternative 3. This work is currently scheduled to begin in January 2016, and be completed no later than June 30, 2016.
- Phase 4 – Improvements for the entire channel reach of Soldier Wash between Brewer Road and Oak Creek are currently scheduled between July 1, 2017 and June 30, 2018
- Phase 5 – Upgrading the existing crossing at Brewer Road currently scheduled between July 1, 2018 and June 30, 2019.

The completion of these phases will increase the conveyance of Soldier Wash to 2200 cubic feet per second, which is the 25-year storm event. During larger storm events, Tlaquepaque may still experience flooding.

- H. It is in both the interest and welfare of the general public and in the best interests of the City of Sedona and Tlaquepaque that the above-described improvements to Soldier Wash be constructed in order to mitigate future flooding of both public and private property. To that end, the three parties (Tlaquepaque, City and ILX Acquisition, Inc. (“Los Abridados”)) wish to participate by making equal financial contributions for, and cooperate in the construction of, the Phase 2 improvements.
- I. Tlaquepaque desires to work with the City as a public sponsor of the Phase 2 Improvements, and the City is willing to participate in the Phase 2 Improvements Project as the public sponsor as further described in this Agreement.
- J. The Project is detailed in the construction plans titled “Brewer Road / Tlaquepaque Drainage Improvements,” and dated April 3, 2015.
- K. The obligations of Los Abridados as mentioned herein are being memorialized by way of a separate agreement containing identical or substantially similar terms as this Agreement (the “Los Abridados Agreement”). It is understood that the terms and conditions of this Agreement are contingent upon the execution of the Los Abridados agreement, and that if the Los Abridados Agreement is not executed, this Agreement becomes null and void.

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

AGREEMENTS

- A. Accuracy of the Recitals. The Parties hereby acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.
- B. Term. Once executed by the Parties, the term of this Agreement shall be deemed to commence as of the date that this Agreement is fully executed, and shall continue for two (2) years thereafter.
- C. Financial Contributions for the Project. City, Tlaquepaque and Los Abrigados shall each share equally in the contract cost for the Project. The City obtained sealed bids, according to the City's procurement policy. The City awarded the Project to Pima Paving, Inc. ("Contractor"). The Contractor submitted the most responsive, qualified, low bid and the construction contract will be executed by the City and Contractor only (the "Construction Contract"). Construction costs as provided in the Construction Contract in the amount of \$139,933.99 ("Awarded Bid Amount"), will be split evenly between the City, Tlaquepaque and Los Abrigados, and each of these three parties agrees to pay one-third (33.3%) of the Awarded Bid Amount. Therefore, each party will be responsible to pay \$46,644.66. Upon the latter of five days after: (1) the full execution of this Agreement (2) written confirmation that the Los Abrigados Agreement has been fully executed (3) written confirmation of the Awarded Bid Amount and that the Construction Contract has been finalized and is ready for execution and (4) full execution of the Temporary Access Agreement (as defined below), Tlaquepaque will be responsible to pay one-third of the Awarded Bid Amount. Any amounts above the Awarded Bid Amount or added to the Construction Contract at any time including during construction, not requested in writing by Tlaquepaque, will be the sole responsibility of the City. The award of the construction contract is contingent upon Tlaquepaque executing this Agreement.
1. Tlaquepaque shall have the right to add to the original scope and extent of the public infrastructure improvements as depicted in the final design drawings, sent to Tlaquepaque on March 24, 2015, for such things as aesthetic improvements, landscaping, or other improvements intended to be to their sole benefit through change orders approved in advance by the City, which approval shall not be reasonably withheld or delayed. Tlaquepaque shall submit actual plans and specifications for any augmented improvements to the City, as well as bids or proposals received by Tlaquepaque to construct the augmented improvements, for the City's review and approval. The additional cost of any such augmented improvements shall be borne solely by the Party requesting the improvement, and one hundred percent (100%) of the funding shall be submitted to the City before any change order implementing the improvements.
 2. Improvements made by Tlaquepaque, as noted above, after contract time is no longer available for such improvements, shall be accomplished through a City Right of Way Permit. If a City Right of Way Permit is obtained for this purpose, within 2-years of the contract Final Completion date issued by the City Engineer, the permit fee will be waived.
- D. City Duty to Obtain Permits; Applicable Laws. The City shall obtain any and all necessary permits, licenses and approvals from either the Coconino County Flood Control District or the Corps of Engineers, or other applicable entity (collectively, "Approvals"), and require that

Contractor and all other third parties obtain all necessary or required Approvals, in order to construct, operate, repair, or that are otherwise required for, the Phase 2 Improvements. The City shall obtain, and shall maintain, all necessary approvals, permits, consents, and authorizations from all governmental authorities and other persons or entities necessary for the City ownership, maintenance, operation, repair, and replacement of the augmented public infrastructure improvements. City hereby agrees to abide, and shall insure that City and all City personnel and officials, abide by, all applicable federal, state and local laws, codes, statutes, rules, regulations and ordinances, including, but not limited to, the United States Foreign Corrupt Practices Act and all other anti-corruption and anti-bribery laws and regulations (“Applicable Laws”) and shall require and insure that all employees, contractors, vendors and service providers that are retained by Contractor, City or any other party for the Project shall abide by all Applicable Laws. City shall provide Tlaquepaque with copies of all such permits and licenses promptly upon request but in no case more than five (5) days thereafter.

- E. Access/Right of Way. Tlaquepaque will grant the City and Contractor temporary access to the Property for purposes of completing the Project conditioned upon and subject to the execution of a separate written temporary access agreement with such terms and conditions required by Tlaquepaque (“Temporary Access Agreement”) and Tlaquepaque shall have the right to terminate this Agreement without penalty if the Contractor fails or refuses to execute the Temporary Access Agreement. Tlaquepaque
- F. Lien Waivers. City warrants that City and Contractor shall make any and all payments related to the Project in a timely manner and shall obtain and deliver to Tlaquepaque copies of all original waivers of mechanics’ liens in form satisfactory to Tlaquepaque and executed by Contractor and each subcontractor, supplier, material supplier, or other vendor that provided any work, service, materials, equipment, or labor to the Project, for all work performed, or services, materials, equipment, or labor supplied to date of any such payment, and covering in full, all labor, materials, services, labor, or equipment for which a mechanics’ lien could be filed against the real property of Los Obrigados (each, a “Lien Waiver”). Upon completion of the Project, City and Contractor shall submit to Tlaquepaque a final invoice covering all work related to the Project, together with such other documentation of such services as Tlaquepaque shall reasonably request together with final Lien Waivers.
- G. Performance. City shall require that (1) Contractor and Service Providers (as that term is defined below) diligently and in good faith pursue completion of all work associated with the Project and perform all such work in a good, professional and workmanlike manner and in accordance with all industry standards, contractual requirements and Applicable Laws and (2) Contractor and Service Providers shall at all times enforce strict discipline and good order among, require the highest levels of professionalism and courtesy by, and be responsible for any and all injury or damage to any person and property caused by, Contractor and Service Provider’s employees and other persons carrying out any work related to the Project.
- H. City Representations and Warranties. The City represents, warrants, and covenants to Tlaquepaque that all the City’s representations, findings, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.
- That the City is a duly organized, validly existing municipal corporation in the State of Arizona. The transactions contemplated by this Agreement, the execution of this

Agreement, and the City's performance hereunder have been duly authorized by all requisite action of the City, and no other approval or consent is required for this Agreement to be binding upon the City. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind the City. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which the City is a Party or by which the City is bound.

- I. Tlaquepaque Representations and Warranties. Tlaquepaque represents, warrants, and covenants to the City that each of their respective representations, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.
 - That Tlaquepaque is duly organized, a validly existing corporation licensed to do business in the State of Arizona. The transactions contemplated by this Agreement, the execution of this Agreement, and Tlaquepaque's performance hereunder have been duly authorized by all requisite action, and no other approval or consent is required for this Agreement to be binding upon Tlaquepaque. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind Tlaquepaque. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which Tlaquepaque is a Party or by which Tlaquepaque is bound.
- J. Mediation, Arbitration, and Default.
 1. Mediation. If a dispute arises out of or related to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. In the event the Parties cannot agree upon the selection of a mediator within seven (7) days, any Party may request the presiding judge of the Superior Court of Coconino County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool.
 2. Arbitration. If the mediation procedure set forth in the mediation paragraph above does not resolve a dispute, then the Parties may, without obligation to do so, jointly agree to subject such dispute to arbitration, pursuant to the rules of the American Arbitration Association, or other arbitration organization acceptable to the Parties. If the Parties cannot jointly agree to subject such dispute to such arbitration, then such dispute shall be subject to litigation through judicial process.
 - a. If the Parties do jointly agree to subject such dispute to such arbitration, then the decision of the arbitrator(s) shall be in accordance with the laws of the State of Arizona and the United States. The arbitrator(s) shall prepare written findings of fact and conclusions of law upon which the decision and award shall be based.
 - b. The arbitration shall occur within the County of Coconino, unless the Parties agree otherwise in writing.

- c. Unless otherwise agreed in writing, and notwithstanding any other rights or obligations of any of the Parties under the Agreement, the City, and Tlaquepaque shall carry on with the performance of their respective duties, obligations, and services hereunder during the pendency of any claim, dispute, or other matter in question giving rise to arbitration or mediation, as the case may be.
 - d. The dispute resolution process set forth in this Agreement shall not apply to an action by the City to condemn or acquire by inverse condemnation all or any portion of the Tlaquepaque property, or to claims for injunction relief or mandamus by any Party.
3. Default and Cure Period. The failure by any Party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of ten (10) days (the "Cure Period"), after written notice thereof from any other Party, shall constitute a default. In the event such default is not cured within the Cure Period, any non-defaulting Party shall have the right to seek all its rights and remedies, including injunctive relief or mandamus, in a court of competent jurisdiction. In all such cases of breach, the breaching Party shall diligently undertake all reasonable efforts to cure the breach prior to the expiration of the Cure Period.
- I. Notices and Filings. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be sent by: (1) certified or registered mail, postage prepaid, return receipt requested; (2) personal delivery or (3) recognized overnight delivery service. Such notices and communications shall be addressed as follows, or to such other addresses as any Party hereto may from time to time designate in writing and deliver in a like manner:

City	Tlaquepaque
Justin Clifton	Wendy Lippman
City Manager	Resident Partner
City of Sedona	Tlaquepaque
102 Roadrunner Drive	PO Box 1868
Sedona, AZ 86336	Sedona, AZ 86339
Phone No: 928-204-7127	

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

- J. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City, or Tlaquepaque of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.
- K. Termination. Prior to City Council award of the Construction Contract for the improvements, this Agreement may be terminated without cause by either Party upon written notice to the non-

termination Party. After award of the Construction Contract the City this Agreement may only be terminated upon mutual consent of the Parties or by either Party for any material breach of this Agreement in accordance with the termination provisions provided herein.

