CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To:

The Honorable Mayor and Council

From:

Michael Scheu, 779-7685, ext 2620

Building & Safety Manager, Plng & Dev Srvcs

Date:

November 4, 2009

Meeting Date:

November 17, 2009



TITLE: CONSIDERATION OF APPROVAL AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF FLAGSTAFF AND THE OFFICE OF MANUFACTURED HOUSING WITHIN THE ARIZONA DEPARTMENT OF BUILDING AND FIRE SAFETY FOR CITY OF FLAGSTAFF MONITORING AND ENFORCEMENT OF INSTALLATION OF MANUFACTURED HOUSING, FACTORY-BUILT BUILDINGS AND ACCESSORY STRUCTURES.

RECOMMENDED ACTION:

Approve IGA with State Office of Manufactured Housing.

ACTION SUMMARY:

- State made minor changes to IGA that was approved on October 15, 2008 and signed on November 24, 2008.
- Recommend Council approve and the Mayor's signature on the two (2) contract documents to be forwarded to the State of Arizona Office of Manufactured Housing.

DISCUSSION:

Without an active IGA, future homeowners or those relocating mobile homes will a have significant wait for Phoenix inspectors from the Office of Manufactured Housing. The previous M.H. A.G. Contract No.: KR02-2256, was approved on 3 December 2002 by City Council. During the past five years, we have established communications and procedures for the installation of new manufactured housing (ranging from 35 to 160 units per year). Manufactured housing continues to provide one of the few alternatives to conventional stick built housing and is more affordable and less dependent on favorable weather conditions to setup.

Key Considerations:

This IGA contains minor revisions to the IGA that was approved on October 15, 2008. The State revised the IGA language after it was approved and signed. The revisions include; 1) changing the second WHEREAS A.R.S. 41-2153.B.5 to A.R.S 41-2153(B) (5), 2) item 3, removing the words "except those done personally by the owner" from the sentence, 3) 4, in the second line, changing A.R.S 41-2144 (5) to A.R.S. 41-2144 (4), 4) item 12, changed A.R.S. 12-133.D to A.R.S. 12-133 (D), and removed "et seq." after 12-1518, 5) item 13, added A.R.S. 35-215 after A.R.S. 35-214, 6) item 17, 4th and 5th lines, replaced "the State or OMH" with "any party", 6th line, removed "State nor" and inserted "or agency" after OMH, 7) item 18, Immigration Laws, was deleted in its entirety. The City has had the IGA in existence for the past five years.

Community Benefits and Considerations:

Without the IGA consumers would have to rely on a regional inspection office to perform the setup inspections. This could add several days to the process. The delays during the winter months could be delayed further due to transportation difficulties between Phoenix and Flagstaff.

Community Involvement:

None.

Financial Implications:

The City has collected approximately \$4,400 - \$21,600 per year in permit fees associated with manufactured housing and using the current IGA.

Community Benefits and Considerations:

Immediate access to scheduling inspections and less time for permit review by the City of Flagstaff versus using the offices located at 1110 West Washington, Phoenix, Arizona.

Options and Alternatives:

- Council may allow the current IGA to lapse and then the consumer and developers would have to require all setup inspections from the Phoenix main office.
- 2. Council may adopt the Resolution

Attachments/Exhibits:

Copy of the revised I.G.A. Contract

Department Head (Acknowledgment that all reviews have been completed and required approvals initialed below.)

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| 10/28/ |
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AGREEMENT

BETWEEN

ARIZONA DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY OFFICE OF MANUFACTURED HOUSING

AND

CITY OF FLAGSTAFF

TO ENFORCE INSTALLATION STANDARDS

WHEREAS, pursuant to A.R.S. § 41-2151 the purpose of OMH is to maintain standards of quality and safety for manufactured homes, factory-built buildings, mobile homes, and the installation of the same.

