

AGENDA



4:30 P.M.

CITY COUNCIL MEETING

REVISED

TUESDAY, AUGUST 8, 2023

NOTES:

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

www.SedonaAZ.gov

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

GUIDELINES FOR PUBLIC COMMENT

PURPOSE:

- To allow the public to provide input to the City Council on a particular subject scheduled on the agenda.
- This is not a question/answer session.
- No disruptive behavior or profane language will be allowed.

PROCEDURES:

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

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

2. ROLL CALL/MOMENT OF ART

3. CONSENT ITEMS - APPROVE

LINK TO DOCUMENT =

- a. Minutes - July 11, 2023 City Council Special Meeting - Executive Session.
- b. Minutes - July 11, 2023 City Council Regular Meeting.
- c. AB 2972 Approval of a recommendation regarding a new Series 10 Beer and Wine Store Liquor License application for Sedona Uptown Market located at 361 Forest Road #A, Sedona, AZ (License # 238147).
- d. Approval of Proclamation, Child Support Awareness Month, August 2023.

4. APPOINTMENTS - None.

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

6. PUBLIC FORUM

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

7. PROCLAMATIONS, RECOGNITIONS & AWARDS

- a. Child Support Awareness Month, August 2023.

8. REGULAR BUSINESS

- a. AB 2980 **Discussion/presentation** by Ed Rose, General Manager of the Sedona Airport Administration, to provide an update to the City Council on their activities, accomplishments, and general services to the community.
- b. AB 2979 **Discussion/possible action** regarding approval of a Resolution amending the development agreement between Sunset Lofts, LLC and the City of Sedona for the construction of 46-units of workforce housing at 220 Sunset Drive in Sedona.
- c. AB 2982 **Discussion/possible direction** regarding an update of the Ranger Station Park Build Out, Capital Improvement Program Project PR-03C.
- d. AB 2976 **Discussion/possible action** regarding an Ordinance amending the Sedona City Code Title 12 (Streets, Sidewalks, and Public Places)) by amending Chapter 12.05 (Rights-of-Way).
- e. **Reports/discussion** regarding Council assignments.
- f. **Discussion/possible action** regarding future meeting/agenda items.

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

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

Page 2, City Council Meeting Agenda Continued

9. EXECUTIVE SESSION

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

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

10. ADJOURNMENT

Posted: 8/7/2023

By: DJ

JoAnne Cook, CMC, City Clerk

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

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

NOTICE TO PARENTS AND LEGAL GUARDIANS: Parents and legal guardians have the right to consent before the City of Sedona makes a video or voice recording of a minor child, pursuant to A.R.S. § 1-602(A)(9). The Sedona City Council meetings are recorded and may be viewed on the City of Sedona website. If you permit your child to attend/participate in a televised City Council meeting, a recording will be made. You may exercise your right not to consent by not allowing your child to attend/participate in the meeting.

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

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

**Action Minutes
Special City Council Meeting
Sedona City Hall, Vultee Conference Room
106 Roadrunner Drive, Sedona, Arizona
Tuesday, July 11, 2023, 2:00 p.m.**

1. Call to Order

Mayor Jablow called the meeting to order at 2:00 p.m.

2. Roll Call

Council Present: Mayor Scott Jablow, Vice Mayor Holli Ploog, Councilor Melissa Dunn, Councilor Brian Fultz, Councilor Kathy Kinsella, and Councilor Jessica Williamson. Councilor Pete Furman was absent and excused.

Staff Present item: City Manager Karen Osburn, Deputy City Manager Andy Dickey, Director of Wastewater Roxanne Holland, City Attorney Kurt Christianson, and City Clerk JoAnne Cook.

3. Executive Session

Motion: Councilor Williamson moved to enter into Executive Session at 2:02 p.m. Seconded by Councilor Fultz. Motion carried unanimously with six (6) in favor (Jablow, Ploog, Dunn, Fultz, Kinsella, and Williamson) and zero (0) opposed.

Kurt Christianson gave the admonition.

Tanya Lewis, Yavapai Apache Nation Chairwoman, Susan Montgomery and Robyn Interpreter of Montgomery & Interpreter, PLC.

- a. **Discussion and consultation with the City Attorney for legal advice regarding the lease of City property at the Wastewater Treatment Plant to the Yavapai Apache Nation, the IGA between the City and the Yavapai Apache Nation, and use of City reclaimed wastewater. This matter is brought in executive session pursuant to A.R.S. § 38-431.03(A)(3) and (A)(7).**
- b. **Discussion, consultation, and consideration of negotiations by the City and its designated representatives, with members of the Yavapai Apache Nation and its designated representatives, regarding the lease of City property at the Wastewater Treatment Plant, the IGA between the City and the Yavapai Apache Nation, and use of City reclaimed wastewater. This matter is brought in executive session pursuant to A.R.S. § 38-431.03(A)(6).**
- c. **Return to open session. Discussion/possible action regarding executive session items 3:52 p.m.**

Motion: Councilor Kinsella moved to terminate the IGA with Yavapai Apache Nation regarding wastewater and direct staff to provide periodic updates to Council regarding possible reconsideration of an IGA. Seconded by Councilor Williamson.

Motion carried unanimously with six (6) in favor (Jablow, Ploog, Dunn, Fultz, Kinsella, and Williamson) and zero (0) opposed.

4. Adjournment

Mayor Jablow adjourned the meeting at 3:53 p.m.

I certify that the above are the true and correct actions of the Special City Council Meeting held on July 11, 2023.

JoAnne Cook, CMC, City Clerk

Date

Action Minutes
Regular City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Tuesday, July 11, 2023, 4:30 p.m.

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

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

Council Present: Mayor Scott Jablow, Vice Mayor Holli Ploog, Councilor Melissa Dunn, Councilor Brian Fultz, Councilor Kathy Kinsella, and Councilor Jessica Williamson. Councilor Pete Furman was absent and excused.

Staff Present: City Manager Karen Osburn, Deputy City Manager Andy Dickey, City Attorney Kurt Christianson, Director of Engineering/Public Works Kurt Harris, Director of Financial Services Cherie White, Community Development Director Steve Mertes, Assistant Public Works Director/Assistant City Engineer Sandy Phillips, Executive Assistant Karen Kwitkin, Facilities Manager Larry Farhat, Recreation Coordinator Jason Vargo, Chief Foley, Deputy Chief Ryan Kwitkin, Accounting Supervisor Rene Stanley, Budget Analyst Sterling West, Web Content Manager Rob MacMullan, Arts Coordinator Nancy Lattanzi, Deputy City Clerk Marcy Garner, and City Clerk JoAnne Cook.

2. Roll Call/Moment of Art

Nancy Lattanzi stated that it is Culinary Arts Month and introduced Chef-Restaurateur Lisa Dahl. A video featuring Lisa Dahl's restaurants, accomplishments, and activities was played. Lisa answered questions from Council members and the audience.

3. Consent Items

- a. **Minutes - June 27, 2023 City Council Special Meeting - Executive Session.**
- b. **Minutes - June 27, 2023 City Council Regular Meeting.**
- c. **Minutes - June 28, 2023 City Council Special Meeting.**
- d. **AB 2974 Approval of a Land Lease Agreement with the Yavapai Apache Nation at the Wastewater Treatment Plant.**
- e. **AB 2977 Approval of a Professional Service Agreement with T.P.I. Building Code Consultants, Inc. for the provision of Plans Examiner Services for FY24 through FY26 (three-year contract) in an amount not to exceed \$525,000.00.**

Motion: Vice Mayor Ploog moved to approve the consent agenda items 3a – 3e. **Seconded by Councilor Fultz. Vote:** Motion passed with six (6) in favor (Jablow, Ploog, Dunn, Fultz, Kinsella, Williamson) and zero (0) opposed.

4. Appointments – None.

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

Vice Mayor Ploog advised that infant, youth and private adult swim lessons are offered at the Sedona Community Pool by Parks and Recreation, a variety of summer camps have been offered, and, adult softball, youth football, open gym and pickleball programs are

currently offered and running. Mayor Jablow advised the Emergency Preparedness Ready Set Go for Evacuation and Reentry Meeting will take place tomorrow in Council Chambers at 6:00 p.m. and encouraged all to attend.

6. Public Forum – None.

7. Proclamations, Recognitions & Awards – None.

8. Regular Business

a. AB 2970 Public hearing/discussion/possible action regarding approval of the Tentative City Budget for Fiscal Year 2023-2024.

Presentation by Cherie White.

Questions and comments from Council.

Opened public hearing at 5:13 p.m.

No comments heard.

Closed the public hearing and brought back to Council at 5:13 p.m.

Comments from Council.

Motion: Councilor Williamson moved to approve the Tentative Budget for FY 2023-24 and thereby set the expenditure limit for the budget at \$85,819,620, as amended. Seconded by Councilor Kinsella. Vote: Motion passed with six (6) in favor (Jablow, Ploog, Dunn, Fultz, Kinsella, Williamson) and zero (0) opposed.

b. AB 2967 Discussion/possible action regarding the Small Grant Evaluation Citizen Work Group recommendations for Fiscal Year 2024 Small Grants Program in the amount of \$200,000.

Presentation by Stephanie Giesbrecht and Karen Kwitkin. Stephanie thanked the Citizen Work Group members.

Questions and comments from Council.

Opened to the public at 5:21 p.m.

Suanne Rudley, Sedona, spoke in favor of increasing the funding amount for next fiscal year.

Brought back to Council at 5:21 p.m.

Motion: Vice Mayor Ploog moved to approve the Small Grant Evaluation Citizen Work Group grant recommendations for Fiscal Year 2024 in the total amount of \$200,000 as itemized in agenda bill 2967 and Exhibit A. Seconded by Kinsella. Vote: Motion passed with six (6) in favor (Jablow, Ploog, Dunn, Fultz, Kinsella, Williamson) and zero (0) opposed.

c. AB 2963 Discussion/possible action regarding the site selection for new pickleball courts at Posse Grounds Park.

Presentation by Sandy Phillips, Jason Vargo, and Larry Farhat.

Questions and comments from Council.

Opened to the public at 5:50 p.m.

The following spoke and asked questions regarding the pickleball location: Lori Parker, Sedona, Suanne Rudley, Sedona, and Jollie Lilly, Sedona.

Brought back to Council at 5:55 p.m.

Questions and comments from Council.

Motion: Councilor Dunn moved to approve location “C” as shown in the exhibit of this agenda bill. Seconded by Councilor Williamson. Vote: Motion passed with six (6) in favor (Jablow, Ploog, Dunn, Fultz, Kinsella, Williamson) and zero (0) opposed.

Break at 6:06 p.m. Reconvened at 6:22 p.m.

- d. **AB 2975 Discussion/possible action regarding an Ordinance amending the Sedona City Code Chapter 2.25 (Ordinances, Resolutions, and Contracts) by amending Section 2.25.040 (Reading of proposed ordinance).**

Presentation by Kurt Christianson.

Questions and comments from Council.

Motion: Councilor Kinsella moved to adopt Ordinance No. 2023-04 an ordinance of the Mayor and Council of the City of Sedona, Arizona adopting amendments to the Sedona City Code Chapter 2.25 (Ordinances, Resolutions, and Contracts) by amending Section 2.25.040 from “Reading of proposed ordinance” to “Two meetings required for new ordinances.” Seconded by Vice Mayor Ploog. Vote: Motion with six (6) in favor (Jablow, Ploog, Dunn, Fultz, Kinsella, Williamson) and zero (0) opposed.

- e. **AB 2976 Discussion/possible action regarding an Ordinance amending the Sedona City Code Title 12 (Streets, Sidewalks, and Public Places) by amending Chapter 12.05 (Rights-of-Way).**

Presentation by Kurt Christianson.

Questions and comments from Council.