- L. Indemnification. Tlaquepaque agrees to indemnify and hold harmless the City, its elected officials, appointees, employees, affiliates, agents, assigns and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, arising as a result of Tlaquepaque's breach of this Agreement or for any injury or death resulting from Tlaquepaque's negligence. City agrees to indemnify and hold harmless Tlaquepaque, its parents, subsidiaries and affiliates and each of their respective owners, managers, officers, directors, employees, members, and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, which arise from or relate to (a) City's breach of any provision, representation or warranty of this Agreement, (b) the intentional, willful, illegal, dishonest or negligent acts or omissions by City, Los Abridados, Contractor, any subcontractors and material suppliers, each of their subsidiaries, parents and affiliates, and each of their respective officers, directors, members, managers, employees, partners, shareholders, contractors and agents (collectively, "City Parties") and (c) any breach or violation of any Applicable Laws, of or by, City or City Parties (each, an "Indemnification Event"). The foregoing indemnification shall not apply to any claim or liability resulting from the negligent act, omission, or intentional misconduct of Tlaquepaque. This section shall survive the expiration or termination of this Agreement for any reason whatsoever.
- M. Insurance. Upon City's execution of this Agreement, City shall furnish Tlaquepaque with the certificates of insurance and endorsements that meet the requirements described in Exhibit "B" ("Insurance Requirements"). Service Provider understands and agrees that all insurance procured by Service Provider is primary and non-contributory over any insurance held by Tlaquepaque and is intended to respond to any Indemnification Event. Tlaquepaque shall have the sole and unconditional right to terminate this Agreement with written notice to Service Provider if Service Provider fails or refuses to satisfy the Insurance Requirements. This
- N. Attorneys' Fees. In the event any Party finds it necessary to bring any action at law or other proceeding, including arbitration, against another Party to enforce any of the terms, covenants, or conditions hereof, or by reason of any breach or default hereunder, the Party prevailing in any such action or other proceeding shall be paid all reasonable and documented costs and reasonable attorneys' fees, including appellate court costs and attorneys' fees, by the other Party or Parties deemed not to have prevailed, and in the event any judgment is secured by said prevailing Party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.
- O. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts, and such signature pages all attached to a single instrument so that the signature of all Parties may be physically attached to a single document. Facsimile and scanned signatures shall be deemed to be original signatures for purposes of executing this Agreement and amendments hereto and for purposes of issuing all instructions authorized or permitted hereunder.

- P. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions hereof.
- Q. Exhibits. The exhibits attached hereto, and is incorporated by this reference, shall have with the same force and effect as if fully set forth in the body hereof.
- R. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement. Without limiting the generality of the foregoing, each of the Parties shall cooperate in good faith regarding the prompt processing of any requests and applications for plan and specification, plat or permit approvals or revisions, and other necessary approvals relating to the development of the property in construction of the infrastructure improvements.
- S. Time of the Essence. Time is of the essence of this Agreement.
- T. Assignment. This Agreement may not be assigned without the express written consent of the non-assigning Parties. Consent shall not be unreasonably withheld.
- U. No Partnership and Third Parties. It is not intended by this Agreement, and nothing contained in this Agreement shall, create any partnership, joint venture, or other similar arrangement between Tlaquepaque, and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.
- V. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations, and understandings of the Parties, oral or written, are hereby superseded and merged herein.
- W. Amendment. No change or additions are to be made to this Agreement except by written amendment executed by the Parties hereto.
- X. Governing Law. This Agreement is entered into in Arizona, and shall be construed and interpreted under the laws of the State of Arizona. In particular, this Agreement is subject to the provisions of Arizona Revised Statutes § 38-511.
- Y. Recordation. No later than ten (10) days after this Agreement has been executed by the Parties, it shall be recorded in its entirety by the City in the Official Records of Coconino County, Arizona.
- Z. Reformation. Should any term, provision, covenant, or condition of this Agreement be held to be void or invalid, the Parties shall reform this Agreement to conform as closely as possible to the original intent thereof.
- AA. Excused Delay in Performance. In addition to specific provisions of this Agreement, for a period of time equal to the period of the force majeure delay, untimely performance by a Party hereto shall not be deemed to be a default where delays or inability to perform are due to war, insurrection, strikes, slowdowns, lockouts, riots, floods, earthquake, fires, casualties, acts of God, acts of the

public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority (including, but not by way of limitation, referendums), litigation, severe weather, acts or the failure to act of any utility, public, or governmental agent or entity, and/or other causes beyond the reasonable control of said Party. In the event that a Party hereto is unable to perform due to an event constituting force majeure as provided for above, then the time for performance by said Party shall be extended as necessary for a period of time up to the period of the force majeure delay.

BB. Venue. Any legal action relating to this Agreement may be brought in the Coconino County Superior Court, provided, however, that nothing in this paragraph will be deemed to have authorized the bringing of any legal action in a court that does not otherwise have jurisdiction to adjudicate the legal action.

CC. Severability. Every provision of this Agreement is, and will be construed to be, a separate and independent covenant. If any provision of this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability, and each provision of this Agreement will be valid and will be enforced to the extent permitted by the law, and the Parties will negotiate in good faith for such amendments of this Agreement that may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

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

EE. Confidentiality. This Agreement is discoverable under Arizona statute and rule.

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

CITY OF SEDONA, an Arizona municipal corporation

By Sandra J Moriarty
Sandy Moriarty, Mayor

Attest: Susan Irvine
Susan Irvine, City Clerk

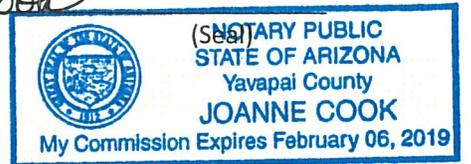
APPROVED AS TO FORM:

M.G.
City Attorney

STATE OF ARIZONA)
County of Yavapai) ss

SUBSCRIBED AND SWORN TO before me this 13 day of May, 2015 by Sandy Moriarty, Mayor of the CITY OF SEDONA, an Arizona municipal corporation, on behalf of the municipal corporation.

Joanne Cook
Notary Public



Tlaq Partners, LLC, an Arizona Limited Liability Company

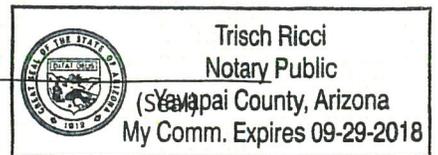
By Wendy Lippman
Wendy Lippman
[Printed Name]

Its Managing Member

STATE OF Arizona)
County of Yavapai) ss

SUBSCRIBED AND SWORN TO before me this 11th day of May, 2015 by Wendy Lippman, member of Tlaq Partners, LLC, an Arizona Limited Liability Company, on behalf of the corporation.

Trisch Ricci
Notary Public



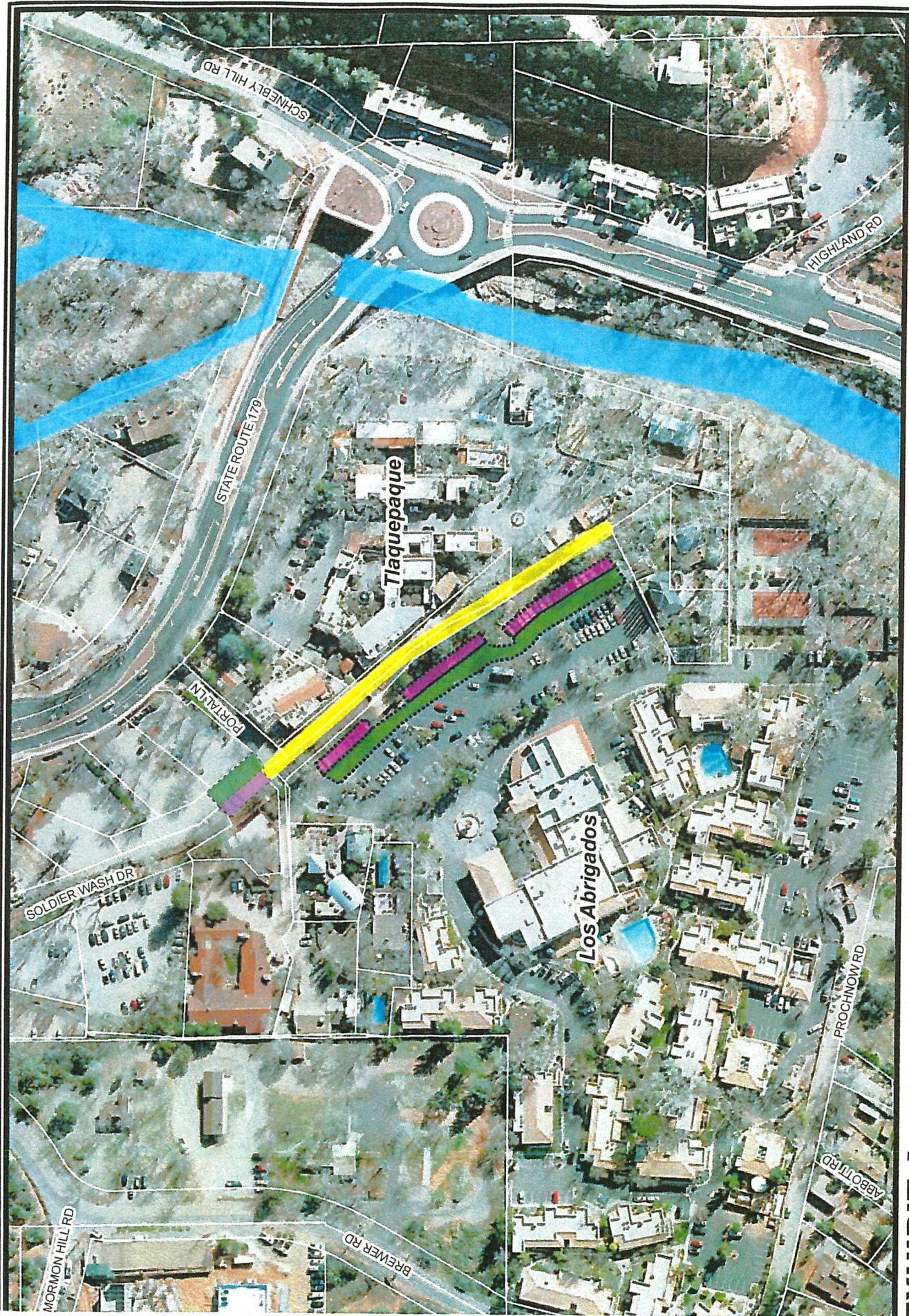
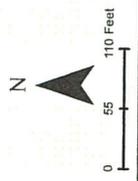


