



**MEETING NOTICE
CITY OF PAGE
CITY COUNCIL**

**CITY COUNCIL REGULAR MEETING
CITY HALL, 697 VISTA AVE
PAGE, ARIZONA**

**NOVEMBER 13, 2024
5:30 P.M.**

NOTICE OF PUBLIC MEETING AND AGENDA

Page City Council may discuss and take action on any item listed on the agenda.

1. CALL TO ORDER

2. INVOCATION

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

Mayor Bill Diak

Vice Mayor John Kocjan

Councilor Steven Kidman

Councilor Kenna Hettinger

Councilor David Auge

Councilor Mike Farrow

Councilor Richard Leightner

5. PRIORITY LIST

- 1.** City Council Strategic Priorities
None

- 2.** City Councilmembers Individual Priorities
None

6. MINUTES

- 1.** City Council Regular Meeting Minutes - October 23, 2024

7. CONSENT AGENDA

The Consent Portion of the Agenda is a means of expediting routine matters. All items approved will be done by one undebatable motion passed unanimously. Any item may be removed for debate on request of any member of Council. Items removed from the Consent Portion become the first items of business of the Regular Agenda.

1. INFORMATION

- a. Youth Advisory Commission Minutes - 09162024
- b. Economic Development Advisory Board Minutes - 09242024
- c. Youth Advisory Commission Minutes - 10212024

2. MISCELLANEOUS ACTIONS
None

8. PUBLIC HEARINGS
None

9. HEAR FROM THE CITIZENS

Members of the public may address the City Council. The City Council cannot discuss or take legal action on any matters during the Call to the Public, unless the matters are properly noticed for discussion and legal action. At the conclusion of the Call to the Public, individual members of the Council may respond to criticism made by those who have addressed the Council, may ask Staff to review a matter, or may ask that a matter be put on a future agenda. If you wish to address the Council at tonight's meeting, please raise your hand, and you will be recognized and asked to come to the podium to provide your name and address. Please limit your remarks to three (3) minutes.

10. REPORTS AND ANNOUNCEMENTS

1. MAYOR'S REPORTS AND ANNOUNCEMENTS

- a. General Election Turnout

2. CITY MANAGER'S CURRENT EVENTS SUMMARY

11. BOARDS AND COMMISSIONS

- 1.** Reports on the most recent Board meetings by Board Liaisons (The most recent Board Agendas can be found on the City of Page website <https://cityofpage.org/government/public-meetings/>):

Planning and Zoning Commission - Councilor Steven Kidman
Page Utility Enterprises (PUE) Board - Vice Mayor Kocjan
Page Public Library Board - Councilor Michael Farrow
Substance Abuse Task Force - Councilor David Auge
Page Parks and Recreation Board - Councilor Kenna Hettinger
Page Public Safety Personnel Retirement Board - Mayor Diak
Economic Development Advisory Board - Councilor Richard Leightner
Youth Advisory Commission - As assigned

2. Presentation of Unite to Light by the Youth Advisory Commission

12. UNFINISHED BUSINESS

1. Ordinance 735-24 - Land Sale Trebol Hospitality
2. Colt Springs Subdivision City Improvements Bid Award Process

13. NEW BUSINESS

1. Proclamation - US Marine Corps 249th Anniversary
2. Proclamation - AZ Law Enforcement Records Managers
3. Resolution 1326-24 - Approving Participation in Arizona Employers' Pension Prefunding Plan and PARS Trust
4. Redundant City Water Supply
5. Lake Powell Blvd Asphalt Condition
6. Page Utility Enterprises Benefit Credit Contracts for Power Capacity and Energy
7. Mayor's Final Report

14. BID AWARDS

None

15. DEPARTMENTS

None

16. EXECUTIVE SESSIONS

1. EXECUTIVE SESSION
Pursuant to A.R.S. § 38-431.03 (A)(7) The City Council may vote to go into Executive Session for the purpose of discussions regarding negotiations for the purchase, sale, or lease of real property.
Potential Land Sale: Vacant land on the northeast corner of Coppermine and Osprey
2. EXECUTIVE SESSION
Pursuant to A.R.S. § 38-431.03 (A)(7) The City Council may vote to go into Executive Session for the purpose of discussions regarding negotiations for the purchase, sale, or lease of real property.
Potential Land Sale: Vacant land west of Public Works Facility

3. EXECUTIVE SESSION

Pursuant to A.R.S. § 38-431.03 (A)(7) The City Council may vote to go into Executive Session for the purpose of discussions regarding negotiations for the purchase, sale, or lease of real property.

Potential Land Sale: Parcel 80216009J

ADJOURN

FOR YOUR INFORMATION

Next Regular Meeting Wednesday, January 8, 2025 at 5:30 p.m.

Pursuant to A.R. S. 38.431. 02, notice is hereby given to the members of the City Council and to the general public that the Page City Council will hold a meeting open to the public. Supporting documents and Staff reports, which were furnished to the City Council, with this agenda, are available for review at www.cityofpage.org or at the City Clerk's Office. Councilmembers of the City of Page City Council will attend either in person or by technological means. City Council may vote to go into Executive Session for the purpose of obtaining legal advice from the City Attorney on any item listed on the agenda, pursuant to A.R.S. 38-431.03 (A)(3). City Council may modify the agenda order, if necessary. This agenda may be subject to change up to 24 hours prior to the meeting.

Persons with disabilities should call the City Clerk's Office, at 928-645-4205 for program and services information and accessibility.

NOTICE TO PARENTS: Parents and legal guardians have the right to consent before the City of Page makes a video or voice recording of a minor child A.R.S. §1-602.A.9. City Council meetings are audio and video recorded. Parents or guardians may either submit a written consent to the City Clerk's Office, or by allowing a minor to be present and/or participate in the meeting, parents or guardians waive this right.

If you would like to receive City Council agendas via email, please send your email address to cityclerk@pageaz.gov or call 928-645-4205.

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following places:
City Hall Bulletin Board located at 697 Vista Avenue, Page, Arizona, Justice Building Bulletin Board located at 547 Vista Avenue, Page, Arizona, U. S. Post Office Lobby located at 44 Sixth Avenue, Page, Arizona, on the ____ day of _____, 2024, at ____ p.m. in accordance with the statement filed by the City of Page City Council with the City Clerk.

CITY OF PAGE

By: _____
CITY CLERK'S OFFICE

PRIORITY LIST 5.1.

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Council Strategic Priorities FY 23-27

Presented by:

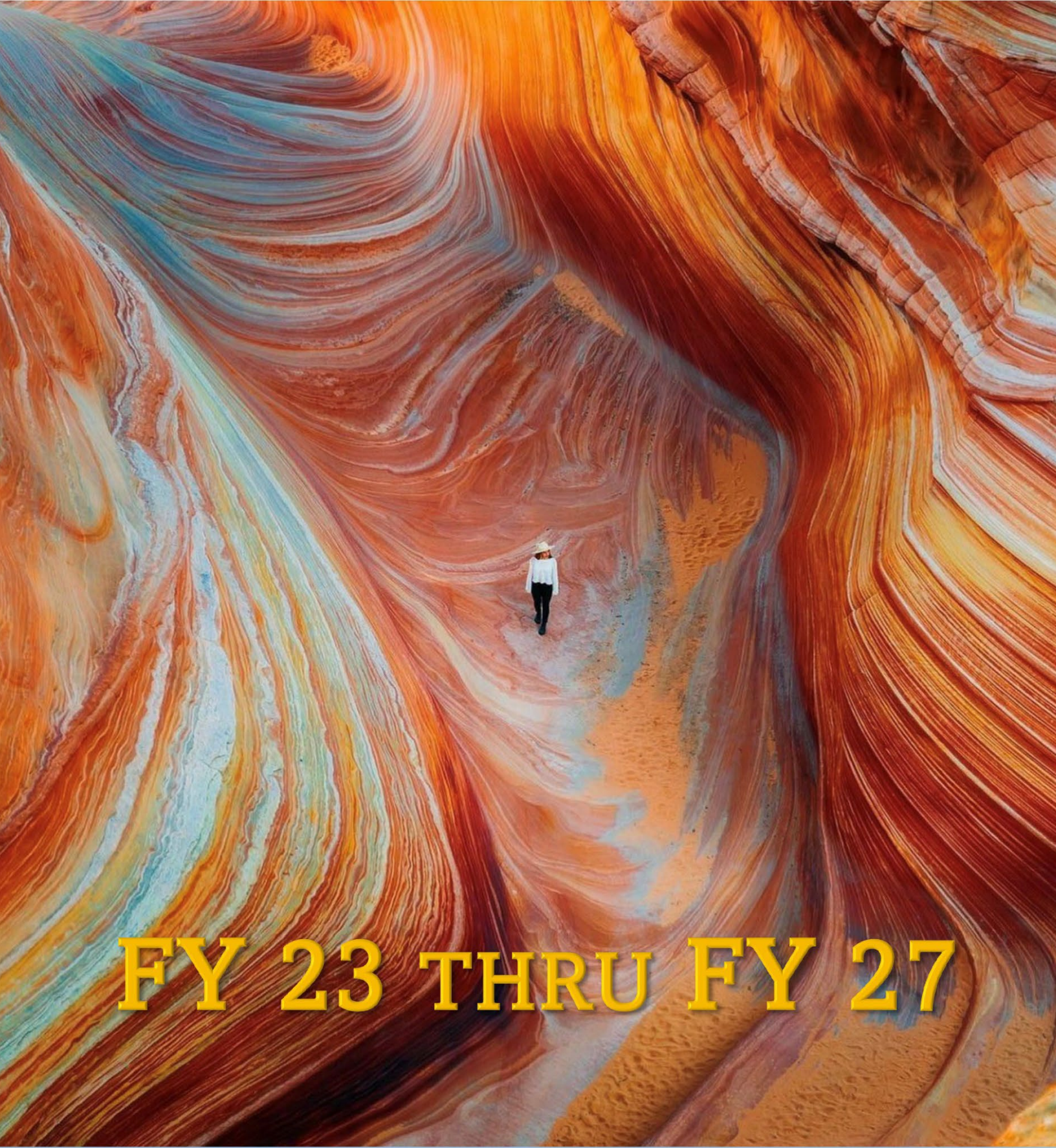
Subject:

City Council Strategic Priorities

None

Attachments

FY23-27 City Council Strategic Priorities



FY 23 THRU FY 27



**STRATEGIC
CITY COUNCIL PRIORITIES**



Page City Council



Dave Auge



William Diak, Mayor



Brian Carey



John Kocjan, Vice Mayor



Richard Leightner



Kenna Hettinger



Mike Farrow

VISION & VALUES

VISION

The City of Page shines as an eco-tourism destination and gateway to the world-renowned Grand Circle of National Parks. Page is a welcoming and family-friendly community that prioritizes education, respects cultural diversity, and preserves the scenic environment. This vibrant and active city is fiscally responsible and provides a diverse economy that offers housing, healthcare, and employment opportunities, as well as entertainment, dining, and recreational choices for residents and tourists of any age.

VALUES

- Teamwork and Collaboration
- Accountability, Transparency, and Proactive Communication
- Fiscal Responsibility
- Integrity
- Customer Service
- Continued Strategic Planning



OBJECTIVE CRITERIA

Objective Criteria for Decision Making

- Is it in the best interest of the community and stakeholders?
- Does it align with our goals and priorities?
- Is it achievable and sustainable?
- Is it financially viable?
- Is it legal?
- Is it fair?
- Is it safe and secure?

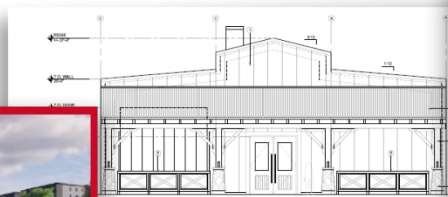


COMMUNITY DEVELOPMENT

A pleasant environment is a source of pride for its residents and an important component of the quality of life in an area. Community aesthetics take on an economic meaning, encouraging tourism and business recruitment. Community Development is a process by which local decision-makers and residents work together to leverage resources to increase business development and job opportunities; and attract capital to improve the physical, social and environmental conditions in the community.

Goals: Implement economic development processes that assist in the development of a strong local economy; protect neighborhoods from blighting and deteriorating conditions that have a negative impact on area property values; and encourage residents and business owner's efforts to maintain the physical environment through standards set in local ordinances.

- Objective 1.1** Continue partnership and communication with stakeholders regarding streetscape development from Vista Avenue to South Navajo Drive. Budget and implement downtown streetscape that will establish design as well as strategies and policies for development and identify implementation costs associated with development enhancement programs.
- Objective 1.2** Establish a revitalization plan for the central business district (Block 17).
- Objective 1.3** Identify City-owned properties that support medium and/or high density affordable housing and develop a plan to ensure infrastructure is available to these developable properties. Actively market to attract developers for affordable apartments, condominiums, and single-family homes.
- Objective 1.4** Foster development of moderately priced housing to accommodate workforce needs. Work with potential grant sources and community housing organizations to explore housing alternative and incentivize housing development.
- Objective 1.5** Promote and encourage attractive neighborhoods through City services, enforcement techniques, and compliance with City codes and regulations.
- Objective 1.6** Continue supporting the Arizona League of Cities and Towns on the issues related to vacation home rentals through representation with the legislature. Utilize Arizona State Law SB1168 by adopting an ordinance to regulate vacation home rentals.

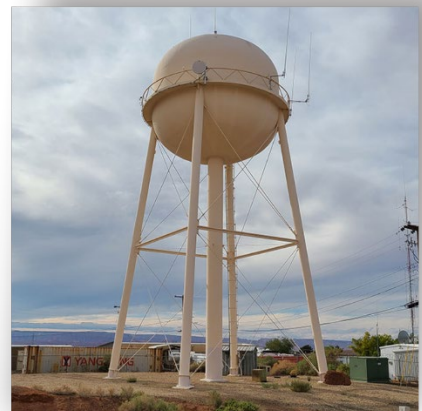


FISCAL STABILITY

The City is committed to maintaining fiscal stability to ensure the delivery of high-quality services. This requires an efficient transparent financial system, accurate and reliable forecasting of revenues, and control of expenses.

Goal: Operate in a fiscally prudent manner, assuring the most efficient expenditure of public funds.

- Objective 2.1** Explore alternative funding mechanisms to support infrastructure and future economic development project funding.
- Objective 2.2** Continue implementation of a 5-year Capital Improvement Program that balances the costs of planned capital expenses with realistic allocation of available resources.
- Objective 2.3** Continue financial forecasts that allow the City to annually identify future revenue and expenditure trends and prepare plans to address problems in a timely fashion.
- Objective 2.4** The Page Utility Enterprises Board has identified Water, Sewer, and Garbage Utility reserve levels to stabilize rates. The board will make rate recommendations to the City Council.
- Objective 2.5** Page Utility Enterprises (PUE) staff will continue long-term financial will make rate recommendations to the City Council.
- Objective 2.6** Begin planning for the future of waste collection and recycling for the City of Page.
- Objective 2.7** Evaluate current City Emergency Fund cap.

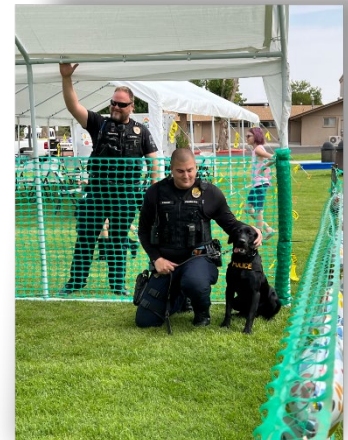


HIGH PERFORMING ORGANIZATION

The City of Page strives to develop a high performing organization through continuous system and process improvements; the commitment to make time to do the “work of leadership”; and the encouragement of City employees to exercise their leadership and talents at every level of the organization.

Goal: To create an environment that supports transparency, communication, collaboration, teamwork, and high performing employees. Enable the City to recruit, retain and compete for talent, and ensure retention of institutional knowledge. Develop a functional Emergency Operation Plan to ensure a resilient organization.

- Objective 3.1** Recruit and retain a skilled workforce through training and skills development, utilizing most recent trends and best practices. Conduct a salary structure review.
- Objective 3.2** Continue to improve methods used by the City to communicate proactively and openly. Implement an event bulletin board and emergency event messaging.
- Objective 3.3** Update City website to keep content relevant and current for customer satisfaction, and optimize the use of technology to drive efficiency, productivity, and service.
- Objective 3.4** Review and implement necessary security measures throughout City-owned public facilities.
- Objective 3.5** Promote community involvement through the recruitment, retention, and engagement of volunteers and the support of local organizations and partners.
- Objective 3.6** Create a process to evaluate Council appointed positions.

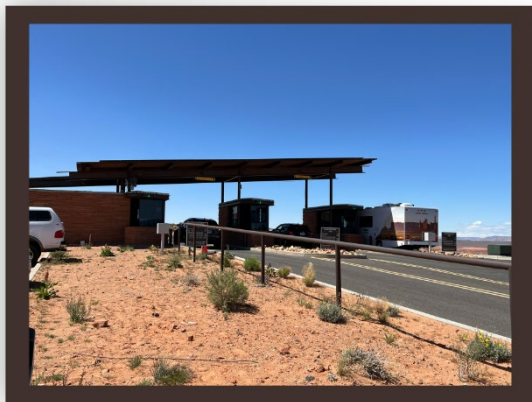


IMPROVING INFRASTRUCTURE

The City Council is committed to maintaining and improving public infrastructure and City facilities to preserve both the physical character and livability of the community.

Goal: Maintain and improve critical City infrastructure, including streets, sidewalks, parks, trails, facilities, and utilities to support economic growth and improve quality of life in Page.

- Objective 4.1** Strategically invest and support updating City facilities, including technology, and equipment.
- Objective 4.2** Pursue the funding to implement a plan to provide a redundant water supply to meet City needs.
- Objective 4.3** Maintain a Pavement Management Program (PMP) to ensure the preservation of roadway surfaces.
- Objective 4.4** Explore alternatives for a north fire station.
- Objective 4.5** Implement the recommendations from the Carollo Water Study for water and sewer utilities to ensure financial stability and prepare for growth.
- Objective 4.6** Identify locations for and project the costs of converting overhead primary electric infrastructure to underground.
- Objective 4.7** Review design and identify funding to move forward with Phase 3 of Horseshoe Bend development.
- Objective 4.8** Implement a Master Plan for expansion and improvements to the airport.



QUALITY OF LIFE

The City strives to enhance the overall quality of life for our residents and visitors by offering high quality recreation and leisure activities and improving parks, trails, streetscape and open spaces in Page.

Goal: Maximize resources that enhance the quality of life for our residents and visitors.

Objective 5.1 Plan, design and implement community programs to enhance the quality of life in the City of Page.

Objective 5.2 Research and pursue grant opportunities to enhance recreation programs
Objective 5.3 Evaluate components of the Parks Master Plan and determine priority list.

Objective 5.4 Foster, implement and educate to allow the development of a plan for events, farmers market, public market, arts, and activities in partnership with local not-for-profits/community groups.

Objective 5.5 Establish a committee for planning a 50th City anniversary celebration in 2025.

Objective 5.6 Identify funding and construct a recreational facility that includes an aquatic center.



PRIORITY LIST 5.2.

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Councilor Individual Priorities

Presented by:

Subject:

City Councilmembers Individual Priorities

None

Attachments

Individual Priorities

PRIORITIES
CITY OF PAGE
BY
BILL DIAK

FY 2021-2022

Fiscal Responsibility

- Use resources wisely
- Always look for new revenue opportunities
- Foster accountability
- Plan for the long-term economic future
- Finish Horseshoe Bend Phase 3 to maximize revenue and visitor experience

Address Community Housing Needs

- Young families
- Low Income
- Seasonal
- Mid-Range

Infrastructure

- Pavement Management
- Future needs for development
- Water allocations and redundancy
- Infrastructure to match Master Plan

Downtown Streetscape and Revitalization

- Central Business District as well as Uptown area
- Walkable, tree lined, benches

Be proactive to Community wants

- i.e. make a plan to fund a swimming pool in 2-years

**PRIORITIES
CITY OF PAGE
by
Vice Mayor John Kocjan**

2013/2014

- 1) Secure a revenue stream to service bond debt load.
- 2) Increase water allocation
- 3) Infrastructure improvements

David Auge

Vision and Council Priorities:

- Integrity, Accountability and Transparency in all phases to our citizens and city staff.
- Fiscal Responsibility in future Budgets and spending requests brought to council
 - We must work with and support our City Manager and Department Heads on review and approval of spending requests with an eye on a realistic budget for 2021-2022 and forward so we continue with the fiscal responsibility that has been established.
- Responsive and accurate replies to citizen requests and inquiries and council input from city staff.
- City Zoning Project completed ASAP
- Strategic Planning
 - Revitalization of our downtown thru the streetscape project and driving business opportunities not just in Block 17 but elsewhere.
 - Tourism is our current and future for Page. To drive tourism we must continue enhancing the our downtown, not just in type of business but of curb appeal. The east side of LP Boulevard needs benches, shrubbery
 - Revenue opportunity at Horseshoe Bend to take advantage of its worldwide popularity thru Phase 3 building and completion. This will enhance Sales Tax revenue which will help drive continued enhancement of our parks, bike and hiking trails, and golf course for recreation, relaxation and special events for our citizens and tourist-based economy.
 - We continue to have a housing challenge for medium and low income and seasonal individuals and families. Help developers by having accurate parcel zoning and infrastructure plans in place that are conducive to timely development.
 - Continue to work with city staff on review and update of our 5-year plan to complement and guide future budgets for capital spend for needed projects and equipment as well as infrastructure needs including streets, water and sewer, and power.

Richard Leightner

Council Priorities

- Review, amend (if required), and approve General Plan Land Use Map and the Code of Ordinances Zoning Map to include establishment & allocation of both affordable and market based housing....and permanently establish Parks in the Parks Master Plan, including Heritage Funded location(s) and city adopted area's (both formally accepted/assigned and future planned).
- Plan and fund infrastructure where possible as incentive for developers on recognized area's identified as Medium and/or High Density development and actively market for affordable housing.
- Complete and work with business resources and interested organizations/residents on the implementation of Downtown Streetscape Redevelopment Plan....as budget and possible grant funding allows.
- Work with the Grand Circle Artists Alliance in getting set-up for open-air marketing & music.
- Work with all organizations in Page & the surrounding area to help plan and bring tourism to activities centered here.
- Continue to plan and develop the Horseshoe Bend area as a major income source for the city.
- Attract light industry to area's marketable for such use and streamline the application & approval process. PROMOTE ECONOMIC DEVELOPMENT in the Industrial Park and maybe even partner with Navajo Nation entities in order to do so.
- Support and provide provisions for staffing the Page Police & Fire Department, and make provisions for needed equipment. Also foster good relationships with all area Law Enforcement agencies
- Establish better working/partnering relationships between Council and City Departments and provide an avenue for citizens to Q & A our actions....which leads me into the last (but certainly not least) action item/priority.
- We need to foster/improve communication between the City and Citizens...by being more visible and accessible both via social media, website(s), and local media through on-air programing, and daily/weekly updates on websites & social media outlets.
- I agree whole-heartedly with Councilor Lee's points on increasing public outreach by manning a booth at ALL major occasions & festivities in the area providing current information on upcoming/important events, developments, etc. and answering questions (or directing people to where they can find answers).

Council Priorities

City of Page

By

Mike Farrow

- I) Smart and Balanced Growth of Page**
 - a. Enhance our infrastructure for Business Growth for Tomorrow and Beyond
 - b. Alignment of Business and City pursuits for future successes
 - c. Leverage City and Business Capabilities and Services for Page Citizens
 - d. Support efforts for a strong vision and objectives for Page citizens, businesses and services for balanced growth
- II) Community Engagement and Involvement**
 - a. Enhance communications to businesses and citizens
 - i. Frequent, relevant, timely and concise sharing of activities, situations, issues and challenges
 - b. Encourage, advertise, promote and challenge engagement and involvement in committees, task forces and work groups
 - i. Create more engagement opportunities
 - ii. Create more empowerment through education, orientations, mentoring, and training meetings
 - c. Encourage and support education, seminars and participation in training for enhancing engagement, and involvement programs for City employees, Council Members, work groups and task forces
- III) Page Safety and Security**
 - a. Establish, publish and maintain a City's Emergency Operations Plan
 - i. Involve mutual aid of City, County, State and Regional Services

- ii. Establish and maintain a regular EOP meeting, training and table top exercises
 - b. Establish and maintain a robust “Best in Class” Active Shooter Program for City, our critical infrastructure, schools, places of business, recreation and churches
 - i. Establish and maintain a community integration effort of Threat Management to stay ahead of threat concerns
 - c. Be actively involved and support our first responder services of Law Enforcement and Fire/Rescue Services and understand and assist in the challenges in supporting our first responders, citizens and visitors.
 - d. Identify and support Mental Health initiatives
- IV) Enhance Youth Opportunities**
- a. Our youth is our future and our opportunity to create structured learning cycles for their advancement.
 - b. Determine and provide greater trade skill learning opportunities
 - c. Empower our youth to support safe schools and choices
 - d. Provide more opportunities for youth to be involved in city and business pursuits
 - e. Continue to support enhanced structured and recreational activities
 - f. Be active and support our City’s Substance Abuse Task Force

Do what's right. Integrity is core to our success

I will lead by example - give it my best and expect the best from others

I will treat others as I wish to be treated

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: City Council Meeting Minutes 10 23 2024

Presented by:

Subject:

City Council Regular Meeting Minutes - October 23, 2024

Attachments

10 23 2024 Reg Min



**PAGE CITY COUNCIL
REGULAR MEETING MINUTES
October 23, 2024**

A Regular Meeting of the Page City Council was held at 5:30 p.m. on the 23rd day of October 2024 in the Council Chambers at City Hall in Page, Arizona. Mayor William Diak presided. Vice Mayor John Kocjan, and Councilors David Auge, Richard Leightner, Mike Farrow, Kenna Hettinger, and Steven Kidman were present. There was a moment of meditation. Councilor Hettinger led the Pledge of Allegiance.

Mayor called the meeting to order.

Staff members present: City Manager, Darren Coldwell; City Attorney, Joshua Smith; IT Director, Kane Scott; Planning and Zoning Director, Zachary Montgomery; Police Chief, Tim Lange; Police Captain, Larry Jones; Deputy City Clerks, Jennifer Lange; and City Clerk Cindy Scott.

PRIORITY LIST

Discussion and possible action by the City Council pertaining to the City Council Strategic Priorities
None.

Discussion and possible action by the City Council pertaining to the City Councilors individual priorities
None.