Motion: Councilor Fultz moved to enter executive session at 6:45 p.m. Seconded by Councilor Kinsella. Vote: Motion passed with six (6) in favor (Jablow, Ploog, Dunn, Fultz, Kinsella, Williamson) and zero (0) opposed.

Reconvened in open session at 7:04 p.m.

Questions and comments from Council.

Motion: Councilor Williamson moved to defer item AB 2976 to the next meeting. Seconded by Vice Mayor Ploog. Vote: Motion passed with six (6) in favor (Jablow, Ploog, Dunn, Fultz, Kinsella, Williamson) and zero (0) opposed.

9. Reports/discussion regarding Council assignments.

Councilor Dunn advised that the Verde Valley Caregivers Coalition will be holding a Winter Masquerade on November 19, 2023 at the Enchantment Resort in the Anasazi

Ballroom. She encouraged all interested to donate items for a silent auction and to look into the volunteer opportunities they offer.

f. Discussion regarding ideas for future meeting/agenda items.

Mayor Jablow advised the Emergency Preparedness Ready Set Go for Evacuation and Reentry Meeting will take place tomorrow at 6:00 p.m. in Council Chambers.

9. Executive Session

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

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

No Executive Session was held.

10. Adjournment

Mayor Jablow adjourned the meeting at 7:15 p.m. without objection.

I certify that the above are the true and correct actions of the Regular City Council Meeting held on July 11, 2023.

JoAnne Cook, CMC, City Clerk

Date



**CITY COUNCIL
AGENDA BILL**

**AB 2972
August 8, 2023
Consent Items**

Agenda Item: 3c

Proposed Action & Subject: Approval of a recommendation regarding a new Series 10 Beer and Wine Store Liquor License application for Sedona Uptown Market located at 361 Forest Road # A, Sedona, AZ (License # 238147).

Department City Clerk

Time to Present N/A

Total Time for Item

Other Council Meetings N/A

Exhibits Liquor License Application is available for review in the City Clerk's office.

City Attorney Approval	Reviewed 8/1/23 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	Recommend approval of a new Series 10 Beer & Wine Store Liquor License for 10 Beer and Wine Store Liquor for Sedona Uptown Market located a 361 Forest Road # A, Sedona, AZ (License # 238147).	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	☒

Background: State liquor laws require Sedona's City Council to forward a recommendation for approval or denial of applications for liquor licenses.

The City received an application for a new Series 10 Beer and Wine Store Liquor for Sedona Uptown Market located at 361 Forest Road # A, Sedona, AZ (License # 238147). The application is available for review and inspection in the City Clerk's office or by email.

A Series 10 Liquor License (Beer and Wine) is a non-transferable, off-sale retail privileges liquor license that allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises. A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of delivery.

Community Development, Finance, the Sedona Police Department (SPD), and Sedona Fire District (SFD) have conducted a review of the application. No objections regarding its approval were noted.

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

Board/Commission Recommendation: ☐Applicable - ☒Not Applicable

Alternative(s): Recommend denial of a new Series 10 Beer and Wine Store Liquor License for Sedona Uptown Market located at 361 Forest Road # A, Sedona, AZ (License # 238147). Reasons for a recommendation of denial would need to be specified.

I move to: recommend approval of a new Series 10 Beer & Wine Store Liquor License for 10 Beer and Wine Store Liquor for Sedona Uptown Market located a 361 Forest Road # A, Sedona, AZ (License # 238147).

*Office of the Mayor
City of Sedona, Arizona*



**Proclamation
CHILD SUPPORT AWARENESS MONTH
AUGUST, 2023**

WHEREAS, the City of Sedona joins the Nation in recognizing August as Child Support Awareness Month, and reaffirms its commitment to strengthening Arizona's families by providing child support services to improve the economic stability and well-being of children; and

WHEREAS, the State of Arizona will always be committed advocates for our children, whose safety and security remains top of mind; and

WHEREAS, a child who receives emotional and financial support is more likely to feel safe and secure and is better equipped with the courage to be their very best in life; and

WHEREAS, the Department of Economic Security Division of Child Support Services (DCSS), is robustly committed to putting Arizona's children first and to humbly serving Arizonans with excellence, respect, integrity and kindness, as well as being an overall champion for economic growth and opportunity; and

WHEREAS, DCSS strongly advocates for parenting responsibilities because parents and children benefit when both are engaged with their child at every stage, regardless of marital status; and

WHEREAS, DCSS recognizes the commitment of legal guardians who accept responsibilities of children in the absence of parents; and

WHEREAS, strengthening individuals and families with an emphasis on fiscal responsibility promotes the safety and well-being of children, provides stability, improves the lives of children, and provides opportunities for families to be able to enhance their children's future; and

WHEREAS, Child Support Awareness Month values parents' involvement in their children's lives and who make regular child support payments to safeguard their children's future.

NOW THEREFORE I, SCOTT JABLOW, MAYOR OF THE CITY OF SEDONA, ARIZONA, ON BEHALF OF THE SEDONA CITY COUNCIL, do hereby proclaim August, 2023 as "Child Support Awareness Month" in the City of Sedona.

Issued this 8th day of August, 2023.

Scott M. Jablow, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk



City of Sedona Proclamation Requests

The City of Sedona is pleased to consider requests for Proclamations. Proclamations are typically used to recognize exceptional achievement, extraordinary organizations or activities. Per the City Council's Rules of Procedure, Rule 1.P.3., Proclamations may be placed on the Council agenda by the City Manager or with sponsorship of any two Council members. Due consideration should be given concerning whether the Proclamation is consistent with the City's vision statement and the goals of the Community Plan. Proclamations that promote a particular political or religious agenda will not be accepted.

Please note that the Agenda Team has discretion over placement of any requests on the City Council's agenda. Requests must be submitted in accordance with the City's established timeline for placing items on the Council's agenda. Only the City Council may issue a Proclamation following approval at one of their regularly scheduled meetings on the second or fourth Tuesday of the month. Any proclamation requests should therefore be submitted at least three weeks before the Council meeting at which you wish to have the proclamation adopted. Please complete the following form in its entirety and email it, along with the proposed Proclamation, to cityclerksdept@sedonaaz.gov. Email is preferred; however, you may also mail your request to:

City Clerk Department
City of Sedona
102 Roadrunner Drive
Sedona, AZ 86336-3710.

Upon receipt, your request will be evaluated. If approved, it will be placed on a future Council agenda for consideration by the City Council and you will be notified of the date. If you have any questions, please call 928-282-3113.



City of Sedona Proclamation Request Form

Full Name of Contact Person	Christian Romo
Contact Phone Number	(480) 452-6523
Contact Mailing Address	125 E Elliot Rd. Chandler, AZ 85225, Mail Drop 7414
Contact Email Address	ChristianRomo@azdes.gov

Group, Organization, Activity or Event Being Recognized (Please make sure you provide complete and current information about the group or event)	Child Support Awareness Month. State of Arizona, Division of Child Support Services (DCSS)
Website Address (if applicable)	https://des.az.gov/services/child-and-family/child-support
Name of the sponsor(s) of the Proclamation (2 Council members or the City Manager)	Mayor Jablow and Vice Mayor Ploog
What is the proclaimed day, days, week or month? (e.g. 10/11/12, October 11-17, 2012, October 2012)	August 2023
Would you like to attend a Council meeting for formal presentation of the Proclamation or would you like to pick it up?	Presentation at Meeting Pick up Proclamation
If you would like the Proclamation presented at a Council meeting, please provide the full name and contact information (phone number and email address) of the party who will accept it on behalf of the group.	Megan Zimmerman-Grande mzimmermangrande@azdes.gov

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

In 1995, on the 20th anniversary of the Child Support Enforcement Program, President Bill Clinton established August as National Child Support Awareness Month in the United States. Each year, the Governor of Arizona signs a proclamation recognizing Child Support Awareness Month.

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

August is Child Support Awareness Month, an annual time to raise awareness about a critical income support program that helps millions of children and families.

In FY 2022, child support programs nationwide collected \$30.5 billion and served 1 in 5 children in the United States. This kind of support helps families thrive and sets kids up to succeed.

The proclamation is an effective tool to garner support from Arizona's cities, towns and county boards.

Additionally, The State of Arizona's Division of Child Support Services (DCSS) will be hosting a virtual activity for the children of our customers. We will be hosting a statewide art contest and reward submissions with school supply bundles.

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



**CITY COUNCIL
AGENDA BILL**

**AB 2980
August 8, 2023
Regular Business**

Agenda Item: 8a

Proposed Action & Subject: Discussion/presentation by Ed Rose, General Manager of the Sedona Airport Administration, to provide an update to the City Council on their activities, accomplishments, and general service to the community.

Department City Manager

Time to Present 15 minutes
Total Time for Item 60 minutes

Other Council Meetings N/A

Exhibits None

City Attorney Approval	Reviewed 8/1/23 KWC	Expenditure Required
		\$ N/A
		Amount Budgeted
		\$ N/A
City Manager's Recommendation	For information and discussion only.	Account No. (Description)
		Finance ☒ Approval

Background: The Sedona-Oak Creek Airport Authority (SOCAA) has been trying to connect with the community, to inform them about things going on at the airport. They have interesting activities, accomplishments, and valuable services they'd like the community to be aware of. This presentation is part of that effort, to inform the community.

Ed Rose, General Manager of the Sedona Airport Administration, will make the presentation.

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

Board/Commission Recommendation: ☐ Applicable - ☒ Not Applicable

Alternative(s): N/A

I move to: For presentation / discussion only.



CITY COUNCIL AGENDA BILL

AB 2979
August 8, 2023
Regular Agenda

Agenda Item: 8b

Proposed Action & Subject: Discussion/possible action regarding approval of a Resolution amending the development agreement between Sunset Lofts, LLC and the City of Sedona for the construction of 46-units of workforce housing at 220 Sunset Drive in Sedona.

Department City Manager's Office

Time to Present 10 minutes

Total Time for Item 30 minutes

Other Council Meetings July 13, 2021, March 8, 2022

Exhibits A. Second Amendment to the Development Agreement
B. Resolution
C. Original Development Agreement from 07/2021

City Attorney Approval	Reviewed 8/1/23 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	Approve the amendment to the development agreement as outlined in the AB.	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	☒

Background: On July 13, 2021, the City Council entered into a development agreement (DA) with Sunset Lofts, LLC to build a 46-unit deed restricted rent-controlled apartment complex dedicated to local workforce, ensured by a 50-year Land Use Restriction Agreement. The project has been through the development review process and received development review approvals.

On March 8, 2022 a first amendment to the DA was approved by the City Council to approve one clarification and two modifications as part of the development agreement in order to maximize the number of units provided. These concessions were made in accordance with Section 4.f. of the City's Developer Incentives and Guidelines for Affordable Housing (DIGAH) which allows the Sedona City Council to amend development standards in for affordable housing developments.

This second amendment to the DA (Exhibit A) will amend the DA to

1. provide a time extension to allow the developer, MK Company, to continue to pursue and complete the project
2. to clarify that the City would be entitled to any engineering and construction documents for the project should the developer fail to execute the project under the new timeline
3. and to delete a provision that allowed rental rates to be adjusted if necessary to maintain a certain annual debt service coverage ratio on the HUD loan.

Over the last two years this project has experienced delays in HUD financing approvals, interest rate escalations, escalations in construction costs and lack of availability of contractors. The developer, MK Company, is still committed to this project and working towards final HUD approvals, obtaining final construction bids, securing a contractor and obtaining building permits, but a time extension is needed as the original DA deems the developer in breach of the agreement by failing to construct the project within 24 months from the effective date, which was July 2021. The requested amendment provides until April 1, 2024 for the developer to start construction, and 15 months to complete construction. If the developer is unable to start and complete the project by these new deadlines, they also agree to assign title to the property to the City as well as all engineering and construction documents for the project. The deletion of Section 1.3.3. will ensure rents adhere strictly to the affordability requirements outlined in Section 1.3.2. with no provision for future adjustments should the project be refinanced in the future.