EXHIBIT A
Brewer Road/Tlaquepaque Drainage Improvements
Phase 2

-  Project Area
-  24' Access Isle
-  18' Contractor Work Zone
-  Oak Creek
-  Parcel Boundary



This map is designed to provide as-is information only. The data is not accurate to engineering or surveying standards. The City of Sedona is not liable or responsible for loss or damages arising from the data contained on this map.
 GIS, City of Sedona, 03/27/2015
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Exhibit "B"
Insurance Requirements

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

The Certificate must include:

1. Additional insured endorsement for general liability naming **Tlaq Partners, LLC**, and each of their respective parents, subsidiaries and affiliates and each of their officials, shareholders, principals, members, managers, officers, directors, employees and agents. Coverage is primary and non-contributory. The additional insured endorsement shall state that the coverage provided to the additional insureds is primary and non-contributing with respect to any other insurance available to the additional insureds.
2. A copy of the endorsement must be provided on form CG 2010 and form CG 2037 if applicable to service being provided.
3. The Certificate must also evidence that each carrier has provided Waivers of Subrogation in favor of Tlaquepaque as referenced in the Agreement.
4. Commercial General Liability insurance on an occurrence coverage form, at least as broad as the Insurance Services Office Commercial General Liability Policy form CG 0001©.
5. Additionally the policy(s) may not contain exclusions for residential or subsidence. Both must be evidenced on the certificate of insurance.
6. Certificate Holders must read:

Tlaq Partners, LLC
PO Box 1868
Sedona, AZ 86339

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

Workers' Compensation and Employer's Liability

Part One - Workers' Compensation: Statutory Limit

Part Two - Employer's Liability: Annual Limits:

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

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

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

Commercial General Liability

General Aggregate \$2,000,000

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

Personal/Advertising Injury \$1,000,000

Each Occurrence Limit \$1,000,000

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

Umbrella/Excess Liability

General Aggregate \$5,000,000

Products/Completed Operations Aggregate \$5,000,000

Personal/Advertising Injury \$5,000,000

Each Occurrence Limit \$5,000,000

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

Automobile Liability

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

Property Insurance

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

Crime & Employee Dishonesty

Crime and Employee Dishonesty insurance with coverage limits not less than \$1,000,000.00

Note: Waivers Required

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

Public Infrastructure Cost-Sharing Agreement

This Public Infrastructure Cost-Sharing Agreement ("Agreement") is entered into as of this 12th day of May, 2015, by and between the City of Sedona ("City"), and ILX Acquisition, Inc, Sedona Vacation Club Incorporated, and the Inn at Los Abrigados Owners Association ("Los Abrigados"). City and Los Abrigados may be referred to individually as "Party" and collectively as the "Parties".

RECITALS

- A. ILX Acquisition, Inc is an Arizona Corporation, and is the owner of real property located within the limits of the City and on the western bank of a natural drainage channel known as "Soldier Wash" commonly known as "Los Abrigados Resort & Spa" located at 160 Portal Lane, Sedona, Arizona 86336 (the "Property"). For the purposes of this agreement, Sedona Vacation Club Incorporated and the Inn at Los Abrigados Owners Association will be responsible for the financial contributions stated herein.
- B. Upon incorporation in 1988, the City of Sedona acquired the prior rights and obligations to the Soldier Wash drainage channel that had previously been held by Coconino County, Arizona.
- C. The natural drainage channel known as Soldier Wash, which is located on the east side of the Los Abrigados property, south of the Portal Lane crossing, and as depicted in the attached Exhibit "A," has in years past been the location of catastrophic flooding. This natural channel has undergone significant man-made modification in years preceding the incorporation of the City in order to accommodate private development. These changes include, but are not limited to, man-made embankments, bridges, and walkways.
- D. Arizona Revised Statutes § 9-500.05 authorizes the City to enter into a development agreement with a land owner or any other person having an interest in real property to facilitate development of the real property by providing for, among other things, the conditions, terms, restrictions, and requirements for public infrastructure and the financing of public infrastructure.
- E. On May 12, 2015 (the "Effective Date"), the City Council adopted Resolution No. 2015- 10, which approved and authorized the execution and delivery of this Agreement.
- F. In 2013, the City paid for an engineering study to propose improvements that could be made to Soldier Wash. This study, conducted by Shephard-Wesnitzer, Inc., identified three successive construction and improvement alternatives that could be built to mitigate future flooding. These three channel improvement alternatives are identified as follows:
 - 1. Alternative 1: Identifying and removing the existing obstructions at the channel banks to increase flow area.
 - 2. Alternative 2: Construction of training walls near the top of banks to increase channel capacity and prevent flooding of the overbanks.

3. Alternative 3: Removal of the existing double box culverts at Portal Lane and the pedestrian walkway between the Los Abridados and Tlaquepaque properties and replacement with clear span bridge crossings, and removal/replacement of bank stabilization to increase channel flow area.

G. The Alternatives indicated in Recital F were restructured into the following phases of design and construction:

- Phase 1 – The portion of Alternatives 1 and 2 between Brewer Road and Portal Lane. Construction of this phase was completed in February 2014.
- Phase 2 – The remainder of Alternatives 1 and 2 downstream of Portal Lane (the “Phase 2 Improvements Project ” or “Project”). The construction of the Phase 2 Improvements is expected to begin in May 2015, and be completed by July 2015. This Agreement is only binding for Phase 2 Improvements.
- Phase 3 – The work described in Alternative 3. This work is currently scheduled to begin in January 2016, and be completed no later than June 30, 2016.
- Phase 4 – Improvements for the entire channel reach of Soldier Wash between Brewer Road and Oak Creek are currently scheduled between July 1, 2017 and June 30, 2018
- Phase 5 – Upgrading the existing crossing at Brewer Road currently scheduled between July 1, 2018 and June 30, 2019.

The completion of these phases will increase the conveyance of Soldier Wash to 2200 cubic feet per second, which is the 25-year storm event. During larger storm events, Los Abridados may still experience flooding.

- H. It is in both the interest and welfare of the general public and in the best interests of the City of Sedona and Los Abridados that the above-described improvements to Soldier Wash be constructed in order to mitigate future flooding of both public and private property. To that end, the three parties (Los Abridados, City and Tlaq Partners, LLC (“Tlaq”)) wish to participate by making equal financial contributions for, and cooperate in the construction of, the Phase 2 improvements.
- I. Los Abridados desires to work with the City as a public sponsor of the Phase 2 Improvements, and the City is willing to participate in the Phase 2 Improvements Project as the public sponsor as further described in this Agreement.
- J. The Project is detailed in the construction plans titled “Brewer Road / Tlaquepaque Drainage Improvements,” and dated March 20, 2015.
- K. The obligations of Tlaq as mentioned herein are being memorialized by way of a separate agreement containing identical or substantially similar terms as this Agreement (the “Tlaq Agreement”). It is understood that the terms and conditions of this Agreement are contingent upon the execution of the Tlaq agreement, and that if the Tlaq Agreement is not executed, this Agreement becomes null and void.

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

AGREEMENTS

- A. Accuracy of the Recitals. The Parties hereby acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.
- B. Term. Once executed by the Parties, the term of this Agreement shall be deemed to commence as of the date that this Agreement is fully executed, and shall continue for two (2) years thereafter.
- C. Financial Contributions for the Project. City, Los Abridados and Tlaq shall each share equally in the contract cost for the Project. The City obtained sealed bids, according to the City's procurement policy. The City awarded the Project to Pima Paving, Inc. ("Contractor"). The Contractor submitted the most responsive, qualified, low bid and the construction contract will be executed by the City and Contractor only (the "Construction Contract"). Construction costs as provided in the Construction Contract in the amount of \$139,933.99 ("Awarded Bid Amount"), will be split evenly between the City, Los Abridados and Tlaq, and each of these three parties agrees to pay one-third (33.3%) of the Awarded Bid Amount. Therefore, each party will be responsible to pay \$46,644.66. Upon the latter of five days after: (1) the full execution of this Agreement (2) written confirmation that the Tlaq Agreement has been fully executed (3) written confirmation of the Awarded Bid Amount and that the Construction Contract has been finalized and is ready for execution and (4) full execution of the Temporary Access Agreement (as defined below), Los Abridados will be responsible to pay one-third of the Awarded Bid Amount. Any amounts above the Awarded Bid Amount or added to the Construction Contract at any time including during construction, not requested in writing by Los Abridados, will be the sole responsibility of the City. The award of the construction contract is contingent upon Los Abridados executing this Agreement.
1. Los Abridados shall have the right to add to the original scope and extent of the public infrastructure improvements as depicted in the final design drawings, sent to Los Abridados on March 24, 2015, for such things as aesthetic improvements, landscaping, or other improvements intended to be to their sole benefit through change orders approved in advance by the City, which approval shall not be reasonably withheld or delayed. Los Abridados shall submit actual plans and specifications for any augmented improvements to the City, as well as bids or proposals received by Los Abridados to construct the augmented improvements, for the City's review and approval. The additional cost of any such augmented improvements shall be borne solely by the Party requesting the improvement, and one hundred percent (100%) of the funding shall be submitted to the City before any change order implementing the improvements.
 2. Improvements made by Los Abridados, as noted above, after contract time is no longer available for such improvements, shall be accomplished through a City Right of Way Permit. If a City Right of Way Permit is obtained for this purpose, within 2-years of the contract Final Completion date issued by the City Engineer, the permit fee will be waived.
- D. City Duty to Obtain Permits; Applicable Laws. The City shall obtain any and all necessary permits, licenses and approvals from either the Coconino County Flood Control District or the Corps of Engineers, or other applicable entity (collectively, "Approvals"), and require that Contractor and all other third parties obtain all necessary or required Approvals, in order to