MINUTES

City Council Regular Meeting on October 9, 2024

City Council Joint Special Meeting with PUE on October 2, 2024

Motion made by Vice Mayor Kocjan to approve the Minutes. The motion was seconded by Councilor Leightner and passed unanimously upon a vote.

CONSENT AGENDA

INFORMATION

Monthly Cash Allocation – August 2024

Substance Abuse Task Force Regular Minutes – August 28, 2024

MISCELLANEOUS ACTIONS

Resignation – Matthew Lasslo – Substance Abuse Task Force

Councilor Farrow asked to have Item 2A removed from Consent Agenda.

Page City Council Regular Meeting – October 23, 2024

Motion made by Vice Mayor Kocjan to approve the remaining items on the Consent Agenda. The motion was seconded by Councilor Auge and passed unanimously upon a vote.

PUBLIC HEARINGS

Public Hearing for Multi-Parcel Citywide Zone Change Case #ZON 24-002

Mayor Opened the Public Hearing at 5:34pm

Page Residents Amanda Hammond, Kelly Pullins, Chuck Straub, Erik Stanfield, Michael Woods, Debi Roundtree, and Camille Hammond expressed concerns about Parcel No. 80104015B.

Mayor Closed the Public Hearing at 5:56pm

HEAR FROM THE CITIZENS

Page Residents Paul Burton, Victoria Redshirt, Debi Roundtree, and Amanda Hammond addressed the City Council.

REPORTS AND ANNOUNCEMENTS

MAYOR'S REPORTS AND ANNOUNCEMENTS

Update on Rural Transportation Summit Update

Mayor Diak provided information about the Rural Transportation Summit that he attended with the Public Works Director and City Engineer. While he was there, he met with Senator Kelly's office about the Roundabout where he lobbied to have the third roundabout constructed. He also lobbied for upgrades to US89 and US98.

CITY MANAGER'S CURRENT EVENTS SUMMARY

City Manager provided information about using the Emergency Notification System, a marketing firm that may have called several residents, a new area of the website where citizens can pose questions about the City, and the newest issue of the Page Happenings monthly magazine that the City publishes.

BOARDS AND COMMISSIONS

Discussion by the City Council pertaining to reports on board meetings by Board Liaisons

Councilors Farrow gave an update on the Youth Advisory Commission.

Mayor Diak commented about the Youth Advisory Commission.

Councilor Auge gave an update on the Substance Abuse Task Force.

Mayor Diak commented about Council taking care to avoid possible quorums when attending Board Meetings.

Councilor Leightner gave an update on the Economic Development Advisory Board.

UNFINISHED BUSINESS

Fifth (5th) Amendment to the Purchase Agreement for Trout Development

City Attorney gave an update on the project and discussed the terms of the proposed amendment.

Page City Council Regular Meeting – October 23, 2024

There was discussion.

Motion was made by Councilor Farrow to approve the Fifth Amendment to the Purchase Agreement for Trout Development with the 30 day change and authorize the Mayor to sign the amendment. The motion was seconded by Councilor Hettinger and passed unanimously upon a vote.

NEW BUSINESS

From Consent Agenda 2A: Resignation – Matthew Lasslo – Substance Abuse Task Force

Councilor Farrow expressed Council's appreciation of Matthew Lasslo's contributions to the Substance Abuse Task Force.

Motion was made by Councilor Farrow to accept the resignation of Matt Lasslo from the Substance Abuse Task Force. The motion was seconded by Councilor Auge and passed unanimously upon a vote.

Presentation for a proposed future development in Block 17

Councilor Hettinger recused herself from conversation on this item and the corresponding Executive Session item 16.1 due to a conflict of interest.

City Manager explained the project.

Trevor Barger with Zenni Homes presented information about a potential housing development in Block 17.

There was discussion.

Mayor allowed the citizens to address the City Council. Page Residents Carolene Ekis, Debi Roundtree, Tina Beckwith, Ken Sichi, Michael Woods, and Brian Hammond addressed the City Council.

Discussion continued.

Ordinance No. 734-24 Amending the zoning district designations of ten (10) city owned parcels

Planning and Zoning Director Zach Montgomery explained the zoning amendment.

Mayor Diak asked the City Attorney about proper procedure.

City Clerk introduced Ordinance No. 734-24 by title only.

There was discussion.

Motion was made by Vice Mayor Kocjan to adopt Ordinance No. 734-24, omitting Section 1 (Parcel No. 80104015(B)) and make the modifications and conforming changes and allowing the Mayor to sign. The motion was seconded by Councilor Leightner.

Page City Council Regular Meeting – October 23, 2024

Councilor Hettinger expressed gratitude to Zach for his work on this. Councilor Farrow and Councilor Auge also expressed gratitude.

The motion passed unanimously upon a vote.

Right of Way Access Agreement with Broadbent

City Attorney Smith gave background on the agreement.

There was discussion.

Motion was made by Mayor Diak to approve the agreement and authorize the Mayor to sign the agreement. The motion was seconded by Councilor Auge and passed unanimously upon a vote.

BID AWARDS

None.

DEPARTMENTS

None.

EXECUTIVE SESSIONS

Councilor Hettinger recused herself from item 16.1 due to a conflict of interest.

Motion was made by Vice Mayor Kocjan to enter Executive Session consecutively for 2 Executive Session items, with 16.2 being discussed first, and remain in the room at 7:26 p.m. The motion was seconded by Councilor Auge and passed unanimously upon a vote.

Mayor reconvened the Regular City Council meeting at 8:11 p.m.

EXECUTIVE SESSION

Pursuant to A.R.S. § 38-431.03 (A)(7) the City Council may vote to go into Executive Session for the purpose of discussions regarding negotiations for the purchase, sale, or lease of real property.

Potential future development of Block 17

Mayor Diak directed staff to move forward with further investigation of this project and look at parking options and bring that information back to Council for further review and discussion.

EXECUTIVE SESSION

Pursuant to A.R.S. § 38-431.03 (A)(7) the City Council may vote to go into Executive Session for the purpose of discussions regarding negotiations for the purchase, sale, or lease of real property.

Page City Council Regular Meeting – October 23, 2024

Potential Land Sale of a Portion of Parcel #80220005A

Mayor Diak directed staff to continue working on the land sale for Parcel No. 80220005A as discussed and bring it back to Council for motion or further discussion.

ADJOURN

The meeting was adjourned at 8:13 p.m.

Cindy Scott
City Clerk

William R. Diak
Mayor

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the City Council Regular Meeting, held on the 23rd day of October 2024. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 13th day of November 2024

Cindy Scott
City Clerk

CONSENT AGENDA 7.1. a.

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Youth Advisory Commission Minutes - 09162024

Presented by:

Subject:

Youth Advisory Commission Minutes - 09162024

Attachments

YAC Minutes 09162024

**PAGE YOUTH ADVISORY COMMISSION
REGULAR MEETING MINUTES
September 16, 2024**

A Regular Meeting of the Page Youth Advisory Commission was held at 4:00p.m. on September 16, 2024, in Coconino Community College in Page, Arizona. Chair Trystan Conley presided. Members Dante Thompson, Emma Mallavia, Mia Burton, and Miriam Lassen were present. Michaela Long was absent. Council Liaison Mike Farrow and Commission Liaison Jackelyne Aguirre were present.

Chair Conley called the meeting to order at 3:58 p.m.

MINUTES

1. Minutes from the regular Youth Advisory Commission meeting on August 19, 2024:
Lassen motioned to approve the minutes. Conley seconded. The motion passed unanimously.
2. Minutes from the Youth Advisory Commission Work Session on September 9, 2024:
Conley motioned to approve the minutes. Thompson seconded. The motion passed unanimously.

COMMUNICATIONS

1. Meeting updates from Youth Advisory Council members:
Burton provided an update regarding a possible volunteering opportunity to raise money for the commission.
2. Update from Commission Liaison, Jackelyne Aguirre:
Aguirre provided an update regarding the Code of Ethics and a booth at National Night Out.
3. Update provided by Director of Economic Development, Gregg Martinez:
Martinez provided an update regarding upcoming events and volunteering opportunities.

HEAR FROM THE CITIZENS

Dave Auge invited members to participate in events with the Canyon Club of Page.

PUBLIC HEARING

None.

UNFINISHED BUSINESS

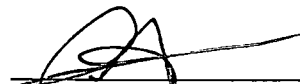
1. Discussion and possible action pertaining to vandalism within the City of Page:
Conley is updating the presentation with new information.

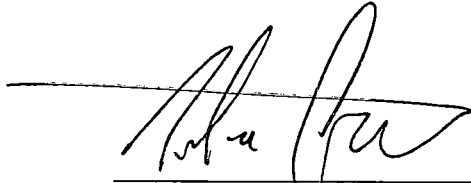
NEW BUSINESS

1. Discussion only pertaining to the resignation of Emily Hawker:
Hawker was thanked for her service.
2. Discussion and possible action pertaining to the review of social media.
Expectations and responsibilities were discussed for the social media manager and assistant manager. Thompson motioned to appoint himself as the social media manager. Lassen seconded the motion. The motion passed unanimously. Conley motioned to appoint Burton as the social media manager. Burton seconded the motion. The motion passed unanimously.
3. Discussion and possible action pertaining to hosting a voter registration drive during National Night Out on October 1, 2024:
Voter information was discussed. Members will volunteer to help citizens register to vote.
4. Discussion and possible action pertaining to a youth event sponsored by the City of Page:
Burton suggested a youth rodeo and a wellness-day. Mallavia suggested a pool. Thompson suggested a first responder baseball game, hot cocoa and smores night with friendly competitions, a skateboarding competition, a peaceful protest against gun violence, and participating in parades. Lassen suggested a holiday lighting ceremony and a chili cook off. Conley suggested a drive-in movie and a youth activity during the 50th anniversary.
5. Discussion and possible action pertaining to a holiday-based community service event:
A volunteer event to donate and install holiday lights for citizens in need was discussed. The next steps are to create a volunteer and registration form to be distributed.

ADJOURN

The meeting was adjourned at 5:03p.m.



Jackelyne Aguirre

Chair Trystan Conley

CONSENT AGENDA 7.1. b.

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Economic Development Advisory Board Minutes - 09242024

Presented by:

Subject:

Economic Development Advisory Board Minutes - 09242024

Attachments

EDAB Minutes 09242024

**PAGE ECONOMIC DEVELOPMENT ADVISORY BOARD
REGULAR MEETING MINUTES
September 24, 2024**

A Regular Meeting of the Economic Development Advisory Board was held at 5:30pm on, September 24, 2024, in the Council Chambers at City Hall in Page, Arizona. Members Kay Leum, Paul Meehan, Angie Crim, Vicki Alexander, Erik Stanfield, Ryan Palizzi, and City Council Liaison Richard Leightner were present. Sarah Slim was absent. Staff members Gregg Martinez, Economic Development Director, and Jackelyne Aguirre, Marketing Coordinator, were present.

Stanfield called the meeting to order at 5:30pm.

PRIORITY LIST

None.

MINUTES

Regular Meeting Minutes from August 20, 2024:

Leum motioned to approve the minutes. Meehan seconded the motion. The motion passed unanimously.

COMMUNICATIONS

1. Update provided by Judy Franz, Executive Director of Page-Lake Powell Chamber of Commerce:
Franz reported visitation numbers for the Hub in August 2024. The Hub acquired 2 new customer service employees. Franz received the Governor's Spirit Award for 2024 at the Arizona Governor's Conference on Tourism.
2. Update provided by Debbie Moses, Executive Director of Glen Canyon Conservancy:
Moses reported visitation numbers at various locations for August 2024. The board of directors at Glen Canyon Conservancy voted to close retail operations located in the Bureau of Land Management visitor centers in Utah and Colorado due to financial challenges. The museum is scheduled to close in November and open again in March.
3. Update provided by Jackelyne Aguirre, Marketing Coordinator:
Social media and website analytics for the City of Page and Visit Page were shared for August 2024.
4. Update provided by Gregg Martinez, Director of Economic Development:
Martinez reported on upcoming familiarizations tours sponsored by the City of Page and Arizona Office of Tourism. Mulligan's Pub and Patio was added to Google. Martinez provided an update on marketing campaigns and upcoming events.

HEAR FROM THE CITIZENS

None.

PUBLIC HEARING

None.

UNFINISHED BUSINESS

1. Affordable Housing and Potential Plan:
The board reviewed the City of Showlow's incentive policy for workforce housing. Martinez discussed the possibility of creating a similar policy for Page.
2. Discussion and possible action pertaining to "Lake Powell Boulevard Streetpark" proposal:
Stanfield provided an update on business owner sentiment regarding the proposal. The board discussed other possible locations for the proposal.

NEW BUSINESS

1. Discussion only pertaining to the introduction of Ryan Palizzi:
Palizzi introduced himself to the board.
2. Discussion and possible action pertaining to Genterra Enterprises and Coconino Community College Housing Project:
Rich Bowen from Genterra Enterprises presented planning phases and layout plans for development of student and workforce housing at Coconino Community College. Crim motioned to recommend Page City Council to support the development project moving forward to phase 1. Alexander seconded the motion. Leum abstained. The motion passed.
3. Discussion and possible action pertaining to a future hotel/resort near Highway 98:
No discussion.

ADJOURN

Meeting adjourned at 7:09pm.



Gregg Martinez
Economic Development



Erik Stanfield
Chair

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Youth Advisory Commission Minutes - 10212024

Presented by:

Subject:

Youth Advisory Commission Minutes - 10212024

Attachments

YAC Minutes 10212024

**PAGE YOUTH ADVISORY COMMISSION
REGULAR MEETING MINUTES
October 21, 2024**

A Regular Meeting of the Page Youth Advisory Commission was held at 4:00p.m. on October 21, 2024, in Coconino Community College in Page, Arizona. Chair Trystan Conley presided. Members Dante Thompson, Emma Mallavia, Mia Burton, and Miriam Lassen were present. Michaela Long and Lily Crim were absent. Council Liaison Mike Farrow and Commission Liaison Jackelyne Aguirre were present.

Chair Conley called the meeting to order at 4:00p.m.

MINUTES

1. Minutes from the regular Youth Advisory Commission meeting on September 16, 2024:
Conley motioned to approve the minutes. Burton seconded the motion. The motion passed unanimously.

COMMUNICATIONS

1. Update provided by DJ Lister, Event Manager:
The Event Manager was not present. No discussion.
2. Update provided by Youth Advisory Commission members:
Conley discussed the voter registration drive during National Night Out. The event was considered a success and 4 citizens were registered. Voting information was distributed at the event.

HEAR FROM THE CITIZENS

None.

PUBLIC HEARING

None.

UNFINISHED BUSINESS

None.

NEW BUSINESS

1. Discussion only pertaining to the introduction of Lily Crim:
Crim was not present. No discussion.
2. Discussion only pertaining to council member liaison job description:
The commission reviewed the description. No discussion.
3. Discussion and possible action pertaining to the removal of Michaela Long from the Youth Advisory Commission:
The commission discussed Long's consecutive absences and multiple failed contact attempts. Thompson motioned to remove Long from the Youth Advisory

Commission. Conley seconded the motion. The motion passed unanimously.

4. Discussion and possible action pertaining to rescheduling/canceling the regular Youth Advisory Commission meeting on December 16, 2024 due to a possible holiday conflict:
The commission discussed having a meeting before Unite to Light on December 6, 2024. Conley motioned to reschedule the December 16, 2024 meeting to December 2, 2024. Lassen seconded the motion. The motion passed unanimously.
5. Discussion and possible action pertaining to rescheduling the regular Youth Advisory Commission meeting on January 20, 2025 due to a holiday conflict:
Burton motioned to reschedule the meeting on January 20, 2025 to January 13, 2025. Lassen seconded the motion. The motion passed unanimously.
6. Discussion and possible action pertaining to rescheduling the regular Youth Advisory Commission meeting on February 17, 2025 due to a holiday conflict:
Thompson motioned to reschedule the meeting on February 17, 2025 to February 10, 2025. Burton seconded the motion. The motion passed unanimously.
7. Discussion and possible action pertaining to rescheduling the regular Youth Advisory Commission meeting on March 17, 2025, due to a school break conflict:
Thompson motioned to reschedule the meeting on March 17, 2025 to March 24, 2025. Lassen seconded the motion. The motion passed unanimously.
8. Discussion and possible action pertaining to the use of the PERA Club:
Each member discussed their ideal use of the PERA club. Farrow discussed coordinating a joint meeting with the Youth Advisory Commission, Parks and Recreation Advisory Board, Page Community Center, and Page Public Library at the PERA Club to discuss potential uses of the facility. Burton supported making the facility free for citizens to use. Payment alternatives were discussed such as accepting canned food donations for event/activity admission.
9. Discussion and possible action pertaining to the community service event Unite to Light:
No volunteers or recipients have registered for Unite to Light at the time of this meeting. Conley motioned to present Unite to Light to the public at the City Council meeting on November 13, 2024. Burton seconded the motion. The motion passed unanimously.
10. Discussion and possible action pertaining to volunteering during Christmas in the Park:
The Event Manager was not present. No discussion regarding volunteering at the event.

11. Discussion and possible action pertaining to a youth activity during Page's 50th anniversary:

Commission members were advised to present ideas for activities at the next meeting.

12. Discussion and possible action pertaining to Hub & Spoke Program - A Path Forward for recycling in Page:

JB Shaw the Recycling Coordinator for the Arizona Department of Environmental Quality presented the possibility of creating a recycling program in the City of Page. The board discussed a possible fee system, locations for the recycling plant, and how to staff the plant. Conley motioned to support bringing an ADEQ Hub & Spoke Program to the City of Page. Thompson seconded the motion. The motioned passed unanimously.

ADJOURN

The meeting was adjourned at 5:45p.m.

Jackelyne Aguirre

Chair Trystan Conley

REPORTS & ANNOUNCEMENTS 10.1. a.

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: General Election Turnout

Presented by:

Subject:

General Election Turnout

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Board Liaisons Report

Presented by:

Subject:

Reports on the most recent Board meetings by Board Liaisons (The most recent Board Agendas can be found on the City of Page website <https://cityofpage.org/government/public-meetings/>):

Planning and Zoning Commission - Councilor Steven Kidman

Page Utility Enterprises (PUE) Board - Vice Mayor Kocjan

Page Public Library Board - Councilor Michael Farrow

Substance Abuse Task Force - Councilor David Auge

Page Parks and Recreation Board - Councilor Kenna Hettinger

Page Public Safety Personnel Retirement Board - Mayor Diak

Economic Development Advisory Board - Councilor Richard Leightner

Youth Advisory Commission - As assigned

BOARDS & COMMISSIONS 11. 2.

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Youth Advisory Council

Presented by:

Subject:

Presentation of Unite to Light by the Youth Advisory Commission

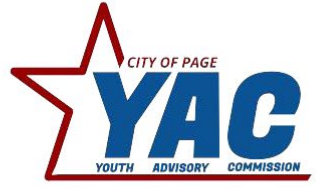
Attachments

Unite to Light Presentation

Unite to Light

PRESENTED BY:





What is Unite to Light?

We (The Page Youth Advisory Commission) believes in bringing the community together, what better way then spreading holiday spirit and joy by helping community members decorate for the holidays? the Youth Advisory Commission and volunteers will install exterior holiday lights and/or decor for community members who are in need of help decorating for the holidays.





Who do we do services for?

We will provide services for everyone, with a special focus on assisting seniors in our community who may have difficulty climbing ladders or roofs. We will be dedicated to helping them put up lights, inflatables, and other decorations safely and efficiently, ensuring they can enjoy the festive season without any hassle.



What do we need?

Donations of holiday lights, decor, hooks, stakes, and extension cords are accepted at City Hall.

Volunteers will be needed and greatly appreciated. Volunteers will help with transporting and installing lights and decor.

(Volunteer forms are available at the City of Page website under “Events”)



Questions/Comments/Concerns

We are open to your feedback. Please feel free to ask members of the Youth Advisory Commission that are present tonight questions, offer feedback and voice your concerns. Thank you for being a part of our presentation tonight.



Follow the QR for more information, volunteering, and service request.



Unite to Light



Need help decorating your home for the holidays?

The Page Youth Advisory Commission is offering free assistance to install exterior lights and/or decorations for community members who are in need of help decorating for the holidays.

Apply for assistance at events.cityofpage.org

Want to volunteer? Register at events.cityofpage.org





**CITY OF PAGE
REQUEST FOR COUNCIL ACTION**

UNFINISHED BUSINESS 12.1.

City Council Regular Agenda

Meeting Date: 11/13/2024
Brief Title: Ordinance 735-24 - Land Sale Trebol Hospitality
Presented by: Josh Smith, City Attorney
Department: City Attorney
Action: Ordinance

RECOMMENDED ACTION:

Clerk to introduce Ordinance 735-24 by title only

Move to adopt Ordinance 735-24

BACKGROUND:

This ordinance approves the contract for the land sale of approximately 142 acres of real property located on the south side of Highway 98, east of Coppermine Road in the City of Page for \$2.49MM. The intended use of the property is for a high-end resort. The Buyer has up to 18 months to close on the property and must commence construction of the resort within 5 years of closing.

ALTERNATIVES CONSIDERED:

N/A

ADVISORY BOARD / COMMISSION ACTION:

N/A

Fiscal Impact

Fiscal Year: unknown

Budget Impact:

\$2.49MM revenue.

Attachments

Ordinance

Exhibit 1 - Agreement

ORDINANCE NO. 735-24

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA, PERTAINING TO THE SALE BY NEGOTIATION OF REAL PROPERTY OWNED BY THE CITY OF PAGE; AND APPROVING THE AGREEMENT FOR THE PURCHASE OF REAL ESTATE.

WHEREAS, Section 32.036, Page City Code, provides that the City of Page may sell real property owned by the City of Page; and

WHEREAS, after appropriate publication of notice, Trebol Hospitality, LLC or assigns (hereinafter "Buyer") desires to purchase the real property described in the Agreement for Purchase of Real Estate, subject to the terms and conditions of said Agreement, for the sum of \$2,490,000.00; and

WHEREAS, A.R.S. § 9-802 allows a City to adopt a public record by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA, as follows:

Section 1. The Agreement for the Purchase of Real Estate attached hereto as Exhibit 1 and incorporated herein by reference, is hereby declared a public record. A minimum of one paper copy and one electronic copy of Exhibit 1 shall be maintained in compliance with A.R.S. § 44-7041 in the office of the City Clerk and shall be available for public inspection during normal business hours.

Section 2. The following described real property shall be sold to Buyer subject to the terms and conditions set forth in the Agreement for the Purchase of Real Estate, providing in part:

Description of property:

Approximately 142 acres of real property located on the south side of Highway 98, east of Coppermine Road in the City of Page, Coconino County, Arizona, more particularly described in Exhibit 1.

Sales Price:

The purchase price shall be \$2,490,000.00, plus Buyer shall also pay all costs including appraisal fees, escrow fees, title fees, recording fees, and seller's legal publication costs.

BE IT FURTHER ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE:

The terms and conditions of the attached Agreement for the Purchase of Real Estate are hereby approved and the Mayor is authorized to execute the Agreement and all necessary land sale documents.

This Ordinance is effective thirty (30) days from its adoption.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA this _____ day of November, 2024, by the following vote:

Ayes	_____
Nays	_____
Abstentions	_____
Absent	_____

CITY OF PAGE

By _____
Mayor

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

CITY ATTORNEY

**EXHIBIT ON FILE AT:
PAGE CITY CLERK'S OFFICE
697 VISTA AVE., PAGE, AZ**

AGREEMENT FOR THE PURCHASE OF REAL ESTATE

BY THIS AGREEMENT, the parties hereto declare, covenant and agree as follows:

1. Definitions.

The following terms are hereby defined for purposes of this Agreement and shall be given the stated meanings unless the context requires otherwise:

Seller: CITY OF PAGE
City Hall
P.O. Box 1180
Page, Arizona 86040
Telephone: (928) 645-8861

Buyer: TREBOL HOSPITALITY, LLC OR ASSIGNS

Telephone:

Escrow
Agent: PIONEER TITLE AGENCY, INC.
809 North Navajo
P. O. Box 508
Page, Arizona 86040
Telephone: (928) 645-0064

Date of this
Agreement: The _____ day of _____, 2024.

Property: Approximately 142 acres of real property located in the City of Page, Coconino County, Arizona, more particularly described in Exhibit A, incorporated herein by reference, together with all rights appurtenant thereto, if any, including without limitation all privileges, easements, licenses, appurtenances, and utility rights and permits.

Purchase
Price: The Purchase Price for the Property shall be Two Million Four Hundred Ninety Thousand Dollars and No Cents (\$2,490,000.00), plus Buyer shall also pay all costs including appraisal fees, escrow fees, title fees, recording fees, and Seller's legal publication costs incurred herein.

Closing

Date: The Closing Date shall be that date which is the latter of (a) the land sale ordinance becoming operative pursuant to A.R.S. § 19-142(B) (i.e. thirty (30) days after adoption of the land sale ordinance by City Council without referendum filing); (b) thirty (30) days after any required referendum vote approving this transaction; or (c) not later than sixty (60) days following satisfaction or waiver of the Conditions to Closing contained in Section 8. However, the Closing Date shall not extend beyond nine (9) months from the execution of this Agreement unless extended pursuant to the immediately following sentence. Buyer may extend the Closing Date for up to eighteen (18) months from the date of execution at Buyer's option by depositing additional earnest money as set forth in paragraph 3.2. The extended Closing Date shall not extend beyond eighteen (18) months from execution unless agreed to in writing by the parties. See, paragraph 10 for further provisions concerning the Closing Date and definition of "closing" and "close of escrow".

2. Purchase and Sale of Property. Subject to and upon the terms, provisions and conditions set forth herein, Seller agrees to sell and Buyer agrees to purchase the entire right, title and interest of Seller in and to the Property for the Purchase Price.

3. Purchase Price.

3.1 The Purchase Price shall be payable by Buyer in lawful currency of the United States.

3.2 Upon Buyer's execution hereof, Buyer shall deposit Twelve Thousand Five Hundred Dollars (\$12,500.00) with Escrow Agent as earnest money hereunder. If Buyer elects to extend the Closing Date for up to eighteen (18) months beyond the execution date of this Agreement as provided in Paragraph 1 above, Buyer shall, on or before the date that is nine (9) months following the execution date of this Agreement, deposit an additional Twelve Thousand Five Hundred Dollars (\$12,500.00) with Escrow Agent, as earnest money hereunder, for a total of Twenty Five Thousand Dollars (\$25,000.00). All earnest money deposited shall be credited at the Closing Date toward the Purchase Price.