Once final loan approvals and construction bids are secured, if additional amendments to the DA are needed to make the project viable in light of the higher construction and financing costs, and rents will not be sufficient to cover them, additional modifications to the development agreement may be requested. However, those are unknown at this time and would be brought back to Council for consideration, if necessary, at a later date.

The original development agreement is attached as Exhibit C.

Sustainability/Climate Action Plan Compliant: ☐Yes - ☐No - ☒Not Applicable

Board/Commission Recommendation: ☐Applicable - ☒Not Applicable

Alternative(s):

[REDACTED]

I move to: approve Resolution 2023-__ approving an amendment to the development agreement between the City of Sedona and Sunset Lofts, LLC.

WHEN RECORDED RETURN TO:

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

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT
(Sedona/Sunset Lofts LLC)**

THIS SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT (the "**Amendment**") is made as of the 8th day of August, 2023, by and between the CITY OF SEDONA, ARIZONA, an Arizona municipal corporation (the "**City**"), and Sunset Lofts LLC, an Arizona limited liability company and its successor or assigns ("Property Owner"). City and Property Owner are sometimes referred to herein collectively as the "Parties," or individually as a "Party."

RECITALS

A. On July 13, 2021 the City of Sedona approved that certain Development Agreement by and between the City of Sedona and Sunset Lofts LLC, an Arizona limited liability company, relating to the development of 46 workforce housing units located at 220 Sunset Drive in Sedona (the "Development Agreement"). The Original Development Agreement was recorded in the Official Records of Yavapai County, Arizona on July 22, 2021, as instrument number 2021-0052673.

B. On March 8, 2022, City and Property owner entered into the First Amendment to the Development Agreement to apply certain modifications to the City's Land Development Code (LDC) standards in accordance with the City's Developer Incentives and Guidelines for Affordable Housing (DIGAH)

C. The City and Property Owner wish to further amend the Development Agreement to extend the construction term of the development and to clarify ownership of the development plans.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Property Owner agree as follows:

1. The Development Agreement is hereby amended as follows:
 - a. **Section 1.3.3** is deleted in its entirety and replaced with: "RESERVED."

- b. The second sentence in **Section 2.2** is deleted and replaced with:
“Except as set forth in Section 3.4 as Amended, the City loan shall be non-recourse.”
- c. **Section 3.4** is deleted in its entirety and replaced with:
“City’s Additional Remedies; Right to Foreclose. If Property Owner is in breach under this Agreement for any reason, including but not limited to failing to start construction of the Project by April 1, 2024, Property Owner agrees to assign title to the Property by special warranty deed to the City upon request from the City. If Property Owner is in breach under this Agreement, including but not limited to failing to complete construction of the Project by September 1, 2025, and Property Owner thereafter fails to cure such breach within 30 days after written notice from the City, the City shall have the right to foreclose upon the Deed of Trust.”
- d. **Section 3.5** is added as follows:
“Ownership of Construction Documents.
Upon an event of default, or any expiration or termination of this Agreement, Property Owner shall promptly assign to and provide the City with all Project architectural drawings with good license to use such drawings, Project building plans, site plans, permits, and all other documents reasonably related to the construction of the Project. This is a material term of the Agreement. If the Property Owner fails to turn over the Construction Documents as required herein, the City may enforce this provision via an action for specific performance or any other availability legal remedy.”

2. Except to the extent expressly amended hereby, the Development Agreement shall remain in full force and effect without impairment or modification.

3. This Amendment shall be governed by and construed under Arizona law.

4. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Amendment shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, administrators, executors, assigns, and successors in interest. The provisions of this Amendment may not be amended or altered except by a written instrument duly executed by each of the Parties hereto.

5. Each of the Parties shall execute such other and further documents and do such further acts as may be reasonably required to effectuate the intent of the parties and carry out the terms of this Amendment.

CITY OF SEDONA, an Arizona municipal
corporation

Scott M. Jablow, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney

RESOLUTION NO. 2023-____

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA, APPROVING THE SECOND AMENDMENT TO A DEVELOPMENT
AGREEMENT WITH SUNSET LOFTS LLC FOR THE SUNSET LOFTS PROJECT
LOCATED AT 220 SUNSET DRIVE.**

WHEREAS, the City of Sedona ("City") and Sunset Lofts LLC, an Arizona limited liability corporation, entered into a development agreement on July 13, 2021, for forty-six (46) workforce housing units at 220 Sunset Drive in Sedona that will include provisions to ensure the project addresses local affordable housing needs; and

WHEREAS, amendments to the development agreement are necessary provide for certain clarifications and modifications.

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

The City of Sedona, through its Mayor and Council, hereby finds that the Second Amendment to the Development Agreement ("Amendment") with Sunset Lofts LLC for the Sunset Lofts project located at 220 Sunset Drive in Sedona attached hereto as Exhibit A is consistent with the Community Plan pursuant to A.R.S. § 9-500.05, and approves of the Amendment, authorizing the signature by the Mayor and recording by law.

APPROVED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 8th day of August, 2023.

Scott M. Jablow, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney

WHEN RECORDED RETURN TO:
Office of the City Clerk
City of Sedona, Arizona
102 Roadrunner Drive
Sedona, AZ 86336-3710

**DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SEDONA
AND SUNSET LOFTS, LLC**

THIS DEVELOPMENT AGREEMENT ("Agreement") made and entered into this ____ day of _____, 2021 ("Effective Date"), by and between the City of Sedona, an Arizona municipal corporation ("City") and Sunset Lofts, LLC, an Arizona limited liability company and its successor or assigns ("Property Owner"). City and Property Owner are sometimes referred to herein collectively as the "Parties," or individually as a "Party."

RECITALS

The following recitals are incorporated by reference into and constitute an integral part of this Agreement.

- A. WHEREAS**, the Property Owner owns, or has contracted to own, property located in Sedona, AZ, as more fully described in Exhibit "A" attached hereto and incorporated herein by this reference ("Property") and generally described as 220 Sunset Drive, Sedona, Arizona 86326.
- B. WHEREAS**, Property Owner intends to develop the Property by constructing certain residential improvements consisting of 46 affordable workforce multi-family apartment dwelling units ("Project"). As a condition of, and concurrent with, development of the Project, and subject to and in accordance with the other provisions and requirements of this Agreement, Property Owner intends and has the ability to finance, construct and complete the Project and Public Improvements (as defined below), and to otherwise accomplish all of the Obligations of Property Owner.
- C. WHEREAS**, this Agreement is entered into under the authority of A.R.S. § 9-441 et. seq. which declares municipal assistance in providing for the acquisition, construction or rehabilitation of housing a valid public purpose and authorizes municipalities to use its monies to aid the planning, undertaking and carrying out of housing development projects.
- D. WHEREAS**, the City has received and is expected to receive additional Coronavirus State and Local Fiscal Recovery Funds from the America Rescue Plan Act and has money available in the City's Affordable Housing Fund provided by City contributions and by developers to the City for the construction of affordable housing. The City intends to use these funding sources for the development of this Project.
- E. WHEREAS**, this Agreement is entered into by authority of A.R.S. § 9-500.05, the City finding that the consideration and commitments herein from and to the Property Owner and the City are proportionate based on other consideration provided hereby, including without limitation the benefits to the community resulting from this Agreement.
- F. WHEREAS**, The Parties acknowledge that the Project qualifies as an economic

development activity; that the Project will assist in the creation and retention of jobs and will otherwise improve and enhance the economic welfare of the residents of the City by increasing access to affordable housing, stimulating further economic development in the City, generally enhancing the economic welfare of the city's citizens and by constructing public infrastructure improvements; that the City's participation in this Agreement will in fact serve legitimate economic development purposes as authorized by A.R.S. §9-500.11; and that the City's participation authorized by this Agreement is not grossly disproportionate to the benefits the City will receive during the Agreement and that in the absence of the City's participation the affordable housing Project would not be constructed.

- G. WHEREAS,** City is entering into this Agreement to implement and to facilitate development of the Property consistent with the policies of the City. This Agreement is consistent with the Development Incentives and Guidelines for Affordable Housing ("DIGAH"), and the City's Community Plan in effect on the date of this Agreement. The Project, as shown in the Site Plan, meets DIGAH requirements and is eligible for a density bonus.
- H. WHEREAS,** Property Owner agrees to restrict 100% of the Project units for affordable housing for 50 years commencing on the date the Project receives a certificate of occupancy as detailed below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the promises and mutual obligations contained herein, City and Property Owner agree to proceed under the following terms and conditions:

1. OBLIGATIONS OF PROPERTY OWNER

- 1.1 Property Development.** The Property Owner shall purchase the Property and construct or cause to be constructed the Project, a multi-family residential community with no less than 46 units consisting of one-bedroom and two-bedroom units in general conformance to the Site Plan attached hereto as Exhibit "B" and incorporated herein by this reference, subject to conditions, review and approval of City Community Development staff. One-bedroom units shall not be less than 600 livable square feet and two-bedroom units shall not be less than 900 livable square feet. The Property Owner shall be responsible for the planning, permitting, financing, management and development of the Project and Property in accordance with local, state and federal requirements. The Property Owner shall be responsible for arranging and securing construction and permanent financing for the Project. The Property Owner shall require the contractor to obtain a completion and payment bond in the full amount of the improvements in addition to general liability and course of construction insurance of reasonable limits to protect the interests of the Property. Property Owner warrants that it has adequate financing or financial resources to complete the Project and comply with all of its obligations as contained herein.
- 1.2 Condominium Conversion; Short-Term Rental Use Prohibition.** The Property shall not be used for short-term rentals (rental terms of less than 30 days) or conversion to a condominium or otherwise divide the Property during the term of this Agreement.

1.3 Affordable Housing and Rents.

1.3.1 The Property Owner shall cause the Property to be leased exclusively to Income Qualified Tenants ("Income Qualified Tenants") during the Term of this Agreement. Income Qualified Tenants shall mean a household whose annual income meets the requirements of one of the following categories: 80, 90 or 100 percent of the Area Median Income ("AMI") as determined by US Department of Housing and Urban Development ("HUD") for the most current year available, calculated as a weighted average of Yavapai and Coconino Counties ("Weighted Average"). The income of each tenant must be determined prior to a prospective tenant being approved for occupancy and prior to any lease renewal.

1.3.2 A minimum of 14, 16, and 16 units shall be rented to Income Qualified Tenants at income levels, at the time of the initial lease, of no greater than the following ranges: for the 80% AMI category, 80-85%, for the 90% AMI category, 86%-95% and for the 100% AMI category 96-105% AMI, respectively using the Weighted Average. Each housing unit in the Property shall be subject to an annual rental change equal to the greater of 1) the increase in the Consumer Price Index or 2) the amount equal to Income Qualified Tenant's income multiplied by 30% of said tenant's current income at the time of lease renewal, less a utility allocation. In no case shall any lease rental rate be less than the previous year monthly rate. Utility allocation amounts are subject to annual adjustment. As an example, using the HUD published AMI data for 2021 monthly rents would be as follows which includes a utility allocation for the 80 and 90 percent AMI rents in the amount of \$100 and \$120 monthly for one- and two-bedroom units respectively:

AMI LEVEL	<u>80 %</u>	<u>90%</u>	<u>100%</u>
Unit Type - One Bedroom	\$ 990.30	\$1,126.09	\$1,362.88
Unit Type - Two Bedroom	\$1,107.09	\$1,259.89	\$1,533.70

1.3.3 Rental Rates shall be adjusted if necessary, to maintain an annual debt service coverage ratio of no less than 1.18 or such level as required by a mortgage lender or HUD.