construct, operate, repair, or that are otherwise required for, the Phase 2 Improvements. The City shall obtain, and shall maintain, all necessary approvals, permits, consents, and authorizations from all governmental authorities and other persons or entities necessary for the City ownership, maintenance, operation, repair, and replacement of the augmented public infrastructure improvements. City hereby agrees to abide, and shall insure that City and all City personnel and officials, abide by, all applicable federal, state and local laws, codes, statutes, rules, regulations and ordinances, including, but not limited to, the United States Foreign Corrupt Practices Act and all other anti-corruption and anti-bribery laws and regulations (“Applicable Laws”) and shall require and insure that all employees, contractors, vendors and service providers that are retained by Contractor, City or any other party for the Project shall abide by all Applicable Laws. City shall provide Los Abridados with copies of all such permits and licenses to Diamond promptly upon request but in no case more than five (5) days thereafter.

- E. Access/Right of Way. Los Abridados will grant the City and Contractor temporary access to the Property for purposes of completing the Project conditioned upon and subject to the execution of a separate written temporary access agreement with such terms and conditions required by Los Abridados (“Temporary Access Agreement”) and Los Abridados shall have the right to terminate this Agreement without penalty if the Contractor fails or refuses to execute the Temporary Access Agreement.
- F. Lien Waivers. City warrants that City and Contractor shall make any and all payments related to the Project in a timely manner and shall obtain and deliver to Los Abridados copies of all original waivers of mechanics’ liens in form satisfactory to Los Abridados and executed by Contractor and each subcontractor, supplier, material supplier, or other vendor that provided any work, service, materials, equipment, or labor to the Project, for all work performed, or services, materials, equipment, or labor supplied to date of any such payment, and covering in full, all labor, materials, services, labor, or equipment for which a mechanics’ lien could be filed against the real property of Los Obridados (each, a “Lien Waiver”). Upon completion of the Project, City and Contractor shall submit to Los Abridados a final invoice covering all work related to the Project, together with such other documentation of such services as Los Abridados shall reasonably request together with final Lien Waivers.
- G. Performance. City shall require that (1) Contractor and Service Providers (as that term is defined below) diligently and in good faith pursue completion of all work associated with the Project and perform all such work in a good, professional and workmanlike manner and in accordance with all industry standards, contractual requirements and Applicable Laws and (2) Contractor and Service Providers shall at all times enforce strict discipline and good order among, require the highest levels of professionalism and courtesy by, and be responsible for any and all injury or damage to any person and property caused by, Contractor and Service Provider’s employees and other persons carrying out any work related to the Project.
- H. City Representations and Warranties. The City represents, warrants, and covenants to Los Abridados that all the City’s representations, findings, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.
- That the City is a duly organized, validly existing municipal corporation in the State of Arizona. The transactions contemplated by this Agreement, the execution of this Agreement, and the City’s performance hereunder have been duly authorized by all

requisite action of the City, and no other approval or consent is required for this Agreement to be binding upon the City. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind the City. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which the City is a Party or by which the City is bound.

- I. Los Abrigados Representations and Warranties. Los Abrigados represents, warrants, and covenants to the City that each of their respective representations, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.
 - That Los Abrigados is duly organized, a validly existing corporation licensed to do business in the State of Arizona. The transactions contemplated by this Agreement, the execution of this Agreement, and Los Abrigados's performance hereunder have been duly authorized by all requisite action, and no other approval or consent is required for this Agreement to be binding upon Los Abrigados. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind Los Abrigados. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which Los Abrigados is a Party or by which Los Abrigados is bound.
- J. Mediation, Arbitration, and Default.
 1. Mediation. If a dispute arises out of or related to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. In the event the Parties cannot agree upon the selection of a mediator within seven (7) days, any Party may request the presiding judge of the Superior Court of Coconino County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool.
 2. Arbitration. If the mediation procedure set forth in the mediation paragraph above does not resolve a dispute, then the Parties may, without obligation to do so, jointly agree to subject such dispute to arbitration, pursuant to the rules of the American Arbitration Association, or other arbitration organization acceptable to the Parties. If the Parties cannot jointly agree to subject such dispute to such arbitration, then such dispute shall be subject to litigation through judicial process.
 - a. If the Parties do jointly agree to subject such dispute to such arbitration, then the decision of the arbitrator(s) shall be in accordance with the laws of the State of Arizona and the United States. The arbitrator(s) shall prepare written findings of fact and conclusions of law upon which the decision and award shall be based.
 - b. The arbitration shall occur within the County of Coconino, unless the Parties agree otherwise in writing.

- c. Unless otherwise agreed in writing, and notwithstanding any other rights or obligations of any of the Parties under the Agreement, the City, and Los Abridados shall carry on with the performance of their respective duties, obligations, and services hereunder during the pendency of any claim, dispute, or other matter in question giving rise to arbitration or mediation, as the case may be.
 - d. The dispute resolution process set forth in this Agreement shall not apply to an action by the City to condemn or acquire by inverse condemnation all or any portion of the Los Abridados property, or to claims for injunction relief or mandamus by any Party.
3. Default and Cure Period. The failure by any Party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of ten (10) days (the "Cure Period"), after written notice thereof from any other Party, shall constitute a default. In the event such default is not cured within the Cure Period, any non-defaulting Party shall have the right to seek all its rights and remedies, including injunctive relief or mandamus, in a court of competent jurisdiction. In all such cases of breach, the breaching Party shall diligently undertake all reasonable efforts to cure the breach prior to the expiration of the Cure Period.
- I. Notices and Filings. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be sent by: (1) certified or registered mail, postage prepaid, return receipt requested; (2) personal delivery or (3) recognized overnight delivery service. Such notices and communications shall be addressed as follows, or to such other addresses as any Party hereto may from time to time designate in writing and deliver in a like manner:

City	Los Abridados
Justin Clifton City Manager City of Sedona 102 Roadrunner Drive Sedona, AZ 86336	ILX Acquisition, Inc. Attn: General Counsel 10600 West Charleston Blvd. Las Vegas, Nevada 89135
Phone No: 928-204-7127	With copies also sent by email to: notices@diamondresorts.com

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

- J. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City, or Los Abridados of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.
- K. Termination. Prior to City Council award of the Construction Contract for the improvements, this Agreement may be terminated without cause by either Party upon written notice to the non-termination Party. After award of the Construction Contract the City this Agreement may only be

terminated upon mutual consent of the Parties or by either Party for any material breach of this Agreement in accordance with the termination provisions provided herein.

- L. Indemnification. Los Abridados agrees to indemnify and hold harmless the City, its elected officials, appointees, employees, affiliates, agents, assigns and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, arising as a result of Los Abridados's breach of this Agreement or for any injury or death resulting from Los Abridados's negligence. City agrees to indemnify and hold harmless Los Abridados, its parents, subsidiaries and affiliates and each of their respective owners, managers, officers, directors, employees, members, and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, which arise from or relate to (a) City's breach of any provision, representation or warranty of this Agreement, (b) the intentional, willful, illegal, dishonest or negligent acts or omissions by City, Tlaq, Contractor, any subcontractors and material suppliers, each of their subsidiaries, parents and affiliates, and each of their respective officers, directors, members, managers, employees, partners, shareholders, contractors and agents (collectively, "City Parties") and (c) any breach or violation of any Applicable Laws, of or by, City or City Parties (each, an "Indemnification Event"). The foregoing indemnification shall not apply to any claim or liability resulting from the negligent act, omission, or intentional misconduct of Los Abridados. This section shall survive the expiration or termination of this Agreement for any reason whatsoever.

- M. Insurance. Upon City's execution of this Agreement, City shall furnish Los Abridados with the certificates of insurance and endorsements that meet the requirements described in Exhibit "B" ("Insurance Requirements"). Service Provider understands and agrees that all insurance procured by Service Provider is primary and non-contributory over any insurance held by Diamond and is intended to respond to any Indemnification Event. Diamond shall have the sole and unconditional right to terminate this Agreement with written notice to Service Provider if Service Provider fails or refuses to satisfy the Insurance Requirements. This

- N. Attorneys' Fees. In the event any Party finds it necessary to bring any action at law or other proceeding, including arbitration, against another Party to enforce any of the terms, covenants, or conditions hereof, or by reason of any breach or default hereunder, the Party prevailing in any such action or other proceeding shall be paid all reasonable and documented costs and reasonable attorneys' fees, including appellate court costs and attorneys' fees, by the other Party or Parties deemed not to have prevailed, and in the event any judgment is secured by said prevailing Party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

- O. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts, and such signature pages all attached to a single instrument so that the signature of all Parties may be physically attached to a single document. Facsimile and scanned signatures shall be deemed to be original signatures for purposes of executing this Agreement and amendments hereto and for purposes of issuing all instructions authorized or permitted hereunder.