3.3 On or before the Closing Date, and subject to any credits or apportionments as provided for herein, simultaneously with delivery of the deed, Buyer shall tender to Seller the balance of the Purchase Price.

3.4 The funds deposited pursuant to Paragraph 3.2, above, shall be invested by Escrow Agent with a federally insured commercial bank or savings institution in such savings accounts, certificates of deposit or similar investments as Buyer shall direct from time to time, provided that any and all such funds be available and disbursed when required by the terms of this Agreement. All earnings on such invested funds shall be paid to the party entitled hereunder to receive the principal of such funds, and, upon payment to Seller, shall be credited towards the Purchase Price.

4. Information/Delivery Items.

4.1 Title Commitment: Within thirty (30) days of the date of this Agreement, Seller shall provide Buyer with a commitment for title insurance from a title insurance company authorized and licensed to do business in the state where the Property is located, together with true, legible, and complete copies of any instruments referred to therein (collectively, the "Title Commitment").

4.2 Entry on Property: At all times prior to the Closing Date, Buyer and its authorized representatives and agents shall have access to the Property for the purpose of making such examinations, test investigations, surveys, inquiries or other inspections including, but not limited to, hydrological, topographical, traffic and engineering studies and reports, tests, borings and analysis of the soils and water (including subsurface conditions), investigation of the availability and quality of access, utilities, water and sewer to the Property, and to otherwise inspect the general condition of the Property as may be necessary to satisfy Buyer that the Property is suitable for Buyer's intended development. The cost of all such examinations or investigations is the responsibility of Buyer. Buyer shall indemnify and hold Seller harmless from and against any and all loss, cost, damage, injury, or expense arising out of or related to claims of injury to persons or property, or claims of lien for work or labor performed, or materials or supplies furnished as a result of the exercise of Buyer's right of entry hereunder, except to the extent such loss, cost, damage, injury, or expense is caused by or results from (a) any acts or omissions of Seller; (b) Seller's negligence; and/or (c) any preexisting, dangerous, illegal, or defective condition at the Property.

4.3 Licenses and Permits; Additional Property Materials: Seller shall, within ten (10) days of the date of this Agreement, deliver to Buyer true and correct copies of all presently existing licenses, permits, certificates of occupancy and other documents issued by any governmental or nongovernmental entity to the Seller necessary for the use of the Property for its present uses. To the extent such materials are within Seller's possession or control, Seller shall, within ten (10) days of the date of this Agreement, provide Buyer with true and correct copies of all site plans, inspections, environmental or hazardous material reports, soils reports, zoning information, tax information, and other similar materials relating to the physical and environmental condition of the Property, and any other documents relating to the Property reasonably requested by Buyer.

5. Contingencies.

5.1 Buyer's obligation to consummate the purchase of the Property and to close escrow is conditioned upon the acceptance or waiver (subject to the provisions set forth below) of the Title Commitment. Buyer must provide written notice to Seller within ninety (90) days of Buyer's receipt of the Title Commitment of any discrepancy or disapproval. Buyer shall permit Seller an additional forty-five (45) day period to cure Buyer's objections, whereupon Seller shall undertake in good faith and utilize its best efforts to take all action necessary to cure same. If Buyer's objections are not cured to Buyer's satisfaction prior to expiration of the period permitted by this paragraph, Buyer may either (a) cancel and

terminate this Agreement or (b) waive any remaining objections and approve the condition of title to the Property as then existing. If Escrow Agent issues any amended Title Commitment, Buyer shall have a period of twenty (20) days after receipt of the same to object to any matter not appearing in prior versions of the Title Commitment and shall have the same options as provided above with respect to objections to the original version of the Title Commitment. Seller shall use its best efforts to cure any objections Buyer has with respect to the condition of title.

5.2 It is acknowledged that the contingencies set forth in Paragraph 5.1 are for the exclusive benefit of Buyer, and Buyer may elect to waive any such contingency reserved for its benefit and proceed to consummate the transaction contemplated hereby, unless this Agreement has been terminated according to the terms hereof. Any such waiver shall be executed in writing and deposited with Escrow Agent or Seller.

5.3 If all of the contingencies set forth in paragraph 5.1 have not been satisfied or waived in writing within the period provided in paragraph 5.1, this Agreement may be terminated by Buyer, and the earnest money shall be returned to Buyer and the parties shall have no further obligation hereunder.

6. Obligations, Representations and Warranties.

6.1 Seller hereby agrees to diligently undertake the performance of all obligations of Seller contained in this paragraph and makes the representations and warranties set forth herein:

(a) Seller will comply with all provisions of Paragraph 4, above;

(b) Prior to the Closing Date, assuming all necessary governmental approvals have been obtained and all terms of this Agreement have been fulfilled, Seller shall deposit with Escrow Agent a Deed and related Affidavit of Real Property Value (if needed), duly executed by Seller in proper form for recording, together with all other documents reasonably necessary or otherwise required by Escrow Agent to consummate the conveyance of the Property as contemplated by this Agreement;

(c) All risk of loss is Seller's until the Property is conveyed to Buyer in accordance herewith. In the event of material loss or damage to the Property, or in the event of a taking by condemnation or eminent domain (or written threat thereof), Buyer may cancel and terminate this Agreement and receive a refund of all earnest money deposited;

(d) No default or breach exists under any covenant, condition, restriction, right-of-way or easement affecting the Property, or any portion thereof, which is to be performed or complied with by the owner of the Property, and Seller has no knowledge of any fact or condition which would constitute such default or breach;

(e) No actions, suits, proceedings or investigations are pending or, to the knowledge of Seller, threatened against or relating to the Property in any court or before any governmental department or agency, and Seller has no knowledge of any basis for any such action, suit, proceeding or investigation;

(f) No person, firm, or other entity has any right or option to acquire the Property or any portion thereof or any interest therein, superior to the rights of Buyer herein, and Seller will take no action prior to the close of escrow hereunder which will adversely affect the rights of Buyer hereunder or adversely affect the ability of Seller to perform hereunder, provided, however, Seller and Buyer understand that the effectiveness of this Agreement may be determined by a referendum vote, provisions of the Page City Code pertaining to land sales, and subject to the provisions of Paragraph 8.4;

(g) The Property will be conveyed and exclusive possession thereof delivered by Seller to Buyer at the close of escrow in the same condition it is in as of the date of Buyer's execution of this Agreement, natural wear and tear and Buyer's testing excepted;

(h) There are not, and shall not be at closing, any leases or rental agreements affecting the Property, not previously disclosed in writing, or any rights of possession thereof;

(i) No work has been performed or is in progress at, and no materials have been furnished to, the Property or any portion thereof which, though not currently the subject of a lien, might give rise to mechanics', materialmens' or other liens against Seller's interest in the Property or any portion thereof or any improvements hereafter erected thereon;

(j) Seller has not placed any, and to Seller's knowledge, there are no Hazardous Materials installed, stored in, or otherwise existing at, on, in or under the Property in violation of any Environmental Laws. "Hazardous Materials" means "Hazardous Material," "Hazardous Substance," "Pollutant or Contaminant," and "Petroleum" and "Natural Gas Liquids," as those terms are defined or used in the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), and any other substances regulated because of their effect or potential effect on public health and the environment, including PCBs, lead paint, asbestos, urea formaldehyde, radioactive materials, putrescible materials, and infectious materials. "Environmental Laws" means, without limitation, the Resource Conservation and Recover Act and CERCLA, and other federal, state, county, municipal, and other local laws governing or relating to Hazardous Materials or the environment together with their implementing regulations, ordinances, and guidelines;

The representations of Seller contained herein are and will be true and correct as of the Closing Date, and Seller will have duly performed all of the covenants, agreements and conditions required by this Agreement to be performed, observed and complied with

by Seller in order to consummate the transaction contemplated hereby on or before the Closing Date. Seller covenants that it will advise Buyer, in writing, on or before the Closing Date, of any change in any representation or warranty set forth in this paragraph. In the event of any material or substantive change in the representations or warranties prior to the close of escrow, Buyer, in addition to all other rights and remedies, shall be entitled to terminate this Agreement and receive a refund of all earnest money deposits pursuant hereto. The representations and warranties of Seller set forth in this Paragraph 6.1 shall survive the Closing.

6.2 Buyer hereby represents and warrants that Buyer will have performed, observed, and complied with all of the covenants, agreements and conditions required by this Agreement to be performed, observed and complied with by Buyer including, without limitation, payment of all funds required to be paid by Buyer on or before the Closing Date, and will execute and deliver all documents required to be executed and delivered by Buyer in order to consummate the transaction contemplated hereby on or before the Closing Date.

6.3 Buyer acknowledges and agrees that, except for the express representations and warranties set forth herein, Buyer is purchasing the Property in "As-Is" condition without expressed or implied warranties of any kind, and that Buyer is relying wholly on Buyer's own judgment with respect to the suitability and condition of the Property.

7. Conditions of Sale.

7.1 Seller makes no representation or warranty with respect to access to and from adjoining streets.

7.2 Buyer acknowledges that all required on and off-site improvements to the Property shall be made by the Buyer and at Buyer's sole expense including, but not limited to, the costs of extending infrastructure (e.g., roadway, water, sewer, electric, telephone, and cable).

7.3 Buyer acknowledges that it is familiar with and understands that the Property is subject to use and development restrictions imposed by the City of Page General Plan, the General Development and Subdivision Regulations, City of Page Zoning Ordinance, the Gateway Area Specific Development Plan, City of Page adopted building codes, and other applicable state and federal laws.

7.4 The parties acknowledge Property contains mountain bike/hiking trails developed by Seller that were funded at least in part with grant funding. Prior to Closing, Seller and Buyer will agree upon a form of development agreement (the "Trail Construction Agreement") concerning the development by Buyer of mountain bike/hiking trails at least equal to the linear footage of the trails currently located on the Property in an off-site location to be mutually agreed upon by the parties. Buyer shall be responsible for all costs associated with the design and preparation of plans for such trails and shall

submit professionally designed trail plans for approval by Seller, which approval shall not be unreasonably withheld, conditioned, or delayed. The Trail Construction Agreement will incorporate completion benchmarks regarding construction of the trails, and will include escrow provisions whereby Buyer shall deposit in escrow in advance of closing the funds necessary to construct the trails based upon an engineer's estimate of cost to construct same. Buyer shall be solely responsible to pay any difference between the estimate and the actual costs of construction. Any excess funds will likewise be returned to Buyer. The parties agree to negotiate in good faith to agree on a final form of the Trail Construction Agreement.

8. Conditions to Closing.

8.1 Buyer's purchase of the Property and closing of the transaction contemplated hereby is conditioned upon and subject to:

- (a) Satisfaction or waiver of all contingencies set forth in Paragraph 5.1.
- (b) Performance of all obligations of Seller set forth in Paragraph 6.1.
- (c) Buyer shall have obtained financing commitments sufficient to accomplish the construction of the project and related infrastructure and that such funds shall be, effective as of closing, committed for such purpose, including any and all construction loans; Buyer shall have provided evidence to Seller of committed equity capital and committed construction debt.
- (d) Issuance by Pioneer Title or the licensed insurer for which it is agent to or for the benefit of Buyer of an owner's title insurance policy showing fee simple title to the Property in Buyer subject only to those printed exceptions customarily contained in such policies and those encumbrances, restrictions, reservations, exceptions, stipulations, conditions and requirements approved by Buyer pursuant to Paragraph 5.1.
- (e) Buyer, at Buyer's sole expense, shall have applied for and obtained all necessary approvals for the development of a hotel/resort. City shall have taken final action to approve all of the entitlements required for Buyer's construction of the resort, subject only to terms and conditions reasonably satisfactory to Buyer. All of the entitlements shall have become final and non-appealable, and all of the entitlements shall remain in full force and effect as of the closing in accordance with their respective terms.

The foregoing conditions are solely for the benefit of Buyer. At any time or times on or before the date for the satisfaction or waiver of each condition, at Buyer's election in its sole and absolute discretion, Buyer may waive any of the foregoing conditions by written notice to Seller. In the event any of the foregoing conditions or other conditions to this Agreement which are for the benefit of Buyer are neither fulfilled nor waived in writing by Buyer prior to the Closing Date, Buyer, at its election in its sole and absolute discretion, by written notice to Seller, may terminate this Agreement, receive Buyer's earnest money

less Seller's publication costs, and be released from all obligations under this Agreement except to the extent such obligations expressly survive termination of this Agreement.

8.2 Seller's obligation to sell the Property shall be conditioned expressly upon the fulfillment to Seller's satisfaction (as determined by Seller in its sole and absolute discretion) of each of the following conditions precedent within the time periods specified in this Agreement:

(a) Performance of all obligations of the Buyer set forth in Paragraph 6.2.

(b) Satisfaction of any city ordinance pertaining to this transaction including, without limitation, an approval by the voters of the City of Page pursuant to any referendum vote required to approve this transaction.

(c) If required by applicable regulations, Buyer shall submit and obtain an approved final plat for the subdivision of the Property. All costs to obtain said approvals shall be borne by Buyer, however Buyer shall not be required to reimburse the City for any time spent by internal City staff or counsel other than as set forth in the City's fee schedule.

(d) Buyer shall have provided evidence reasonably satisfactory to Seller that Buyer has obtained financing commitments sufficient to accomplish the construction of the project and related infrastructure and that such funds shall be, effective as of closing, committed for such purpose. In this regard, it is understood that Buyer will require Seller's approval of Seller's Closing Condition prior to Buyer's closing of its loan for construction of the improvements. Seller's approval of Buyer's evidence of financing shall not be unreasonably withheld or conditioned. Seller agrees to approve or disapprove Buyer's evidence of financing within twenty (20) days after Buyer's submittal of same. Any disapproval shall be in writing and shall state the reasons for disapproval and the required changes to obtain such approval. Upon receipt of a disapproval by Seller Buyer shall resubmit its evidence of financing and Seller agrees to approve or disapprove Buyer's revised/amended submittal within fifteen (15) days after Buyer's submittal.

(e) Intentionally deleted.

(f) Intentionally deleted.

The foregoing conditions are solely for the benefit of Seller. At any time or times on or before the date for the satisfaction or waiver of each condition, at Seller's election in its sole and absolute discretion, Seller may waive any of the foregoing conditions by written notice to Buyer. In the event any of the foregoing conditions or other conditions to this Agreement which are for the benefit of Seller are neither fulfilled nor waived in writing by Seller within the time provided in this Agreement, Seller, at its election in its sole and absolute discretion, by written notice to Buyer, may terminate this Agreement and be released from all obligations under this Agreement except to the extent such obligations

expressly survive termination of this Agreement. In the event of termination pursuant to this Paragraph 8.2, the earnest money shall be returned to Buyer.

8.3 Each party shall exercise commercially reasonable diligence in an effort to satisfy the Closing Conditions as expeditiously as possible after the date of this Agreement. Each party shall cooperate with the other party in the other party's efforts with respect to the satisfaction of the conditions.

8.4 The parties acknowledge and agree that Seller has executed this Agreement in its proprietary capacity as owner of the Property, and that nothing in this Agreement binds or otherwise obligates the City of Page in the exercise of its regulatory authority. Specifically, and without limiting the foregoing, nothing in this Agreement obligates the Page Planning Commission or the Page City Council to approve any development plans or other requests, or obligates City staff as to their analyses, reports, recommendations or any other staff functions or duties relating to the proposed project.

9. Failure to Close/Earnest Money.

9.1 In the event Buyer terminates this Agreement as elsewhere expressly authorized, all earnest money deposited hereunder shall be returned to Buyer less publication costs incurred by Seller, and this Agreement shall thereupon be deemed void and of no further force or effect.

9.2 In the event Seller is unable to satisfy its obligations hereunder, through no fault of Seller, the sole remedy of Buyer is the return of earnest money deposited hereunder, in which event this Agreement and the escrow established hereby shall be terminated and the parties shall be released from further liability to each other hereunder, except for those obligations that are expressly stated to survive termination of this Agreement. In such event any earnings gained on the earnest money deposit, as provided under Paragraph 3.4, shall be delivered to Buyer. In the event Seller refuses or fails, without legal excuse, to satisfy its obligations hereunder, Buyer may elect to either: (a) terminate this Agreement and receive a refund of the earnest money deposit and any accrued interest thereon, in which event neither party shall have any further rights or obligations hereunder except for those that are expressly stated to survive the termination of this Agreement; (b) enforce specific performance of this Agreement or, if the remedy of specific performance is not available, bring an action against Seller for all actual damages incurred by Buyer; or (c) waive the applicable objection or condition and proceed to close the transaction contemplated hereby in accordance with the remaining terms hereof.

9.3 In the event all contingencies or conditions to closing reserved for Seller's benefit have been satisfied or waived and Seller has tendered complete performance on or before the Closing Date, and Buyer is not entitled to terminate this Agreement, but Buyer nevertheless refuses or fails to close the transaction contemplated hereby in accordance with the terms of this Agreement, then Seller shall make a written demand of

Buyer to perform and close this Agreement. If Buyer does not do so within five (5) days after receipt of such demand (such event, "Buyer's Default"), then Seller's sole and exclusive remedy shall be to retain the earnest money and any accrued interest thereon, as and for full and complete liquidated and agreed damages for Buyer's Default, and the parties shall be released from further liability to each other hereunder, except for those obligations that are expressly stated to survive termination of this Agreement. SELLER AND BUYER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH SELLER MAY SUFFER UPON BUYER'S DEFAULT AND THAT THE EARNEST MONEY DEPOSIT REPRESENTS A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT THAT SELLER WOULD SUFFER UPON BUYER'S DEFAULT.

10. Closing Date.

Buyer and Seller shall pay all monies, execute and deposit all documents, and complete all other obligations required hereunder in order to consummate the purchase and sale of the Property on or before the Closing Date. On, or as soon as practical following the Closing Date, Escrow Agent shall record all necessary documents and otherwise accomplish the provisions hereof so as to close the transaction contemplated hereby (herein sometimes referred to alternatively as the "closing" or "close of escrow").

11. Taxes, Assessments, Prorations.

11.1 All real estate taxes, interest, utilities, rents, and/or insurance premiums, if any, relating to the Property shall be prorated as of the date of closing. All assessments, if any, shall be paid in full by Seller at the Closing Date. Real estate taxes shall be calculated on the basis of the latest figures prepared by the governmental authority responsible for assessing the Property based on the most recent tax rate as then determined. If the taxes for the current year are later determined to be different than those upon which proration was based, Seller and Buyer shall adjust the difference outside of escrow based upon the actual figures. All monthly prorating shall be made on the basis of a thirty (30) day month.

11.2 All appraisal costs, survey fees, escrow fees, and recording fees shall be paid by Buyer. Buyer shall pay all fees and premiums with respect to issuance of preliminary title reports, title insurance commitments and the owner's title insurance policy to be issued to Buyer, all as provided herein.

12. Nomination.

Buyer may assign its rights under the Purchase Agreement provided that: (a) any assignee shall assume all of Buyer's obligations hereunder and succeed to all of Buyer's rights and remedies hereunder; and (b) Buyer shall deliver written notice to Seller of the assignment and assumption prior to the Closing. If an assignee assumes all of Buyer's obligations under this Agreement in writing, then upon the effective date of the

assignment of this Agreement to such assignee, Buyer will be released from all obligations hereunder.

13. Escrow Instructions.

13.1 Buyer and Seller hereby employ Escrow Agent to act as their escrow agent in connection with the purchase and sale agreed to herein on the terms set forth herein.

13.2 Seller and Buyer will each pay Escrow Agent upon demand all charges payable by them respectively as provided herein, if any.

13.3 In the event of a breach of this Agreement or non-compliance with the terms herein, Buyer and Seller authorize Escrow Agent to hold any money and documents deposited hereunder until an action shall be brought in a court of competent jurisdiction to determine the rights of Seller and Buyer, or to interplead said parties by an action brought in any such court.

13.4 Seller and Buyer will indemnify and save harmless Escrow Agent against all costs, damages, attorneys' fees, expenses and liabilities which it may incur or sustain in connection with these instructions or the escrow or any court action arising therefrom and will pay the same upon demand; provided, however, that this paragraph shall not apply with respect to such matters resulting from Escrow Agent's negligence, omission, error, or intentional wrong-doing.

13.5 Seller and Buyer direct that all money payable hereunder be paid to Escrow Agent. Disbursement of any funds may be made by check of Escrow Agent.

13.6 Seller and Buyer agree that the employment of Escrow Agent shall not affect any rights of subrogation under the terms of any title insurance policy issued pursuant to the provisions hereof.

13.7 If disbursement is made to other than the parties hereto by reason of death, insolvency, bankruptcy, dissolution of Seller or by reason of any legal proceedings, Escrow Agent shall be paid such reasonable fees as Escrow Agent shall establish.

13.9 The word "charges" as used herein refers to all charges and advances made and obligations incurred by Escrow Agent in connection herewith and all charges of Escrow Agent in connection with the issuance of its title insurance policy.

13.10 The day provided herein within which compliance with any requirement must be met shall end at the close of the then regularly-established public business hours of Escrow Agent for such day.

14. Miscellaneous.

14.1 Any notice to be given by Buyer or Seller shall be given in writing and delivered in person to Buyer or Seller, or forwarded by certified or registered mail, postage prepaid, at the address indicated in Paragraph 1 hereof, unless the party giving any such notice has been notified, in writing, of a change of address. Any such notice shall be effective three (3) days after postmark, if mailed, or upon receipt, if delivered.

14.2 This Agreement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations and understandings are superseded hereby and merged into this Agreement. No party shall be liable or bound to any other person hereto in any manner by any agreement, warranty, representation or guarantee, except as specifically set forth herein or in any instrument executed pursuant hereto, nor shall this Agreement create or confer any benefit with rights or provide to third parties any claim or right of action under this Agreement.

14.3 In the event any party hereto shall employ legal counsel to bring an action at law or other proceeding against any other party to enforce any of the terms, covenants or conditions hereof, the party prevailing in any such action or other proceeding shall be paid all reasonable attorneys' fees and costs incurred by the other party, as determined by the court and not the jury, and in the event any judgment is secured by such prevailing party, all such attorneys' fees and costs shall be included in the judgment.

14.4 If any term or provision of this Agreement is determined to be invalid, such invalid term or provision shall not affect or impair the remainder of this Agreement, but such remainder shall continue in full force and effect to the same extent as though the invalid term or provision were not contained herein.

14.5 Time is of the essence of this Agreement. Except as herein otherwise provided, this Agreement and all of the terms and provisions hereof shall inure to the benefit of and be binding upon the heirs, executors, personal representatives, successors and assigns of the parties hereto.

14.6 The parties hereto agree to execute, acknowledge and deliver such other documents and instruments as may be reasonably necessary or appropriate to carry out the full intent and purpose of this Agreement.

14.7 If a date provided herein within which any requirement must be met shall fall on a Saturday, Sunday or date on which Escrow Agent, state, county or governmental offices are closed, or date on which the banks in Arizona are generally closed, then the date of compliance shall be extended through the next date when none of the above is applicable.

14.8 For the convenience of the parties, this Agreement may be executed in one or more counterparts, each of which may be executed by one or more of the parties hereto, with the same force and effect as though all parties executing such counterparts had executed but one instrument.

14.9 The date of this Agreement shall be the date a fully executed copy hereof is deposited with Escrow Agent, which date Escrow Agent shall insert on the first page hereof.

14.10 This Agreement and the rights of the parties hereto shall be governed and construed in accordance with the laws of the State of Arizona with venue in Coconino County.

15. Conflict of Interest.

The City may, within three years after the execution of this agreement, cancel this agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this agreement on behalf of the City is or was, at any time while the agreement or any extension of the agreement is in effect, an employee or agent of any other party to the agreement in any capacity or a consultant to any other party of the agreement with respect to the subject matter of the agreement. See, A.R.S. §38-501 et seq., pertaining to Conflict of Interest of Officers and Employees.

16. Repurchase Right.

If Buyer (a) closes on the Purchase of the Property; and (2) fails to obtain sitewide drainage and grading permits, including permits for the construction of underground utilities, and commence construction activities pursuant to those permits within five (5) years of the date of closing; and (3) fails to expend more than One Million Dollars (\$1,000,000.00) in soft and hard pursuit costs for the development of the Property within five (5) years of the date of closing, then City may re-purchase the Property from Buyer for the amount that Buyer paid to the City at closing for the purchase of the Property (the "Repurchase Option"). The City may exercise its Repurchase Option upon the expiration of five (5) years after the closing date so long as each of the foregoing conditions have been met. Buyer agrees that it shall cooperate in execution a deed conveying the Property back to the City if the City properly exercises its Repurchase Right.

[Signature Page Follows]

SELLER:
CITY OF PAGE

BUYER:
TREBOL HOSPITALITY, LLC

By: _____
Mayor

By: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**APPROVED AND ACCEPTED WITH RESPECT TO THE PROVISIONS DEALING
WITH THE ESCROW AGENT.**

Pioneer Title Agency, Inc.