1.3.4 Land Use Restriction Agreement. Property Owner shall cause to be recorded promptly after purchasing the Property, a deed restriction, limiting the rental of Property units to Income Qualified Tenants in substantially the form provided in Exhibit "D" Land Use Restriction Agreement ("LURA") which will be effective only during the term of this Agreement. The LURA shall also include a prohibition on any of the Property being used as a short-term rental (rental terms less than 30 days) or converted to condominiums during the 50-year term. The LURA shall automatically expire and terminate 50 years after the issuance of the certificate of occupancy for the Project.

1.4 Tenant Qualification for Occupancy.

1.4.1 Unless otherwise required by this Agreement, when determining Income Qualified Tenant qualifications, Property Owner shall comply with the Internal Revenue

Code Section 42 Low-Income Housing Tax Credit Housing requirements in effect as of the Effective Date. Nothing in this Agreement shall be construed that any prospective tenant, Employed Resident, or an Income Qualified Tenant shall automatically qualify for occupancy in the Project. Tenancy shall be subject to certain background history, financial qualifications and occupancy standards as may be designated from time to time by the Property Owner.

- 1.4.2 Leasing for the Property shall be prioritized for an Employed Resident. Employed Resident means a person who works full-time (at least 30 hours per week) within the City of Sedona. An Employed Resident that provides proof of employment and meets tenant qualifications shall be given priority of tenancy in the Project over a non-Employed Resident unless the Property occupancy rate is less than 95% for more than two weeks in which case rental of Property units shall be prioritized by persons working full-time within 15 driving miles of the City limits. Lease renewals shall be prioritized for tenants that are an Employed Resident.
- 1.4.3 Any Income Qualified Tenant exceeding 115% of the Weighted Average AMI shall not be eligible for lease renewal. To the extent feasible, when the household income of an Income Qualified Tenant in a unit designated for 80% or 90% Weighted Average AMI increases above the thresholds outlined in 1.3.2, upon renewal of the lease, the unit and the Income Qualified Tenant shall count against the appropriate 90% and 100% Weighted Average AMI category, thereby opening a unit for a new, lower Weighted Average AMI tenant.
- 1.4.4 Property Owner shall not discriminate against any applicant because of gender identity, sexual orientation, race, color, gender, religion, national origin, familial status, age, disability or status as a U.S. military veteran.
- 1.5 Lease Term. Property Owner shall not lease any dwelling unit in the Project for an initial lease term of less than 180 days unless the Property occupancy rate is less than 95% in which case the initial lease terms may be less than six (6) months, but in no event shall any lease terms (initial or any renewals) be shorter than three (3) months. Lease terms shall not exceed 365 days. Tenants shall not be allowed to assign a lease or sublease a dwelling unit without the express prior written consent of the Property Owner. If an assignment or sublease is approved by the Property Owner such assignment or sublease shall not be for a term less than the balance of the existing lease term.
- 1.6 Recording/Filing Fees. Property Owner shall be responsible for payment of any fees associated with the recording/filing of this document in the records of Yavapai County, Arizona.
- 1.7 Construction Period. Construction of the Project shall commence at the time of the funding of the Bank Loan (as defined below) and Property Owner having obtained all permits necessary to commence construction of the Project. The term of construction is anticipated for a period of 14 months. The construction contract shall include language, acceptable to HUD, that provides for liquid damages payable to the Property Owner to offset and delays in the construction period attributed to the general contractor. Completion of Construction means the first date on which the certificate of occupancy has been issued by the City for the improvements included in the Project.
- 1.8 Annual Audit and Report. The Property Owner shall provide a copy of the annual audit as

required by HUD to the City for the previous 12 months of operation of the Project. Additionally, the Property Owner shall provide an annual occupancy report to the City providing income amounts of tenant occupied units, unit rent, employer, unit type and AMI bracket of each tenant. The Property Owner shall provide a copy of any required audit by HUD at the Completion of Construction. The books and records of the Project shall be made available to the City upon written request to the Property Owner with fourteen (14) day advance notice.

- 1.9 Public Improvements. Property Owner, at its sole expense, shall design and construct or caused to be constructed roughly 300' of curb, gutter and sidewalk on the western border of the property along Sunset Drive (the "Public Improvements") in accordance with all applicable City Code and Land Development Code and dedicate the curb, gutter and sidewalk to the City. The exact location and specifications of the Public Improvements shall be determined by the City. The value of the Public Improvements is estimated to be \$45,000. All landscaping and irrigation in adjacent right-of-way areas along Sunset Drive shall be operated and maintained by the Property Owner.

- 1.10 Property Owner Representations. Property Owner represents and warrants that:

1.10.1 Property Owner has the full right, power and authority to enter into and perform this Agreement and each of the obligations and undertakings of Property Owner under this Agreement, and the execution, delivery and performance of this Agreement by Property Owner has been duly authorized and agreed to in compliance with the Property Owner's organizational documents.

1.10.2 As of the date of this Agreement, Property Owner knows of no litigation, proceeding or investigation pending or threatened against or affecting Property Owner contesting the validity or enforceability of this Agreement or Property Owner's performance under this Agreement.

1.10.3 The execution, delivery and performance of this Agreement by Property Owner is not prohibited by, and does not conflict with, Property Owner's organizational documents or any other agreements, instruments, judgments or decrees to which Property Owner is a party or to which Property Owner is otherwise subject.

1.10.4 Property Owner has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, consultants, engineers and attorneys and any licensed real estate broker retained by the Property Owner. Property Owner has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

- 1.11 Development Standards. The development of the Property and construction of the Project will be governed by the Sedona City Code, Sedona Land Development Code, ordinances, regulations, rules, guidelines, engineering standards, Building Code, Fire Code and policies controlling permitted uses of the Property. Design review standards, the density and intensity of uses, parking spaces requirements, and the maximum and minimum height and size of the buildings in existence as of the Effective Date of this Agreement will apply. Property Owner will comply with all applicable Federal, State, County and City

laws, regulations and policies.

- 1.12 Materials Management. Property Owner agrees to incorporate infrastructure to support recycling activities on-site, including the provision of recycling collection locations near those dedicated for trash.

2. OBLIGATIONS OF CITY

- 2.1 City Plan and Review Fees. City and Property Owner agree that the development of the Project will increase the supply of affordable housing in Sedona for low- and moderate-income persons. For the purposes of maximizing the number of affordable housing units, the City shall waive any plan review and permit fees. Development Impact Fees and Wastewater Capacity Fees shall not be waived. Property Owner shall pay the Development Impact Fees and Wastewater Capacity Fees to the City on the earlier to occur of the release of HUD escrow accounts or 12 months following issuance of certificate of occupancy, whichever occurs first.
- 2.2 City of Sedona Loan. The City shall provide the Property Owner, to purchase the Property and construct the Project, with a loan in an amount not to exceed \$4,200,000, inclusive of wastewater capacity and Development Impact Fees ("City Loan"). The City Loan shall be non-recourse to the Property Owner upon Completion of Construction. The City Loan shall be evidenced by the City of Sedona Affordable Housing Loan Secured Promissory Note ("Promissory Note") and secured by the City of Sedona Affordable Housing Loan Deed of Trust and Assignment of Rents ("Deed of Trust") both executed by the Property Owner of even date herewith, substantially in the forms attached hereto as Exhibit "E" and incorporated herein by this reference. The Parties agree to amend the final amount of the Promissory Note in the event the City Loan is in an amount different than \$4,200,000. The term of the City Loan shall be 50 years unless mutually extended by the Property Owner and City.
 - 2.2.1 City Loan Advances. Prior to disbursement of any of the City Loan, Property Owner will execute the Deed of Trust, Promissory Note and LURA. The City Loan shall be advanced according to the preliminary project budget ("Preliminary Budget") attached hereto as Exhibit "C" and incorporated herein by this reference. The Preliminary Budget shall be regularly updated and revised as actual project costs are expended to create a final budget for the development of the Project. The Property Owner shall submit monthly expense draws according to the Preliminary Budget and the City shall advance funds in accordance with actual expenses, however, in no event to exceed the City Loan amount. The Property Owner shall provide a monthly accounting of actual Project costs to the City on or before the 15th of each month until substantial completion of the Project. Any unused contingency escrow accounts shall be returned to the City when released by the lender and/or HUD and shall reduce the City Loan amount.
 - 2.2.2 City Loan Repayment Terms. The City Loan shall be evidenced by this Agreement and the Promissory Note and secured by the Deed of Trust. Property Owner hereby unconditionally acknowledges and promises to repay the City Loan as follows: Property Owner shall pay to City 120 consecutive monthly, equal principal installments on the City Loan, commencing upon the repayment of the Bank Loan or 40 years after receipt of a certificate of occupancy for the Project or 42 years

after the Effective Date of this Agreement, whichever occurs first. The City Loan is absolutely due and payable 50 years after receipt of a certificate of occupancy for the Project or 52 years after the Effective Date of this Agreement, whichever occurs first ("Maturity Date"), at which time Property Owner shall pay City the entire outstanding principal amount of the City Loan together with any outstanding 1% property cash flow principal payments pursuant to Section 2.3. At the City's discretion, repayment of any portions of the City Loan funded by Coronavirus State and Local Fiscal Recovery Funds from the America Rescue Plan Act, if any, may not need to be repaid if not allowed by the U.S. Department of the Treasury regulations and Final Rule.

2.2.3 Rights of Lenders. City is aware that Property Owner will obtain financing for acquisition, development and/or construction of the Property and Project from another lender in the approximate amount of \$8,400,000 and City agrees to a subordinate lien position to the HUD backed mortgage construction and permanent loan (the "Bank Loan"). The City Loan shall have senior priority, in the first position, until such time as Property Owner enters into the Bank Loan. City will not be required to sign any subordination agreement prior to close of the Bank Loan and no subordination agreement shall take effect until Property Owner closes on the Bank Loan. In no event will the City Loan be made further subordinate to any other loans and the City shall remain lender in the second position. The City shall cooperate with Property Owner as may be necessary in connection with the Bank Loan and all other matters relating to the development of the Project.

2.3 Property Cash Flow. Beginning on the one-year anniversary of the issuance of the certificate of occupancy for the Property and terminating on the anniversary after the full repayment of the City Loan, Property Owner shall annually pay the following amounts:

(1) First, the Property Owner shall first receive an annual management fee equal to 5 percent (5.0%) of the gross revenue generated by the Project.

(2) Second, the City shall then receive an amount equal to 1 percent (1%) of the outstanding City Loan amount annually from net operating cash flow. If the net operating cash flow does not provide sufficient cash flow for the 1 percent payment to the City in any given year, any unpaid amount shall be cumulative from year to year and Property Owner shall pay the City the total amount cumulated prior to the Maturity Date or termination of this Agreement. Payments per this paragraph shall not decrease the principal amount of the City Loan.

(3) Third, remaining annual net operating cash flow shall be distributed 50 percent (50%) to the City, which shall decrease the principal amount of the City Loan and 50 percent (50%) to the Property Owner.

3. TERM; DEFAULT

3.1 Term. Notwithstanding anything in this Agreement to the contrary, the term of this Agreement ("Term") shall begin on the Effective Date and shall terminate fifty (50) years from the issuance of the certificate of occupancy for the Project unless this Agreement is terminated sooner pursuant to any earlier termination provision of this Agreement.