- P. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions hereof.
- Q. Exhibits. The exhibits attached hereto, and is incorporated by this reference, shall have with the same force and effect as if fully set forth in the body hereof.
- R. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement. Without limiting the generality of the foregoing, each of the Parties shall cooperate in good faith regarding the prompt processing of any requests and applications for plan and specification, plat or permit approvals or revisions, and other necessary approvals relating to the development of the property in construction of the infrastructure improvements.
- S. Time of the Essence. Time is of the essence of this Agreement.
- T. Assignment. This Agreement may not be assigned without the express written consent of the non-assigning Parties. Consent shall not be unreasonably withheld.
- U. No Partnership and Third Parties. It is not intended by this Agreement, and nothing contained in this Agreement shall, create any partnership, joint venture, or other similar arrangement between Los Abrigados, and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.
- V. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations, and understandings of the Parties, oral or written, are hereby superseded and merged herein.
- W. Amendment. No change or additions are to be made to this Agreement except by written amendment executed by the Parties hereto.
- X. Governing Law. This Agreement is entered into in Arizona, and shall be construed and interpreted under the laws of the State of Arizona. In particular, this Agreement is subject to the provisions of Arizona Revised Statutes § 38-511.
- Y. Recordation. No later than ten (10) days after this Agreement has been executed by the Parties, it shall be recorded in its entirety by the City in the Official Records of Coconino County, Arizona.
- Z. Reformation. Should any term, provision, covenant, or condition of this Agreement be held to be void or invalid, the Parties shall reform this Agreement to conform as closely as possible to the original intent thereof.
- AA. Excused Delay in Performance. In addition to specific provisions of this Agreement, for a period of time equal to the period of the force majeure delay, untimely performance by a Party hereto shall not be deemed to be a default where delays or inability to perform are due to war, insurrection, strikes, slowdowns, lockouts, riots, floods, earthquake, fires, casualties, acts of God, acts of the

public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority (including, but not by way of limitation, referendums), litigation, severe weather, acts or the failure to act of any utility, public, or governmental agent or entity, and/or other causes beyond the reasonable control of said Party. In the event that a Party hereto is unable to perform due to an event constituting force majeure as provided for above, then the time for performance by said Party shall be extended as necessary for a period of time up to the period of the force majeure delay.

- BB. Venue. Any legal action relating to this Agreement may be brought in the Coconino County Superior Court, provided, however, that nothing in this paragraph will be deemed to have authorized the bringing of any legal action in a court that does not otherwise have jurisdiction to adjudicate the legal action.
- CC. Severability. Every provision of this Agreement is, and will be construed to be, a separate and independent covenant. If any provision of this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability, and each provision of this Agreement will be valid and will be enforced to the extent permitted by the law, and the Parties will negotiate in good faith for such amendments of this Agreement that may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.
- DD. Rights of Successors. This Agreement shall bind and inure to the benefit of the Parties hereto, their respective heirs, representatives, lessees, successors, and assigns. The singular number includes the plural, and the masculine gender includes the feminine and neuter.
- EE. Confidentiality. This Agreement is discoverable under Arizona statute and rule.

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

CITY OF SEDONA, an Arizona municipal corporation

By Sandra J Moriarty
Sandy Moriarty, Mayor

Attest: Susan J Irvine
Susan Irvine, City Clerk

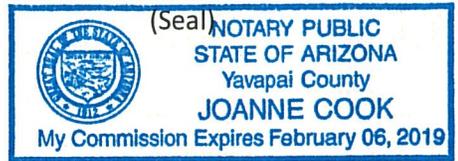
APPROVED AS TO FORM:

M. A.
City Attorney

STATE OF ARIZONA)
County of Yavapai) ss

SUBSCRIBED AND SWORN TO before me this 13 day of May, 2015 by Sandy Moriarty, Mayor of the CITY OF SEDONA, an Arizona municipal corporation, on behalf of the municipal corporation.

JoAnne Cook
Notary Public



ILX Acquisition, Inc, an Arizona Corporation

By Edward Zielinski Its representative
[Printed Name]

STATE OF Arizona)
County of Yavapai) ss

SUBSCRIBED AND SWORN TO before me this 12 day of May, 2015 by Edward Zielinski, representative of ILX Acquisition, Inc, an Arizona Corporation, on behalf of the corporation.



Nancy J. Wilson 5-12-15
Notary Public (Seal)

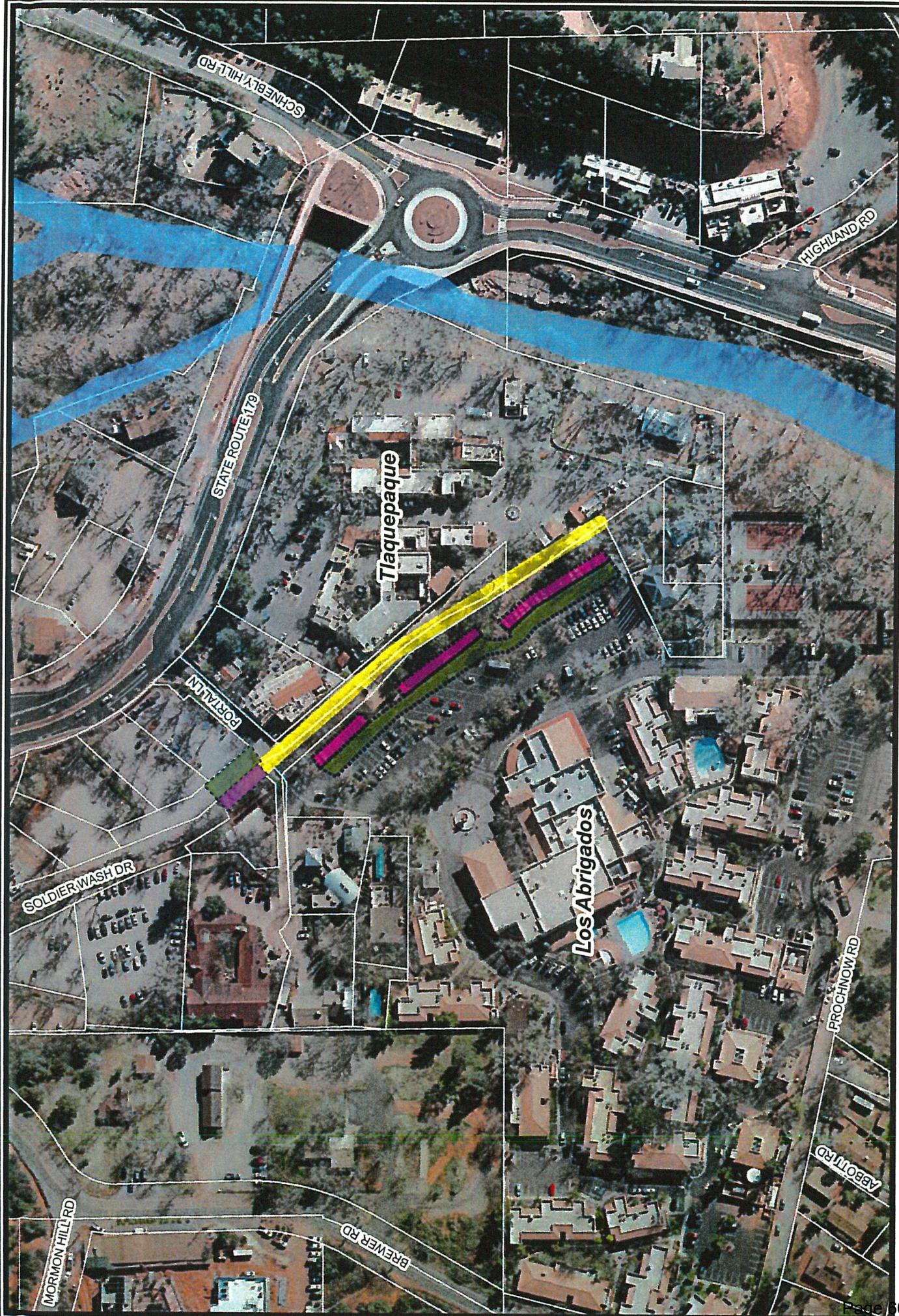
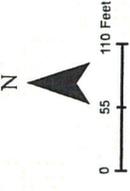


EXHIBIT A
Brewer Road/Tlaquepaque Drainage Improvements
Phase 2

-  Project Area
-  24' Access Isle
-  18' Contractor Work Zone
-  Parcel Boundary
-  Oak Creek



This map is designed to provide as-is information only. The data is not accurate to engineering or surveying standards. The City of Sedona is not liable or responsible for loss or damages arising from the data contained on this map.
 GIS, City of Sedona, 03/27/2015
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Exhibit "B"
Insurance Requirements

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

The Certificate must include:

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

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

Workers' Compensation and Employer's Liability

Part One - Workers' Compensation: Statutory Limit

Part Two - Employer's Liability: Annual Limits:

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

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

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

Commercial General Liability

General Aggregate \$2,000,000

Products/Completed Operations Aggregate \$2,000,000
Personal/Advertising Injury \$1,000,000
Each Occurrence Limit \$1,000,000

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

Umbrella/Excess Liability

General Aggregate \$5,000,000
Products/Completed Operations Aggregate \$5,000,000
Personal/Advertising Injury \$5,000,000
Each Occurrence Limit \$5,000,000

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

Automobile Liability

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

Property Insurance

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

Crime & Employee Dishonesty

Crime and Employee Dishonesty insurance with coverage limits not less than \$1,000,000.00

Note: Waivers Required

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



75 Kallof Place
Sedona, AZ 86336
P.O. Box 3924
Sedona, AZ 86340
928.282.1061
928.282.2058 fax
www.swiaz.com

Engineering an environment of excellence.

David Peck, EIT, CFM
Associate Engineer
City of Sedona
102 Roadrunner Drive
Sedona, AZ 86336

October 23, 2015
Job No. 12214.005

Re: Brewer Road/Tlaquepaque Drainage Improvements - Phase 4 Preliminary Construction Scope Summary

Dear Mr. Peck:

Phase 4 improvements are scheduled for design in the year 2016. The proposed channel cross section mentioned below is theoretical for the purposes of the already designed Phase 3 culverts at Portal Lane and the Pedestrian Crossing. The design criteria used for this Project is based on the requirements in the City of Sedona Land Development Code and the Coconino County Flood Control. The theoretical channel cross section is proposed to have 1 to 1 side slopes with a 17' bottom. The sides are proposed to be gabion baskets with the bottom being either gabion mattresses or concrete to create an even channel section for consistent flow characteristics.