WHEREAS, A.R.S. § 41-2153(B) (5) directs the Deputy Director of OMH to enter into agreements with local enforcement agencies to enforce the installation standards in their respective jurisdictions consistent with the installation standards of OMH; and

WHEREAS, it is the desire of both parties to eliminate unnecessary duplication of inspections regarding installation standards within the Agency's jurisdiction;

NOW, THEREFORE, in consideration of the premises and mutual promises and undertakings herein contained, and for other good and valuable consideration, the parties agree as follows:

- 1. <u>Monitoring and Enforcement.</u> For the duration of this Agreement, the Agency will monitor and enforce the installation standards set forth in A.R.S. § 41-2195 and A.A.C. R4-34-102 as they apply to installation standards and accessory structures.
- 2. <u>Term.</u> The term of this Agreement shall be for five (5) years from the date of this Agreement.

- 3. <u>Standards of Performance</u>. In exercising the authority delegated hereunder the Agency shall perform to the same standards of performance that the law imposes upon OMH in exercising the authority described in section 1 hereof. In addition, the Agency shall not approve any installation unless the installer affixes a State Insignia of Approval as required by A.A.C. R4-34-802.A and pays to the Agency the fee established by OMH pursuant to the authority by A.A.C. R4-34-501 and as permitted by A.A.C. R4-34-506.
- 4. <u>Fees Charged by the Agency.</u> Permit fees charged by the Agency shall be the same as the Fee Schedule created by OMH pursuant to its authority under A.R.S. § 41-2144 (4) and A.A.C. R4-34-501 and no more than permitted by R4-34-801(E). All fees collected by the Agency shall be kept by the Agency as compensation for the services performed by the Agency under this agreement. The Agency shall not be entitled to any other compensation for services rendered by it under this Agreement.
- 5. <u>Termination.</u> Either party may terminate this Agreement at any time without cause by giving the other party thirty (30) days written notice prior to the date of termination. Additionally, OMH may terminate this Agreement immediately and without notice, if OMH determines that the installation standards required in the Agreement are not being maintained, or that local fees are not consistent with the inspection fees established by the Board of Manufactured Housing.
- 6. <u>Qualifications of Personnel</u>. The personnel that perform the functions delegated to the Agency in paragraph 1 hereof shall each have no less than one year of experience as a building code inspector or manufactured housing installation inspector.
- 7. <u>Duties of OMH.</u> Should OMH require inspections of any portion of the installation of mobile, manufactured homes, accessory structures or factory built buildings not required by the Rules referred to herein and not covered under this Agreement, OMH shall be responsible for the inspections and enforcement thereof.
- 8. <u>Notices.</u> All notices shall be mailed or delivered to the party to receive such notice to the following address.
 - a. If intended for OMH to:

Department of Fire, Building and Life Safety Office of Manufactured Housing 1110 West Washington, Suite #100 Phoenix, AZ 85007-2935

Attn: Debra Blake Title: Deputy Director Phone: (602) 364-1022 b. If intended for Agency, to:
City of Flagstaff
211 West Aspen Ave
Flagstaff, Az. 86001

Attn: Ed Larsen

Title: Building Official Phone: 779-7631 ext7240

- 9. <u>Interpretation and Amendments.</u> This Agreement contains the entire agreement between the parties hereto. This Agreement shall not be amended or modified in any manner, except by an instrument in writing signed by the parties hereto.
- 10. <u>Headings.</u> Headings are for convenience only and are not to be construed as part of this Agreement.
- 11. <u>Invalidity of a Term.</u> The parties agree that in the event any term, covenant or conditions herein contained should be held to be invalid or void, the invalidity of any such term, covenant or condition shall in no way affect any other term, covenant or condition of this Agreement.
- 12. <u>Dispute.</u> In the event of any dispute between the parties under this Agreement, the parties agree that they shall submit the dispute to arbitration pursuant to A.R.S. §§ 12-133(D) and 12-1518.
- 13. <u>Inspection and Audit.</u> Pursuant to A.R.S. §§ 35-214 and 35-215, all books, accounts, reports, files and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the State of Arizona for five (5) years after completion of this Agreement. Such records shall be produced at the Auditor General's Office or such other office as the parties hereto may mutually agree within a reasonable time after request.
- 14. <u>Conflict of Interest.</u> The parties acknowledge that this Agreement is subject to cancellation by the Governor of Arizona pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein.
- 15. <u>Prohibition Against Discrimination</u>. In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order No. 99-4.
- 16. <u>Governing Law and Venue.</u> This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. The exclusive venue for any litigation, arbitration, administrative hearing or the like concerning this Agreement or any matter arising therefrom shall be in Maricopa County, State of Arizona.