- 3.2 Survival of Certain Provisions. Notwithstanding the termination of this Agreement as set forth in Section 3.1, the indemnity and hold harmless obligations as found in Section 4.9 shall survive the expiration of this Agreement for a period of one year.
- 3.3 Events Constituting Default. A party shall be in default under this Agreement if it fails to perform, in material respect, any covenants made by it or obligations assumed by it under this Agreement, which failure adversely affects the other party's interest under this Agreement, including failure to construct the Project, and in such an event, each party shall be entitled to all available legal and equitable remedies, including, but not limited to, the right of specific performance, including all costs of enforcement of this Agreement, with reasonable attorneys' fees paid to the prevailing party.
- 3.4 City's Remedies; Right to Foreclose. If Property Owner is in breach under this Agreement by failing to develop the Property or construct the Project within 24 months from the Effective Date, and Property Owner thereafter fails to cure such breach within 90 days after written notice from the City, the City shall have the right to foreclose upon the Deed of Trust.

4. MISCELLANEOUS PROVISIONS

- 4.1 Entire Agreement; Assignment. This Agreement constitutes the entire agreement and understanding of the parties hereto and supersedes all offers, negotiations, and other agreements of any kind. This Agreement may be amended only in writing and signed by both parties. This Agreement and all the covenants, terms and provisions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned or delegated by any party, without the prior written consent of the other party. Such consent may not be unreasonably withheld or delayed. This Agreement is not intended to confer any rights or benefits to any individual or entity other than to the City and to Property Owner, nor shall anything contained herein create any partnership, joint venture or similar arrangement between the Property Owner and the City.
- 4.2 Arizona Law; Venue. This Agreement is and shall constitute a contract under and is to be construed in accordance with the laws of the State of Arizona. Any action brought to interpret, enforce or construe any provision of this Agreement must be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa. The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section.
- 4.3 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall have the force and effect of an original, and all of which shall constitute but one document.
- 4.4 Notices. All notices required to be given under this Agreement shall be deemed given upon the earlier of actual receipt or two (2) days after being mailed by registered or certified mail, return receipt requested, addressed as follows:

Development Agreement between
City of Sedona and Sunset Lofts, LLC
Page 9

If to City: City Manager
102 Roadrunner Drive
Sedona, AZ 86336

With a copy to: City Attorney
102 Roadrunner Drive
Sedona, Arizona 86336

If to Property Owner: Sunset Lofts, LLC
15010 N. 78th Way, Suite 109
Scottsdale, AZ 85260

- 4.5 Authority. This Agreement is not intended to supersede the authority granted by law to any regulatory board or agency of the City. Therefore, nothing in this Agreement shall be construed or implied to require the City's Planning, Zoning or other regulatory boards or agencies (however designated) to approve the plans for any aspect of the Project or other action required under this Agreement.
- 4.6 Time of Essence. Time is of the essence and a material provision of this Agreement.
- 4.7 Tax Consequences. City makes no representation concerning the tax consequences or liability resulting from this Agreement. The parties have each had an opportunity to consult with legal counsel concerning the terms and effects of this Agreement and either party's failure to do so is at its own choosing.
- 4.8 Conflicts of Interest. This Agreement is subject to the provisions of A.R.S. § 38-511, relating to conflicts of interest.
- 4.9 Indemnification. Property Owner, during the term of this Agreement, agrees to indemnify, hold, protect and save harmless the City and any and all of its officers, agents, and employees from and against any and all actions, audits, proceedings, claims and demands, loss liens, costs expense and liability of any kind and nature whatsoever, for injury to or death of persons, or damage to property, imposed upon or sustained by Sedona, its officers, agents, or employees in and arising from or attributable to or caused directly or indirectly by the negligence, wrongful acts, omissions or from operations conducted by Property Owner, its officers, agents or employees or by any person or persons acting on behalf of Property Owner.
- 4.10 Insurance. Property Owner, at Property Owner's own expense, shall purchase and maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 general aggregate limit, Automobile Liability insurance with an individual single limit for bodily injury and property damage of no less than \$1,000,000, each occurrence, and Workers' Compensation insurance to cover obligations imposed by applicable federal and state statutes. All insurance required herein shall be maintained in full force and effect during the term of this agreement. The Property Owner's insurance shall be primary insurance as respects to City and any insurance maintained by City shall not contribute to it. The insurance policies required by this Agreement, except workers' compensation, shall name City as additional insureds. Insurance policies required by this Agreement, except workers' compensation, shall

contain a waiver of transfer of rights of recovery (subrogation) against Sedona for any claims arising out of Property Owner's performance of this Agreement.

- 4.11 Exhibits. The Parties agree that all references to this Agreement include all Exhibits designated in and attached to this Agreement, such Exhibits being incorporated into and made an integral part of this Agreement for all purposes.
- 4.12 No Agency Created. Nothing contained in this Agreement creates any partnership, joint venture or agency relationship between the City and Property Owner. No term or provision of this Agreement is intended to be for the benefit of any person, firm, organization or corporation not a party hereto, and no other person, firm, organization or corporation may have any right or cause of action hereunder.
- 4.13 Recordation. Within ten (10) days after this Agreement has been executed by the Parties, Property Owner will cause this Agreement to be recorded in the Official Records of Yavapai County.
- 4.14 No Personal Liability. No former or current City Council member, official, representative, agent, attorney or employee of City will be personally liable to the Property Owner, or to any successor in interest, in the event of any Default or breach by City or for any amount which may become due to any of the other Parties or their successors, or with respect to any obligation of City under the terms of this Agreement.
- 4.15 WAIVER OF JURY TRIAL. THE CITY AND PROPERTY OWNER HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS EACH MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING, COUNTERCLAIM OR DEFENSE BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN ANY WAY CONNECTED TO THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS AGREEMENT.
- 4.16 Force Majeure. In no event shall the Parties be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused by a Force Majeure. "Force Majeure" means and shall be limited to: an event which is beyond the reasonable complete control of a Party and which causes a delay or failure to perform obligations hereunder, including without limitation acts of God, earthquake, fire, explosion, war, civil insurrection, acts of the public enemy, acts of civil or military authority, sabotage, terrorism, floods, lightning, hurricanes, tornadoes, severe snow storms, major equipment failure, utility disruption, or pandemics.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF SEDONA,
an Arizona municipal corporation

By: _____
Sandra J. Moriarty, Mayor

Date: _____

ATTEST:

By: _____
Susan L. Irvine, City Clerk

Date: _____

APPROVED AS TO FORM:

By: _____
Kurt W. Christianson, City Attorney

Date: _____

PROPERTY OWNER:

Sunset Lofts, LLC, an Arizona limited
liability company

By: _____
M. Keith Holben, Manager

Date: _____

Exhibit "A"

PROPERTY

Exhibit “B”

SITE PLAN

Exhibit "C"

PRELIMINARY BUDGET

Exhibit “D”

LAND USE RESTRICTION AGREEMENT

Exhibit "E"

PROMISSORY NOTE & DEED OF TRUST



**CITY COUNCIL
AGENDA BILL**

**AB 2982
August 8, 2023
Regular Business**

Agenda Item: 8c

Proposed Action & Subject: Discussion/possible direction regarding an update of the Ranger Station Park Build Out, Capital Improvement Program Project PR-03C.

Department Public Works/Parks & Rec/Community Development

Time to Present 15 min.

Total Time for Item 30 min.

Other Council Meetings NA

Exhibits A. Playground Design
B. Landscape Design

City Attorney Approval	Reviewed 8/1/23 KWC	Expenditure Required
		\$ N/A
		Amount Budgeted
		\$ N/A
City Manager's Recommendation	For discussion and possible direction only.	Account No. (Description)
		Finance ☒ Approval

SUMMARY STATEMENT

Background: The City purchased the 3.5 acre "Old Ranger Station" at 250 Brewer Road in 2014 to preserve the historic buildings. Through a subsequent master planning effort for the site, it was determined that the property would be developed into a community park. The master plan reflects the future community vision for this property. The project buildout has been accelerated at the request of the City Council. This project follows the intent of the master and concept plan, as reasonably feasible, as we begin developing the grounds to serve multiple purposes for as wide a range of interests and activities as possible. Some adjustments have been made through the design process and are described further below.



Park Improvements to Date:

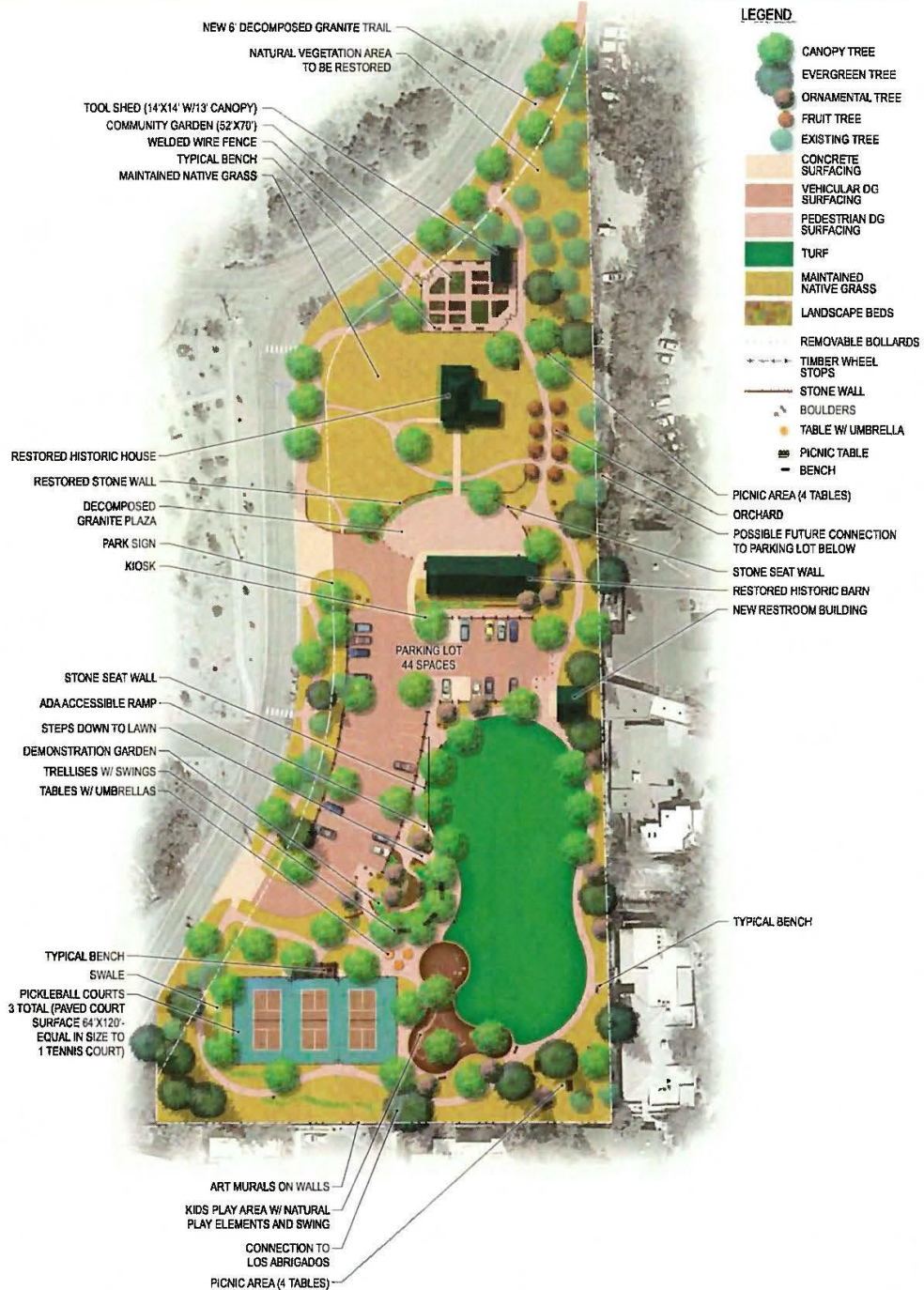
- 2014 Demolition of Non-Historic Structures
- 2016 Hazardous Materials Abatement
- 2016 Ranger Station Park Master Plan
- 2017 Barn Roof Replacement
- 2018 Partial Shared Use Path
- 2018 Sewer/Water Line Extensions
- 2020 Electrical Panel Install
- 2022 House & Barn Exterior Renovation
- FY23 & 24 Complete Build Out of Concept Plan
- FY24 House & Barn Interior Renovation



Historic photo looking down on the property, over the house, towards the southeast.