Following is a brief summary of the proposed work that will take place during the construction of the Phase 4 channel improvements:

1. Clear and grub all the vegetation within the channel including debris, rock, trees and brush.
2. Demo existing bank stabilization, remove and salvage pedestrian bridge and protect the irrigation syphon.
3. Grade and shape the channel bottom to a uniform cross section.
4. Place either gabion mattresses or concrete to line the bottom of the channel.
5. Remove jersey barriers as required to allow for channel bank improvements.
6. Grade and shape the channel banks to begin construction of the gabion bank protection and/or masonry walls where needed to match existing.
7. Replace the jersey barriers that got removed for the construction of the gabion bank.
8. Replace salvaged pedestrian bridge.

At this time it is not anticipated that additional property or permanent easements be acquired, but a temporary construction easement may be.

Please call me if you have any questions.

Sincerely,
Shephard – Wesnitzer, Inc.

Arthur H. Beckwith, PE
Vice President



Shepherd ▲ Wesnitzer, Inc.

75 Kallof Place
Sedona, Arizona 86336

928.282.1061 ph
928.282.2058 fx

info@swiaz.com
www.swiaz.com

SEDONA

COTTONWOOD

FLAGSTAFF

PRESCOTT

KINGMAN

CITY OF SEDONA CAPITAL IMPROVEMENT PLAN FY2017 TO FY2022

Project Title: Brewer/Tlaquepaque Drainage Improvements

Project #: 39

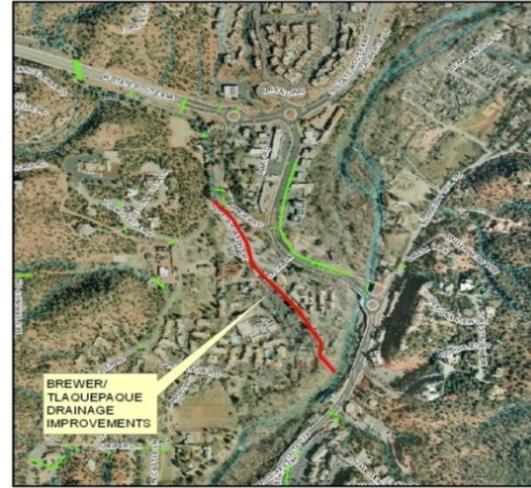
Location: Brewer Road/Tlaquepaque Area

Project Description

This project funds design and construction of storm drainage improvements for the Brewer Road/Tlaquepaque area per the 2005 Stormwater Master Plan. Prior year costs represent Phase III (crossings/bridges), FY17 includes the lower reach of the Phase IV channel improvements, and FY18 includes the upper reach of the Phase IV channel improvements. 1/3 of prior year costs, and 1/4 of the FY17 and FY18 costs are reflected as coming from outside sources, due to anticipated cost-sharing with the property owners who will directly benefit from these improvements.

Project Justification

A portion of this project was identified in the 2005 Stormwater Master Plan as a high priority. This project is identified in the Stormwater Master Plan as SP-C1,C2. Portions of this project also include improvements on private property.



Category	Funding Source	Carryover/ New	Prior Yrs	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	Total
Design	Coconino County Flood Control	New	\$250,000	\$0	\$0	\$0	\$0	\$0	\$0	\$250,000
Design	Coconino County Flood Control	Carryover	\$20,000	\$0	\$0	\$0	\$0	\$0	\$0	\$20,000
Construction	Coconino County Flood Control	New	\$426,667	\$750,000	\$750,000	\$0	\$0	\$0	\$0	\$1,926,667
Construction	Outside Sources	New	\$213,333	\$250,000	\$0	\$0	\$0	\$0	\$0	\$463,333
Construction	Outside Sources	New	\$0	\$0	\$250,000	\$0	\$0	\$0	\$0	\$250,000
Arts	Coconino County Flood Control	New	\$6,400	\$10,000	\$10,000	\$0	\$0	\$0	\$0	\$26,400
Total Budget			\$916,400	\$1,010,000	\$1,010,000	\$0	\$0	\$0	\$0	\$2,936,400

Total Operating Impacts						
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0
Materials & Supplies	\$500	\$500	\$1,500	\$1,500	\$1,500	\$1,500
Contractual Services	\$0	\$0	\$0	\$0	\$0	\$0
Totals	\$500	\$500	\$1,500	\$1,500	\$1,500	\$1,500

CITY OF SEDONA CAPITAL IMPROVEMENT PLAN FY2016 TO FY2021

Project Title: Brewer/Tlaquepaque Drainage Improvements
Project #: 46
Location: Brewer/Tlaquepaque Area
Category: 1

Project Description

This project funds design and construction of storm drainage improvements for the Brewer Road/Tlaquepaque area per the 2005 Storm Drain Master Plan. 2015 costs represent Phase II, 2016 represents Phase III (crossings/bridges), and 2017 includes the remainder of the channel. 2/3 of FY15 costs and 1/3 of FY16 and FY17 costs are reflected as coming from outside sources, due to anticipated cost-sharing with the property owners who will directly benefit from these improvements.

Project Justification

A portion of this project was identified in the 2005 Storm Drain Master Plan as a high priority. This project is identified in the Storm Water Master Plan as SP-C1,C2. Portions of this project also include improvements on private property.



Category	Funding Source	Carryover/ New	Prior Yr	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	Total
Design	Coconino County Flood Control	New	\$184,340	\$250,000	\$0	\$0	\$0	\$0	\$0	\$250,000
Design	Coconino County Flood Control	Carryover	\$0	\$20,000	\$0	\$0	\$0	\$0	\$0	\$20,000
Construction	Coconino County Flood Control	New	\$186,677	\$426,667	\$866,666	\$0	\$0	\$0	\$0	\$1,293,333
Construction	Outside Sources	New	\$116,677	\$213,333	\$216,667	\$0	\$0	\$0	\$0	\$430,000
Construction	Outside Sources	New	\$116,677	\$0	\$216,667	\$0	\$0	\$0	\$0	\$216,667
Arts	General Fund	New	\$4,200	\$6,400	\$13,000	\$0	\$0	\$0	\$0	\$19,400
Total Budget			\$608,571	\$916,400	\$1,313,000	\$0	\$0	\$0	\$0	\$2,229,400

Total Operating Impacts						
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0
Materials & Supplies	\$0	\$500	\$1,500	\$1,500	\$1,500	\$1,500
Contractual Services	\$0	\$0	\$0	\$0	\$0	\$0
Totals	\$0	\$500	\$1,500	\$1,500	\$1,500	\$1,500

CITY OF SEDONA CAPITAL IMPROVEMENT PLAN FY2015 TO FY2020

Project Title: Brewer/Tlaquepaque Drainage Improvements

Project #:

Location: Brewer/Tlaquepaque Area

Category: 1

Project Description

This project funds design and construction of storm drainage improvements for the Brewer Road/Tlaquepaque area per the 2005 Storm Drain Master Plan. 2015 costs represent Phase II, 2016 represents Phase III (crossings/bridges), and 2017 includes the remainder of the channel. 2/3 of FY15 costs and 1/3 of FY16 and FY17 costs are reflected as coming from outside sources, due to anticipated cost-sharing with the property owners who will directly benefit from these improvements.

Project Justification

A portion of this project was identified in the 2005 Storm Drain Master Plan as a high priority. This project is identified in the Storm Water Master Plan as SP-C1,C2. Portions of this project also include improvements on private property.



Category	Funding Source	Carryover/ New	Prior Yr	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020	Total
Design	Coconino County Flood Control	New	\$37,864	\$95,040	\$271,334	\$0	\$0	\$0	\$0	\$404,238
Design	Coconino County Flood Control	New	\$12,621	\$47,520	\$135,666	\$0	\$0	\$0	\$0	\$195,807
Design	Outside Sources	New	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Chargebacks	General Fund	New	\$30,000	\$24,000	\$45,000	\$50,000	\$0	\$0	\$0	\$149,000
Construction	Coconino County Flood Control	New	\$70,000	\$116,677	\$426,574	\$866,667	\$0	\$0	\$0	\$1,479,918
Construction	Outside Sources	New	\$0	\$116,677	\$213,286	\$433,333	\$0	\$0	\$0	\$763,296
Construction	Outside Sources	New	\$0	\$116,677	\$0	\$0	\$0	\$0	\$0	\$116,677
Arts	General Fund	New	\$700	\$3,500	\$6,340	\$13,000	\$0	\$0	\$0	\$23,540
Total Budget			\$151,185	\$520,091	\$1,098,200	\$1,363,000	\$0	\$0	\$0	\$3,132,476

Total Operating Impacts						
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0
Materials & Supplies	\$0	\$0	\$0	\$0	\$0	\$0
Contractual Services	\$0	\$0	\$0	\$0	\$0	\$0
Totals	\$0	\$0	\$0	\$0	\$0	\$0

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**CITY COUNCIL
AGENDA BILL**

**AB 2174
October 25, 2016
Regular Business**

Agenda Item: 8c

Proposed Action & Subject: Discussion/possible action regarding a resolution and ordinance revising the Sedona City Code, Chapter 10.30, to add language related to regulation of parking meters.

Department Legal Department

Time to Present 5 minutes

Total Time for Item 15 minutes

Other Council Meetings N/A

Exhibits A. Resolution
 B. Ordinance

City Attorney Approval	Reviewed 10/18/16 RLP	Expenditure Required	
		\$ 0	
City Manager's Recommendation	Approve resolution and ordinance revising Chapter 10 of the Sedona City Code relating to parking meters.	Amount Budgeted	
		\$ 0	
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background:

In anticipation of City Council approval of an award of a contract for the procurement and installation of parking meters in uptown Sedona, it is necessary to amend the Sedona City Code to identify the regulatory system for the use of parking meters in designated locations throughout the City, along with the proscriptions associated with parking meter use.

Additionally, the title of Chapter 10.30 of the Sedona City Code which heretofore has referenced only "Parking Lots and Garages," needs to be amended in its title to reference "Parking Regulations" generally.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

MOTION

I move to: approve Resolution No. 2016-___, a Resolution of the Mayor and Council of the City of Arizona, establishing as a public record the terms of proposed amendments to the City Code Chapter 10.30 (Parking Regulations).