17. <u>Unavailability of Funding.</u> Every payment or financial obligation of the parties under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by any party at the end of the period for which funds are available. No liability shall accrue to any party in the event this provision is exercised, and neither the OMH or Agency shall be obligated or liable for any future payments nor for any damages as a result of termination under this paragraph.

IN WITNESS WHEREOF, the parties hereto agree to carry out the terms of this Agreement and have executed this Agreement the day, month and year first written above.

| OFFICE OF MANUFACTURED HOUSING | AGENCY: |
|---|---|
| Name: Debra Blake, Deputy Director Mayor Department of Fire, Building and Life Safety Office of Manufactured Housing | Name: |
| | ATTEST:Town Clerk |
| APPROVED this | day of, |
| This Intergovernmental Agreement has been rev Agency who has determined that it is in appropria granted by law to the Agency designed herein. | |
| | BY: |
| | , Town Attorney |
| This Intergovernmental Agreement has been revundersigned Assistant Attorney General, who has within the powers granted under the laws of the Agreement represented by the Attorney General. | determined that it is in the proper form and is |
| Dated this day of, 2009. | |
| | BY:Assistant Attorney General |
| | |

AGREEMENT

BETWEEN

ARIZONA DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY OFFICE OF MANUFACTURED HOUSING

AND

CITY OF FLAGSTAFF

TO ENFORCE INSTALLATION STANDARDS

This AGREEMENT ("Agreement") is entered into this ______day of ______, ____, by and between the ARIZONA DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY, OFFICE OF MANUFACTURED HOUSING ("OMH") and the CITY OF FLAGSTAFF ("Agency").

WHEREAS, pursuant to A.R.S. § 41-2151 the purpose of OMH is to maintain standards of quality and safety for manufactured homes, factory-built buildings, mobile homes, and the installation of the same.

WHEREAS, A.R.S. § 41-2153(B) (5) directs the Deputy Director of OMH to enter into agreements with local enforcement agencies to enforce the installation standards in their respective jurisdictions consistent with the installation standards of OMH; and

WHEREAS, it is the desire of both parties to eliminate unnecessary duplication of inspections regarding installation standards within the Agency's jurisdiction;

NOW, THEREFORE, in consideration of the premises and mutual promises and undertakings herein contained, and for other good and valuable consideration, the parties agree as follows:

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IN WITNESS WHEREOF, the parties hereto agree to carry out the terms of this Agreement and have executed this Agreement the day, month and year first written above.

| 40010. | |
|---|---|
| OFFICE OF MANUFACTURED HOUSING | AGENCY: |
| Name: Debra Blake, Deputy Director Mayor Department of Fire, Building and Life Safety | Name: |
| Office of Manufactured Housing | |
| | ATTEST:Town Clerk |
| APPROVED this _ | day of, |
| This Intergovernmental Agreement has been ranged who has determined that it is in approparanted by law to the Agency designed herein. | · · · · · · · · · · · · · · · · · · · |
| | BY: |
| | , Town Attorney |
| This Intergovernmental Agreement has been rundersigned Assistant Attorney General, who hawithin the powers granted under the laws of Agreement represented by the Attorney General. | s determined that it is in the proper form and is |
| Dated this day of, 2009. | |
| | BY:Assistant Attorney General |
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