Ranger Station Park Master Plan

Site Plan



RANGER STATION PARK | MASTER PLAN
NOVEMBER, 2016



0 15 30 60
SCALE: 1"=30'

NORRIS DESIGN
Planning | Landscape Architecture | Project Promotion

- 1 RESTORED HISTORIC HOUSE
- 2 RESTORED HISTORIC BARN
- 3 PLAZA/ FLEX SPACE
DECOMPOSED GRANITE SURFACE
- 4 NEW RESTROOM BUILDING
- 5 LAWN/ FLEX SPACE
- 6 DEMONSTRATION GARDEN
- 7 NEW PLAYGROUND
NATURE PLAY & BENCH SEATING AREAS
- 8 NEW TRAILS
DECOMPOSED GRANITE SURFACE
- 9 COMMUNITY GARDEN
TOOL SHED, GARDEN PLOTS & BENCH SEATING AREAS
- 10 PICNIC AREA
(4) PICNIC TABLES PER LOCATION
- 11 ORCHARD
- 12 RESTORED NATIVE LANDSCAPE
- 13 MANICURED NATIVE GRASS
- 14 PARK SIGNAGE
- 15 STONE SEAT WALLS
- 16 STORMWATER MANAGEMENT AREA



Concept Plan

LOS ABRIGADOS
DRIVEWAY ACCESS

PARKING
(38 SPACES)

EL PORTAL

LOS
ABRIGADOS

Some changes occurred between the high-level Master Plan dated November 2016 and the concept plan dated Fall 2022.

- Los Abrigados Driveway - To help reduce vehicle congestion in the SR 179 corridor, an alternate exit from Los Abrigados was added, at the south end of the park. This helps keep vehicles exiting, from the south end of Portal Ln, from adding vehicles to the congested area of SR 179. With this addition, the originally planned pickleball courts were removed from the park plan. The area south of the driveway is expected to be utilized as a quieter area. It will be terraced with trees planted to provide shade. It is possible to add a picnic table for chess or other activity.
- FEMA Floodplain - Significant historic flows run through the park just north of the Los Abrigados driveway. Past storms, crossing the park property, negatively impacted the historic Stone House southeast of the park. The concept level of the master plan did not include floodplain or detention design. The updated concept design included this drainage design, which required adding several features. Retention/detention basins were added to reduce stormwater outflow and velocity. A seat wall was added near the southeast corner of the property to assist in directing stormwater flows to the historic outfall. Also, the playground was moved north out of the floodplain area. These adjustments reduced the amount of grass that was originally planned.
- Community Garden – This is something that could be included north of the house at a future time.
- Orchard – The orchard area is reduced to two apple trees at this time to reduce water demand and the draw of wild animals into this area.
- The path that loops the park was widened to the preferred width of 10 feet for a shared use path.
- Art murals on walls is still an option at a future time.



Historic house showing poplars and many rose bushes and what appear to be apple trees.

Improvements:

- Plaza Area – This area north of the barn (4,000 square feet) will have a finished surface of tan colored, stabilized decomposed granite surface. It is bound by a historic red rock stack wall and boulders to the north that could serve as seats to visitors.

- Landscaping – The majority of the park (38,360 square feet) will be native grasses, a blend of wheatgrass, Indian ricegrass, blue grama, bluegrass, sand dropseed and muttongrass. This grass seed will need irrigation to become established but will not require regular watering. This will help with dust control, minimize mud areas and help minimize weeds.

The turf area is approximately 10,370 square feet. This will be a multi-purpose space for informal and impromptu gatherings for a variety of activities, relaxation, and play. The proposal is to place Prescott Blue Grass Blend which is the same grass blend we have in our other parks. This grass blend is known for dark green color, dense and beautiful appearance. It has a fine texture (1/8" blade) with excellent uniformity resembling a plush carpet. This grass does undergo stress during extremely hot weather and will maintain good color if properly watered and cared for. It has good drought tolerance and very good recovery from injury/wear resistance. Per Posse Grounds Park grass area water use billing, approximately 2" of water is needed per week during dry season. The turf does not need watering during the winter months, approximately three and half months. Water usage is estimated to be approximately 478,370 gallons per year. The proposed pickleball courts slated to be constructed on what is currently the northern softball field at Posse Grounds Park could result in the removal of 17,000 sq ft of turf from what is currently watered and maintained. It is estimated that Bermuda grass requires approximately half or 1" of water per week but will not provide the aesthetic or functionality for a park use of the Blue Grass Blend.

The existing large trees on the property are being protected in place to provide shade and habitat. An additional 37 trees, including a mix of Pinon Pine, Desert Willow, Arizona Ash and Emory Oak will be planted.

The majority of plantings will be low water use. However, in keeping with the photos of the home, a couple apple trees will be planted along with a lady banks rose bush and some butterfly bushes.

- Picnic tables and benches will be installed adjacent to active play areas as well as quiet areas. Most locations will be adjacent or near shade trees.
- Playground - The proposed area for the dedicated playground portion of the Ranger Station Parks is an oval-shaped area approximately 55 feet wide and 70 feet long. The play structures are designed to be natural with a historic feel to blend in with the landscape of the Ranger Station Park. They are being designed by Sedona Parks & Recreation working with Kompan & PlaySpace Design to engage kids in activities that develop body, mind, and friendship while immersing them in nature-based play. These Robinia Wood features are beautiful structures creatively designed and loaded with play opportunities created to represent the historical significance of the Sedona Ranger Station. Users of the playground will be taken back to the early 1900s in their imagination while having play equipment of the highest quality for families to spend countless hours exploring. Example features include:
 - A settler's homestead for role-playing with involved sand and water play inspired by the pump house added on in 1935.
 - Covered wagon carriage geared towards children 2-5 years old for role-play and motor skill development.

- Large climbable Javelina mother with climbing stones around the body and a slide off of her side great for kids of all ages.
- Baby Javelina's following the mother that can be used to leap and play from one to another.
- Robinia wood-based balance beams and wobble logs for motor skill development and play.
- Miniature 5' X 6' Barn with horse tie-off deck for creative and imaginative role-playing.
- Birds nest swing
- Toddler Swing
- Climbing rock structures and connecting log tunnels great for play for kids of all ages.



Historic photo of barn, date unknown

In addition to the playground space, we will also utilize the natural landscape throughout the stormwater retention area to add immersive play features for children to include slides, climbing post piles, and other nature-based landscape structures. By creating this natural-themed play area, we are surrounding the youth of Sedona in the history of our area and equipping them with play equipment that enhances their play experience with features loaded with play opportunities that challenge their minds and bodies to climb, balance, leap, build, swing, and imagine the possibilities of play. Construction of the playground is a separate task that will be brought to Council for approval.

- Parking Lot – 37 parking spaces plus 2 ADA spaces, for a total of 39 parking spaces, are included in the design of the park. The original Master Plan included 44 parking spaces. Four of the parking spaces are existing and located west of the house. These spaces can be seen in historic photos. The safety of this parking has been reviewed by staff, and it is considered safe. Keeping these existing parking spaces required the shared use path to be moved a bit closer to the house, however it is still a good distance from the house (45 feet), the same distance between the plaza and house. The existing shared use path on the east of the house is much closer. The alternative parking surface, compacted aggregate, will help with permeability and allow stormwater to soak into the soil, reducing runoff and filtering pollutants. This type of pavement can also help lower the temperature of runoff. Stall striping will be with fire hose. The design has avoided uninterrupted

pavement and large expanses of parking as desired in the Design Review, Engineering and Administrative Manual and Land Development Code. Large trees were preserved to provide shade. Parking that faces the roadway is lower than the road to help reduce glare of headlights and screen vehicle appearance of parking area. Newly planted and existing mature trees along Brewer Road will help with this as well.



Historic photo of north side of Ranger Station house showing large Lady Banks Rose

- A ten (10) foot shared use path, constructed of stabilized decomposed granite will circle the property, providing a loop for park visitors.
- Stormwater that historically enters the site from the west will be routed through cascading detention/retention basins before exiting the site via the southeastern corner. A seat wall is placed along the property lines near this corner to help mitigate past flooding of the Stone House and Los Abrigados resort during large storm events.
- A restroom building will be constructed through a separate contract, which will be presented to Council for approval, later. The intent is for the exterior to be similar but slightly different from the House and Barn to demonstrate it is not historic, for example a metal roof is anticipated on this structure.
- Ranger Station House and Barn – Staff have met with the Architect on the interior rehabilitation. Rehabilitation standards acknowledge the need to alter or add to a historic building to meet continuing or new uses while retaining the building's historic character. Although some have stated that we are gutting both the house and the barn, that is not the case. We have removed additions to both the house and barn that were made in approximately the 70s and 80s, some examples include the restroom in the barn, fluorescent lighting in the house, walls, forced air system, and wiring in the barn that were added to create offices. Removing these additions was necessary to help with the design process. The Historic Preservation Commission has been included in site visits, reviews, and updates to gain their feedback on how the structures could be rehabilitated. See “Board/Commission Recommendation” section below.

Budget:

The currently approved budget for construction in FY 24 is \$1,645,000. This project was originally advertised for bid; however, no bids were received. Our Maintenance team has started the rough grading process, installing the irrigation system, picnic tables and benches, and compacted aggregate parking and stabilized decomposed granite. We anticipate advertising, the concrete work and installation of plants, trees and turf, for bid next month.

Future Phases:

Future buildout of the park includes construction of the restoration of the interiors of the house and barn in FY 2024.

Schedule:

- The restroom contract is expected to be presented to Council in the Fall of 2023.
- The playground equipment contract is expected to be presented to Council before the end of 2023. Construction of the playground surface could be delayed due to needing warmer temperatures to pour and set the surface material.
- Plantings to be complete before the end of November 2023.



Recent drone photo of site illustrating exterior rehabilitation complete

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

Some sustainable components have been incorporated into the site plan including use of pervious parking area material, stormwater retention, retaining existing vegetation where possible, and including native low water use plants. These features are intended to offset a portion of the additional water use expected by the overall park amenities.

Board/Commission Recommendation: ☒Applicable - ☐Not Applicable

Staff met with Historic Preservation Commission (HPC) members on site on October 31 and November 1, 2022, to discuss plans for the park, and observe the structures (at this point having non-historical additions removed). Staff also presented an update to the HPC at their meeting on April 10th, 2023, and expects to again on August 14th, 2023. At the Commission's request, two (2) apple trees will be added to the west side of the house. HPC members also attended the kickoff meeting with the architect, for the house and barn interior rehabilitation design, on July 31, 2023, where feedback was provided and will be considered as the design progresses.

Alternative(s): N/A

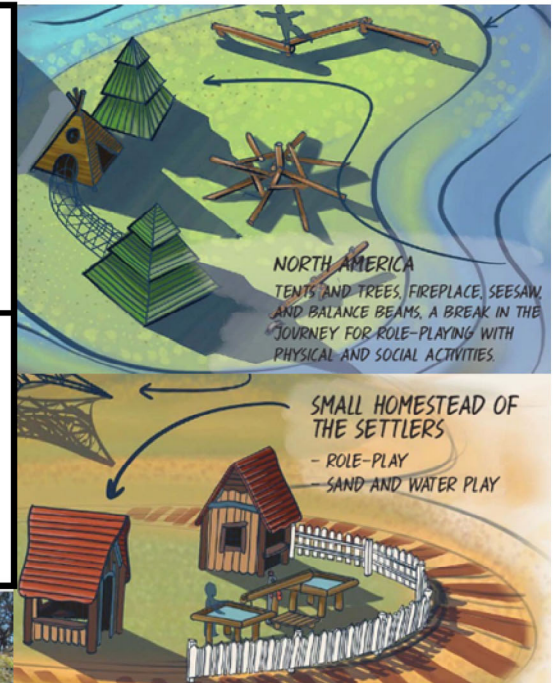
MOTION

I move to: For discussion/possible direction only.



