

AGENDA

TUSAYAN TOWN COUNCIL REGULAR MEETING

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Wednesday, September 26, 2012 at 6:00 P.M.

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Tusayan Town Council and to the general public that the Tusayan Town Council will hold a meeting open to the public on Wednesday, September 26, 2012 at the Tusayan Town Hall Building. If authorized by a majority vote of the Tusayan Town Council, an executive session may be held immediately after the vote and will not be open to the public. The Council may vote to go into executive session pursuant to A.R.S. § 38-431.03.A.3 for legal advice concerning any matter on the agenda, including those items set forth in the consent and regular agenda sections. The Town Council may change, in its discussion, the order in which any agenda items are discussed during the course of the meeting.

Persons with a disability may request a reasonable accommodation by contacting Town manager (928) 638-9909 as soon as possible.

As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you silence it at this time to minimize disruption of today's meeting.

TOWN COUNCIL REGULAR MEETING

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
2. ROLL CALL

MAYOR BRYAN
VICE MAYOR MONTOYA

COUNCILMEMBER FITZGERALD
COUNCILMEMBER RUETER
COUNCILMEMBER SANDERSON

** One or two Council Members may attend by telephone*

3. CALL TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA

Members of the public may address the Council on items not on the printed agenda. The Council may not discuss, consider or act upon any matter raised during public comment. Comments will be limited to three minutes per person.

Members of the audience who wish to speak to the Council on an item listed as Public Hearing should complete a Request to Speak Card and turn it into the Town Clerk. Speakers will be limited to three minutes each.

4. CEREMONIAL AND/OR INFORMATIONAL MATTERS

5. CONSENT AGENDA

ITEMS ON THE CONSENT AGENDA ARE ROUTINE IN NATURE AND WILL BE ACTED ON WITH ONE MOTION AND ONE VOTE. PUBLIC HEARING ITEMS ARE DESIGNATED WITH AN ASTERISK (*). MEMBERS OF THE COUNCIL OR STAFF MAY ASK THE MAYOR TO REMOVE ANY ITEM FROM THE CONSENT AGENDA TO BE DISCUSSED AND ACTED UPON SEPARATELY.

A. Accounts Payable Billings.

6. ACTION ITEMS

A. Consideration, discussion, and possible approval of Contract for Prosecutor Services.

B. Consideration, discussion, and possible approval of an Independent Contractor Agreement for the Tusayan Employee Housing Project.

7. DISCUSSION ITEMS

8. TOWN MANAGER'S REPORT

9. FUTURE AGENDA ITEMS

10. COUNCIL MEMBERS' REPORTS

11. MAYOR'S REPORT

12. MOTION TO ADJOURN

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the General Store in Tusayan, Arizona on this _____ day of September, 2012, at _____ p.m. in accordance with the statement filed by the Tusayan Town Council.

DATED this _____ day of September, 2012.

Signature of person posting the agenda

PROSECUTION SERVICES AGREEMENT

This Agreement by and between the Town of Tusayan, hereinafter called "Town," and J. Andrew Jolley, hereinafter called "Attorney."

RECITALS

WHEREAS, the Town and the Williams Justice Court, hereinafter called "Court," have determined that execution of Legal Services Agreements with Attorney is an appropriate method to provide prosecutorial services to the Town and for certain other types of legal proceedings; and

WHEREAS, The Town has determined that Attorney is licensed to practice law in the State of Arizona and is competent to provide prosecutorial legal services as set forth in this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Duties of the Town

- A. **Compensation.** For services rendered pursuant to this Agreement, Town agrees to pay Attorney a fee of \$110.00 per hour. In addition, Attorney shall be compensated for milage at \$0.55 per mile.
- B. **Compensation for expenses.** In the event Attorney shall incur out of pocket expenses, including, but not limited to, excessive copying charges, excessive postage, deposition transcripts, expert witness fees, and possible investigator fees. Reimbursement for expenditures shall be made monthly upon submission of an itemized listing.
- C. **Non-legal tasks.** A rate of \$50.00 per hour shall be paid to Attorney for services rendered by other persons including paralegals, clerks, secretaries, or other support personnel that would ordinarily perform secretarial and clerical support work involved in preparing and transmitting documents, copying, organizing, filing, or similar functions.