BY: _____

RECORD OF SURVEY

A PORTION OF A.P.N. 802-20-005A

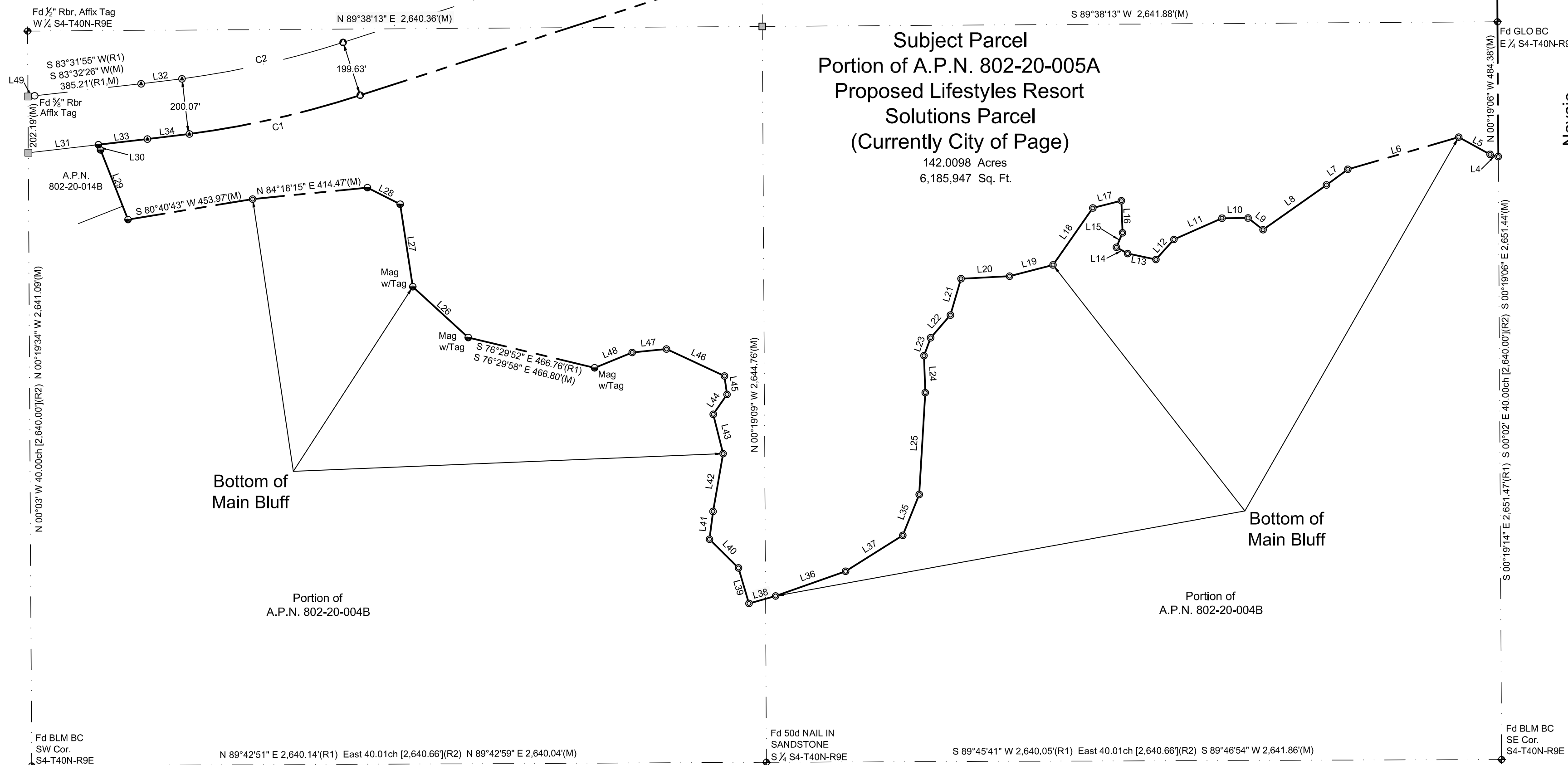
LOCATED IN SECTION 4, T40N, R9W, OF THE
G&SRM, COCONINO COUNTY, ARIZONA

LEGAL DESCRIPTION

All that portion of land lying in Section 4, Township 40 North, Range 9 West, of the Gila and Salt River Meridian, Coconino County, Arizona, more particularly described as follows:

COMMENCING at the found BLM brass cap monument at the northeast corner of said Section 4, from which a found GLO brass cap monument at the east quarter corner of said Section 4 bears South 00° 18' 18" East, a distance of 2633.03 feet;

Thence South 00° 18' 18" East, along the east line of the northeast quarter of said Section 4, a distance of 1578.77 feet to the POINT OF BEGINNING;
Thence continuing South 00° 18' 18" East, a distance of 1054.26 feet to the east quarter corner of said Section 4;
Thence South 00° 19' 06" East, along the east line of the southeast quarter of said Section 4, a distance of 484.38 feet;
Thence North 75° 06' 10" West, a distance of 30.59 feet;
Thence North 61° 10' 02" West, a distance of 128.33 feet;
Thence South 73° 49' 39" West, a distance of 415.10 feet;
Thence South 53° 43' 43" West, a distance of 95.20 feet;
Thence South 54° 45' 53" West, a distance of 278.72 feet;
Thence North 51° 58' 19" West, a distance of 68.32 feet;
Thence South 89° 35' 50" West, a distance of 93.81 feet;
Thence South 66° 08' 03" West, a distance of 188.84 feet;
Thence South 41° 59' 04" West, a distance of 96.81 feet;
Thence North 78° 15' 45" West, a distance of 103.97 feet;
Thence North 60° 40' 48" West, a distance of 46.03 feet;
Thence North 22° 50' 37" East, a distance of 56.53 feet;
Thence North 02° 01' 07" West, a distance of 115.43 feet;
Thence South 75° 39' 36" West, a distance of 105.92 feet;
Thence South 34° 59' 39" West, a distance of 249.63 feet;
Thence South 75° 26' 22" West, a distance of 161.17 feet;
Thence South 87° 02' 19" West, a distance of 174.64 feet;
Thence South 16° 13' 38" West, a distance of 136.26 feet;
Thence South 41° 14' 51" West, a distance of 108.25 feet;
Thence South 20° 08' 00" West, a distance of 68.67 feet;
Thence South 01° 52' 22" East, a distance of 132.92 feet;
Thence South 03° 21' 10" West, a distance of 366.62 feet;
Thence South 21° 56' 34" West, a distance of 158.45 feet;
Thence South 57° 54' 48" West, a distance of 242.75 feet;
Thence South 70° 30' 07" West, a distance of 266.37 feet;
Thence South 74° 23' 00" West, a distance of 99.54 feet;
Thence North 16° 29' 56" West, a distance of 133.15 feet;
Thence North 45° 19' 07" West, a distance of 146.64 feet;
Thence North 07° 18' 25" East, a distance of 100.79 feet;
Thence North 09° 53' 26" East, a distance of 210.83 feet;
Thence North 14° 01' 52" West, a distance of 145.60 feet;
Thence North 34° 36' 46" East, a distance of 87.03 feet;
Thence North 07° 55' 30" West, a distance of 66.90 feet;
Thence North 65° 07' 25" West, a distance of 229.79 feet;
Thence South 84° 16' 22" West, a distance of 123.73 feet;
Thence South 67° 52' 11" West, a distance of 145.86 feet;
Thence North 76° 29' 58" West, a distance of 466.80 feet;
Thence North 47° 31' 29" West, a distance of 270.31 feet;
Thence North 08° 40' 15" West, a distance of 299.71 feet;
Thence North 63° 08' 17" West, a distance of 132.09 feet;
Thence South 84° 16' 15" West, a distance of 414.47 feet;
Thence South 80° 40' 43" West, a distance of 453.97 feet;
Thence North 21° 31' 21" West, a distance of 268.93 feet;
Thence North 21° 55' 30" West, a distance of 20.30 feet to a point on the south right of way line of State Route 98;
Thence North 83° 23' 28" East, along said south right of way line, a distance of 177.19 feet;
Thence North 83° 09' 01" East, along said south right of way line, a distance of 152.13 feet;
Thence along a non-tangent curve, along said south right of way line, concave to the northwest, having a radius of 3518.60 feet, a central angle of 10° 15' 42.9", an arc length of 630.20 feet, a chord bearing of North 77° 13' 41" East, and a chord length of 829.35 feet;
Thence North 72° 05' 50" East, along said south right of way line, a distance of 4288.72 feet to the POINT OF BEGINNING.





**CITY OF PAGE
REQUEST FOR COUNCIL ACTION**

UNFINISHED BUSINESS 12. 2.

City Council Regular Agenda

Meeting Date: 11/13/2024
Brief Title: Colt Springs Subdivision City Improvements Bid Award Process
Presented by: Josh Smith, City Attorney
Department: City Attorney
Action: Motion

RECOMMENDED ACTION:

Move to authorize the City Manager to award the bid and sign the contract for street, curb, gutter and sidewalk improvements in the Colt Springs Subdivision in an amount not to exceed \$600k.

BACKGROUND:

As directed by Council, staff has published a bid for street, curb, gutter and sidewalk infrastructure in the Colt Springs Subdivision. The bids are due on December 5, and it is expected that construction activities in the subdivision will begin by early December. The Council is not scheduled to meet again until January and there is concern that this delay could have negative impacts on development scheduling and costs. Because Council has already given direction on the "not to exceed" amount that the City will spend on infrastructure costs, staff is requesting that the Council authorize the City Manager to award the bid/contract in early December so that the project can stay on schedule.

ALTERNATIVES CONSIDERED:

N/A

ADVISORY BOARD / COMMISSION ACTION:

N/A

Fiscal Impact

Fiscal Year: 24-25

Budget Impact:

Up to \$600k.



**CITY OF PAGE
REQUEST FOR COUNCIL ACTION**

NEW BUSINESS 13.1.

City Council Regular Agenda

Meeting Date: 11/13/2024
Brief Title: Proclamation - US Marine Corps 249th Anniversary
Presented by: Bill Diak, Mayor
Department: City Clerk
Action: Motion

RECOMMENDED ACTION:

Move to approve the Proclamation for the US Marine Corps 249th Anniversary

BACKGROUND:

N/A

ALTERNATIVES CONSIDERED:

N/A

ADVISORY BOARD / COMMISSION ACTION:

N/A

Attachments

US Marine Corps Proclamation

Proclamation

United States Marine Corps 249th Anniversary

Recognizing the 249th birthday of the United States Marine Corps

WHEREAS, on November 10, 1775, a resolution of the Continental Congress created a Corps of Marines to be formed of men so acquainted with maritime affairs as to be able to serve to advantage by sea on vessels of the Continental Navy; and

WHEREAS, the record of the Marine Corps is one which will bear comparison with that of the most famous military organizations of the world's history; and

WHEREAS, it is fitting and appropriate that we recognize and remember the birth of the Marine Corps in which Marines have acquitted themselves with the greatest distinction, winning new honors in every battle and skirmish until the term "Marine" has come to signify all that is highest in military efficiency, soldierly virtue, and the cause of freedom; and

WHEREAS, the Marine Corps has been a component of the U.S. Department of the Navy since June 30, 1834, working closely with naval forces.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Page, Arizona, do hereby recognize the historic significance of the 249th anniversary of the United States Marine Corps.

Dated this 23rd day of October 2024.

William R. Diak, Mayor

ATTEST:

Cindy Scott, City Clerk





**CITY OF PAGE
REQUEST FOR COUNCIL ACTION**

NEW BUSINESS 13.2.

City Council Regular Agenda

Meeting Date: 11/13/2024

Brief Title: Proclamation - AZ Law Enforcement Records Managers

Presented by: Bill Diak, Mayor

Department: City Clerk

Action: Motion

RECOMMENDED ACTION:

Move to approve the Proclamation for Arizona Law Enforcement Records Managers

BACKGROUND:

N/A

ALTERNATIVES CONSIDERED:

N/A

ADVISORY BOARD / COMMISSION ACTION:

N/A

Attachments

AZ Law Enforcement Proclamation

PROCLAMATION

Arizona Law Enforcement Records Managers Association

WHEREAS, law enforcement agencies throughout the State depend on law enforcement Records personnel to provide them with vital services; and

WHEREAS, law enforcement Records personnel provide the professional link between citizens, the local governing bodies and agencies of government at other levels; and

WHEREAS, law enforcement Records personnel are crucial to helping law enforcement agencies identify, pursue, capture, and process suspected law violators; and

WHEREAS, these professionals continually use their expertise and experience to assist in maintaining accurate criminal history on a state and national level; and

WHEREAS, it is important to recognize Arizona's law enforcement Records personnel for their valuable contributions to our law enforcement system.

NOW THEREFORE, the Mayor and the City Council of the City of Page do hereby proclaim Thursday, November 7th, 2024, as "Law Enforcement Records Personnel Appreciation Day."

Dated this 13th day of November 2024

William R. Diak, Mayor

Attest:

Cindy Scott, City Clerk





**CITY OF PAGE
REQUEST FOR COUNCIL ACTION**

NEW BUSINESS 13.3.

City Council Regular Agenda

Meeting Date: 11/13/2024

Brief Title: Resolution 1326-24 to Approving Participation in Arizona Employers' Pension Prefunding Plan and PARS Trust

Presented by: Darren Coldwell, City Manager

Department: City Manager

Action: Resolution

RECOMMENDED ACTION:

Clerk to introduce Resolution 1326-24 by title only.

Staff recommends "a motion to approve the ordinance to accept the Public Agency Retirement Services for the retirement funds of the Fire & Police Departments."

BACKGROUND:

PARS allows the city to place funds in an interest-bearing account to guarantee payment of SPRS, the emergency service retirement fund. This will ensure that funds are always available to pay for emergency services. The City of Page fell drastically behind on this fund in past years. PARS will ensure that doesn't happen again. This fund was budgeted for the 2024/25 fiscal year.

ALTERNATIVES CONSIDERED:

N/A

ADVISORY BOARD / COMMISSION ACTION:

N/A

Fiscal Impact

Fiscal Year: 2024

Amount Requested: \$400,000

Line Item(s): N/A

Budget Impact:

The initial investment into the PARS account was budgeted at \$400K.

Attachments

Resolution 1326-24

PARS Agreement for Admin Services

Trust Agreement

PLR

Sample Adoption Agreement

RESOLUTION NO. 1326-24

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA, REQUESTING PARTICIPATION IN THE ARIZONA EMPLOYERS' PENSION PREFUNDING PLAN; AUTHORIZING THE ADOPTION OF THE PUBLIC AGENCIES POST-EMPLOYMENT BENEFITS TRUST ADMINISTERED BY PUBLIC AGENCY RETIREMENT SERVICES; APPOINTING PLAN ADMINISTRATOR.

WHEREAS, the Arizona Employers' Pension Prefunding Plan ("AEPPP") was established and is governed by Arizona Revised Statutes (A.R.S.) § 38-931 through § 38-940 ("Governing Statutes"); and

WHEREAS, any governmental employer that participates in one or more of the state of Arizona's tax-qualified defined benefit pension plans for public safety employees—namely, the Public Safety Personnel Retirement System ("PSPRS"), the Elected Officials' Retirement Plan ("EORP"), or the Corrections Officer Retirement Plan or ("CORP")—may participate in the AEPPP; and

WHEREAS, the AEPPP is administered by the Public Safety Personnel Retirement System Board of Trustees ("PSPRS Board") in accordance with the Governing Statutes and enables participating employers to prefund their contributions to the PSPRS, EORP, CORP, or any combination of these plans; and

WHEREAS, the PSPRS Board engaged a third-party administrator, Public Agency Retirement Services ("PARS"), to provide trust administration services, including an IRS-approved Section 115 trust, trust documents, and other services necessary to facilitate the implementation, ongoing operation, and management of the AEPPP; and

WHEREAS, participating employers must adopt the PARS Public Agencies Post-Employment Benefits Trust ("Trust"), which is the tax exempt, Internal Revenue Code ("IRC") Section 115 trust vehicle utilized by the AEPPP for the purposes of prefunding PSPRS, EORP, CORP contributions, or any combination of these plans; and

WHEREAS, in accordance with these governing instruments, each participating employer's contributions to the Trust, and any investment earnings thereon, will be dedicated to funding the participating employer's contributions to the PSPRS, EORP, or CORP (as applicable) and the reasonable administrative expenses associated with the AEPPP, and may not be used for any other purpose; and

WHEREAS, the terms of the Trust and the Governing Statutes will govern the operation of the AEPPP; and

WHEREAS, the City of Page ("City") is eligible to participate in the AEPPP and the Trust; and

WHEREAS, the City's participation in the AEPPP and the adoption of the Trust have no effect on any current or former employee's entitlement to retirement benefits under PSPRS, EORP, CORP, or any other City-sponsored retirement plan or program; and

WHEREAS, the City's funding of the Trust does not, and is not intended to, create any new vested right to any benefit or strengthen any existing vested right; and

WHEREAS, the City reserves the right to make contributions, if any, to the Trust.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, AS FOLLOWS:

SECTION 1. The Mayor and City Council (together, the “City Council”) hereby requests to participate in the AEPPP pursuant to A.R.S. § 38-934.

SECTION 2. The City Council hereby adopts the PARS Public Agencies Post-Employment Benefits Trust, effective December 1, 2024.

SECTION 3. The City Council hereby appoints the Finance Director, or his/her successor or designee, as the City’s Plan Administrator for the Trust.

SECTION 4. The City’s Plan Administrator is hereby authorized and directed to execute the PSPRS and PARS legal and administrative documents on behalf of the City, to take whatever additional actions are necessary to maintain the City’s participation in the Trust and to maintain compliance of any relevant regulation issued or as may be issued, to execute all documents and take all steps necessary to administer the City’s Trust and carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA this 13th day of November 2024, by the following votes:

Ayes	_____
Nays	_____
Abstentions	_____
Absent	_____

CITY OF PAGE

William R. Diak, Mayor

ATTEST:

Cindy Scott, City Clerk

APPROVED AS TO FORM:

Joshua Smith, City Attorney

AGREEMENT FOR ADMINISTRATIVE SERVICES

This agreement ("Agreement") is made this ____ day of _____, 2024, between Phase II Systems, a corporation organized and existing under the laws of the State of California, doing business as Public Agency Retirement Services and PARS (hereinafter "PARS") and the City of Page, Arizona ("Agency").

WHEREAS, the Agency has adopted the PARS Public Agencies Post-Employment Benefits Trust for the purpose of pre-funding pension obligations and/or Other Post-Employment Benefits ("OPEB") obligations ("Plan") and is desirous of retaining PARS as Trust Administrator to the Trust, to provide administrative services.

NOW THEREFORE, the parties agree:

1. **Services.** PARS will provide the services pertaining to the Plan as described in the exhibit attached hereto as "Exhibit 1A" ("Services") in a timely manner, subject to the further provisions of this Agreement.
2. **Fees for Services.** PARS will be compensated for performance of the Services as described in the exhibit attached hereto as "Exhibit 1B".
3. **Payment Terms.** Payment for the Services will be remitted directly from Plan assets unless the Agency chooses to make payment directly to PARS. In the event that the Agency chooses to make payment directly to PARS, it shall be the responsibility of the Agency to remit payment directly to PARS based upon an invoice prepared by PARS and delivered to the Agency. If payment is not received by PARS within thirty (30) days of the invoice delivery date, the balance due shall bear interest at the rate of 1.5% per month. If payment is not received from the Agency within sixty (60) days of the invoice delivery date, payment plus accrued interest will be remitted directly from Plan assets, unless PARS has previously received written communication disputing the subject invoice that is signed by a duly authorized representative of the Agency.
4. **Fees for Services Beyond Scope.** Fees for services beyond those specified in this Agreement will be billed to the Agency at the rates indicated in the PARS' standard fee schedule in effect at the time the services are provided and shall be payable as described in Section 3 of this Agreement. Before any such services are performed, PARS will provide the Agency with a detailed description of the services, terms, and applicable rates for such services. Such services, terms, and applicable rates shall be agreed upon in writing and executed by both parties.
5. **Information Furnished to PARS.** PARS will provide the Services contingent upon the Agency providing PARS the information specified in the exhibit attached hereto as "Exhibit 1C" ("Data"). It shall be the responsibility of the Agency to certify the accuracy, content, and completeness of the Data so that PARS may rely on such information without further audit. It shall further be the responsibility of the Agency to deliver the Data to PARS in such a manner that allows for a reasonable amount of time for the Services to be performed. Unless specified in Exhibit 1A, PARS shall be under no duty to question Data received from the Agency, to compute contributions made to the Plan, to determine or inquire whether contributions are adequate to meet

and discharge liabilities under the Plan, or to determine or inquire whether contributions made to the Plan are in compliance with the Plan or applicable law. In addition, PARS shall not be liable for nonperformance of Services to the extent such nonperformance is caused by or results from erroneous and/or late delivery of Data from the Agency. In the event that the Agency fails to provide Data in a complete, accurate and timely manner and pursuant to the specifications in Exhibit 1C, PARS reserves the right, notwithstanding the further provisions of this Agreement, to terminate this Agreement upon no less than ninety (90) days written notice to the Agency.

6. **Records.** Throughout the duration of this Agreement, and for a period of five (5) years after termination of this Agreement, PARS shall provide duly authorized representatives of Agency access to all records and material relating to calculation of PARS' fees under this Agreement. Such access shall include the right to inspect, audit and reproduce such records and material and to verify reports furnished in compliance with the provisions of this Agreement. All information so obtained shall be accorded confidential treatment as provided under applicable law.
7. **Confidentiality.** Without the Agency's consent, PARS shall not disclose any information relating to the Plan except to duly authorized officials of the Agency, subject to applicable law, and to parties retained by PARS to perform specific services within this Agreement. The Agency shall not disclose any information relating to the Plan to individuals not employed by the Agency without the prior written consent of PARS, except as such disclosures may be required by applicable law.
8. **Independent Contractor.** PARS is and at all times hereunder shall be an independent contractor. As such, neither the Agency nor any of its officers, employees or agents shall have the power to control the conduct of PARS, its officers, employees, or agents, except as specifically set forth and provided for herein. PARS shall pay all wages, salaries, and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation, and similar matters.
9. **Indemnification.** PARS and Agency hereby indemnify each other and hold the other harmless, including their respective officers, directors, and employees, from any claim, loss, demand, liability, or expense, including reasonable attorneys' fees and costs, incurred by the other as a consequence of, to the extent, PARS' or Agency's, as the case may be, negligent acts, errors or omissions with respect to the performance of their respective duties hereunder.
10. **Compliance with Applicable Law.** The Agency shall observe and comply with federal, state, and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding the administration of the Plan. PARS shall observe and comply with federal, state, and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding Plan administrative services provided under this Agreement.

11. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. In the event any party institutes legal proceedings to enforce or interpret this Agreement, venue and jurisdiction shall be in any state court of competent jurisdiction.
12. **Force Majeure.** When a party's nonperformance hereunder was beyond the control and not due to the fault of the party not performing, a party shall be excused from performing its obligations under this Agreement during the time and to the extent that its performance is prevented by such cause. Such cause shall include, but not be limited to: any incidence of fire, flood, acts of God or unanticipated communicable disease, acts of terrorism or war commandeering of material, products, plants or facilities by the federal, state or local government, a material act or omission by the other party or any law, ordinance, rule, guidance or recommendation by the federal, state or local government, or any agency thereof, which becomes effective after the date of this Agreement that delays or renders impractical either party's performance under the Agreement.
13. **Ownership of Reports and Documents.** The originals of all letters, documents, reports, and data produced for the purposes of this Agreement shall be delivered to and become the property of the Agency. Copies may be made for PARS but shall not be furnished to others without written authorization from Agency.
14. **Designees.** The Plan Administrator of the Agency, or their designee, shall have the authority to act for and exercise any of the rights of the Agency as set forth in this Agreement, subsequent to and in accordance with the written authority granted by the Governing Body of the Agency, a copy of which writing shall be delivered to PARS. Any officer of PARS, or his or her designees, shall have the authority to act for and exercise any of the rights of PARS as set forth in this Agreement.
15. **Notices.** All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of the notices in person or by depositing the notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:
- (A) To PARS: PARS; 4350 Von Karman Avenue, Suite 100, Newport Beach, CA 92660; Attention: President
 - (B) To Agency: City of Page; 697 Vista Avenue, Page, AZ 86040; Attention: _____ [Plan Administrator Title]

Notices shall be deemed given on the date received by the addressee.

16. **Term of Agreement.** This Agreement shall remain in effect for the period beginning _____, 2024 and ending _____, 2027 ("Term"). This Agreement may be terminated at any time by giving thirty (30) days written notice to the other party of the intent to terminate. Absent a thirty (30) day written notice to the other party of the intent to terminate, this Agreement will continue unchanged for successive twelve-month periods following the Term. This Agreement is subject to cancellation for conflict of interest pursuant to Arizona Revised Statutes ("A.R.S.") § 38-511, the pertinent provisions of which are incorporated into this Agreement.

17. **Amendment.** This Agreement may not be amended orally, but only by a written instrument executed by the parties hereto.
18. **Entire Agreement.** This Agreement, including exhibits, contains the entire understanding of the parties with respect to the subject matter set forth in this Agreement. In the event a conflict arises between the parties with respect to any term, condition or provision of this Agreement, the remaining terms, conditions, and provisions shall remain in full force and legal effect. No waiver of any term or condition of this Agreement by any party shall be construed by the other as a continuing waiver of such term or condition.
19. **Attorneys Fees.** In the event any action is taken by a party hereto to enforce the terms of this Agreement the prevailing party herein shall be entitled to receive its reasonable attorney's fees.
20. **Counterparts.** This Agreement may be executed in any number of counterparts, and in that event, each counterpart shall be deemed a complete original and be enforceable without reference to any other counterpart.
21. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.
22. **Effective Date.** This Agreement shall be effective on the date first above written, and also shall be the date the Agreement is executed.
23. PARS warrants compliance with all Federal immigration laws and regulations relating to employees and subcontractors and warrants its compliance with A.R.S. § 41-4401, incorporated herein by reference, including the E-verify program. A breach of this section shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement. The Agency retains the legal right to inspect the papers of PARS or any subcontractor employee who works under the Agreement to ensure compliance with this provision.
24. Pursuant to A.R.S. §35-394, incorporated herein by reference, PARS certifies that it does not currently, and agrees for the duration of the Agreement that it will not, use:
1. The forced labor of ethnic Uyghurs in the People's Republic of China.
 2. Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
 3. Any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

If PARS becomes aware during the term of the Agreement that it is not in compliance with the written certification, PARS shall notify Agency within five (5) business days after becoming aware of the noncompliance. If PARS does not provide Agency with a written certification that PARS has remedied the noncompliance within one hundred eighty days after notifying Agency of the noncompliance, the Agreement terminates,

except that If the Agreement termination date occurs before the end of the remedy period, the Agreement terminates on the Agreement termination date.

25. If applicable, pursuant to A.R.S. § 35-393 et seq., PARS certifies that it is not currently engaged in and agrees for the duration of this Agreement not to engage in, a boycott of Israel.

26. PARS shall not discriminate against any employee, or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 75-5 as modified by State Executive Order 99-4 or A.R.S. 41-1461 et. seq.

AGENCY:

BY: _____
Plan Administrator Name

TITLE: _____

DATE: _____

PARS:

BY: _____
Tod Hammeras

TITLE: Chief Financial Officer

DATE: _____

EXHIBIT 1A

SERVICES

PARS will provide the following services for the City of Page, Arizona Public Agencies Post-Employment Benefits Trust:

1. Plan Installation Services:

- (A) Meeting with appropriate Agency personnel to discuss plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and submission requirements for contributions/reimbursements/distributions;
- (B) Providing the necessary analysis and advisory services to finalize these elements of the Plan;
- (C) Providing the documentation needed to establish the Plan to be reviewed and approved by Agency legal counsel. Resulting final Plan documentation must be approved by the Agency prior to the commencement of PARS Plan Administration Services outlined in Exhibit 1A, paragraph 2 below.