After first reading:

I move to: approve Ordinance No. 2016-___, an Ordinance of the City of Sedona, Arizona, amending the City Code Chapter 10.30 (Parking Regulations); providing for a savings clause; and providing for repeal of any Ordinance or parts of Ordinances or Code provisions in conflict herewith.

RESOLUTION NO. 2016-__

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA, ESTABLISHING AS A PUBLIC RECORD THE TERMS OF PROPOSED
AMENDMENTS TO CITY CODE CHAPTER 10.30
(PARKING REGULATIONS).**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA that the terms set forth in that document attached hereto as Exhibit A and entitled "2016 Amendments to the City Code **(PARKING REGULATIONS)**" constitute a public record to be incorporated by reference into Ordinance No. 2016-__.

BE IT FURTHER RESOLVED that demand-based pricing for parking meters, by which pricing may be changed frequently as determined to be necessary and appropriate by the City Manager, will be employed to measure the success of the parking meter program in achieving redistribution of parking demand in the affected areas.

At least one (1) paper copy and one (1) electronic copy of this public record shall be kept in the office of the City Clerk for public use and inspection.

PASSED AND ADOPTED this 25th day of October, 2016 by the Mayor and Council of the City of Sedona, Arizona.

Sandra J. Moriarty, Mayor

ATTEST:

Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:

Robert L. Pickels, Jr., City Attorney

Exhibit A
2016 Amendments to the City Code (Parking Regulations)

Chapter 10.30

PARKING REGULATIONS

10.30.010 Parking restricted or prohibited.

A. Installation of and Obedience to Signs and Markings. In a publicly owned parking lot or garage or a privately owned lot or garage being operated or managed by the city pursuant to a lease, contract, or other agreement with the city, the city engineer may have signs or markings installed that prohibit, limit, restrict, or regulate the time, place, or method of parking. When such signs or markings are in place, a vehicle shall not be parked in violation of the prohibition, limitation, restriction, method of parking, or regulation designated by said signs or markings. It shall be unlawful to park any vehicle in any parking lot or garage described above except within a parking stall as designated by official markings. It shall be unlawful to park any vehicle in any parking lot or garage described in this section in such a position that it shall not be within the space designated by official lines or markings.

B. In a publicly owned parking lot or garage or a privately owned lot or garage being operated or managed by the city pursuant to a lease, contract, or other agreement with the city, all or certain portions of said lots or garages may be designated for parking of vehicles with permits or decals. Parking may be permitted in said lots, garages, or portions thereof during certain hours or on weekends and holidays if signs are posted which specify the hours or days that a permit or decal is required. Vehicles without a permit or decal may be parked in said lots or garages at any other time.

1. Parking in the above-described lots, garages, or portions thereof is prohibited during the hours or days that a permit or decal is required by official signs posted therein, except for vehicles that are displaying a current and valid permit or decal. A permit or decal is invalid if it is expired or has been cancelled.

2. Vehicles parked in the above-described lots, garages, or portions thereof shall have a properly displayed permit or decal in the left rear lower corner of the rear window or other conspicuous location as approved by the city and in accordance with the provisions of this section. A properly displayed permit or decal must be visible from the rear of the vehicle.

C. Compact Car Parking. In any publicly or privately owned parking lot or garage being operated or managed by the city or being operated or managed pursuant to a lease, contract, or other agreement with the city, certain portions of said lots or garages may have parking spaces which are designated for compact cars. Vehicles which exceed 15 feet in length shall not be parked in areas designated for compact cars.

D. In a publicly owned parking lot or garage or a privately owned lot or garage being operated or managed by the city pursuant to a lease, contract, or other agreement with the city, persons shall use the lots and garages only for the parking of vehicles or for other uses expressly approved in advance by the city. It shall be unlawful for any person using such property for unauthorized purposes to refuse or fail to leave such property upon being requested to do so by the owner, operator, or agent thereof. [Ord. 2013-10 § 1, 11-26-2013 (Res. 2013-27 Exh. A, 11-26-2013)].

E. Parking Meters. The city engineer may cause parking meters to be installed in such parking meter zones established by resolution of the city council as necessary to regulate and control the parking of vehicles therein. Parking without paying the designated meter is prohibited.

1. Each person parking a vehicle or motor-driven cycle within a designated parking area which contains a pay by space station or a designated parking meter shall immediately deposit in said pay by space station or parking meter an accepted form of payment as indicated on the meter.

2. No person shall permit a vehicle or motor-driven cycle to be parked or to remain in a space with a designated parking meter, or in a space within a designated parking area which contains a pay by space station when said parking meter or pay by space station displays a red signal or printed message indicating it is unlawful to do so, except during those hours and days indicated upon said parking meter or pay by space station or sign.

3. Parking meter rates shall be set by resolution of the city council.

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ORDINANCE NO. 2016-__

AN ORDINANCE OF THE CITY OF SEDONA, ARIZONA, AMENDING THE CITY CODE CHAPTER 10.30 (PARKING REGULATIONS); PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR REPEAL OF ANY ORDINANCE OR PARTS OF ORDINANCES OR CODE PROVISIONS IN CONFLICT HEREWITH.

WHEREAS, it is the intention of the City Council to provide further clarity and ease of administration of those provisions set forth in Chapter 10.30 relating to Parking Regulations.

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

Section 1. Amendment of Chapter 10.30 (PARKING REGULATIONS)

Chapter 10.30 of the Sedona City Code is hereby amended by incorporating by reference those changes set forth in that public record entitled “*2016 Amendments to the City Code (PARKING REGULATIONS)*” and established as a public record by Resolution No. 2016-__ as though said provisions are fully set forth herein.

Section 2. Savings Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance.

Section 3. Repeal

All other code provisions, ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict as of the effective date hereof.

PASSED AND ADOPTED by the Mayor and City Council of the City of Sedona, Arizona, this 25th day of October, 2016.

Sandra J. Moriarty, Mayor

ATTEST:

Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:

Robert L. Pickels, Jr., City Attorney

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**CITY COUNCIL
AGENDA BILL**

**AB 2157
October 25, 2016
Regular Business**

Agenda Item: 8d

Proposed Action & Subject: Discussion/possible action on the purchase of parking pay station hardware and software from T2 Systems, in the approximate amount of \$175,164 for the Uptown Multi-Space Parking Pay Stations Project.

Department City Manager's Office

Time to Present 15 minutes

Total Time for Item 30 minutes

Other Council Meetings January 12, 2016

Exhibits A. Pricing Proposal

City Attorney Approval	Reviewed 10/17/16 RLP	Expenditure Required
		\$ 175,164
City Manager's Recommendation	Approve the purchase of parking pay stations.	Amount Budgeted
		\$ 275,000
		Account No. 22-5510-89-6862 (Description) 5510-000603
		Finance Approval <input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: In 2005, the City of Sedona contracted with Nelson\Nygaard Consulting Associates, Inc. to develop a strategic parking management plan with a special focus on the problems with parking and traffic in Uptown. This study was completed in 2005 and updated in 2012. These studies provided important data and recommendations on how to best implement an overall parking management strategy for this area. Many of these recommendations have now been implemented. The next step in the execution of this comprehensive strategy is the conversion of the free and highly sought after on-street parking on Main Street/89A in Uptown, to pay-to-park using multi-space parking pay stations.

On January 12, 2016, by majority consensus, Council directed staff to move forward with the next steps in conversion of the on-street public parking spaces to paid parking.

Procurement Process

A request for proposals (RFP) for a turn-key paid parking system was issued in July 2016. The City requested proposals for three main components including the pay stations themselves, an enforcement/citation issuance system, and an integrated pay-by-cell phone app. Proposals were received from eight vendors. None of the eight proposals provided a

turn-key solution with all three elements meeting the needs of the City as a complete package. As a result, the evaluating committee decided to “unbundle” the three pieces and each was evaluated independently. The purchase being requested as part of this agenda item is strictly for the pay station units. The final selection of the enforcement system and pay by phone app will occur later.

Staff worked through the Uptown Parking Advisory Committee (UPAC) to involve the merchants in evaluating and selecting the pay stations. Participants in the vendor interviews and selection process included:

- Stephen Craver, Public Works/Engineering
- Karen Daines Osburn, City Manager’s Office
- Tom Gilomen, Main Street Business Owner
- Bob Huggins, Program Manager, Sedona Park Rangers
- Wendy Jones, Executive Director of Sedona Main Street
- Gene Kurz, Sedona Police Department
- Jim Pott, Sedona Police Department
- Christina Richards, Main Street Business Owner
- Vicki Schlee, Main Street Business Owner
- John Smith, Information Technology Department
- Jennifer Wesselhoff, President and CEO of the Sedona Chamber of Commerce
- Lucas Wilcoxson, Sedona Police Department.

Proposals were ranked by Committee members based on the following:

CATEGORY	POINTS
Functionality	25
Service and Support	25
Experience and References	10
Price	20
Responsiveness	20

Based on the scoring of the proposals, four vendors were invited to demonstrate their equipment to the committee. Final vendor selection was made based on both the written proposals and the demonstrated suitability of the equipment for the project. The T2 Systems Luke II model pay station has been selected by the committee as the preferred pay station equipment. The T2 units were selected based on preferred aesthetics, ease of transaction, availability of service and support, and existing integrations with the preferred enforcement systems. The full pricing proposal from T2 is attached as Exhibit A.

The Luke II Pay Stations Features

- Custom color to fit in to the Uptown Sedona aesthetic
- Graphic color screen with easy to use buttons and instruction and ability to provide city-specific messaging, local maps, event information, etc.
- Ability to accept credit cards, bills, coins, validation coupons, & pay-by-cell phone app
- Multi-user, cloud-based analysis and management back office system to manage parking operations in real-time from any internet-enabled computer

- Back office provides 90 metrics and over 6,000 widget configurations from simple reporting to advanced analytics
- Options for five languages
- Solar powered
- Retro-designed with a rounded top and slim line body

Implementation and Next Steps

The target implementation date for the paid parking is June 2017, when the spring peak tourist season is over. For the next seven months staff will continue to work with the committee to collaboratively set parking pricing; develop marketing and communication strategies; determine signage design and placement; develop a validation program for merchants; and to educate local businesses, residents, and visitors on new parking policies and programs and how those policies are meant to improve parking in Uptown. Monitoring and evaluation of the overall parking management program by the committee will be ongoing after implementation.

During the same time frame, staff from the City Manager’s Office, Financial Services Department, Police Department, Information Technology Department, Municipal Court, and Public Works/Engineering will also work together to develop processes and procedures for citation issuance/enforcement, back-office system programming, reporting, repair and maintenance, payment reconciliation, physical bill and coin collection, system integration with the City’s financial management and court records management systems, and development of a wayfinding app for both the on-street parking and the off-street free lots.

Revenue and Expenditure Analysis

The City Council has also committed to utilize any net parking revenues for Uptown improvements supported by merchants, property owners, and local businesses. City staff will work with a citizen’s work group made up of Uptown stakeholders, or work through the existing UPAC, to gain consensus on the highest priorities and develop recommendations for reinvestment of new revenue. Possible projects include, but are not limited to, beautification and other aesthetic improvements, enhancement of transit such as the reinstatement of a circulator, valet parking services during peak periods, or acquisition and construction of additional parking.

A preliminary itemization of the estimated ongoing revenues and expenditures was presented as part of the January 2016 discussion, and new annual revenue was estimated to be up to \$350,000. Further refinement of these estimates will be made when the enforcement system, pay-by-cell app, and wayfinding application are procured; when final ongoing costs are determined; and as parking pricing and enforcement philosophies are established.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

MOTION

I move to: approve the purchase of up to twelve pay station units and associated software from T2 Systems in accordance with the Exhibit A pricing schedule in the approximate amount of \$175,164.

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T2 Systems Canada Inc.
4321 Still Creek Drive Suite 330
Burnaby British Columbia V5C 6S7



Phone (888)687-6822
 Fax (604)687-4329

US Tax ID# 98-0603996 GST# 86910 7094 RT0001

SALES QUOTE

Quote	QTE000001894
Date	10/12/2016
Page	1
Location	MAIN
Type	QUOTE

Bill To:

Sell To:

Ship To:

City of Sedona
 102 Roadrunner Dr.
 Sedona AZ 86336
 United States

Karen Daines
 (928)203-5067
 kosburn@sedonaaz.gov
 86-0596516

City of Sedona
 102 Roadrunner Dr.
 Sedona AZ 86336
 United States

Karen Daines
 (928)203-5067
 kosburn@sedonaaz.gov
 86-0596516

City of Sedona
 102 Roadrunner Dr.
 Sedona AZ 86336
 United States

Karen Daines
 (928)203-5067
 kosburn@sedonaaz.gov
 86-0596516

Purchase Order No.	Customer ID	External Doc#	Shipping Method	Payment Terms	Req Ship Date	Master No.
	3524		GROUND	N30	0/0/0000	13,199
End User	Salespersons		Carmen Sevrens	N/A	Lindsay Pocock	N/A
Freight Terms	FOB-VEND-PP	Ship Advice	Complete	IRIS Profile	Contract Date	

Quantity	Item Number	Description	UOM	Discount%	Unit Price	Ext. Price
12	900.0019	LUKEII-100B	Ea	52	\$15,416.00	\$88,796.16
		38K-Solar-CBCx-x-P				
		38-Key Keypad				
		18W Single SlimLine Solar Panel				
		Coin Acceptor, Bill Validator, Credit Card Reader				
		2 Inch Thermal Printer				
		P-Label, set of 2				
12	880.4085	Modem Kit-CDMA/EVDO-Verizon-L2	Ea	52	\$890.00	\$5,126.40
12	100.0106	Digital Connect Activation Fee-CDMA	EA	52	\$30.00	\$172.80
12	880.4040	Coin Shutter-L2	Ea	52	\$125.00	\$720.00
12	100.0069	Custom Pedestal Color	EA	52	\$175.00	\$1,008.00
12	100.0070	Custom Cabinet Color	EA	52	\$175.00	\$1,008.00
12	100.0002	Custom Cast Color	EA	52	\$175.00	\$1,008.00
12	100.0003	Custom Solar Panel Color	EA	52	\$175.00	\$1,008.00
12	100.0004	Decals Custom Set - incl 4 decals and 2 P labels	Ea	0	\$250.00	\$3,000.00
12	880.4030	Lock-Maintenance-L2 - New Key Code	Ea	0	\$0.00	\$0.00
2	450.0018	Key-Green Ex.Access-S/L/LR/L2	Ea	52	\$30.00	\$28.80
1	450.0019	Key-Yellow Ex.Access-S/L/LR/L2	Ea	52	\$30.00	\$14.40
12	880.4036	Lock-Collections-L2 - Match to Maintenance	Ea	0	\$0.00	\$0.00
2	450.0006	Key-Hopp/Canister Acc-S/LR/L2	Ea	52	\$10.00	\$9.60
2	450.0033	Key-Bill Stacker Access-L2	Ea	52	\$30.00	\$28.80
1	100.1108	Digital Iris Profile Set-Up	Ea	52	\$1,000.00	\$480.00
1	100.1112	DPT BOSS Suite-C	Ea	52	\$200.00	\$96.00
1	880.4084	USB Data Key-C	Ea	52	\$65.00	\$31.20
12	115.0108	Coin Canister-L2 - Included in Base Unit	Ea	52	\$600.00	\$3,456.00
6	115.0108	Coin Canister-L2 - Collection Spares	Ea	52	\$600.00	\$1,728.00
12	115.0132	Bill Stacker 1000 Note-L2 - Included in Base Unit	Ea	52	\$485.00	\$2,793.60
6	115.0132	Bill Stacker 1000 Note-L2 - Collection Spares	Ea	52	\$485.00	\$1,396.80
72	663.0027	Paper 2in	Ea	0	\$34.00	\$2,448.00
72	460.0002	Cleaner Card Credit Card-C	Ea	52	\$1.25	\$43.20



Quote	QTE000001894
Date	10/12/2016
Page	2

Bill To:

City of Sedona
 102 Roadrunner Dr.
 Sedona AZ 86336
 United States

Ship To:

City of Sedona
 102 Roadrunner Dr.
 Sedona AZ 86336
 United States

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
	3524		GROUND	N30	0/0/0000	13,199

Quantity	Item Number	Description	UOM	Discount	Unit Price	Ext. Price
72	460.0015	Cleaner Card Bill-C	Ea	52	\$3.00	\$103.68
72	460.0012	Cleaner Card 2in Printer-C	Ea	52	\$3.00	\$103.68
1	110.0018	Controller V5-L2 - Spare	Ea	52	\$3,250.00	\$1,560.00
1	521.0026	Bill Validator US-L2 - Spare	Ea	52	\$1,320.00	\$633.60
1	500.0131	Coin Acceptor-LR/L2 - Spare	Ea	52	\$655.00	\$314.40
1	500.0167	Credit Card Reader-LR/L2 - Spare	Ea	52	\$555.00	\$266.40
1	500.0188	Printer 2in-L2-JCM - Spare	Ea	52	\$1,420.00	\$681.60
1	115.0166	LCD Screen-L2 (V5) - Spare	Ea	52	\$500.00	\$240.00
1	630.0032	Keypad-AlphaNum 38 Key-L2 - Spare	Ea	52	\$350.00	\$168.00
1	605.0003	Battery 33Ah-C - Spare	Ea	52	\$175.00	\$84.00
1	605.0004	Battery 18Ah-L/LR/L2 - Spare	Ea	52	\$145.00	\$69.60
1	880.1214	Battery Charger Ext. Dual-C	Ea	52	\$320.00	\$153.60
1	165.0020	LCD Screen Lexan-L2 - Spare	Ea	52	\$95.00	\$45.60
1	115.0158	Solar Panel Slim NoAnt 18W-L/LR/L2	Ea	52	\$850.00	\$408.00
12	100.0053	Installation	EA	0	\$350.00	\$4,200.00
1	100.0055	Two Days Training with Travel	Ea	0	\$2,500.00	\$2,500.00
12.00	22970	Extended Warranty - 4 additional years @ \$750/yr	Each	0	\$3,000.00	\$36,000.00
1	***	.	EA	0	\$0.00	\$0.00
		Iris quote provided separately. Order will not be accepted without signed Iris quote being returned to T2.				
1	***	.	EA	0	\$0.00	\$0.00
		Digital Connect wireless data plan is available in US only and includes up to 2,000 transactions per month, per pay station. Transactions in excess of 2,000 per calendar month are charged a rate of \$0.02 per transaction. Transactions are not pooled among units. **UNLIMITED transactions package also available.				
1	***	.	EA	0	\$0.00	\$0.00
		Installation provided by ParkPro in Phoenix, AZ. Contact Blaine Shelton (602) 615-6292.				
1	***	.	EA	0	\$0.00	\$0.00
		Shipping, Training and Installation are included in quote.				

T2 Systems Canada Inc.
4321 Still Creek Drive Suite 330
Burnaby British Columbia V5C 6S7



Quote	QTE000001894
Date	10/12/2016
Page	3

Bill To:

City of Sedona
 102 Roadrunner Dr.
 Sedona AZ 86336
 United States

Ship To:

City of Sedona
 102 Roadrunner Dr.
 Sedona AZ 86336
 United States

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
	3524		GROUND	N30	0/0/0000	13,199

Quantity	Item Number	Description	UOM	Discount	Unit Price	Ext. Price

Please review all details on this quote, including ship to address, EIN number, and key code. If you would like to proceed with placing this order, please submit a matching signed quote to fax 604.687.4329.

Authorized Signature:

Subtotal	\$161,933.92
Trade Discount	\$0.00
Freight	\$2,400.00
Tax	\$10,830.32
Total	\$175,164.24

AZ CITY TAX\$3,778.02 AZ COUNTY TAX\$0.00 AZ STATE TAX\$7,052.30

Thank you for your business!

USD

Terms and Conditions of Sale are available at <http://www.t2systems.com/terms>.

Please note that if sales taxes are not charged, if applicable, taxes should be self-assessed and remitted to the appropriate tax authorities.