2. Duties of Attorney

- A. **In general.** Attorney shall provide professional legal prosecutions in cases based upon the express warranties that any person providing such prosecutions pursuant to this Agreement is licensed to practice law in the State of Arizona and that such persons are qualified by reason of competence, training, and experience to provide the designated prosecutorial services.
- B. **Good standing.** During the term of the Agreement or any renewal thereof, Attorney will report any bar complaints, malpractice claims, or lawsuits in which a determination, finding, or decision adverse to the Attorney has been made to the Town Manager within five (5)

working days of becoming aware of, or receiving notice of the existence or occurrence of such determination, finding, or decision. Suspension or loss of the license to practice law in the State of Arizona shall immediately void this Agreement.

- C. **Local availability.** The Town expects that the Attorney will be fully prepared to provide effective prosecutions and an appropriate level of service to the justice system. It is understood and agreed that Attorney shall establish and maintain communications capability that will allow prompt receipt of and responses to electronic communications including, but not limited to telephone and facsimile, and that Attorney will be available to receive and promptly respond to such communications. The Attorney further agrees to be physically present in Coconino County at such times as may be required to make court appearances and to meet with defendants, justice system personnel, and other parties as necessary or to make provisions for substitute prosecutions as specified in Section 2(E) of this Agreement.
- D. **Acceptance of assignments.** The Attorney agrees to accept cases appointed by the Court during the effective term of this Agreement unless Attorney is not ethically permitted to prosecute under the Arizona Rules of Professional Conduct. The Attorney shall prosecute defendants throughout their trial court proceedings subject to withdrawal or substitution only as provided in this Agreement or in accordance with Arizona Rules of Criminal Procedure. The duty to prosecute continues until each case is terminated by dismissal, acquittal, sentence, suspension of sentence, or imposition of terms of probation, and shall include any necessary post-verdict proceedings pursuant to Rule 24, Arizona Rules of Criminal Procedure.
- E. **Substitute representation.** The parties contemplate that, unless otherwise specifically provided in writing in this Agreement or attachments thereto, substantially all services to be rendered pursuant to this agreement are to be provided by the designated Attorney. The parties understand and agree that from time to time, illness, vacation, or other circumstances may prevent the designated Attorney from providing some services personally. In that event, it shall be the responsibility of the Attorney to provide qualified substitute prosecutorial services at the same rate listed in 1(A) above. All substitute attorneys are subject to prior approval by the Town Manager. The Attorney shall not broker or subcontract cases or portions of cases to other attorneys.
- F. **Activity records.** The Attorney agrees to maintain case logs, final disposition records, time sheets, and other pertinent activity records, which shall include the number of days the case was open, the names of the officers involved in each case, and any co-defendants for each assigned case and to transmit these records to the Town Manager upon request.

3. Independent Contractor Status

In performance of the duties set forth herein, it is mutually understood and agreed that the Attorney is, at all times, acting as an independent provider of prosecutorial services. It is further understood and agreed that the Town shall not seek to exercise control or direction over the methods by which Attorney shall provide services to individual cases excepting that Attorney does, by this Agreement agree to

perform said duties in strict accordance with legal and ethical standards governing the provision of legal services.

4. Term and Termination

- A. **Effective term of Agreement.** Unless otherwise specified, the effective term of this Agreement shall run from October 1, 2012 through September 30, 2013.
- B. **Termination of Agreement.** The Town may terminate this Agreement without cause and in its sole discretion upon thirty (30) days written notice to the Attorney. The Attorney may terminate this Agreement without cause and in his sole discretion upon thirty (30) days written notice to the Town.

5. Temporary Modifications

In the event that circumstances arise which prevent Attorney from providing effective prosecutions, Town representatives may confer with the Attorney to identify the issues and attempt to resolve any problems. The Town may make temporary modifications of the Agreement to the extent that the legitimate interests of the parties and the interests of justice may be served thereby.