2. Plan Administration Services:

- (A) Monitoring the receipt of Plan contributions made by the Agency to the trustee of the PARS Public Agencies Post-Employment Benefits Trust ("Trustee"), based upon information received from the Agency and the Trustee;
- (B) Performing periodic accounting of Plan assets, reimbursements/distributions, and investment activity, based upon information received from the Agency and/or Trustee;
- (C) Coordinating the processing of distribution payments pursuant to authorized direction by the Agency, and the provisions of the Plan, and, to the extent possible, based upon Agency-provided Data;
- (D) Coordinating actions with the Trustee as directed by the Plan Administrator within the scope of this Agreement;
- (E) Preparing and submitting a monthly report of Plan activity to the Agency, unless directed by the Agency otherwise;
- (F) Preparing and submitting an annual report of Plan activity to the Agency;
- (G) Facilitating actuarial valuation updates and funding modifications for compliance with the applicable GASB pronouncements and/or statements, if prefunding OPEB obligations;
- (H) Coordinating periodic audits of the Trust;
- (I) Monitoring Plan and Trust compliance with federal and state laws.

3. PARS is not licensed to provide and does not offer tax, accounting, legal, investment or actuarial advice.

EXHIBIT 1B
FEES FOR SERVICES

PARS will be compensated for performance of Services, as described in Exhibit 1A based upon the following schedule:

An annual asset fee shall be paid from Plan assets based on the following schedule:

<u>For Plan Assets from:</u>			<u>Annual Rate:</u>
\$1	to	\$10,000,000	0.25%
\$10,000,001	to	\$15,000,000	0.20%
\$15,000,001	to	\$50,000,000	0.15%
\$50,000,001	and	above	0.10%

Annual rates are prorated and paid monthly. The annual asset fee shall be calculated by the following formula [Annual rate divided by 12 (months of the year) multiplied by the Plan asset balance at the end of the month]. Trustee and Investment Management Fees are not included.

EXHIBIT 1C
DATA REQUIREMENTS

PARS will provide the Services under this Agreement contingent upon receiving the following information. Agency is solely responsible for ensuring that all information and documentation provided to PARS is true, correct, and authorized:

1. Executed Legal Documents:
 - (A) Certified Resolution
 - (B) Adoption Agreement to the Public Agencies Post-Employment Benefits Trust
 - (C) Trustee Investment Forms

2. Contribution – completed Contribution Transmittal Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
 - (A) Agency name
 - (B) Contribution amount
 - (C) Contribution date
 - (D) Contribution method (Check, ACH, Wire)

3. Distribution – completed Payment Reimbursement/Distribution Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
 - (A) Agency name
 - (B) Payment reimbursement/distribution amount
 - (C) Applicable statement date
 - (D) Copy of applicable premium, claim, statement, warrant, and/or administrative expense evidencing payment
 - (E) Signed certification of reimbursement/distribution from the Plan Administrator (or authorized Designee)

4. Other information pertinent to the Services as reasonably requested by PARS and Actuarial Provider.

**PUBLIC AGENCIES
POST-EMPLOYMENT BENEFITS
TRUST AGREEMENT**

(Effective November 5, 2014)

ARTICLE I

DEFINITIONS

- 1.1 “**Adoption Agreement**” shall have the meaning given to such term in Section 2.3.
- 1.2 “**Agency Account**” shall have the meaning given to such term in Section 2.4.
- 1.3 “**Agreement for Administrative Services**” shall mean the agreement executed between the Employer and the Trust Administrator which authorizes the Trust Administrator to perform specific duties of administering the Agency Account of the Employer.
- 1.4 “**Assets**” shall have the meaning given to such term in Section 2.5.
- 1.5 “**Code**” shall mean the Internal Revenue Code of 1986 as amended from time to time.
- 1.6 “**Delegatee**” shall mean an individual or entity, appointed by the Plan Administrator or Employer to act in such matters as are specified in the appointment.
- 1.7 “**Effective Date**” shall mean the date first written above, the date the Trust was established, and with respect to each Employer, the Effective Date shall be the date on which the Employer executes the Adoption Agreement.
- 1.8 “**Eligible Beneficiary**” shall mean any person who, due to his or her relationship to an Eligible Employee, is entitled to post-employment benefits pursuant to the Employer’s Pension Plan or OPEB Plan, including but not limited to the Eligible Employee’s current or former spouse or domestic partner, child, dependent, or survivor.
- 1.9 “**Eligible Employee**” shall mean any employee of an Employer who is entitled to post-employment benefits pursuant to the Employer’s Pension Plan or OPEB Plan. Unless the context otherwise requires, the term “Eligible Employee” as used herein shall include any Eligible Beneficiaries.
- 1.10 “**Employer**” shall mean a public agency that executes the Adoption Agreement, thereby adopting the provisions of this Trust Agreement, provided that such agency is a state, a political subdivision of a state, or an entity the income of which is excludible from gross income under Section 115 of the Code.
- 1.11 “**GASB**” shall mean the Governmental Accounting Standards Board.
- 1.12 “**Omnibus Account**” shall mean an account, established for record keeping purposes only, to aggregate the balances of the Assets credited to the Agency Accounts. The Trust Administrator shall maintain and reconcile, at the Agency Account level (and subaccount level), the investments of the Agency Accounts

and will provide reports to the Plan Administrator with respect to such investments. The Trustee will maintain a record of the aggregate balance (principal and earnings) for all Agency Accounts. The Trust Administrator will in the ordinary course of business maintain a record of the name, address, taxpayer identification number, account number and amount of funds, including earnings, of each Employer. On periodic valuation dates (no less frequently than monthly) to be established by the Trust Administrator, the Trustee and Trust Administrator will reconcile the aggregate balance information maintained by the Trustee with the Agency Account level records maintained by the Trust Administrator pursuant to this Trust Agreement.

- 1.13 **“OPEB”** shall mean “other post-employment benefits,” such as medical, dental, vision, life insurance, long-term care and other similar benefits provided to retirees, other than pension benefits.
- 1.14 **“OPEB Obligation”** shall mean an Employer’s obligation to provide OPEB to its Eligible Employees in accordance with the Employer’s OPEB Plan.
- 1.15 **“OPEB Plan”** shall mean the Public Agencies Post-Employment Health Care Plan, as adopted by the Employer under the Adoption Agreement.
- 1.16 **“Pension Obligation”** shall mean an Employer’s obligation to contribute to the Pension Plan’s Qualified Trust and shall not, for example, mean an Employer’s Obligation to provide retirement benefits under the Pension Plan to the Employer’s Eligible Employees.
- 1.17 **“Pension Plan”** shall mean an Employer’s defined-benefit pension plan or plans, each of which is (i) qualified under Section 401(a) of the Code, (ii) sponsored by the Employer in order to provide retirement benefits to its Eligible Employees, and (iii) partly or wholly funded by the Employer’s contributions to a Qualified Trust.
- 1.18 **“Plan Administrator”** shall mean the individual designated by position of employment at the Employer to act on its behalf in all matters relating to the Employer's participation in the Trust.
- 1.19 **“Qualified Trust”** shall mean a trust which (i) is separate and apart from the Trust, (ii) constitutes a qualified trust under Code Section 401(a), and (iii) funds retirement benefits provided under an Employer’s Pension Plan to the Employer’s Eligible Employees.
- 1.20 **“Trust”** shall mean the Public Agencies Post-Employment Benefits trust arrangement.
- 1.21 **“Trust Administrator”** shall mean Public Agency Retirement Services or any successor trust administrator appointed by the Employers as provided herein. The Trust Administrator shall serve as trust administrator to the Trust established

pursuant to this Trust Agreement until such Trust Administrator resigns or is removed as provided in Article III.

- 1.22 **"Trust Agreement"** shall mean this Public Agencies Post-Employment Benefits trust document adopted by each Employer upon execution of an Adoption Agreement, as amended from time to time.
- 1.23 **"Trustee"** shall mean U.S. Bank National Association, or any successor trustee appointed by the Employers as provided herein. The Trustee shall serve as trustee of the Trust established pursuant to the provisions of this Trust Agreement until such Trustee resigns or is removed as provided in Article III.

ARTICLE II

THE TRUST

2.1 Multiple Employer Trust

The Trust is a multiple employer trust arrangement established to provide economies of scale and efficiency of administration to public agencies that adopt it to hold the assets used to fund the agency's OPEB Obligation or Pension Obligation or both. The Trust is divided into Agency Accounts to hold the Assets of each Employer as described in Section 2.4.

2.2 Purpose

The Trust is established with the intention that it qualify as a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Code and any regulations issued thereunder and as a tax-exempt trust under the provisions of the relevant state's statutory provisions of each Employer. This Trust Agreement shall be construed and the Trust shall be administered in a manner consistent with such intention. The fundamental purpose of the Trust is to fund the Employer's OPEB Obligation or Pension Obligation or both. It is intended that adopting Employers retain an interest in the underlying securities held in the Trust on their behalf, rather than in the Trust itself.

The Employer hereby represents and warrants that the assets held hereunder (including the Assets) are not assets of any qualified plan under Code Section 401(a), regardless of the character of such assets once distributed. The Employer hereby acknowledges that the Trust does not constitute a qualified trust under Code Section 401(a).

2.3 Employers

Any public agency may, by action of its governing body in writing accepted by the Trustee, adopt the provisions of the Trust Agreement. Executing an adoption instrument for the Trust ("**Adoption Agreement**"), in the form attached hereto as Exhibit "A" (or such other form as may be approved by the Trustee), shall

constitute such adoption, unless the Trustee requires additional evidence of adoption. In order for such adoption to be effective, the public agency must also execute an Agreement for Administrative Services with Public Agency Retirement Services, the Trust Administrator, pursuant to Section 3.6 of this Trust Agreement. Such adopting Employer shall then become an Employer of the Trust.

Each such Employer shall, at a minimum, furnish the Trust Administrator with the following documents to support its adoption of the Trust:

- (a) a certified copy of the resolution(s) of the governing body of the Employer authorizing the adoption of the Trust Agreement and the appointment of the Plan Administrator for such Employer;
- (b) an original of the Adoption Agreement executed by the Plan Administrator or other duly authorized Employer employee;
- (c) an original of the Agreement for Administrative Services with Public Agency Retirement Services executed by the Plan Administrator or other duly authorized Employer employee and Public Agency Retirement Services;
- (d) an address notice; and
- (e) such other documents as the Trustee may reasonably request.
- (f) Any action taken by the Plan Administrator for an Employer shall be deemed to have been taken by such Employer. Any notice given to or delivered by the Plan Administrator for an Employer shall be deemed to have been given to or delivered by such Employer.

2.4 Agency Accounts

- (a) Upon an Employer's adopting the Trust Agreement, as provided in Section 2.3, a separate "**Agency Account**" shall be established under the Trust for that Employer, and all Assets of the Trust attributable to that Employer shall be held in that Employer's Agency Account.
- (b) An Employer's Agency Account comprises three subaccounts: a "**Pension Account**", an "**OPEB Account**", and a "**Suspense Account**". The Assets of the Trust that are held in the Employer's Pension Account will be available only to fund the Employer's Pension Obligation and defray the reasonable expenses associated with the same. The Assets of the Trust that are held in the Employer's OPEB Account will be available only to fund the Employer's OPEB Obligation and defray the reasonable expenses associated with the same.
- (c) The Assets of the Trust that are held in an Employer's Agency Account shall not be available to pay any obligations incurred by any other Employer as provided in Section 2.8.

(d) All contributions and transfers received by the Trust on behalf of the Employer will be held in the Employer's Agency Account and will be allocated to the subaccounts under the Agency Account as follows:

(1) If the Employer maintains a Pension Account or OPEB Account (and not both a Pension Account and an OPEB Account), all contributions and transfers received by the Trust on the Employer's behalf will be allocated to that subaccount.

(2) If the Employer maintains both a Pension Account and an OPEB Account, contributions and transfers received by the Trust on the Employer's behalf will be allocated to either the Pension Account or OPEB Account, as directed by the Plan Administrator. To the extent the Plan Administrator does not provide such direction, the Employer hereby directs the Trustee to allocate such contributions and transfers to the Suspense Account and to use the assets of the Suspense Account to purchase a position in the sweep vehicle identified on an **exhibit** hereto or, if none is identified, to hold such assets un-invested. The Plan Administrator may at any time direct the reallocation of cash from the Suspense Account to either the Pension Account or the OPEB Account.

(3) Once allocated to the Pension Account or the OPEB Account, amounts under the Trust may not subsequently be transferred to the other subaccount.

2.5 Assets of Agency Account

The assets held in an Agency Account shall consist of all contributions and transfers received by the Trust on behalf of the Employer, together with the income and earnings from such contributions and transfers, and any increments accruing to the Agency Account, net of any investment losses, benefits, expenses or other costs ("**Assets**"). All contributions or transfers shall be received by the Trustee in cash or in other property acceptable to the Trustee. The Trustee shall manage and administer the Assets held in Agency Accounts without distinction between principal and income. The Trustee and the Trust Administrator shall have no duty to compute any amount to be transferred or paid to the Agency Account by the Employer, and the Trustee and the Trust Administrator shall not be responsible for the collection of any contributions or transfers to the Agency Account.

2.6 Aggregate Balance for Investment and Administration

The balances of the Assets of more than one Agency Account may be aggregated by the Trustee in one or more Omnibus Accounts for investment and administrative purposes, to provide economies of scale and efficiency of administration to the Agency Accounts. The responsibility for Agency Account level accounting (including subaccount-level accounting within each Agency Account) within this Omnibus Account(s) shall be that of the Trust Administrator.

2.7 Trustee Accounting

The Trustee shall be responsible only for maintaining records and maintaining accounts for the aggregate assets of the Trust. The responsibility for accounting and subaccounting for each Agency Account, based upon the Omnibus Account(s), shall be that of the Trust Administrator.

2.8 No Diversion of Assets

The Assets in each Employer's Agency Account shall be held in trust for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same. The Assets in each Agency Account shall not be used for or diverted to, any other purpose, including, but not limited to, the satisfaction of any other Employer's Pension Obligation or OPEB Obligation.

2.9 Type and Nature of Trust

Neither the full faith and credit nor the taxing power of each Employer is pledged to the distribution of amounts hereunder. Except for contributions and other amounts hereunder, no other amounts are pledged to the distribution of benefits hereunder. Distributions of benefits are neither general nor special obligations of any Employer, but are payable solely from the Assets held in such Employer's Agency Account, as more fully described herein. No employee of any Employer or beneficiary may compel the exercise of the taxing power by any Employer.

Distributions of Assets from any Agency Account are not debts of any Employer within the meaning of any constitutional or statutory limitation or restriction. Such distributions are not legal or equitable pledges, charges, liens or encumbrances, upon any of an Employer's property, or upon any of its income, receipts, or revenues, except amounts in the accounts which are, under the terms of each Plan and the Trust set aside for distributions. Neither the members of the governing body of any Employer nor its officers, employees, agents or volunteers are liable hereunder.

2.10 Loss of Tax-Exempt Status as to Any Employer

If any Employer participating in the Trust receives notice from the Internal Revenue Service that the Trust as to such Employer fails to satisfy the requirements of Section 115 of the Code, or if any Employer consents to the Internal Revenue Service's determination that the Trust fails to meet such requirements, Assets having a value equal to the funds then held in such Employer's Agency Account shall be segregated and placed in a separate trust by the Trustee for the exclusive benefit of such Employer's Eligible Employees within a reasonable time after the Trust Administrator notifies the Trustee of the Internal Revenue Service's determination. Each Employer participating in the Trust agrees to immediately notify the Trust Administrator upon receiving such

notice or giving such consent. The separate trust provided for in this Section 2.10 shall thereafter be considered as a separate trust containing all of the provisions of this Trust Agreement until terminated as provided in this Trust Agreement.

ARTICLE III

ADMINISTRATIVE MATTERS

3.1 Appointment of Trustee

The Employers may, with the approval of two-thirds (2/3) or more of the Employers then participating in the Trust, act to appoint a bank, trust company, retirement board, insurer, committee or such other entity as permitted by law, to serve as the trustee of this Trust. Such action must be in writing. Upon the written acceptance of such entity it shall become the Trustee of the Trust. If the Trustee is removed or resigns pursuant to Section 3.2, the Employers shall appoint a successor Trustee in accordance with the voting requirements set forth in this Section 3.1.

3.2 Resignation or Removal of Trustee

The Employers may act to remove the Trustee, provided that such action must satisfy the voting requirements set forth in Section 3.1 and notice of such action must be promptly delivered to the Trust Administrator, the Trustee and each Plan Administrator. The Trustee may also resign at any time by giving at least ninety (90) days prior written notice to the Trust Administrator and to the Plan Administrator of each Employer that has adopted the Trust Agreement and not terminated its participation in the Trust; provided, however, that the Trustee may resign immediately upon the earlier of the approval date or the effective date of any amendment of the Trust Agreement by the Employers that would change or modify the duties, powers or liabilities of the Trustee hereunder without the Trustee's consent. The Trustee shall, upon the appointment and acceptance of a successor trustee, transfer and deliver the Assets and all records relating to the Trust to the successor, after reserving such reasonable amount as it shall deem necessary to provide for its fees and expenses and any sums chargeable against the Trust for which it may be liable. The Trustee shall do all acts necessary to vest title of record in the successor trustee.

3.3 Withdrawal of Employer

An Employer may elect to withdraw from the Trust by giving at least thirty (30) days prior written notice to the Trustee and the Trust Administrator. If an Employer so elects to withdraw, Assets having a value equal to the funds held in such Employer's Agency Account shall be segregated by the Trustee and, as soon as practicable, shall be transferred to one or more trusts maintained by the Employer, provided that (i) for Assets transferred from the OPEB Account, any such trust shall satisfy the requirements of Section 115 of the Code, (ii) for Assets

transferred from the Pension Account, any such trust shall satisfy the requirements of either Section 115 or 401(a) of the Code, and (iii) all assets held by any such trust and previously held in the Employer's Pension Account or OPEB Account shall qualify as "plan assets" within the meaning of GASB Statement No. 68 (Accounting and Financial Reporting for Pensions—An Amendment of GASB Statement No. 27) or GASB Statement No. 45 (Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions), respectively, in each case as reasonably determined by the Employer and certified in writing by the Employer to the Trust Administrator. The Employer shall appoint a trustee for such Employer's separate trust and, upon the trustee's acceptance of that appointment, the trustee will be vested with title to the transferred Assets.

3.4 The Plan Administrator

The governing body of each Employer shall have plenary authority for the administration and investment of such Employer's Agency Account pursuant to any applicable state laws and applicable federal laws and regulations. Each Employer shall by resolution designate a Plan Administrator. Unless otherwise specified in the instrument the Plan Administrator shall be deemed to have authority to act on behalf of the Employer in all matters pertaining to the Employer's participation in the Trust and in regard to the Agency Account of the Employer. Such appointment of a Plan Administrator shall be effective upon receipt and acknowledgment by the Trustee and the Trust Administrator and shall be effective until the Trustee and the Trust Administrator are furnished with a resolution of the Employer that the appointment has been modified or terminated.

3.5 Failure to Appoint Plan Administrator

If a Plan Administrator is not appointed, or such appointment lapses, the Employer shall be deemed to be the Plan Administrator. As used in this document the term "Plan Administrator" shall be deemed to mean "Employer" when a Plan Administrator has not been appointed for such Employer.

3.6 Delegatee

The Plan Administrator, acting on behalf of the Employer, may delegate certain authority, powers and duties to a Delegatee to act in those matters specified in the delegation. Any such delegation must be in a writing that names and identifies the Delegatee, states the effective date of the delegation, specifies the authority and duties delegated, is executed by the Plan Administrator, is acknowledged in writing by the Delegatee, and is certified as required in Section 3.7 to the Trust Administrator. Such delegation shall be effective until the Trustee and the Trust Administrator are directed in writing by the Plan Administrator that the delegation has been rescinded or modified.

3.7 Certification to Trustee

The governing body of each Employer, or other duly authorized official, shall certify in writing to the Trustee and the Trust Administrator the names and specimen signatures of the Plan Administrator and Delegatee, if any, and all others authorized to act on behalf of the Employer whose names and specimen signatures shall be kept accurate by the Employer acting through a duly authorized officer or governing body of the Employer. The Trustee and the Trust Administrator shall have no liability if they act upon the direction of a Plan Administrator or Delegatee that has been duly authorized, as provided in Section 3.6, if that Plan Administrator or Delegatee is no longer authorized to act, unless the Employer has informed the Trustee and the Trust Administrator of such change.

3.8 Directions to Trustee

All directions to the Trustee from the Plan Administrator or Delegatee must be in writing and must be signed by the Plan Administrator or Delegatee, as the case may be. For all purposes of this Trust Agreement, direction shall include any certification, notice, authorization, application or instruction of the Plan Administrator, Delegatee or Trustee appropriately communicated. The above notwithstanding, direction may be implied if the Plan Administrator or Delegatee has knowledge of the Trustee's intentions and fails to file written objection.

The Trustee shall have the power and duty to comply promptly with all proper directions of the Plan Administrator or Delegatee, appointed in accordance with the provisions of this Trust Agreement. In the case of any direction deemed by the Trustee to be unclear or ambiguous the Trustee may seek written instructions from the Plan Administrator, the Employer or the Delegatee on such matter and await their written instructions without incurring any liability. If at any time the Plan Administrator or the Delegatee should fail to give directions to the Trustee, the Trustee may act in the manner that in its discretion seems advisable under the circumstances for carrying out the purposes of the Trust and/or the applicable Agency Account which may include not taking any action. The Trustee may request directions or clarification of directions received and may delay acting until clarification is received. In the absence of timely direction or clarification, or if the Trustee considers any direction to be a violation of the Trust Agreement or any applicable law, the Trustee shall in its sole discretion take appropriate action, or refuse to act upon a direction.

3.9 Appointment of Trust Administrator

The Employers may, with the approval of two-thirds (2/3) or more of the Employers then participating in the Trust, act to appoint a bank, trust company, retirement board, insurer, committee or such other entity as permitted by law, to serve as Trust Administrator of the Trust. Such action must be in writing. Upon the written acceptance of such entity it shall become the Trust Administrator of

the Trust. If the Trust Administrator is removed or resigns pursuant to Section 3.13, the Employers shall appoint a successor Trust Administrator in accordance with the voting requirements set forth in this Section 3.9.

3.10 Trust Administrator

The Trust Administrator's duties involve the performance of the following services pursuant to the provisions of this Trust Agreement and the Agreement for Administrative Services:

- (a) Performing periodic accounting of each Agency Account (including subaccount-level accounting within each Agency Account) and reconciling such Agency Account balances with the Trust/Omnibus Account;
- (b) Directing the Trustee to make distributions from the appropriate subaccount under an Agency Account in accordance with Section 5.9.
- (c) Allocating contributions, earnings and expenses to each Agency Account and the underlying subaccounts;
- (d) Directing the Trustee to pay the fees of the Trust Administrator and to do such other acts as shall be appropriate to carry out the intent of the Trust;
- (e) Such other services as the Employer and the Trust Administrator may agree in the Agreement for Administrative Services pursuant to Section 2.3.

The Trust Administrator shall be entitled to rely on, and shall be under no duty to question, any direction and/or data received from the Plan Administrator, or other duly authorized entity, in order to perform its authorized duties under this Trust Agreement. The Trust Administrator shall not have any duty to compute contributions made to the Trust, determine or inquire whether contributions made to the Trust by the Plan Administrator or other duly authorized entity are adequate to meet an Employer's Pension Obligation or OPEB Obligation as may be determined under any applicable GASB pronouncement; or determine or inquire whether contributions made to the Trust are in compliance with the Employer's OPEB Plan or Pension Plan. The Trust Administrator shall not be liable for nonperformance of duties if such nonperformance is directly caused by erroneous, and/or late delivery of, directions or data from the Plan Administrator, or other duly authorized entity.

3.11 Additional Trust Administrator Services

The Plan Administrator may at any time retain the Trust Administrator as its agent to perform any act, keep any records or accounts and make any computations which are required of the Employer or the Plan Administrator by this Trust Agreement or by the Employer's policies and/or applicable collective bargaining agreements. The Trust Administrator shall be separately compensated

for such service and such services shall not be deemed to be contrary to the Trust Agreement.

3.12 Trust Administrator's Compensation

As may be agreed upon from time to time by the Employer and Trust Administrator, the Trust Administrator will be paid reasonable compensation for services rendered or reimbursed for expenses properly and actually incurred in the performance of duties with respect to such Employer's Agency Account and to the Trust.

3.13 Resignation or Removal of Trust Administrator

The Employers may act to remove the Trust Administrator, provided that such action must satisfy the voting requirements set forth in Section 3.9 and notice of such action must be promptly delivered to the Trust Administrator, the Trustee and each Plan Administrator. The Trust Administrator may also resign at any time by giving at least one hundred and twenty (120) days prior written notice to the Trustee and to the Plan Administrator of each Employer that has adopted the Trust Agreement and not terminated its participation in the Trust; provided, however, that the Trust Administrator may resign immediately upon the earlier of the approval date or the effective date of any amendment of the Trust Agreement by the Employers that would change or modify the duties, powers or liabilities of the Trust Administrator hereunder without the Trust Administrator's consent. The Trust Administrator shall, upon the appointment and acceptance of a successor trust administrator, transfer all records relating to the Trust to the successor.

ARTICLE IV

THE TRUSTEE

4.1 Powers and Duties of the Trustee

Except as otherwise provided in Article V and subject to Article VI, the Trustee shall have full power and authority with respect to property held in the Trust to do all such acts, take all proceedings, and exercise all such rights and privileges, whether specifically referred to or not in this document, as could be done, taken or exercised by the absolute owner, including, without limitation, the following:

(a) To invest and reinvest the Assets or any part hereof in any one or more kind, type, class, item or parcel of property, real, personal or mixed, tangible or intangible; or in any one or more kind, type, class, item or issue of investment or security; or in any one or more kind, type, class or item of obligation, secured or unsecured; or in any combination of them (including those issued by the Trustee of any of its affiliates, to the extent permitted by applicable law), and to retain the property for the period of time that the Trustee deems appropriate;

(b) To acquire and sell options to buy securities ("call" options) and to acquire and sell options to sell securities ("put" options);

(c) To buy, sell, assign, transfer, acquire, loan, lease (for any purpose, including mineral leases), exchange and in any other manner to acquire, manage, deal with and dispose of all or any part of the Trust property, for cash or credit and upon any reasonable terms and conditions;

(d) To make deposits, with any bank or savings and loan institution, including any such facility of the Trustee or an affiliate thereof provided that the deposit bears a reasonable rate of interest;

(e) To invest and reinvest the Assets, or any part thereof in any one or more collective investment trust funds, including common and group trust funds that consist exclusively of assets of exempt pension and profit sharing trusts and individual retirement accounts qualified and tax exempt under the Code, that are maintained by the Trustee or an affiliate thereof. The declaration of trust or plan of operations for any such common or collective fund is hereby incorporated herein and adopted into this Trust Agreement by this reference. The combining of money and other assets of the Trust with money and other assets of other non-qualified trusts in such fund or funds is specifically authorized. Notwithstanding anything to the contrary in this Trust Agreement, the Trustee shall have full investment responsibility over Assets of the Trust invested in such commingled funds. If the plan and trust for any reason lose their tax exempt status, and the Assets have been commingled with assets of other tax exempt trusts in Trustee's collective investment funds, the Trustee shall within 30 days of notice of such loss of tax exempt status, liquidate the Trust's units of the collective investment fund(s) and invest the proceeds in a money market fund pending investment or other instructions from the Plan Administrator. The Trustee shall not be liable for any loss or gain or taxes, if any, resulting from said liquidation;

(f) To place uninvested cash and cash awaiting distribution in one or more mutual funds and/or commingled investment funds maintained by or made available by the Trustee or any of its affiliates, and to receive compensation from the sponsor of such fund(s) for services rendered, separate and apart from any Trustee's fees hereunder. The Trustee or its affiliate may also be compensated for providing investment advisory services to any mutual fund or commingled investment funds;

(g) To borrow money for the purposes of the Trust from any source with or without giving security; to pay interest; to issue promissory notes and to secure the repayment thereof by pledging all or any part of the Assets;

(h) To take all of the following actions: to vote proxies of any stocks, bonds or other securities; to give general or special proxies or powers of attorney with or

without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities and to delegate discretionary powers and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held in the Trust;

(i) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(j) To raze or move existing buildings; to make ordinary or extraordinary repairs, alterations or additions in and to buildings; to construct buildings and other structures and to install fixtures and equipment therein;

(k) To pay or cause to be paid from the Trust any and all real or personal property taxes, income taxes or other taxes or assessments of any or all kinds levied or assessed upon or with respect to the Trust;

(l) To exercise all the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under applicable federal or state laws, as amended from time to time, it being intended that, except as herein otherwise provided, the powers conferred upon the Trustee herein shall not be construed as being in limitation of any authority conferred by law, but shall be construed as consistent or in addition thereto.

4.2 Additional Trustee Powers

In addition to the other powers enumerated above, the Trustee in any and all events is authorized and empowered:

(a) To invest funds pending required directions in any type of interest-bearing account, including, without limitation, time certificates of deposit or interest-bearing accounts issued by the Trustee, or any mutual fund or short term investment fund ("**Fund**"), whether sponsored or advised by the Trustee or any affiliate thereof); the Trustee or its affiliates may be compensated for providing such investment advice and providing other service to such Fund, in addition to any Trustee's fees received pursuant to this Trust Agreement;

(b) To cause all or any part of the Trust to be held in the name of the Trustee (which in such instance need not disclose its fiduciary capacity) or, as permitted by law, in the name of any nominee, and to acquire for the Trust any investment in bearer form, but the books and records of the Trust shall at all times show that all such investments are a part of the Trust and the Trustee shall hold evidences of title to all such investments;

- (c) To serve as custodian with respect to the Trust Assets;
- (d) To employ such custodians, agents and counsel as may be reasonably necessary in managing and protecting the Assets and to pay them reasonable compensation from the Trust; to employ any broker-dealer or other agent, including any broker-dealer or other agent affiliated with the Trustee, and pay to such broker-dealer or other agent, at the expense of the Trust, its standard commissions or compensation; to settle, compromise or abandon all claims and demands in favor of or against the Trust; and to charge any premium on bonds purchased at par value to the principal of the Trust without amortization from the Trust, regardless of any law relating thereto;
- (e) In addition to the powers listed herein, to do all other acts necessary or desirable for the proper administration of the Trust, as though the absolute owner thereof;
- (f) To prosecute, compromise and defend lawsuits, but without obligation to do so, all at the risk and expense of the Trust; and to tender its defense to the Employer in any legal proceeding where the interests of the Trustee and the Employer are not adverse;
- (g) To exercise and perform any and all of the other powers and duties specified in this Trust Agreement or the Plan;
- (h) To permit such inspections of documents at the principal office of the Trustee as are required by law, subpoena or demand by a United States agency;
- (i) To comply with all requirements imposed by applicable provisions of law;
- (j) To seek written instructions from the Plan Administrator or other fiduciary on any matter and await their written instructions without incurring any liability. If at any time the Plan Administrator or the fiduciary should fail to give directions to the Trustee, the Trustee may act in the manner that in its discretion seems advisable under the circumstances for carrying out the purposes of the Trust;
- (k) To compensate such executive, consultant, actuarial, accounting, investment, appraisal, administrative, clerical, secretarial, medical, custodial, depository and legal firms, personnel and other employees or assistants as are engaged by the Plan Administrator in connection with funding the Employer's OPEB Obligation or Pension Obligation or both and to pay from the Trust the necessary expenses of such firms, personnel and assistants, to the extent not paid by the Plan Administrator;

(l) To act upon proper written directions of the Plan Administrator or Delegatee, including directions given by photostatic transmissions using facsimile signature, and such other forms of directions as the parties shall agree;

(m) To pay from the Trust the expenses reasonably incurred in the administration of the Trust;

(n) To maintain insurance for such purposes, in such amounts and with such companies as the Plan Administrator shall elect, including insurance to cover liability or losses occurring by reason of the acts or omissions of fiduciaries but only if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary.

ARTICLE V

INVESTMENTS

5.1 Discretionary Versus Directed Investment

For the Pension Account and the OPEB Account under the Agency Account, the Employer shall elect either a discretionary or directed investment approach. The Employer may elect the same or different investment approaches for those two subaccounts. The Employer hereby elects a directed approach for the Suspense Account. If the Employer elects a discretionary investment approach for a subaccount, the Employer shall further elect between the various investment strategies offered and the Trustee, in accordance with Article IV, shall have absolute discretion over the investment of the Assets held in such subaccount under the Employer's Agency Account. If the Employer elects a directed investment approach for a subaccount, the Trustee shall direct the investment of the Assets of such subaccount under the Employer's Agency Account in accordance with the direction provided by such Employer.

5.2 Trustee Fees

As may be agreed upon, in writing, between the Plan Administrator and Trustee, the Trustee will be paid reasonable compensation for services rendered or reimbursed for expenses properly and actually incurred in the performance of duties with respect to the applicable Agency Account or the Trust.

5.3 Contributions

Eligible Employees are not permitted to make contributions to the Trust. The Plan Administrator shall, on behalf of the Employer, make all contributions to the Trustee. Such contributions shall be in cash unless the Trustee agrees to accept a contribution that is not in cash. All contributions shall be paid to the Trustee for investment and reinvestment pursuant to the terms of this Trust Agreement. The Trustee shall not have any duty to determine or inquire whether any contributions

to the Trust made to the Trustee by any Plan Administrator are in compliance with the Employer's Pension Plan or OPEB Plan; nor shall the Trustee have any duty or authority to compute any amount to be paid to the Trustee by any Plan Administrator; nor shall the Trustee be responsible for the collection or adequacy of the contributions to meet an Employer's Pension Obligation or OPEB Obligation. The contributions received by the Trustee from each Employer shall be held and administered pursuant to the terms hereof without distinction between income and principal.

5.4 Records

(a) The Trustee shall maintain accurate records and detailed accounts of all investments, receipts, disbursements and other transactions hereunder at the Trust level. Such records shall be available at all reasonable times for inspection by the Trust Administrator. The Trustee shall, at the direction of the Trust Administrator, submit such valuations, reports or other information as the Trust Administrator may reasonably require.

(b) The Assets of the Trust shall be valued at their fair market value on the date of valuation, as determined by the Trustee based upon such sources of information as it may deem reliable; provided, however, that the Plan Administrator shall instruct the Trustee as to valuation of assets which are not readily determinable on an established market. The Trustee may rely conclusively on such valuations provided by the Plan Administrator and shall be indemnified and held harmless by the Employer with respect to such reliance. If the Plan Administrator fails to provide such values, the Trustee may take whatever action it deems reasonable, including employment of attorneys, appraisers or other professionals, the expense of which will be an expense of administration of the Trust. Transactions in the account involving such hard to value assets may be postponed until appropriate valuations have been received and Trustee shall have no liability therefore.

5.5 Statements

(a) Periodically as specified, and within sixty days after December 31, or the end of the Trust's fiscal year if different, Trustee shall render to the Trust Administrator as directed, a written account showing in reasonable summary the investments, receipts, disbursements and other transactions engaged in by the Trustee during the preceding fiscal year or period with respect to the Trust. Such account shall set forth the assets and liabilities of the Trust valued as of the end of the accounting period.

(b) The Trust Administrator may approve such statements either by written notice or by failure to express objections to such statements by written notice delivered to the Trustee within 90 days from the date the statement is delivered to the Trust Administrator. Upon approval, the Trustee shall be released and discharged as to all matters and items set forth in such statement as if such

account had been settled and allowed by a decree from a court of competent jurisdiction.

5.6 Wire Transfers

The Trustee shall follow the Plan Administrator's, Delegate's, or Trust Administrator's wire transfer instructions in compliance with the written security procedures provided by the party providing the wire transfers. The Trustee shall perform a telephonic verification to the Plan Administrator, Trust Administrator, or Delegate, or such other security procedure as selected by the party providing wire transfer directions, prior to wiring funds or following facsimile directions as Trustee may require. The Plan Administrator assumes the risk of delay of transfer if Trustee is unable to reach the Plan Administrator, or in the event of delay as a result of attempts to comply with any other security procedure selected by the directing party.

5.7 Exclusive Benefit

The Assets of an Employer's Agency Account shall be held in trust for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same and shall not be used for or diverted to any other purpose. No party shall have authority to use or divert the Assets of an Agency Account of an Employer for the satisfaction of any other Employer's Pension Obligation or OPEB Obligation or any other Employer's expenses.

5.8 Delegation of Duties

The Plan Administrator, Delegate, or Trust Administrator, may at any time retain the Trustee as its agent to perform any act, keep any records or accounts and make any computations that are required of the Plan Administrator, Delegate or Trust Administrator by this Trust Agreement or by the Plan. The Trustee may be compensated for such retention and such retention shall not be deemed to be contrary to this Trust Agreement.

5.9 Distributions

(a) The Trustee shall, from time to time, upon the written direction of the Plan Administrator or Delegate, make distributions from the Assets of the Trust under the OPEB Account to the insurers, third party administrators, service providers or other entities providing benefits or services under the OPEB Plan, or to Eligible Employees and Eligible Beneficiaries for reimbursement of OPEB Plan premiums (or other payments for OPEB Plan benefits) paid by the Eligible Employee or Eligible Beneficiary, or to the Employer for reimbursement of OPEB Plan benefits and expenses paid by the Employer, in such manner in such form(s), in such amounts and for such purposes as may be specified in such directions.

(b) In addition, the Trustee shall, from time to time, upon the written direction of the Plan Administrator or Delegatee, make distributions from the Assets of the Trust under the Pension Account directly to (i) the Qualified Trust as employer contributions, (ii) any insurers, third party administrators, service providers or other entities providing services in connection with determining the Employer's Pension Obligation, or (iii) the Employer as reimbursement for the Employer's payment of amounts described in this Section 5.9(b)(i) and (ii).

(c) In no event shall the Trustee have any responsibility respecting the application of distributions from the Assets of the Trust, or for determining or inquiring into whether such distributions are in accordance with the Employer's OPEB Plan, Pension Plan, policies, or applicable collective bargaining agreements.

ARTICLE VI

FIDUCIARY RESPONSIBILITIES

6.1 More Than One Fiduciary Capacity

Any one or more of the fiduciaries with respect to the Trust Agreement or the Trust may, to the extent required thereby or as directed by the Plan Administrator pursuant to this Trust Agreement, serve in more than one fiduciary capacity with respect to the Trust Agreement and the Trust.

6.2 Fiduciary Discharge of Duties

Except as otherwise provided by applicable law, each fiduciary shall discharge such fiduciary's duties with respect to the Trust Agreement and the Trust:

(a) solely in the interest of the Eligible Employees and for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same; and

(b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.

6.3 Limitations on Fiduciary Responsibility

To the extent allowed by the laws of the state of each Employer:

No fiduciary shall be liable with respect to a breach of fiduciary duty by any other fiduciary if such breach was committed before such party became a fiduciary or after such party ceased to be a fiduciary.

No fiduciary shall be liable for a breach by another fiduciary except as provided by law.

No fiduciary shall be liable for carrying out a proper direction from another fiduciary, including refraining from taking an action in the absence of a proper direction from the other fiduciary possessing the authority and responsibility to make such a direction, which direction the fiduciary in good faith believes to be authorized and appropriate.

6.4 Indemnification of Trustee by Employer

The Trustee shall not be liable for, and Employer shall (to the extent allowed by the laws of the state of each Employer) indemnify, defend (as set out in Section 6.8 of this Trust Agreement), and hold the Trustee (including its officers, agents, employees and attorneys) and other Employers harmless from and against any claims, demands, loss, costs, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Employer's active or passive negligent act or omission or willful misconduct in the execution or performance of its duties under this Trust Agreement.

6.5 Indemnification of Employer by Trustee

The Employer shall not be liable for, and Trustee shall (to the extent allowed by the laws of the state of each Employer) indemnify, defend (as set out in Section 6.8 of this Trust Agreement), and hold the Employer (including its officers, agents, employees and attorneys) and other Employers harmless from and against any claims, demands, loss, costs, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Trustee's active or passive negligent act or omission or willful misconduct in the execution or performance of its duties under this Trust Agreement.

6.6 Indemnification of Trustee by Trust Administrator

The Trustee shall not be liable for, and Trust Administrator shall (to the extent allowed by the laws of the state of each Employer) indemnify and hold the Trustee (including its officers, agents, employees and attorneys) harmless from and against any claims, demands, loss, costs, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Trust Administrator's active or passive negligent act or omission or willful misconduct in the execution or performance of its duties under this Trust Agreement.

6.7 Indemnification of Trust Administrator by Trustee

The Trust Administrator shall not be liable for, and Trustee shall (to the extent allowed by the laws of the state of each Employer) indemnify and hold the Trust

Administrator (including its officers, agents, employees and attorneys) harmless from and against any claims, demands, loss, costs, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Trustee's active or passive negligent act or omission or willful misconduct in the execution or performance of its duties under this Trust Agreement.

6.8 Indemnification Procedures

Promptly after receipt by an indemnified party of notice or receipt of a claim or the commencement of any action for which indemnification may be sought, the indemnified party will notify the indemnifying party in writing of the receipt or commencement thereof. When the indemnifying party has agreed to provide a defense as set out above that party shall assume the defense of such action (including the employment of counsel, who shall be counsel reasonably satisfactory to such indemnitee) and the payment of expenses, insofar as such action shall relate to any alleged liability in respect of which indemnity may be sought against the indemnifying party. Any indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the indemnifying party unless (i) the employment of such counsel has been specifically authorized by the indemnifying party or (ii) the named parties to any such action (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interest between them. The indemnifying party shall not be liable to indemnify any person for any settlement of any such action effected without the indemnifying party's consent. The indemnification procedures of this Trust Agreement shall survive the termination of the Trust, any Employer's participation in the Trust and/or this Trust Agreement.

6.9 No Joint and Several Liability

This document is not intended to and does not create any joint powers agreement or any joint and several liability. No Employer shall be responsible for any contributions, costs or distributions of any other Employer.

ARTICLE VII

AMENDMENT, TERMINATION AND MERGER

7.1 No Contractual Obligation

An Employer's participation in the Trust does not create, and is not intended to create, any contractual obligation to Eligible Employees. Therefore, no Employer is contractually obligated to Eligible Employees solely due to its participation in

the Trust to continue providing benefits under its Pension Plan or OPEB Plan or to make contributions to the Trust.

7.2 Amendment of Trust

(a) The Trust Agreement may be amended only by the approval of two-thirds (2/3) or more of the Employers then participating in the Trust. Any such amendment by the Employers shall be set forth in an instrument in writing and shall be delivered to the Trustee, the Trust Administrator and all Plan Administrators not less than one hundred and eighty (180) days before the effective date of such amendment; provided, however, that any party may waive in writing such 180-day requirement with respect to any amendment (and such waiver shall not constitute a waiver with respect to any other amendment); and provided, further, that a waiver in writing of such 180-day requirement by two-thirds (2/3) or more of the Plan Administrators of the Employers participating in the Trust as of the date the amendment is adopted shall constitute a waiver of such 180-day requirement by all of the Employers then participating in the Trust. In addition, the Trust Administrator or the Trustee shall have the right to amend this Trust Agreement from time to time (without the requirement of a vote of Employers) solely for the purpose of keeping the Trust Agreement in compliance with the Code and applicable state law. Any such amendment by the Trust Administrator or the Trustee shall be set forth in an instrument in writing and shall be delivered to the Trustee, the Trust Administrator and all Plan Administrators promptly as each is made.

(b) Any amendment of the Trust Agreement may be current, retroactive or prospective, provided, however, that no amendment shall:

- (1) Cause the Assets of any Agency Account to be used for or diverted to purposes other than for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same.
- (2) Permit the Assets of any Agency Account to be used for the benefit of any other Employer.

7.3 Termination of Employer's Obligation to Provide Pension Benefits or OPEB

A termination of the Employer's obligation to provide benefits under the Employer's Pension Plan or OPEB Plan for which the Employer's Agency Account was established shall not, in itself, effect a termination of the Agency Account. Upon a termination of the Employer's obligation to provide benefits under its Pension Plan or OPEB Plan, the Assets of the Employer's Pension Account or OPEB Account, as applicable, will be distributed by the Trustee when directed by the Plan Administrator in accordance with this Section 7.3. From and after the date of such termination and until final distribution of all Assets under the Employer's Agency Account, the Trustee shall continue to have all the powers

provided herein as are necessary or expedient for the orderly liquidation and distribution of such Assets, and the Agency Account shall continue until the Assets have been completely distributed. Any Assets remaining in the Pension Account or OPEB Account will be used first to satisfy any remaining Pension Obligation or OPEB Obligation, respectively, pursuant to the Employer's Pension Plan or OPEB Plan (to the extent that such distribution constitutes the exercise of an "essential governmental function" within the meaning of Section 115 of the Code) and to satisfy any of such Employer's obligations under this Trust Agreement. Any Assets remaining in the Employer's Pension Account or OPEB Account (as applicable) after giving effect to the preceding sentence will be paid to the Employer to the extent permitted by law and consistent with the requirements of Section 115 of the Code.

7.4 Fund Recovery Based on Mistake of Fact

Except as hereinafter provided or in accordance with Section 7.3, the Assets of the Trust shall never inure to the benefit of the Employer. The Assets shall be held for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same. However, in the case of a contribution which is made by an Employer because of a mistake of fact, that portion of the contribution relating to the mistake of fact (exclusive of any earnings or losses attributable thereto) may be returned to the Employer, provided such return occurs within two (2) years after discovery by the Employer of the mistake. If any repayment is payable to the Employer, then, as a condition to such repayment, and only if requested by Trustee, the Employer shall execute, acknowledge and deliver to the Trustee its written undertaking, in a form satisfactory to the Trustee, to indemnify, defend and hold the Trustee harmless from all claims, actions, demands or liabilities arising in connection with such repayment.

7.5 Termination of Trust

(a) The Trust and this Trust Agreement may be terminated by the unanimous agreement of all Employers, which action must be in writing and delivered to the Trustee and Trust Administrator. Upon termination of the Trust under this Section 7.5(a), the Assets of each Employer's Pension Account or OPEB Account, as applicable, will be distributed by the Trustee when directed by the Plan Administrator in accordance with this Section 7.5(a). From and after the date of such termination and until final distribution of all Assets under each Employer's Agency Account, the Trustee shall continue to have all the powers provided herein as are necessary or expedient for the orderly liquidation and distribution of such Assets, and the Agency Account shall continue until the Assets have been completely distributed. Any Assets remaining in the Pension Account or OPEB Account will be used first to satisfy any remaining Pension Obligation or OPEB Obligation, respectively, pursuant to the Employer's Pension Plan and OPEB Plan (to the extent that such distribution constitutes the exercise of an "essential governmental function" within the meaning of Section 115 of the Code) and to

satisfy any of such Employer's obligations under this Trust Agreement. Any Assets remaining in the Employer's Pension Account or OPEB Account (as applicable) after giving effect to the preceding sentence will be paid to the Employer to the extent permitted by law and consistent with the requirements of Section 115 of the Code.

(b) Contributions to the Trust are conditioned on initial qualification of the Trust under Section 115 of the Code. If the Trust receives an adverse determination with respect to its initial qualification, then the Trust and this Trust Agreement will automatically terminate without any action by any Employer or other parties. After such termination, the Assets of each Employer's Pension Account or OPEB Account, as applicable, will be returned by the Trustee to the Employer as directed by the Plan Administrator in accordance with this Section 7.5(b) to the extent permitted by law and consistent with the requirements of Section 115 of the Code. This Section 7.5(b) will cease to apply upon the Trust's receipt of a favorable determination with respect to its initial qualification.

(c) The Trust and this Trust Agreement may be terminated only as described in this Section 7.5. In no case will the assets of the Trust be distributed on termination to an entity that is not a state, a political subdivision of a state or an entity the income of which is excluded from gross income under Section 115 of the Code.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

8.1 Nonalienation

Eligible Employees do not have an interest in the Trust. Accordingly, the Trust shall not in any way be liable to attachment, garnishment, assignment or other process, or be seized, taken, appropriated or applied by any legal or equitable process, to pay any debt or liability of an Eligible Employee or any other party. Trust Assets shall not be subject to the claims of any Employer or the claims of its creditors.

8.2 Saving Clause

In the event any provision of this Trust Agreement is held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the Trust Agreement, but this instrument shall be construed and enforced as if said provision had never been included.

8.3 Applicable Law

This Trust Agreement and the Trust shall be construed, administered and governed under the Code and the law of the State of California. To the extent any

of the provisions of this Trust Agreement are inconsistent with the Code or applicable state law, the provisions of the Code or state law shall control. In the event, however, that any provision is susceptible to more than one interpretation, such interpretation shall be given thereto as is consistent with the Trust Agreement being a tax-exempt trust within the meaning of the Code.

8.4 Joinder of Parties

In any action or other judicial proceedings affecting this Trust Agreement, it shall be necessary to join as parties only the Trustee, the Plan Administrator or Delegatee. No participant or other persons having an interest in the Trust or any Agency Account shall be entitled to any notice or service of process unless otherwise required by law. Any judgment entered in such a proceeding or action shall be binding on all persons claiming under this Trust Agreement; provided, however, that nothing in this Trust Agreement shall be construed as to deprive a participant of such participant's right to seek adjudication of such participant's rights under applicable law.

8.5 Employment of Counsel

The Trustee may consult with legal counsel (who may be counsel for the Trustee, the Trust Administrator or any Employer) with respect to the interpretation of this Agreement or the Trustee's duties hereunder or with respect to any legal proceedings or any questions of law and shall be entitled to take action or not to take action in good faith reliance on the advice of such counsel and charge the Trust and, as applicable, one or more Agency Accounts.

8.6 Gender and Number

Words used in the masculine, feminine or neuter gender shall each be deemed to refer to the other whenever the context so requires; and words used in the singular or plural number shall each be deemed to refer to the other whenever the context so requires.

8.7 Headings

Headings used in this Trust Agreement are inserted for convenience of reference only and any conflict between such headings and the text shall be resolved in favor of the text.

8.8 Counterparts

This Trust Agreement may be executed in an original and any number of counterparts by the Plan Administrator (executing an Adoption Agreement), the Trust Administrator and the Trustee, each of which shall be deemed to be an original of the one and the same instrument.

IN WITNESS WHEREOF, the Plan Administrator (by executing the Adoption Agreement), the Trustee and the Trust Administrator have executed this Trust Agreement by their duly authorized agents on the Effective Date.

U.S. BANK NATIONAL ASSOCIATION

"Trustee"

By:  _____
Signature

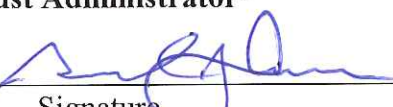
Susan M. Hughes

Typed or printed name

Its: Vice President & Relationship Manager

**PUBLIC AGENCY
RETIREMENT SERVICES**

"Trust Administrator"

By:  _____
Signature

Daniel Johnson

Typed or printed name

Its: President

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Index Number: 115.00-00

Third Party Communication: None
Date of Communication: Not Applicable

U.S. Bank National Association
c/o Susan Hughes, Vice President
3121 Michelson Drive (Suite 300)
Irvine, CA 92612

Person To Contact:
Robin J. Ehrenberg, ID No. 1000219292
Telephone Number:
(202) 317-5800
Refer Reply To:
CC:TEGE:EOEG:EO3
PLR-146796-14
Date: June 5, 2015

Legend

Trust	=	Public Agencies Post-Employment Benefits Trust
Trust Agreement	=	Public Agencies Post-Employment Benefits Trust Agreement
Trustee	=	U.S. Bank National Association

Dear Ms. Hughes:

This letter responds to a letter from your authorized representative dated December 22, 2014, requesting rulings that (1) the Trust's income is excludable from gross income under section 115 of the Internal Revenue Code (IRC) and (2) the Trust is not required to file annual federal income tax returns under IRC section 6012(a)(4). The Trust represents the facts as follows:

FACTS

The Trust is a multiple employer trust established to enable public-agency employers to fund post-retirement employee benefits. Each participating employer must be a public agency that is a state, political subdivision of a state, or an entity the income of which is excludable from gross income under IRC section 115. The employer's governing body must authorize in writing the adoption of the Trust and the employer must execute the adoption agreement, which approves the Trust's administrator and provides that the agency adopts and agrees to be bound by the Trust Agreement. In the adoption agreement, the employer elects to fund obligations to provide benefits under a post-employment health care plan and contribute to a defined-benefit pension plan maintained by the employer that is qualified under IRC section 401(a). The employer may elect to fund either or both obligations.

The Trust Agreement provides that assets are held by the Trust for the exclusive purpose of funding participating employers' benefit obligations and defraying the reasonable expenses of the Trust. The Trust's assets may not be used for any other purpose. Each employer's contributions to the Trust, together with any allocable investment earnings and losses, are held in a separate account for that employer. Assets allocated to satisfy an employer's health and welfare benefit obligation or the employer's pension obligation may only be used for purposes of satisfying that particular obligation. The assets held in an employer's account are not available to pay any obligations incurred by any other employer.

The employers appoint the Trustee and the Trust's administrator and may remove the Trustee or the administrator by a two-thirds vote of all employers. The employers may amend the Trust Agreement with the approval of two-thirds of all employers then participating in the Trust. The employers may terminate the Trust by unanimous agreement of all employers.

Upon termination of the Trust, any assets remaining in an employer's account, after satisfaction of benefit and the Trust's obligations are returned to the employer to the extent permitted by law and consistent with the requirements of IRC section 115.

LAW AND ANALYSIS

Issue 1 - IRC section 115(1)

IRC section 115(1) provides that gross income does not include income derived from any public utility or the exercise of any essential governmental function and accruing to a state or any political subdivision thereof.

Rev. Rul. 77-261, 1977-2 C.B. 45, holds that income generated by an investment fund that is established by a state to hold revenues in excess of the amounts needed to meet current expenses is excludable from gross income under IRC section 115(1), because such investment constitutes an essential governmental function. The ruling explains that the statutory exclusion is intended to extend not to the income of a state or municipality resulting from its own participation in activities, but rather to the income of an entity engaged in the operation of a public utility or the performance of some governmental function that accrues to either a state or political subdivision of a state. The ruling points out that it may be assumed that Congress did not desire in any way to restrict a state's participation in enterprises that might be useful in carrying out projects that are desirable from the standpoint of a state government and that are within the ambit of a sovereign to conduct.

Rev. Rul. 90-74, 1990-2 C.B. 34, holds that the income of an organization formed, funded, and operated by political subdivisions to pool various risks (e.g., casualty, public liability, workers' compensation, and employees' health) is excludable from gross income under IRC section 115(1), because the organization is performing an essential governmental function. The revenue ruling states that the income of such an organization is excludable from gross income so long as private interests do not participate in the organization or benefit more than incidentally from the organization. The benefit to the employees of the insurance coverage obtained by the member political subdivisions was deemed incidental to the public benefit.

Through the Trust, participating public agency employers fund health and welfare and pension obligations for retired employees. Each of the Trust's participating employers is required to be a state, political subdivision of a state or an entity the income of which is excludable from gross income under IRC section 115. Providing health, welfare and pension benefits to current and former employees constitutes the performance of an essential government function within the meaning of IRC section 115(1). See Rev. Rul. 90-74 and Rev. Rul. 77-261.

The Trust's income accrues to its participating employers, all of which are political subdivisions of a state or entities the income of which is excludable from gross income under IRC section 115. No private interests will participate in, or benefit from, the operation of Trust, other than as providers of goods or services. The benefit to employees is incidental to the public benefit. See Rev. Rul. 90-74.

In no event, including dissolution, will the Trust's assets be distributed or revert to any entity that is not a state, a political subdivision of a state, or entity the income of which is excludable from its gross income by application of IRC section 115(1).

Issue 2- IRC section 6012(a)(4)

Section 301.7701-1(b) of the Procedure and Administration Regulations (Regulations) provides that the classification of organizations that are recognized as separate entities is determined under sections 301.7701-2, 301.7701-3, and 301.7701-4, unless a provision of the IRC provides for special treatment of that organization.

Section 301.7701-4(a) of the Regulations provides that, in general, an arrangement will be treated as if it can be shown that the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit.

The Trust enables public-agency employers to set aside funds to be used to satisfy each employer's separate pension and health and welfare benefit obligations. The

Trustee is charged with the responsibility of the protection and conservation of the Trust property for the benefit of the beneficiaries of the Trust. The beneficiaries of the Trust cannot share in the discharge of the Trustee's responsibility for the protection and conservation of property and, therefore, are not associates in a joint enterprise for the conduct of business for profit. IRC section 6012(a)(4) provides that every trust having for the taxable year any taxable income or having gross income of \$600 or more, regardless of the amount of taxable income, shall make returns with respect to income taxes under Subtitle A.

Based solely on the facts and representations submitted by the Trust, we conclude that:

1. Because the income of the Trust derives from the exercise of an essential governmental function and will accrue to a state or a political subdivision thereof, the Trust's income is excludable from gross income under IRC section 115(1).
2. The Trust is classified as a trust within the meaning of IRC section 7701(a) and section 301.7701-4(a) of the Regulations. Because Trust's income is excludable from gross income under IRC section 115, the Trust is not required by IRC section 6012(a)(4) to file an annual income tax return.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. This ruling concerns only the federal tax treatment of the Trust's income and may not be cited or relied upon by any taxpayer, including the Trust, employers participating in the Trust, and any recipients of benefits paid under the terms of the Trust, as to any matter relating to the taxation of accident or health contributions or benefits.

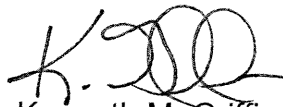
This ruling is directed only to the taxpayer who requested it. IRC section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Griffin', with a stylized flourish at the end.

Kenneth M. Griffin
Branch Chief, Exempt Organizations Branch 3
(Tax Exempt and Government Entities)

cc: Marcus Wu
Pillsbury Winthrop Shaw Pittman LLP
12255 El Camino Real, Suite 300
San Diego, CA 92130-4088

Paul Marmolejo
Director, Office of Federal, State and Local Governments
SE:T:GE:FSL

**ADOPTION AGREEMENT
for the
POST-EMPLOYMENT SECTION 115 TRUST**

A.1.1. Trust agreement with U.S. Bank National Association (the “Bank”) (the “Trust Agreement”):

Post-Employment Section 115 Trust. Public Agencies Post-Employment Benefits—Trust Agreement, effective November 5, 2014

A.1.2. OPEB Plan: Public Agencies Post-Employment Health Care Plan

The plan document for the OPEB Plan is the Public Agencies Post-Employment Health Care Plan—Master Plan Document, effective as of November 5, 2014 (the “Plan Document”).

A.1.3. Pension Plan:

A.1.4. Pension Plan’s effective date:

☐ (Check if applicable) Additional Pension Plans (and their respective effective dates) are listed on an exhibit attached hereto.

A.2.1. Employer:

Name:

U.S. mail address:

Phone number:

EIN:

Fiscal year end:

A.2.2. Plan Administrator:

Position at Employer:

Incumbent:

U.S. mail address:

Phone number:

Email address:

A.3.1 **Adoption.** The Employer hereby:

A.3.1.1. Adopts the Trust Agreement as part of the (*Check one or both of the following boxes.*):

- ☐ OPEB Plan
- ☐ Pension Plan

(each such plan separately, the “Plan”) and agrees to be bound by the Trust Agreement’s terms, effective as of the Employer’s signature date below and subject to the investment approach selected below.

A.3.1.2. *The following provisions apply if and only if the **OPEB Plan** box above is checked:* (i) Adopts the Plan Document and agrees to be bound by the Plan Document’s terms, effective as of the Employer’s signature date below and (ii) acknowledges that the determination of Eligible Employees and Eligible Beneficiaries is finally and conclusively made by the Employer according to the Employer’s applicable policies and collective bargaining agreements and without reference to the Trust Agreement.

A.3.1.3. Ratifies, affirms, and approves Employer’s appointment of Phase II Systems as Trust Administrator and represents and warrants that attached hereto is a fully-executed original of Employer’s Agreement for Administrative Services with Phase II Systems, d/b/a Public Agency Retirement Services (PARS).

A.3.1.4. Agrees that capitalized terms used herein but not defined herein shall have the same meaning attributed to them as in the Trust Agreement or Plan Document, as the case may be.

A.4.1. The Employer hereby represents and warrants that:

A.4.1.1. **Authorizing Law.** Employer has reviewed with its legal counsel and has determined that Employer is authorized to establish and maintain the Plan and to establish a financial-institution trust (separate and apart from the state) for the Plan, including the authority to adopt the Trust Agreement.

A.4.1.2. **Authorizing Resolution.** Attached hereto is a certified copy of a resolution of the Employer’s governing body authorizing the adoption of the Trust Agreement as part of the Plan and authorizing the appointment of the Plan Administrator designated by position of employment at the Employer to act on the Employer’s behalf in all matters relating to the trust.

A.4.1.3. **Tax Status.** The Plan is a “governmental plan” as defined in Section 414(d) of the Internal Revenue Code of 1986, as amended; is a “Section 401(a)(24) governmental plan” as defined in Revenue Ruling 2011-1; and is not subject to Federal income taxation. The Plan’s governing document expressly provides that it is irrevocably impossible for any part of the corpus or income of the Plan to be used for, or diverted to, purposes other than for the exclusive benefit of the Plan participants and their beneficiaries. The Pension Plan is a qualified plan under Code Section 401(a). (In addition, the Employer hereby acknowledges that the Plan is prohibited from assigning any part of its equity or interest in the trust.)

A.4.2. Investment Approach.

A.4.2.1. *The following provisions apply if and only if the **OPEB Plan** box above is checked:*
OPEB Account. OPEB Account assets are invested in the discretion of (*check one and only one of the following boxes*):

Discretionary investment approach:

- ☐ The Bank, subject to **Exhibit A (Investment Strategy Selection and Disclosure Form)** hereto.

Directed investment approach:

- ☐ The Plan Administrator.
- ☐ The following registered investment adviser, bank (other than the Bank), or insurance company (a “Third-Party Manager”):

_____. The Employer hereby represents and warrants that attached hereto is an executed copy of the agreement with the above appointed Third Party Manager.

A.4.2.2. *The following provisions apply if and only if the **Pension Plan** box above is checked:*
Pension Account. Pension Account assets are invested in the discretion of (*check one and only one of the following boxes*):

Discretionary investment approach:

- ☐ The Bank, subject to **Exhibit A (Investment Strategy Selection and Disclosure Form)** hereto.

Directed investment approach:

- ☐ The Plan Administrator.
- ☐ The following registered investment adviser, bank (other than the Bank), or insurance company (a “Third-Party Manager”):

_____. The Employer hereby represents and warrants that attached hereto is an executed copy of the agreement with the above appointed Third Party Manager.

A.4.3. It is intended that any references to GASB pronouncements and/or statements in the Public Agencies Post-Employment Health Care Plan and Trust Agreement shall incorporate any applicable successor pronouncements and/or statements.

[signature page follows]

EMPLOYER

By: _____

Its: _____

Date: _____

Accepted by:

**PHASE II SYSTEMS, DBA PUBLIC AGENCY
RETIREMENT SERVICES (PARS)**

By: _____
Daniel Johnson

Its: President _____

Date: _____

U.S. BANK NATIONAL ASSOCIATION

By: _____
Ryan Maxey

Its: Vice President and Relationship Manager _____

Date: _____

Arizona Employers' Pension Prefunding Plan (AEPPP)
Employer Agreement to Participate
AEPPP IRC Section 115 Trust Services

Whereas, the Arizona Employers' Pension Prefunding Plan ("AEPPP") is established by A.R.S. § 38-932 as a special trust fund for the purpose of allowing Participating Employers that provide a defined benefit pension plan to the employees to prefund the employer's required pension contributions.¹ The AEPPP specifically covers defined benefit pension plans administered by the Board.

Whereas, the authority for the AEPPP statutorily resides with the Board and employer participation is governed by contracts between the Participating Employer and Board.

Whereas, the board has the sole and exclusive control of the administration and investment of the AEPPP.

Whereas, PSPRS engages with a third party administrator for the purpose of providing Internal Revenue Code ("IRC") Section 115 Retirement Trust Services. Section 115 retirement trust services include comprehensive administration, trustee, fiduciary investment management and advisory, compliance monitoring, and reporting services to facilitate the prefunding of pension liabilities in compliance with applicable laws and regulations. Services also includes providing objective advice and services to Participating Employers in the System or any other fund, plan, or program administered by the Board.

Whereas, the Board is required to produce annual financial statements of the AEPPP to be prepared in accordance with the applicable governmental accounting standards and an audit to be conducted of those financial statements by a qualified independent certified accounting firm for each fiscal year in accordance with the applicable governmental auditing standards.

Whereas, the AEPPP and the assets held in the prefunding plan are separate and apart from the public safety personnel retirement fund and any other fund, program or plan administered by the board, as well as any pension prefunding plan investment accounts established pursuant to section A.R.S. §§ 35-314.04² or any other section of title 35 and any pension prefunding plan monies in such accounts.

Whereas, the AEPPP allows any employer who participates in PSPRS, CORP or EORP to invest in the AEPPP consisting of cost-effective diversified investment portfolios in publicly traded investment options that do not exceed the risk and return profiles established by the Board.

Whereas, the AEPPP requires that each Participating Employer shall pay the reasonable administrative costs as determined by the board in its sole and absolute discretion for the administration and investment of the AEPPP. The board shall deposit in the prefunding plan all monies received by the board for those administrative costs.

Whereas, the law allows an authorized employer to elect to participate in the AEPPP in accordance with the terms and conditions provided by the Board.

¹ In 2020, the Arizona legislature passed and the Governor signed SB1354 (Laws 2020, Chapter 79) (<https://www.azleg.gov/legtext/54leg/2R/laws/0079.htm>), Arizona Employers' Pension Prefunding Plan ("AEPPP").

² [A.R.S. § 35-314.04](#) gives the Arizona State Treasurer the authority to provide investment options. Therefore, the third party administrator may be responsible for working with both an investment advisor and the Arizona State Treasurer to collect information to report to the Board and employers.

Whereas, as a fiduciary of the Participating Employer, the third party administrator and any partners contracted to administer the IRC Section 115 program under an awarded contract have a duty of loyalty, due care, and skill and shall refrain from self-dealing or other acts prejudicial to or harmful to the participant's interests.

Therefore, the Participating Employer hereby enters into this Agreement with the Board which incorporates and constitutes agreement with the following terms and conditions:

- Statute requires the Participating Employer to submit a written request to participate to the Board. Entering into this agreement fulfills this requirement.
- The Participating Employer shall adopt and provide its governing body's resolution to participate in the AEPPP.
- The Participating Employer agrees to comply with the provisions of Arizona Revised Statutes related to the AEPPP, including Title 38, Chapter 5, Article 7.1 and associated rules and procedures for the AEPPP that may be amended from time-to-time.
- The Participating Employer agrees all transfers of funds satisfies the terms of this Agreement between the governing body of the Participating Employer and the board, including but not limited to:
 - The transfer satisfies the requirements under the applicable governmental accounting standards.
 - The transfer does not jeopardize the tax-exempt status of the prefunding plan's income.
- The Participating Employer agrees all Employer funds under this contract shall be used exclusively for the purpose of paying required pension contributions and the administrative costs associated with the pension prefunding plan.
- The Participating Employer agrees, except as otherwise provided in Arizona law, and specifically A.R.S. §§ 38-936 and 38-937, monies transferred by a Participating Employer to the prefunding plan are irrevocable and may not be refused by the Board or refunded or returned to the Participating Employer making the transfer.
- The Participating Employer agrees to the third party administrator selected by the Board.
- The Participating Employer agrees to review and discuss with the third party administrator the agreed-upon mandatory checklist of items to be considered for all IRC Section 115 Trusts created and administered under this Agreement.
- The Participating Employer agrees all costs shall be paid by the member employer(s) authorizing the creation of a trust. All Participating Employer costs related to the administration of the AEPPP shall be directly charged to the extent reasonable with the other costs allocated equitably, either by a weighted average of trust assets or other methodology approved by PSPRS.
- The Participating Employer agrees to develop an investment policy and revise the investment policy as required by either an employer's governing body or the Board.
- The Participating Employer agrees to select from a list of cost-effective, diversified investment portfolios in publicly traded investment options that would meet the risk-return profiles of a typical employer's investment policy. The intent of the Board is to provide a reasonable number and variety of standard investment options that can be efficiently managed in a cost-effective manner.
- The Participating Employer agrees to facilitate and cooperate with the Board and the third party administrator to perform comprehensive administration, trustee, fiduciary investment management and advisory, compliance monitoring, and reporting services to facilitate the prefunding of pension liabilities in compliance with applicable laws, regulations, and requirements related to Section 115 trusts.
- The Participating Employer agrees, to cooperate with the preparation of applicable reports and information needed for actuarial, accounting, audit, or other related administrative purposes,

including the preparation and audit of annual financial statements of the AEPPP as required by A.R.S. § 38-938 as well as the requirements of each Participating Employer.

- The Participating Employer agrees the Board may terminate the participation of a Participating Employer in the prefunding plan if any of the following applies:
 - The board determines that all obligations of a Participating Employer to pay required pension contributions in accordance with the terms of the applicable defined pension plan of the Participating Employer have been satisfied in full by payment or by defeasance with no remaining risk regarding the amounts to be paid or the value of the assets held in the prefunding plan.
 - A Participating Employer elects to cease to participate in the prefunding plan. All remaining monies must be transferred to a qualified pension, unless all pension obligations of the Participating Employer have been fully defeased.
 - The board finds that the Participating Employer has failed to satisfy the terms and conditions required by this article, by board rules or by the contract between the governing body of the Participating Employer and the board.
 - The prefunding plan is terminated by the board or the prefunding plan otherwise terminates.
- The Participating Employer agrees, if the board terminates the participation in the prefunding plan, any assets attributable to the Participating Employer after the payment of any obligation of that Participating Employer owed to the prefunding plan for reasonable administrative costs, shall be transferred in accordance with applicable provisions of A.R.S. § 38-937.
- The Participating Employer agrees, if the Board receives notification from the United States internal revenue service that this article or any portion of this article will jeopardize the tax-exempt status of the prefunding plan's income, the portion of this article that will cause the disqualification does not apply.

Participation agreement accepted and acknowledged by:

Name of Organization/Employer

Name of Officer

Title

Signature

Date

NEW BUSINESS 13. 4.

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Redundant City Water Supply

Presented by:

Subject:

Redundant City Water Supply

NEW BUSINESS 13. 5.

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Lake Powell Blvd Asphalt Condition

Presented by:

Subject:

Lake Powell Blvd Asphalt Condition



**CITY OF PAGE
REQUEST FOR COUNCIL ACTION**

NEW BUSINESS 13. 6.

City Council Regular Agenda

Meeting Date: 11/13/2024

Brief Title: Benefit Credit Contracts for Power Capacity and Energy

Presented by: Bryan Hill, General Manager

Department: City Clerk

Action: Motion

RECOMMENDED ACTION:

Move to authorize Page Utility Enterprises to enter into Benefit Credit Agreements 23-SLC-1221 and 23-SLC-1196, between Western Area Power Administration, and the Ute and Hualapai Tribes respectively, and authorize the PUE Board to approve or reject any future modification to Exhibit A of the agreements.

BACKGROUND:

This Council action seeks to renew and add new contract agreements recommended by Utility Staff and the Page Utility Board. The existing Benefit Crediting Agreement between the Ute Tribe (CRIT), Page Electric Utility, and Western Area Power Administration (WAPA), effective 2006 provides Page with Ute's Firm Electric Service allocation from the Colorado River Storage Project (CRSP). This agreement expired September 30, 2024, and Ute representatives have expressed their willingness to renew this arrangement with Page. Since 2006, this existing agreement provides Page Electric with approximately .5MW Summer and Winter capacity Contract Rate of Delivery (CROD) along with corresponding Sustainable Hydro Power (SHP) energy. Page then compensates the Ute Tribe at a rate equal to the difference of \$42/MWH and the cost of CRSP energy from WAPA.

Additionally, Page has been offered an added Benefit Credit Agreement from the Hualapai Tribe. Hualapai representatives have expressed their willingness to work with this arrangement with Page. This new agreement provides Page Electric with approximately .5MW Summer and Winter capacity CROD along with corresponding SHP energy. Page then compensates the Hualapai Tribe at a rate equal to the difference of \$35-50/MWH (same as the CRIT agreement) and the cost of CRSP energy from WAPA. This rate will vary from year to year calculated by 90% of the annual average cost of Western Replacement Power (WRP). This agreement will function to extend this existing arrangement through September 2057 and has a unilateral off-ramp for either Page (1 year) or the Tribes (6 months).

ALTERNATIVES CONSIDERED:

N/A

ADVISORY BOARD / COMMISSION ACTION:

The PUE Board will meet on November 12, 2024 and will review Staff's recommendation to renew this agreement with WAPA and CRIT. As this is a last minute three (3) party arrangement, staff will report the Board's recommendation to the Council.

Attachments

Ute Agreement

Hualapai Agreement

**NATIVE AMERICAN POWER POOLING
AND
SCHEDULING AGREEMENT**

This Native American Power Pooling and Scheduling Agreement ("NAPPS" or "Agreement") is dated as of _____, and is by and among the City of Page, Arizona, dba Page Electric Utility, and the Ute Indian Tribe of the Uintah and Ouray Reservation (Ute Indian Tribe), a Federally recognized Indian Tribe, and The United States of America, acting by and through the Administrator, Western Area Power Administration, an agency of the Department of Energy, hereinafter called "WAPA", represented by the officer executing this Contract, a duly appointed successor, or a duly authorized representative, hereinafter called the "Contracting Officer," each sometimes individually referred to as "Party" and collectively as "Parties".

1. RECITALS

- 1.1 WAPA markets Salt Lake City Area/Integrated Projects (SLCA/IP) Power pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), the Act of Congress approved February 25, 1905 (33 Stat. 814), the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), the Flood Control Act of December 22, 1944 (58 Stat. 887), the Act of Congress approved July 3, 1952 (66 Stat. 325), the Act of Congress approved April 11, 1956 (70 Stat. 105), the Act of Congress approved August 4, 1977 (91 Stat. 565), and acts amendatory or supplementary to the foregoing.
- 1.2 In implementation of renewal of existing firm power customers' contracts that were effective October 1, 2004, WAPA provided for a reduction of approximately 7 percent of existing entitlements in order to provide a pool of Post 2004

SLCA/IP power for new customers, including Native American Tribes or their organizations.

- 1.3 WAPA announced final allocations of power to new customers, including Native American organizations, in the Federal Register Final Notice published July 29, 2002, at 67 FR 49019, and has offered Firm Electric Service Contracts to the Native American organizations receiving an allocation of such power and energy, including Contract No. 17-SLC-0935 with Ute Indian Tribe.
- 1.4 WAPA has provided general principles for developing SLCA/ IP Post-2004 Resource Delivery for Native American organizations and is recognized that the benefit of federal power may be delivered separately from the Resource itself under certain limited circumstances.
- 1.5 Cooperation among Native American and other organizations with an allocation of SLCA/ IP power may result in efficiencies and enhanced beneficial and economic use and dispatch of the resources.

THEREFORE, in consideration of the terms and agreements herein set forth, and for other good and valuable considerations, the adequacy of which are acknowledged, the Parties agree as follows:

2. OBJECTIVE AND GOAL

- 2.1 The objective of this Agreement is to utilize the load and resource diversity between the Parties and the various resources available to each; to schedule the SLCA/IP resource in a manner which results in the efficient use of resources; to reduce resource costs to the Parties; and, to deliver the benefits of SLCA/IP power

to the Native American individuals and other organizations as intended in WAPA's Energy Planning and Management Program.

- 2.2 The goal of the Agreement is also to promote energy self-sufficiency of the Native American communities and to improve the reliability of delivery of the benefits of Federal Power to intended beneficiaries.

3. REDELIVERY OF RESOURCES BY WAPA

- 3.1 Subject to confirmation of its other requirements, WAPA agrees to redeliver SLCA/IP power and energy from Ute Indian Tribe, which has an allocation of such power, to Page Electric Utility for each Contract Season until any Party terminates this Agreement as set forth herein. This redelivery may be affected through a written request whereby the Exhibit A attached to each party's Firm Electric Service Contract with WAPA will be modified to reflect the requested redelivery of Capacity and Energy for a Contract Season.
- 3.2 This Agreement and any subsequent request for redelivery does not create any rights to SLCA/IP power or other resources other than participation in this Agreement as outlined herein.
- 3.3 WAPA agrees to directly bill Page Electric Utility, the Party receiving the redelivered power and energy, in lieu of Ute Indian Tribe.

4. FIRM ELECTRIC SERVICE CONTRACT COMPLIANCE

- 4.1 Page Electric Utility is hereby designated to be responsible for exercising the privileges and responsibilities of Ute Indian Tribe pursuant to Sections 7 through 14 of Contract No. 17-SLC-0935 with WAPA and the Exhibit A attached thereto.
- 4.2 Page Electric Utility shall fulfill the scheduling and accounting functions required for the operation of this Agreement. Page Electric Utility shall secure such documentation as is necessary to allow it to act as authorized representative for purposes of scheduling SLCA/IP resources, and for such other purposes as are necessary in connection with operations using its reasonable best judgment for the benefit of both Page Electric Utility and Ute Indian Tribe.
- 4.3 The Environmental Attributes, otherwise known as Renewable Energy Credits, bundled with the energy (kWh) allocation to Ute Indian Tribe pursuant to Section 13 of Contract No. 17-SLC-0935, shall remain with Ute Indian Tribe and will not be transferred to Page Electric Utility under this agreement.

5. POWER STATEMENTS AND RECONCILIATION

- 5.1 In the month following each Billing Period, Page Electric Utility shall pay WAPA, when due, the amounts due for power and energy, and any transmission involved, billed for the Billing Period. Copies of those bills will be furnished to Ute Indian Tribe by Page Electric Utility.

- 5.2 Following the receipt of bills, Page Electric Utility will, if necessary, reconcile any differences between bills paid and resources set forth in the approved request for redelivery as provided in Section 3.1. Page Electric Utility will then calculate the amount of Ute Indian Tribe's monthly benefit using the methodology described in Exhibit A of this Agreement. Page Electric Utility will then remit the benefit to Ute Indian Tribe each month within fifteen (15) days after receipt of the WAPA bills, accompanied by a statement of calculations described above and any other reasonably available pertinent information requested by Ute Indian Tribe.
- 5.3 Page Electric Utility shall provide a reconciliation statement to Ute Indian Tribe for each Annual Period. Balances shall be cleared promptly, and in any event credit balances are due within thirty (30) days of receipt of the Statement. Within thirty (30) days of receipt of each Annual reconciliation statement, Ute Indian Tribe must note any discrepancies or other objections to the same, or all accounts for that period shall be deemed to be settled, and the reconciliation statement shall be considered shall be considered a fully approved and a complete accord and satisfaction for that annual period on the thirty-first (31st) day after its receipt unless Ute Indian Tribe notes discrepancies or other objections to the same in writing within the specified time. Amounts due to or payable by each party will be calculated and each Party's debit or credit balance will be provided to each Party in a Statement for each annual accounting period.
- 5.4 In the event that WAPA's rates change pursuant to a formal or informal rate adjustment such that it is likely or certain that the WAPA rate will be equal to or

greater than the amount stated in Exhibit A, Page Electric Utility agrees to provide immediate written notice to Ute Indian Tribe. Upon receipt of such notice, either party may request renegotiation of this Section 5, or in lieu thereof, either party may give notice of immediate termination pursuant to Section 7 hereof. Notwithstanding the above, at any time either Party may request renegotiation of Section 5.

- 5.5 In the event Page Electric Utility makes any request for power deliveries from WAPA pursuant to any provision in the Firm Electric Service Contract between WAPA and Ute Indian Tribe which results in a delivered cost that is greater than the amount stated in Exhibit A, Ute Indian Tribe will have no liability therefore.
- 5.6 To ensure that the allocation of Federal power benefits the entire Tribe or Community, the use of the Economic Benefit should be determined by Ute Indian Tribe's governing body. Upon request from WAPA, Ute Indian Tribe shall provide WAPA with the method that the Tribe will employ to use or distribute the Economic Benefit within the Tribe.

6. TERM

The Term of this Agreement shall begin on _____, and continue through September 30, 2057, or until such time as any Party has terminated this Agreement pursuant to Sections 5.4 or 7 hereof.

7. WITHDRAWAL AND/OR TERMINATION OF PARTY STATUS

- 7.1 Any Party may terminate their status as a Party to this Agreement and withdraw therefrom at any time by giving written notice of withdrawal and termination to the other Parties. Ute Indian Tribe must provide 6 months' notice and Page Electric Utility and WAPA must provide one (1) year's notice to the other Parties in advance of the proposed termination date; Provided, however, that unless otherwise agreed, the withdrawing and terminating Party shall remain a Party to this Agreement for the remainder of any Contract Season which includes the proposed termination date. As defined in Contract No. 17-SLC-0935, WAPA's Winter Season begins on October 1 of each year and runs through March 31 of the following year. WAPA's Summer Season begins on April 1 and runs through September 30 of each year. Upon withdrawal or termination of a Party's status as a Party, all obligations previously incurred by the Terminating Party pursuant to this Agreement shall survive until satisfied.
- 7.2 Page Electric Utility may terminate the status of Ute Indian Tribe as a Party to this Agreement if Ute Indian Tribe no longer has a contract with WAPA for federal power.

8. DISPUTE RESOLUTION AND NOTICE

- 8.1 A. The General Manager of Page Electric Utility and the Designated Representative of Ute Indian Tribe (Program Managers) or their designees shall be the primary points of contact to coordinate all activities under this Agreement involving the Parties they represent, including the resolution of disputes. It is the

intention of these Parties that all disputes shall be resolved at the lowest possible level of authority as expeditiously as possible within the following framework. All time frames noted below for resolving disputes may be lengthened by mutual written consent of these Parties, however.

1. Should a dispute relating to this Agreement arise and the Program Managers be unable to agree regarding its resolution, the matter shall be referred, in writing, as soon as practicable but in no event exceeding thirty (30) working days from the failure to agree, to Page Electric Utility General Manager and the Ute Indian Tribe Tribal Chairperson or their mutually agreed upon representatives so designated in writing.
 2. Should the Page Electric Utility General Manager and the Ute Indian Tribe Tribal Chairperson, or their representatives so designated in writing, be unable to agree within thirty (30) additional working days, the matter shall be taken before a mediator chosen by the American Arbitration Association or some other organization agreed upon by the Parties. Mediation of the dispute shall take place within ninety (90) days from the initial failure to agree.
- B. In the event that these Parties are unable to resolve a dispute through direct communication or mediation, both retain all rights they may otherwise have to seek resolution of this issue.

- 8.2 The Program Managers and Designated Representatives for notice to each party
are as follows:

For Page Electric Utility:
General Manager
Page Electric Utility
P.O. Box 1955
Page, AZ 86040
928-645-2419

For Ute Indian Tribe:
Economic Development Office
Ute Indian Tribe
P.O. Box 520
Fort Duchesne, Utah 84026
435-722-3136, ext. 4241

With a copy to:
Chairman
Ute Indian Tribe
P.O. Box 190
Fort Duchesne, Utah 84026

9. ACKNOWLEDGEMENT

The Parties agree that the redelivery of SLCA/IP resources pursuant to this Agreement is not evidence that Ute Indian Tribe no longer has a need for all or any portion of its SLCA/IP allocation, nor that Ute Indian Tribe will not benefit from such allocation, as provided herein. Rather, the Parties acknowledge that such redelivery is a way to utilize the resources in a more efficient and economic manner, and to provide benefit to Ute Indian Tribe intended by WAPA.

10. EXHIBITS AND ATTACHMENTS

Inasmuch as certain provisions of this Agreement may change during the term hereof, they will be set forth in exhibits and attachments from time to time agreed upon by the

authorized representatives of the Parties. The initial Exhibit A and all future exhibits and attachments shall be attached hereto and made a part hereof, and each shall be in force and effect in accordance with its term unless superseded by a subsequent Exhibit, rate schedule or attachment. Exhibits will be reviewed at least once every five (5) years and adjustments made if conditions within the electric industry have changed significantly.

11. GENERAL TERMS AND CONDITIONS

- 11.1 Counter Parts: This agreement may be executed in as many counter parts as necessary. Each duly executed counterpart is an original enforceable Agreement without production of the other counter parts.
- 11.2 Authority: The execution of this agreement on behalf of a Party is duly authorized by any necessary action of that Party, intending to be bound.
- 11.3 Severability: To the extent that any provision of this agreement is found to be unenforceable and is severed from the agreement, the remainder of the agreement shall remain in full force and effect.
- 11.4 Sovereign Immunity: Nothing herein shall constitute a waiver of the sovereign immunity of Ute Indian Tribe.
- 11.5 Amendments and Modifications: This Agreement may be amended or modified by mutual written agreement duly executed by the Parties.
- 11.6 General Power Contract Provisions: The General Power Contract Provisions effective September 1, 2007, attached hereto; are made part of this - Contract the same as if they had been expressly set forth herein; Provided, That Provisions 1.2, and 19 through 30, shall not be applicable hereto; Provided further, That the word

Contractor in the General Power Contract Provisions refers to Page Electric
Utility and Ute Indian Tribe.

- 11.7 Electronic Signatures: The Parties agree that this Agreement may be executed by either handwritten signature or digitally signed using DocuSign, Adobe Sign, or Adobe E-Sign pursuant to Section 9, herein. A digital signature is the same as a handwritten signature and shall be considered valid and acceptable.
- 11.8 Authority to Execute: Each individual signing this Agreement certifies that the Party represented has duly authorized such individual to execute this Agreement that binds and obligates the Party.

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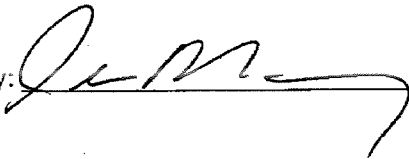
In witness whereof, the Parties have executed this agreement as of the date adjacent to each
name below:

PAGE ELECTRIC UTILITY

By: _____

Date: _____

UTE INDIAN TRIBE

By:  _____

Date: 10-2-24

WESTERN AREA POWER ADMINISTRATION

By: _____

Date: _____

EXHIBIT A

DETERMINATION OF PAGE PURCHASE PRICE

1. This Exhibit A, made _____, to be effective under and as a part of Native American Power Pooling and Scheduling Agreement ("NAPPS" or "Agreement") by Page Electric Utility, Ute Indian Tribe of the Uintah and Ouray Reservation (Ute Indian Tribe), and Western Area Power Administration (WAPA), dated _____, hereinafter called the "Agreement", shall become effective on the initial service date of the Agreement and shall remain in effect until superseded by another Exhibit A; Provided, that this Exhibit A or any superseding Exhibit A shall be terminated by the termination of the Agreement.
2. Calculation of Ute Indian Tribe Benefit
 - A. It is the intent of the Parties that the benefit provided to Ute Indian Tribe from its SLCA/IP allocation by Page be based on a calculation associated with the avoided cost of power resource Page may need to acquire to meet its electrical needs as described in Section C of this Exhibit.
 - B. Pursuant to Section 5.2 of the Agreement, the initial benefit to Ute Indian Tribe will be based on the difference between the delivered SLCA/IP resource cost on a kilowatt hour basis as billed by WAPA and the fixed amount of \$0.042 per kilowatt hour, multiplied by the number of kilowatt hours delivered to Page pursuant to the Contract. This amount is based on the estimated cost of gas fired generation available to Page and the cost of WAPA purchases in Federal fiscal years 2004 and 2005 using a methodology similar to that described in Section C of this Exhibit.

- C. Beginning on October 1, 2024, the Ute Indian Tribe benefit for the following year will be calculated using the following procedure. The Ute Indian Tribe benefit will be the difference between 90 percent (90%) of the average cost of energy purchased by WAPA for SLCA/IP firming and Western Replacement Power for the previous twelve (12) months and the delivered SLCA/IP resource cost on a kilowatt hour basis, multiplied by the number of kilowatt hours delivered under the Agreement. However, to protect both Parties against temporary extreme variations in in short term electricity prices, the amount used to calculate Ute Indian Tribe's payment will not rise higher than \$0.05 or drop lower than \$0.035 per kilowatt hour. Page will inform Ute Indian Tribe in writing of any change in the amounts used to calculate the payment prior to the payment for energy delivered in October of each year.
- D. This Exhibit will be reviewed at least every five (5) years and modified to reflect changes in the long-term cost of electricity and in electrical industry conditions.

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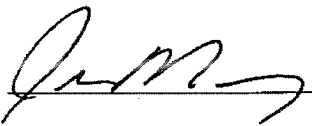
In witness whereof, the Parties have executed this Exhibit A as of the date adjacent to each name below:

PAGE ELECTRIC UTILITY

By: _____

Date: _____

UTE INDIAN TRIBE

By:  _____

Date: 10-1-2024

WESTERN AREA POWER ADMINISTRATION

By: _____

Date: _____

**NATIVE AMERICAN POWER POOLING
AND
SCHEDULING AGREEMENT**

This Native American Power Pooling and Scheduling Agreement ("NAPPS" or "Agreement") is dated as of _____, and is by and among the City of Page, Arizona, dba Page Electric Utility, and the Hualapai Nation (Hualapai), a Federally recognized Indian Tribe, and The United States of America, acting by and through the Administrator, Western Area Power Administration, an agency of the Department of Energy, hereinafter called "WAPA", represented by the officer executing this Contract, a duly appointed successor, or a duly authorized representative, hereinafter called the "Contracting Officer," each sometimes individually referred to as "Party" and collectively as "Parties".

1. RECITALS

- 1.1 WAPA markets Salt Lake City Area/Integrated Projects (SLCA/IP) Power pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), the Act of Congress approved February 25, 1905 (33 Stat. 814), the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), the Flood Control Act of December 22, 1944 (58 Stat. 887), the Act of Congress approved July 3, 1952 (66 Stat. 325), the Act of Congress approved April 11, 1956 (70 Stat. 105), the Act of Congress approved August 4, 1977 (91 Stat. 565), and acts amendatory or supplementary to the foregoing.
- 1.2 In implementation of renewal of existing firm power customers' contracts that were effective October 1, 2004, WAPA provided for a reduction of approximately seven percent (7%) of existing entitlements in order to provide a pool of Post

2004 SLCA/IP power for new customers, including Native American Tribes or their organizations.

- 1.3 WAPA announced final allocations of power to new customers, including Native American organizations, in the Federal Register Final Notice published July 29, 2002, at 67 FR 49019, and has offered Firm Electric Service Contracts to the Native American organizations receiving an allocation of such power and energy, including Contract No. 17-SLC-0817 with Hualapai.
- 1.4 WAPA has provided general principles for developing SLCA/ IP Post-2004 Resource Delivery for Native American organizations and is recognized that the benefit of federal power may be delivered separately from the Resource itself under certain limited circumstances.
- 1.5 Cooperation among Native American and other organizations with an allocation of SLCA/ IP power may result in efficiencies and enhanced beneficial and economic use and dispatch of the resources.

THEREFORE, in consideration of the terms and agreements herein set forth, and for other good and valuable considerations, the adequacy of which are acknowledged, the Parties agree as follows:

2. OBJECTIVE AND GOAL

- 2.1 The objective of this Agreement is to utilize the load and resource diversity between the Parties and the various resources available to each; to schedule the SLCA/IP resource in a manner which results in the efficient use of resources; to reduce resource costs to the Parties; and, to deliver the benefits of SLCA/IP power to the Native American individuals and other organizations as intended in WAPA's Energy Planning and Management Program.
- 2.2 The goal of the Agreement is also to promote energy self-sufficiency of the Native American communities and to improve the reliability of delivery of the benefits of Federal Power to intended beneficiaries.

3. REDELIVERY OF RESOURCES BY WAPA

- 3.1 Subject to confirmation of its other requirements, WAPA agrees to redeliver SLCA/IP power and energy from Hualapai, which has an allocation of such power, to Page Electric Utility for each Contract Season until any Party terminates this Agreement as set forth herein. This redelivery may be effected through a written request whereby the Exhibit A attached to each party's Firm Electric Service Contract with WAPA will be modified to reflect the requested redelivery of Capacity and Energy for a Contract Season.

3.2 This Agreement and any subsequent request for redelivery does not create any rights to SLCA/IP power or other resources other than participation in this Agreement as outlined herein.

3.3 WAPA agrees to directly bill Page Electric Utility, the Party receiving the redelivered power and energy, in lieu of Hualapai.

4. FIRM ELECTRIC SERVICE CONTRACT COMPLIANCE

4.1 Page Electric Utility is hereby designated to be responsible for exercising the privileges and responsibilities of Hualapai pursuant to Sections 7 through 14 of Contract No. 17-SLC-0817 with WAPA and the Exhibit A attached thereto.

4.2 Page Electric Utility shall fulfill the scheduling and accounting functions required for the operation of this Agreement. Page Electric Utility shall secure such documentation as is necessary to allow it to act as authorized representative for purposes of scheduling SLCA/IP resources, and for such other purposes as are necessary in connection with operations using its reasonable best judgment for the benefit of both Page Electric Utility and Hualapai.

4.3 The Environmental Attributes, otherwise known as Renewable Energy Credits, bundled with the energy (kWh) allocation to Hualapai pursuant to Section 13 of Contract No. 17-SLC-0817, shall remain with Hualapai and will not be transferred to Page Electric Utility under this agreement.

5. POWER STATEMENTS AND RECONCILIATION

- 5.1 In the month following each Billing Period, Page Electric Utility shall pay WAPA, when due, the amounts due for power and energy, and any transmission involved, billed for the Billing Period. Copies of those bills will be furnished to Hualapai by Page Electric Utility.
- 5.2 Following the receipt of bills, Page Electric Utility will, if necessary, reconcile any differences between bills paid and resources set forth in the approved request for redelivery as provided in Section 3.1. Page Electric Utility will then calculate the amount of Hualapai's monthly benefit using the methodology described in Exhibit A of this Agreement. Page Electric Utility will then remit the benefit to Hualapai each month within fifteen days after receipt of the WAPA bills, accompanied by a statement of calculations described above and any other reasonably available pertinent information requested by Hualapai.
- 5.3 Page Electric Utility shall provide a reconciliation statement to Hualapai for each Annual Period. Balances shall be cleared promptly, and in any event credit balances are due within thirty (30) days of receipt of the Statement. Within thirty (30) days of receipt of each Annual reconciliation statement, Hualapai must note any discrepancies or other objections to the same, or all accounts for that period shall be deemed to be settled, and the reconciliation statement shall be considered shall be considered a fully approved and a complete accord and satisfaction for

that annual period on the thirty-first day after its receipt unless Hualapai notes discrepancies or other objections to the same in writing within the specified time. Amounts due to or payable by each party will be calculated and each Party's debit or credit balance will be provided to each Party in a Statement for each annual accounting period.

5.4 In the event that WAPA's rates change pursuant to a formal or informal rate adjustment such that it is likely or certain that the WAPA rate will be equal to or greater than the amount stated in Exhibit A, Page Electric Utility agrees to provide immediate written notice to Hualapai. Upon receipt of such notice, either party may request renegotiation of this Section 5, or in lieu thereof, either party may give notice of immediate termination pursuant to Section 7 hereof. Notwithstanding the above, at any time either Party may request renegotiation of Section 5.

5.5 In the event Page Electric Utility makes any request for power deliveries from WAPA pursuant to any provision in the Firm Electric Service Contract between WAPA and Hualapai which results in a delivered cost that is greater than the amount stated in Exhibit A, Hualapai will have no liability therefore.

5.6 To ensure that the allocation of Federal power benefits the entire Tribe or Community, the use of the Economic Benefit should be determined by Hualapai's governing body. Upon request from WAPA, Hualapai shall provide WAPA with

the method that the Tribe will employ to use or distribute the Economic Benefit within the Tribe.

6. TERM

The Term of this Agreement shall begin on _____, and continue through September 30, 2057 or until such time as any Party has terminated this Agreement pursuant to Sections 5.4 or 7 hereof.

7. WITHDRAWAL AND/OR TERMINATION OF PARTY STATUS

- 7.1 Any Party may terminate their status as a Party to this Agreement and withdraw therefrom at any time by giving written notice of withdrawal and termination to the other Parties. Hualapai must provide six months notice and Page Electric Utility and WAPA must provide one year's notice to the other Parties in advance of the proposed termination date; Provided, however, that unless otherwise agreed, the withdrawing and terminating Party shall remain a Party to this Agreement for the remainder of any Contract Season which includes the proposed termination date. As defined in Contract No. 17-SLC-0817, WAPA's Winter Season begins on October 1 of each year and runs through March 31 of the following year. WAPA's Summer Season begins on April 1 and runs through September 30 of each year. Upon withdrawal or termination of a Party's status as a Party, all obligations previously incurred by the Terminating Party pursuant to this Agreement shall survive until satisfied.

- 7.2 Page Electric Utility may terminate the status of Hualapai as a Party to this Agreement if Hualapai no longer has a contract with WAPA for federal power.

8. DISPUTE RESOLUTION AND NOTICE

- 8.1 A. The General Manager of Page Electric Utility and the Designated Representative of Hualapai (Program Managers) or their designees shall be the primary points of contact to coordinate all activities under this Agreement involving the Parties they represent, including the resolution of disputes. It is the intention of these Parties that all disputes shall be resolved at the lowest possible level of authority as expeditiously as possible within the following framework. All time frames noted below for resolving disputes may be lengthened by mutual written consent of these Parties, however.

1. Should a dispute relating to this Agreement arise and the Program Managers be unable to agree regarding its resolution, the matter shall be referred, in writing, as soon as practicable but in no even exceeding thirty (30) working days from the failure to agree, to Page Electric Utility General Manager and the Hualapai Tribal Chairperson or their mutually agreed upon representatives so designated in writing.
2. Should the Page Electric Utility General Manager and the Hualapai Tribal Chairperson, or their representatives so designated in writing, be unable to agree within thirty (30) additional working days, the matter shall be taken

before a mediator chosen by the American Arbitration Association or some other organization agreed upon by the Parties. Mediation of the dispute shall take place within ninety (90) days from the initial failure to agree.

B. In the event that these Parties are unable to resolve a dispute through direct communication or mediation, both retain all rights they may otherwise have to seek resolution of this issue.

8.2 The Program Managers and Designated Representatives for notice to each party are as follows:

A. For Page Electric Utility:

General Manager
Page Electric Utility
P.O. Box 1955
Page, AZ 86040
(928) 645-2419

B. For Hualapai Nation:

Tribal Chairperson
Hualapai Nation
P.O. Box 179

Peach Springs, AZ 86434

(928) 769-1310

9. ACKNOWLEDGEMENT

The Parties agree that the redelivery of SLCA/IP resources pursuant to this Agreement is not evidence that Hualapai no longer has a need for all or any portion of its SLCA/IP allocation, nor that Hualapai will not benefit from such allocation, as provided herein. Rather, the Parties acknowledge that such redelivery is a way to utilize the resources in a more efficient and economic manner, and to provide benefit to Hualapai intended by WAPA.

10. EXHIBITS AND ATTACHMENTS

Inasmuch as certain provisions of this Agreement may change during the term hereof, they will be set forth in exhibits and attachments from time to time agreed upon by the authorized representatives of the Parties. The initial Exhibit A and all future exhibits and attachments shall be attached hereto and made a part hereof, and each shall be in force and effect in accordance with its term unless superseded by a subsequent Exhibit, rate schedule or attachment. Exhibits will be reviewed at least once every 5 years and adjustments made if conditions within the electric industry have changed significantly.

11. GENERAL TERMS AND CONDITIONS

- 11.1 Counter Parts: This agreement may be executed in as many counter parts as necessary. Each duly executed counter part is an original enforceable Agreement without production of the other counter parts.
- 11.2 Authority: The execution of this agreement on behalf of a Party is duly authorized by any necessary action of that Party, intending to be bound.
- 11.3 Severability: To the extent that any provision of this agreement is found to be unenforceable and is severed from the agreement, the remainder of the agreement shall remain in full force and effect.
- 11.4 Sovereign Immunity: Nothing herein shall constitute a waiver of the sovereign immunity of Hualapai.
- 11.5 Amendments and Modifications: This Agreement may be amended or modified by mutual written agreement duly executed by the Parties.
- 11.6 General Power Contract Provisions: The General Power Contract Provisions effective September 1, 2007, attached hereto; are made part of this - Contract the same as if they had been expressly set forth herein; Provided, That Provisions 1.2, and 19 through 30, shall not be applicable hereto; Provided further, That the word Contractor in the General Power Contract Provisions refers to Page Electric Utility and Hualapai.

11.7 Electronic Signatures: The Parties agree that this Agreement may be executed by either handwritten signature or digitally signed using DocuSign, Adobe Sign, or Adobe E-Sign pursuant to Section 9, herein. A digital signature is the same as a handwritten signature and shall be considered valid and acceptable.

11.8 Authority to Execute: Each individual signing this Agreement certifies that the Party represented has duly authorized such individual to execute this Agreement that binds and obligates the Party.

In witness whereof, the Parties have executed this agreement as of the date adjacent to each
name below:

PAGE ELECTRIC UTILITY

By: _____

Date: _____

THE HUALAPAI NATION

By: _____

Date: _____

WESTERN AREA POWER ADMINISTRATION

By: _____

Date: _____

EXHIBIT A

DETERMINATION OF PAGE PURCHASE PRICE

1. This Exhibit A, made _____, to be effective under and as a part of Native American Power Pooling and Scheduling Agreement (“NAPPS” or “Agreement”) by Page Electric Utility, Hualapai Nation (Hualapai), and Western Area Power Administration (WAPA), dated _____, hereinafter called the “Agreement”, shall become effective on the initial service date of the Agreement and shall remain in effect until superseded by another Exhibit A; Provided, that this Exhibit A or any superseding Exhibit A shall be terminated by the termination of the Agreement.
2. Calculation of Hualapai Benefit
 - A. It is the intent of the Parties that the benefit provided to Hualapai from its SLCA/IP allocation by Page be based on a calculation associated with the avoided cost of power resource Page may need to acquire to meet its electrical needs as described in Section C of this Exhibit.
 - B. Pursuant to Section 5.2 of the Agreement, the initial benefit to Hualapai will be based on the difference between the delivered SLCA/IP resource cost on a kilowatt hour basis as billed by WAPA and the fixed amount of \$0.042 per kilowatt hour, multiplied by the number of kilowatt hours delivered to Page pursuant to the Contract. This amount is based on the estimated cost of gas fired generation available to Page and the cost of WAPA purchases in Federal fiscal years 2004 and 2005 using a methodology similar to that described in Section C of this Exhibit.

- C. Beginning on October 1, 2024, the Hualapai benefit for the following year will be calculated using the following procedure. The Hualapai benefit will be the difference between 90 percent (90%) of the average cost of energy purchased by WAPA for SLCA/IP firming and Western Replacement Power for the previous 12 months and the delivered SLCA/IP resource cost on a kilowatt hour basis, multiplied by the number of kilowatt hours delivered under the Agreement. However, to protect both Parties against temporary extreme variations in in short term electricity prices, the amount used to calculate Hualapai's payment will not rise higher than \$0.05 or drop lower than \$0.035 per kilowatt hour. Page will inform Hualapai in writing of any change in the amounts used to calculate the payment prior to the payment for energy delivered in October of each year.
- D. This Exhibit will be reviewed at least every five years and modified to reflect changes in the long-term cost of electricity and in electrical industry conditions.

In witness whereof, the Parties have executed this Exhibit A as of the date adjacent to each name below:

PAGE ELECTRIC UTILITY

By: _____

Date: _____

HUALAPAI NATION

By: _____

Date: _____

WESTERN AREA POWER ADMINISTRATION

By: _____

Date: _____

NEW BUSINESS 13. 7.

City Council Regular Agenda

Meeting Date: 11/13/2024

Title: Mayor's Final Report

Presented by:

Subject:

Mayor's Final Report



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REQUEST FOR COUNCIL ACTION**

EXECUTIVE SESSIONS 16.1.

City Council Regular Agenda

Meeting Date: 11/13/2024

Brief Title: Potential Land Sale: Vacant land on the northeast corner of Coppermine and Osprey

Presented by: Josh Smith, City Attorney

Department: City Attorney

Action: Motion

RECOMMENDED ACTION:

Staff direction.

BACKGROUND:

See memo.

ALTERNATIVES CONSIDERED:

N/A

ADVISORY BOARD / COMMISSION ACTION:

N/A

Fiscal Impact

Budget Impact:

Unknown

Attachments



**CITY OF PAGE
REQUEST FOR COUNCIL ACTION**

EXECUTIVE SESSIONS 16.2.

City Council Regular Agenda

Meeting Date: 11/13/2024
Brief Title: Potential land sale: Vacant land west of Public Works Facility
Presented by: Josh Smith, City Attorney
Department: City Attorney
Action: Motion

RECOMMENDED ACTION:

Staff direction.

BACKGROUND:

See memo.

ALTERNATIVES CONSIDERED:

N/A

ADVISORY BOARD / COMMISSION ACTION:

N/A

Fiscal Impact

Budget Impact:

Unknown

Attachments



**CITY OF PAGE
REQUEST FOR COUNCIL ACTION**

EXECUTIVE SESSIONS 16.3.

City Council Regular Agenda

Meeting Date: 11/13/2024
Brief Title: Discussion of Potential Land Sale Parcel 80216009J
Presented by: Darren Coldwell, City Manager
Department: City Manager
Action: Other

RECOMMENDED ACTION:

This will be further discussed in closed session.

BACKGROUND:

This will be further discussed in closed session.

ALTERNATIVES CONSIDERED:

N/A

ADVISORY BOARD / COMMISSION ACTION:

N/A

Fiscal Impact

Fiscal Year: 2024
Amount Requested: N/A
Line Item(s): N/A
Budget Impact:
There will be no fiscal impact.