This example Robinia wooden play structure will be specifically designed for the City of Sedona as the shape of a mother javelina followed by several baby javelina's. This feature will be the signature component of the park and fully loaded in play opportunities for children of all ages.

The signature javelina structure combined with our settler's homestead ranger station, covered wagon, wooden balance beams, climbing logs, log tunnels, and more will immerse children with play in the landscape of the historic Sedona Ranger Station Park.



Loaded with play

Dexterity and concentration is developed in layers of climbing play, with varied supports, grips, nets, and inclined surfaces.

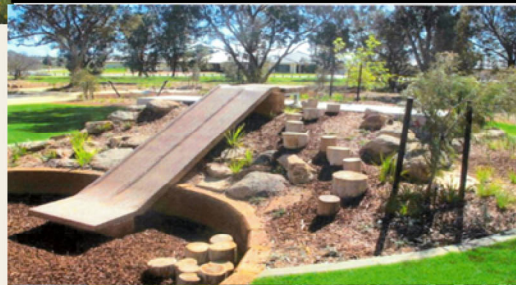
Platform maze - climb up and over to reach the top.

Eyes - imagine taking in the outside world through the eyes of an owl.

Hammock - a swaying break with friends from the wild play outside.

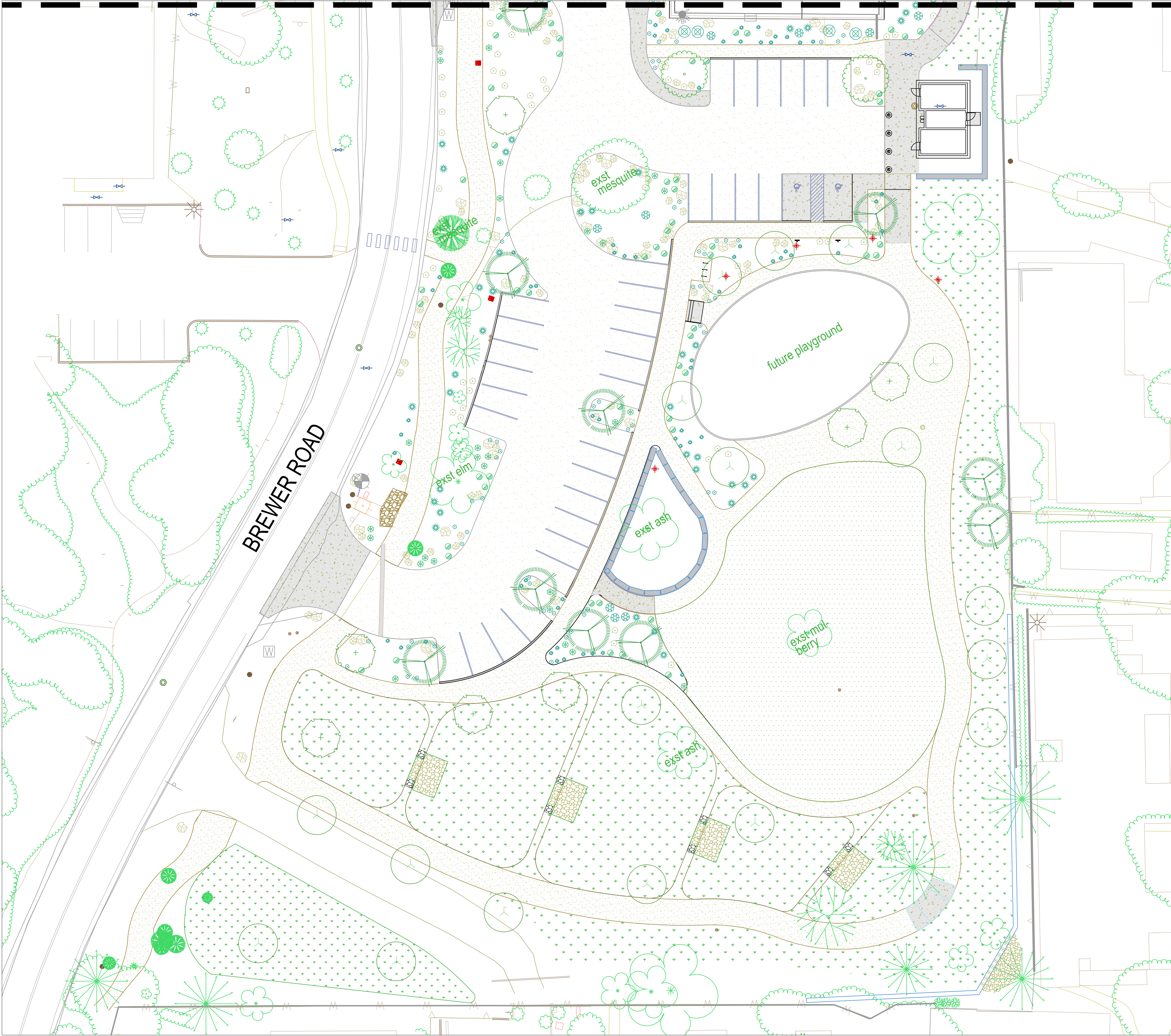
Wide Slide. Height 5 ft. 10 in. - the wide slide allows for a social sliding experience.

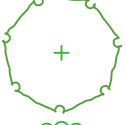
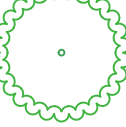
Interconnected and responsive climbing nets - for cross-coordination and muscle strength and for social interaction from the inside thanks to their transparency.



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MATCH LINE - SEE SHEET LA-302



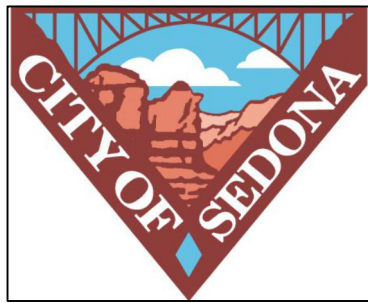
PLANTING SCHEDULE							
EVERGREEN TREES	BOTANICAL / COMMON NAME	PLANT SIZE	EST'D MATURE SIZE	D/E/R/N	WATER USE	SPACING	QTY
	PINUS EDULIS PINON PINE	8' HT, B&B	30' H X 20' W	NATIVE	VERY LOW	AS SHOWN	10
DECIDUOUS TREES	BOTANICAL / COMMON NAME	PLANT SIZE	EST'D MATURE SIZE	D/E/R/N	WATER USE	SPACING	QTY
   	CHILOPSIS LINEARIS DESERT WILLOW	6' HT, B&B MULTI-STEM	30' H X 25' W	NATIVE	VERY LOW	AS SHOWN	7
	APPLIE SEMI DWARF APPLE FLJI	3" CAL, B&B	12' H X 12' W		MEDIUM	AS SHOWN	2
	FRAXINUS VELUTINA ARIZONA ASH	3" CAL, B&B	40' H X 30' W	NATIVE	LOW	AS SHOWN	18
	QUERCUS EMORYI EMORY OAK	2" CAL, B&B	40' H X 30' W	NATIVE	LOW	AS SHOWN	2
LARGE SHRUBS	BOTANICAL / COMMON NAME	PLANT SIZE	EST'D MATURE SIZE	NATIVE	WATER USE	SPACING	QTY
	BUDDLEIA DAVIDII BUTTERFLY BUSH	5 GAL	5' H X 5' W		MEDIUM	5 Ft	5
	RHUS TRILOBATA SKUNKBUSH	5 GAL	5' H X 7' W	NATIVE	LOW	5 Ft	6
ORNAMENTAL GRASSES	BOTANICAL / COMMON NAME	PLANT SIZE	EST'D MATURE SIZE	NATIVE	WATER USE	SPACING	QTY
	BOUTELOUA GRACILIS BLUE GRAMA GRASS	1 GAL	2' H X 2' W	NATIVE	LOW	24 IN	116
	MUHLENBERGIA RIGENS DEER GRASS	5 GAL	3' H X 3' W	NATIVE	LOW	36 IN	39
PERENNIALS & GROUNDCOVERS	BOTANICAL / COMMON NAME	PLANT SIZE	EST'D MATURE SIZE	NATIVE	WATER USE	SPACING	QTY
	CHRYSOETHAMNUS NAUSEOSUS NAUSEOSUS DWARF BLUE RABBITBRUSH	EXISTING	2' H X 3' W	NATIVE	LOW	36 IN	75
	MELAMPodium LEUCANTHUM BLACKFOOT DAISY	5 GAL	1' H X 2' W	NATIVE	VERY LOW	24 IN	109
SMALL SHRUBS	BOTANICAL / COMMON NAME	PLANT SIZE	EST'D MATURE SIZE	NATIVE	WATER USE	SPACING	QTY
	DALEA FORMOSA FEATHER DALEA	5 GAL	2' H X 3' W	NATIVE	VERY LOW	36 IN	66
	EPHEDRA VIRIDIS MORMON TEA	5 GAL	3' H X 3' W	NATIVE	VERY LOW	48 IN	59
SUCCULENTS/ACCENTS	BOTANICAL / COMMON NAME	PLANT SIZE	EST'D MATURE SIZE	NATIVE	WATER USE	SPACING	QTY
	YUCCA BACCATA BANANA YUCCA	15 GAL	4' H X 5' W	NATIVE	VERY LOW	AS SHOWN	11
ROSE	BOTANICAL / COMMON NAME	PLANT SIZE	EST'D MATURE SIZE	NATIVE	WATER USE	SPACING	QTY
	ROSA BANKSIAE LADY BANKS' ROSE JOSEPHS COAT	5 GAL	10' H X 8' W		MEDIUM	AS SHOWN	1
TURF	 SOD SHALL BE BLUEGRASS PRESCOTT BLEND FROM NORTHLAND TURF INC. OR APPROVED EQUAL. www.northlandturf.com						10,370 SF
NATIVE SEED MIX	 MONTANE MEADOW SEED MIX BY WESTERN NATIVE SEED: www.westernnativeseed.com						38,360 SF
	 Pascopyrum smithii (Western Wheatgrass) Achnatherum hymenoides (Indian Ricegrass) Bouteloua gracilis (Blue Grama) Poa secunda (Sandberg's Bluegrass) Sporobolus cryptandrus (Sand Dropseed) Poa fendleriana (Muttongrass)		30% 26% 24% 12% 6% 2%			SEEDING RATE: 2 POUNDS PER 1,000 S.F.	
BOULDERS	DESCRIPTION			SOURCE			
	RED ROCK BOULDER (LARGE) - 4X4X4FT MIN, 6X6X6 MAX			CITY OF SEDONA STONE YARD			
	RED ROCK BOULDER (MEDIUM) - 2X2X2FT MIN, 3X3X3FT MAX			CITY OF SEDONA STONE YARD			

NOTICE OF EXTENDED PAYMENT PROVISION

(PER ARS 32-1129.01) THIS CONTRACT ALLOWS THE OWNER TO MAKE PAYMENT WITHIN 15 DAYS AFTER CERTIFICATION AND APPROVALS OF BILLINGS AND ESTIMATES FOR PROGRESS PAYMENTS WITHIN 15 DAYS AFTER CERTIFICATION AND APPROVALS OF BILLINGS AND ESTIMATES FOR RELEASE OF RETENTION AND WITHIN 15 DAYS AFTER CERTIFICATION AND APPROVAL OF BILLINGS AND ESTIMATES FOR FINAL PAYMENT.