6. Approvals

Attorney:

Date

Town:

By

Title

Date

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6. Approvals

Attorney:

Date

Town:

By

Title

Date

Independent CONTRACTOR AGREEMENT

Owner: Town of Tusayan, Tusayan, AZ
Project: Site Work for Town Housing
Contract Date: September _____, 2012

This Independent Contractor Agreement (the agreement) is made and entered between The Protek Group, Inc, an Independent Contractor hereinafter referred to as "Contractor", and the Town of Tusayan, Tusayan, AZ hereinafter referred to as "Owner".

In consideration of the covenants and conditions hereinafter set forth, company and contractor agree as follows:

1. **SCOPE OF WORK.** The work to be performed by the contractor shall consist of all labor, materials and equipment to perform the site-work as specified in the scope, specifications, and drawings, in preparation for the setting of two (2) new housing units for the Town of Tusayan, Tusayan, AZ. Work shall consist of the following:
2. The scope includes all work required to construct two housing pads, driveways, and utilities for the Town of Tusayan housing Unit #01 and Unit #02. The work shall be in accordance with Request for Proposal (RFP-0001-12-001) documents and drawings, dated, August 17, 2012

(Note: Drawings are for reference only and do not dictate exact utility run locations. It is up to the contractor to use "Best Management Practices" and strict adherence to codes and regulations for all work under this contract).

The work for this project is for the Town of Tusayan housing, located in Tusayan, AZ. The housing will be used for Town of Tusayan employees. The project consists of constructing house pads for two separate units. The unit #01, located at Airport Circle, is a 28' x 60' manufactured home. Unit #02, located on Mustang Drive, is a 16' x 60' manufactured home. The pad for unit #01 is to be constructed to a size of 40' x 70' and unit #02 pad is to be constructed to a size of 26' x 70'. Site clearing and grubbing shall be required for both locations. Scarification, watering, and compaction of the sub-grade prior to pad construction shall be required. Both pads to be constructed of 6" ABC, with compaction. Both units will require the installation of utilities (water, sewer, and electric) run from a Point of Connection (POC) to within 20' of each unit. Electrical installation shall include a 200amp pedestal, conduit, and all appurtenances from POC to location shown on plan. Water line installation shall include 1-1/4" PE piping, valves, water box, tap, and associated appurtenances from POC to location shown on plan. Sewer installation for each unit to include, 4" schedule 40 PVC piping and all appurtenances, from POC to location as shown on plan. This project does not include yard tie-in to the units. Both units shall also require the construction of driveways. Both units will require the construction of driveways as shown on the plans. Driveway locations shall be cleared and grubbed, the sub-grade scarified,

watered and re-compacted prior to placement of 6" ABC surface, compacted in-place. **NOTE: All Work To Follow 2006 IRC. Additionally per the Department of Fire, Building, and Life Safety, a penetrometer test is required on modular foundation prior to placement of the graded pad. Results to be provided to the Town of Tusayan Engineer or his/her appointed representative.**

3. **Exclusion.** None noted.
4. **TERM.** This agreement shall commence on September, ____ 2012 and shall expire October ____, 2012. Contractor agrees to complete installation prior to the expiration date of this contract.
 - a. **Exclusion.** With the exception to unforeseen circumstances, mitigation, change orders and/or unfavorable weather conditions that prevent work from being completed on time.
5. **CONTRACT PRICE.** Owner agrees to pay the contractor the amount of **Thirty Seven Thousand Six Hundred and Seventy Five Dollars and 00/100 (\$37,675.00)**, subject to additions and/or deductions for changes in the scope of work as may be agreed upon in writing.
 - a. **Exclusion.** None noted.
6. **PAYMENT SCHEDULE.** Contractor agrees to invoice for payment upon satisfactory job completion and final inspection. Final payment is due 30 days after receipt. The Town of Tusayan will not provide any upfront payments for this project.
7. **WARRANTIES.** The work performed by the contractor shall be performed in a professional manner, and to be of high quality. The warranty of workmanship and material provided by contractor is limited to and shall not exceed a period of one year. With the exception of all manufacture warranties (if applicable).
8. **CLAIMS AND DISPUTES; BINDING ARBITRATION.** In the event of any dispute between company and contractor relating to this agreement, the dispute shall be settled by **BINDING ARBITRATION** in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect, unless parties mutually agree otherwise. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law of the State of Arizona.
9. **MICELLANEOUS.**
 - a. **Notices.** Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person (b) by certified mail, postage prepaid, return receipt requested, or (c) by a commercial overnight carrier that guarantees next day delivery and provides a receipt to the address below.
 - b. **Insurance Certification.** Contractor shall provide Owner/Company with proof of liability insurance, workman's comp insurance and W-9 prior to receiving final payment. Insurance required for this project is as follows:

INSURANCE REQUIREMENTS

(1) Worker's Compensation and Employer's Liability Insurance:

WORKER'S COMPENSATION INSURANCE STATUTORY BENEFITS as provided by state statute; and EMPLOYER'S LIABILITY LIMITS:

- (a) \$500,000 Bodily Injury each Accident
- (b) \$500,000 Bodily Injury by Disease - Policy Limit
- (c) \$500,000 Bodily Injury by Disease - Each Employee

(2) Commercial General Liability Insurance

(a) Limits of Liability

- (i) \$1,000,000 Bodily Injury & Property Damage for Each Occurrence
- (ii) \$1,000,000 Products/Completed Operations Aggregate
- (iii) \$2,000,000 General Aggregate
- (iv) \$1,000,000 Personal & Advertising Injury
- (v) \$ 50,000 Fire Damage
- (vi) \$ 5,000 Medical Expense

(b) Coverage's should include but not limited to the following supplementary coverage's:

- (i) Contractual Liability to cover liability assumed under this agreement,
- (ii) Product and Completed Operations Liability Insurance
- (iii) Broad Form Property Damage Liability Insurance
- (iv) Explosion, collapse and underground hazards (deletion of the X, C, U exclusions) if such exposure exist, and
- (v) Independent Contractors
- (vi) Such policy shall include all of the coverage's, which may be included in coverage's, A, B, and C contained in the Commercial General Liability Policy, without deletion. Such policy must be issued upon an "occurrence" basis, as distinguished from a "claims made" basis.

(3) Excess (Umbrella) Insurance:

(a) Limits of Liability:

Contract Sum (Per occurrence/aggregate) Required	Minimum Limit
Up to \$2,499,999	\$1,000,000

(b) Coverage's and Terms:

- (i.) Occurrence Policies
- (ii.) Excess of General Liability
- (iii.) Excess of Employer's Liability
- (iv.) Excess of Completed Operations

NOTE: Town of Tusayan shall be named as an additional insured on the policy.

- c. **Force Majeure.** No party shall be liable for any failure to perform its obligations in connection with any action described in this agreement, if such failure results from any act of God, riot, war, civil unrest, flood, earthquake, and/or other cause beyond such parties reasonable control

TENTATIVE FUTURE AGENDA AND EVENT CALENDAR

September 26, 2012 – Special Council Meeting

1. Discussion and possible approval of Contract for Prosecutor Services
2. Discussion and possible approval of an Independent Contractor Agreement for the Tusayan Employee Housing Project

October 2, 2012 – Special Council Meeting – Workshop

1. Municipal Code Workshop, Chapters 2 (Mayor/Council), Chapter 4 (Boards/Commissions), and Chapter 15 (Manner of Elections)

October 3, 2012 – Regular Council Meeting

1. Capital Improvement Plan discussion
2. Consideration and possible approval of contract extension with International Housing Solutions.

October 17, 2012 – Regular Council Meeting

1. Discussion and possible award of a purchasing contract for the Tusayan Employee Housing Project
2. Consideration and possible approval of Chapters 3 & 14 of the Tusayan Municipal Code

October 23, 2012 – Planning and Zoning Commission Meeting

1. Discussion of process for developing a Tusayan General Plan

November 7, 2012 – Regular Council Meeting

1. Discussion and tentative outline for development of Tusayan Public Housing Authority