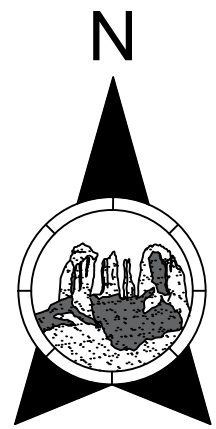
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				Drawn by:	Scale:
				SP	1"=20'
				Checked by:	Project Code:
				JC	



CITY OF SEDONA
PUBLIC WORKS DEPARTMENT
102 ROADRUNNER DRIVE
SEDONA, ARIZONA 86336
928-204-7111

BUILD OUT OF RANGER
STATION PARK

SHEET ID
LA-301
SHEET NO.
9 OF 18

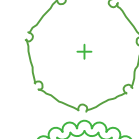
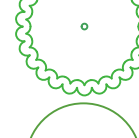
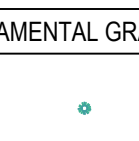
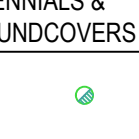
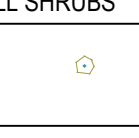
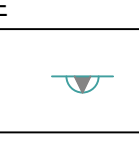
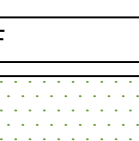
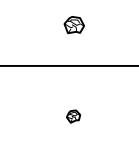


VERIFY SCALES
BAR IS ONE INCH ON ORIGINAL DRAWING
0 1"
IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY

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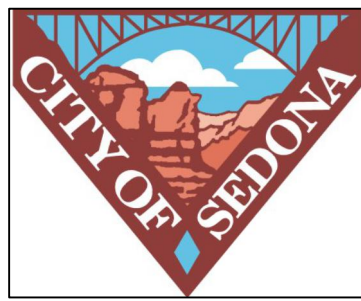
MATCH LINE - SEE SHEET LA-301

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NATIVE SEED MIX	 MONTANE MEADOW SEED MIX BY WESTERN NATIVE SEED: www.westernnativeseed.com						38,360 SF
	Pascopyrum smithii (Western Wheatgrass)		30%				
	Achnatherum hymenoides (Indian Ricegrass)		26%				
	Bouteloua gracilis (Blue Grama)		24%				
	Poa secunda (Sandberg's Bluegrass)		12%				
	Sporobolus cryptandrus (Sand Dropseed)		6%				
Poa fendleriana (Muttongrass)		2%					
SEEDING RATE: 2 POUNDS PER 1,000 S.F.							
BOULDERS	DESCRIPTION			SOURCE			
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NOTICE OF EXTENDED PAYMENT PROVISION
PER ARS 32-1129.01) THIS CONTRACT ALLOWS THE OWNER TO MAKE PAYMENT WITHIN 15 DAYS AFTER CERTIFICATION AND APPROVALS OF BILLINGS AND ESTIMATES FOR PROGRESS PAYMENTS WITHIN 15 DAYS AFTER CERTIFICATION AND APPROVALS OF BILLINGS AND ESTIMATES FOR RELEASE OF RETENTION AND WITHIN 15 DAYS AFTER CERTIFICATION AND APPROVAL OF BILLINGS AND ESTIMATES FOR FINAL PAYMENT.

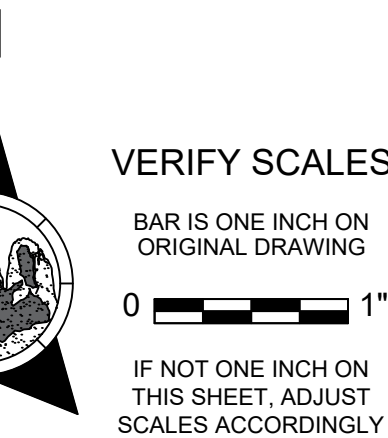


Symbol	Revisions	Date	Appr.	Designed by:	Date:
				RJM/BW	07/26/2023
				Drawn by:	Scale:
				SP	1"=20'
				Checked by:	Project Code:
				JC	



CITY OF SEDONA
PUBLIC WORKS DEPARTMENT
102 ROADRUNNER DRIVE
SEDONA, ARIZONA 86336
928-204-7111

BUILD OUT OF RANGER
STATION PARK



SHEET ID
LA-302
SHEET NO.
10 OF 18



CITY COUNCIL AGENDA BILL

AB 2976
August 8, 2023
Regular Business

Agenda Item: 8d

Proposed Action & Subject: Discussion/possible action regarding an Ordinance amending the Sedona City Code Title 12 (Streets, Sidewalks, and Public Places) by amending Chapter 12.05 (Rights-of-Way).

Department City Council / City Attorney

Time to Present 5 minutes

Total Time for Item 60 minutes

Other Council Meetings July 11, 2023

Exhibits A. Draft Ordinance

City Attorney Approval	Reviewed 8/1/23 KWC	Expenditure Required
		\$ N/A
City Manager's Recommendation	Adopt an Ordinance amending the Sedona City Code Title 12 Streets, Sidewalks, and Public Places) by amending Chapter 12.05 (Rights-of-Way).	Amount Budgeted
		\$ N/A
		Account No. (Description)
		Finance ☒ Approval

Background:

Sedona City Code Chapter 12.05 requires a permit for the permanent placement of any item in the public right-of-way and also requires a permit for any construction activity in the public right-of-way. The Chapter does not currently prohibit the placement of non-permanent personal items in the public right-of-way.

There have been recent incidents of persons encroaching on public right-of-way, including blocking public access, in non-construction and/or non-permanent ways. The City does not currently have a good enforcement mechanism to prevent or remove these encroachments. For example, some construction projects occurring solely on private property, and thus no right-of-way permit is required, have located portable restrooms on the adjacent public street, blocking parking. The proposed ordinance makes it unlawful to temporarily or permanently place, construct, maintain or install an encroachment in the public right-of-way. It defines encroachment as construction activity or placement of any trash, debris, or personal property in the public right-of-way. When necessary, the City may still accommodate a temporary or permanent encroachment on public right-of-way with a right-of-way permit.

This item was also discussed on July 11, 2023 and this will be the second public meeting addressing this ordinance amendment.

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

Board/Commission Recommendation: ☐Applicable - ☒Not Applicable

Alternative(s):

[REDACTED]

(After First Read)

I move to: adopt Ordinance No. 2023-__ an ordinance of the Mayor and Council of the City of Sedona, Arizona adopting amendments to the Sedona City Code Title 12 Streets, Sidewalks, and Public Places) by amending Chapter 12.05 (Rights-of-Way).

ORDINANCE NO. 2023-____

AN ORDINANCE OF THE CITY OF SEDONA, ARIZONA, ADOPTING AN AMENDMENT TO THE CITY CODE TITLE 12 (STREETS, SIDEWALKS, AND PUBLIC PLACES) BY AMENDING CHAPTER 12.05 (RIGHTS-OF-WAY); PROVIDING FOR PENALTIES, A SAVINGS CLAUSE, AND FOR REPEAL OF CONFLICTING ORDINANCES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS pursuant to A.R.S. 9-240, the City is authorized to protect any street, avenue, alley, park, public place, sidewalk, easement, and rights-of-way from encroachment; and

WHEREAS the City deems it necessary to adopt certain regulations regarding the use of public right-of-way for the health, safety, and welfare of City residents.

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

Section 1. Amendment of Sedona City Code Title 12 (Streets, Sidewalks, and Public Places)

Title 12 (Streets, Sidewalks, and Public Places) of the City Code of the City of Sedona is hereby amended by amending Chapter 12.05 (Rights-of-Way) as follows:

**Chapter 12.05
RIGHTS-OF-WAY**

Sections:

- 12.05.010 Purpose.**
- 12.05.020 Scope.**
- 12.05.030 Adoption of permit application form.**
- 12.05.040 Definitions.**
- 12.05.050 Enforcement.**
- 12.05.060 Appeals.**
- 12.05.070 Permit requirements – Classes of permits.**
- 12.05.080 Life of the permit.**
- 12.05.090 Denial of permit.**
- 12.05.100 Fees.**
- 12.05.110 Amendment additions to sections of MAG Uniform Standard Specifications for Public Works Construction, and MAG Standard Details for Public Works Construction.**
- 12.05.120 Additional stipulations.**
- 12.05.130 Procedures for acceptance of existing private streets as public roads.**
- 12.05.140 Art in public right-of-way.**
- 12.05.150 Small wireless facility.**
- 12.05.160 Encroachment on public right-of-way prohibited.**

...

12.05.020 Scope.

This chapter sets forth rules to regulate and control all construction, **encroachment** and maintenance performed within a right-of-way which has been dedicated and declared by the city to be public. Public rights-of-way shall include, but not be limited to, streets, drainage ways, roads, alleys, ways, highways, sidewalks, bridges and public places. It establishes the administrative procedures for issuance of permits and provides for approval of plans and specifications and inspection of such construction. **It sets forth rules for enforcement and penalties for violations.** Such rules shall pertain to, but shall not be limited to, persons, organizations, public service utilities and franchise grantees. Such rules shall apply to **encroachment**, construction and maintenance upon, over, along, across and under present and future public rights-of-way. Such rules do not preclude the right of the city to require license, leases, or other such agreements containing whatever conditions the city deems appropriate in the case of the **encroachment**, construction, maintenance or any other activity within the right-of-way which are not deemed typical encroachments, such as, but not limited to, tables, sitting areas, statues, parades, performances, and art displays. [Code 2006 § 7-15-2. Ord. 2008-05, 6-10-2008].

...

12.05.040 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"City-developed consent permit" means the permit to construct or maintain on or in city rights-of-way issued subject to permit term and terms of an agreement license or lease with the city.

"City engineer" means city engineer or his designee.

"Contracting agency" means the applicant.

"Contractor" means the applicant or contractor hired by the applicant.

"Encroachment" means construction activity or placement of any trash, debris, or personal property in the public right-of-way.

...

12.05.050 Enforcement.

Except as to Section 12.05.160, the official charged with the enforcement of this chapter shall be the city engineer, pursuant to SCC [2.55.010](#). [Code 2006 § 7-15-5. Ord. 2008-05, 6-10-2008].

12.05.060 Appeals.

Except as to Section 12.05.160, Appeals from the decision of the city engineer in the interpretation of this chapter may be taken by filing an appeal with the city clerk within 10 days of the decision. A copy of the appeal shall be provided to the city engineer. The city council shall agendaize the appeal for the next regular or special meeting, hear arguments and decide the matter. The decision shall be final. [Code 2006 § 7-15-6. Ord. 2008-05, 6-10-2008].

...

12.05.160 Encroachment on public right-of-way prohibited.

A. Unless authorized as permitted by this chapter, it shall be unlawful for any person to temporarily or permanently place, construct, maintain or install an encroachment in the public right-of-way.

B. Enforcement. Any person authorized to enforce the Code pursuant to SCC 1.15.010(D)(1) shall have the authority to enforce the regulations contained in this Section 12.05.160. Nothing in this chapter shall prevent obtaining voluntary compliance by way of warning, notice or education.

C. Any person found guilty of violating this Section shall be subject to penalties set forth in SCC Section 1.15.010.

Section 2. Savings Clause

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

Section 3. Repeal

All other code provisions, ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict as of the effective date hereof. Except as expressly amended herein, the provisions of the Chapter 12.05 shall be, and remain in full force and effect.

Section 4. Effective Date

The effective date of this Ordinance shall be 30 days following adoption by the City Council.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 11th day of July, 2023.

Scott M. Jablow, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney