



PRESCOTT CITY COUNCIL JOINT SPECIAL MEETING/ STUDY SESSION AGENDA

*A M E N D E D

**PRESCOTT CITY COUNCIL
JOINT SPECIAL MEETING/STUDY SESSION
TUESDAY, MAY 5, 2009
3:00 P.M.**

**Council Chambers
201 S. Cortez Street
Prescott, AZ 86303
(928) 777-1100**

The following Agenda will be considered by the Prescott City Council at its Joint Special Meeting/Study Session pursuant to the Prescott City Charter, Article II, Section 13. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

- ◆ **CALL TO ORDER**
- ◆ **INTRODUCTIONS**
- ◆ **INVOCATION:** Reverend Julia McKenna, Spiritual Architect
- ◆ **PLEDGE OF ALLEGIANCE:** Councilman Bell
- ◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

| | |
|---------------------|----------------------|
| Mayor Wilson | |
| Councilman Bell | Councilman Luzius |
| Councilman Lamerson | Councilman Roecker |
| Councilwoman Lopas | Councilwoman Suttles |

- ◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

SPECIAL MEETING

- I. [Approval of FY2009 Annual Action Plan and Amendment to the 2005-2009 Consolidated Plan \(CDBG Program\).](#)
- II. Adjournment

STUDY SESSION

I. PROCLAMATIONS

- A. *May 2009 as Mental Health Month*
- B. *May 2009 as Arizona Historic Preservation Month*
- C. *May 3-10, 2009 as Building Safety Week*
- D. *May 7, 2009 as National Day of Prayer*
- E. *May 10-16, 2009 as Hospital Week in Prescott*

II. PRESENTATIONS

- A. Presentation by Dave Maurer, Executive Director of the Prescott Chamber of Commerce, re its position re impact fees and business licenses.
- B. Presentation by representatives of the League of Arizona Cities and Towns re impact fees.
- C. Presentation re Designation of Antelope Hills Golf Course as one of Arizona's Top 10 Public Golf Courses.

III. DISCUSSION ITEMS

- A. Adoption of Resolution No. 3951-0957 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott Fire Department to enter into an Intergovernmental Agreement (“IGA”) with Central Yavapai Fire District (CYFD) to exchange occupancies of CYFD's Station 51 for Prescott Fire Department's Station 72 and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- B. Adoption of Resolution No. 3952-0958 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott Fire Department to enter into an Intergovernmental Agreement (“IGA”) with Chino Valley Fire District to share personnel resources and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

- C. Adoption of Resolution No. 3956-0962 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott Fire Department to enter into an Intergovernmental Agreement (“IGA”) with Central Yavapai Fire District to share personnel resources and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- D. Adoption of Resolution No. 3954-0960 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Addendum to Intergovernmental Agreement (“IGA”) to include Walker Fire Protection Association into the Prescott Regional Communications Center (PRCC) and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- E. Approval of the CDBG construction contract in an amount not to exceed \$110,549.00 with Core 5, LLC for the federally-funded project known as Campbell Streets Improvements.
- F. Approval of contract with JEBCO for the federally-funded Renovation and Remodel of the WYGC Hillside CDBG Project in the amount of \$42,163.00.
- G. Approval of Preliminary Plat Extension Request for Granite Creek Village, comprising 43 lots on approximately 14.5 acres located east of White Spar Road along Granite Creek in the vicinity of the Pine Cone Inn.
- H. Public Hearing on annexation of a portion of the Granite Dells Ranch with associated minor amendments to the General Plat and Airport Specific Area Plan; Owner, Granite Dells Ranch Holdings (Cavan Real Estate Investments); Agent, Mark Reddie, LVA Urban Design Studio, Tempe, Arizona. (ANX0-001)
- I. Adoption of Ordinance No. 4700-0943 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending *Land Development Code*, Table 2.3, Schools in the IL District; Table 2.3, Dormitories on the IL District; Section 6.2.5.C, Compact Parking Spaces; Section 7.4.5.B.4; Flag Lot Dimensions; Table 2.3, Hotel/Motels in the IL District; Table 2.3 Mobile Food Vendors; and Section 2.5.13, Mobile Food Vendors.
- J. Award of two contracts for quality assurance testing services for City capital construction projects, one to Ninyo & Moore; and one to Western Technologies, Inc.; each in an amount not to exceed \$80,000.00.

- K. Approval to improve security and access to City Hall, to include Utility Services, Mayor and Council and Administrative Offices, not to exceed \$68,000.00.
- L. Adoption of Resolution No. 3957-0963 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution Number 3927-0933 and adopting new Rules of Procedure for the Prescott City Council.
- M.* Adoption of Resolution No. 3958-0964 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the use of the Water Smart logo by the Upper Verde River Watershed Protection Coalition.**
- ~~MN.~~ Notice of Public Hearing (May 12, 2009) and consideration of liquor license application from Hai Liu, applicant for Hong Kong Restaurant, for a Series 12, Restaurant, license for Hong Kong Restaurant located at 520 Miller Valley Road.
- ~~NO.~~ Notice of Public Hearing (May 12, 2009) and consideration of liquor license application from Billie Nelson, applicant for The Rose Restaurant, for a Series 12, Restaurant, license for The Rose Restaurant located at 234 South Cortez.
- ~~OP.~~ Approval of the Minutes of the Prescott City Council Joint Study Session/Special Meeting of April 21, 2009 and the Regular Voting Meeting of April 28, 2009.
- ~~PQ.~~ Selection of items to be placed on the Regular Voting Meeting Agenda of May 12, 2009.

IV. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing AMENDED notice was duly posted at Prescott City Hall on _____ at _____ .m. in accordance with the statement filed by the Prescott City Council with the City Clerk.

Elizabeth A. Burke, City Clerk

SM-1

COUNCIL AGENDA MEMO – May 05, 2009

DEPARTMENT: City Manager - Grants

AGENDA ITEM Public Hearing FY 2009 Annual Action Plan and Amendment to the 2005 – 2009 Consolidated Plan

Approved By:

Date:

| | |
|---|-----------|
| Department Head: Linda Hartmann <i>L. Hartmann</i> | 5-01-2009 |
| Finance Director: | |
| City Manager: Steve Norwood <i>S. Norwood</i> | 05/01/09 |

The 30 day public Comment Period for the Draft FY 2009 Annual Action Plan began on April 01, 2009 and concluded on May 01, 2009 The City received no comments from the public during that period.

The development of the 2005-2009 Consolidated Plan and this FY 09 Action Plan provide a foundation for the use of federal, state and local resources to address community development priorities. For this fifth Program year the City has access to an anticipated \$320,000.

Annual Action Plan activities proposed to occur in FY (federal year) 09

| <u>Program Name</u> | <u>Program Type</u> | <u>Funding Amount</u> |
|---|---|------------------------------------|
| Project Aware- Homeless and Temporary Shelter for Men including Vets who are working. | *Case Mgmt for supportive housing vets who are working. *166 Bed nights @12.00 ea Public Service Support Special Needs Population Low to Moderate Income Benefit | <u>FY09 Funds: \$7,000</u> |
| Prescott Area Women's Shelter (Year round shelter for women and children under 12) | *Shelter Coordinator, new position Public Services Support Special Needs Population, Benefit to Low to Moderate Income Area | <u>FY09 Funds \$32,000</u> |
| Coalition for Compassionate Justice Mobile Home Roof Repair | Repair/Replace of Mobile Home Roofs for Seniors LMH Improved Living Environment/Quality of Life | <u>FY09 Funds \$15,000</u> |
| Single Family Housing Rehabilitation | Rehabilitation of Housing Units located in the Dexter Neighborhood LMH Improved Living Environment /Quality of Life | <u>FY09 Funds \$100,000</u> |
| Campbell Street Improvements continuation | Pavement continuation Low to Moderate Income Area Benefit | <u>FY09 Funds \$102,000</u> |
| CDBG Grants Administration (includes salaries, public notices, mailings, reproduction/binding costs, training, oversight) | Administration | <u>FY09 Funds \$64,000</u> |
| ANTICIPATED ALLOCATION | | <u>\$320,000</u> |

Although these projects do not create affordable housing, they do improve the existing single family housing stock; provide repairs for the elderly in low mod neighborhoods and the ongoing paving project on Campbell all work toward of creating/retaining jobs in the current environment. These projects, meet a National Objective: Low/Mod Income Area Benefit with a desired Outcome: Accessibility and job retention. Further, these projects are directly related to Council suggestions that CDBG funds be used with the intent to benefit the greater number of people and to allow opportunities for neighborhood infrastructure improvements.

The projects identified as public service support are provided for in HUD regulations. They are capped at 15% of our total grant dollars. The case management creates a job opportunity and the 166 bed nights will assist the shelter in continuation of emergency shelter services. (Project Aware recently lost bed night assistance through another agency due to funding cuts).

The shelter coordinator position identified for the Women's Shelter does indeed provide job creation for this now year round shelter. This homeless shelter has 12 adult beds and beds for children under the age of 12. This is the only year round women's shelter in Prescott.

The two Public Service support projects meet a National Objective: Low Mod Special Clientele with a desired Outcome: Accessibility. It also creates job opportunity.

The amendment to the Consolidated Plan is to add to Goals and Objectives #14. Revitalize the Dexter Neighborhood a. Programs that concentrate the rehabilitation of housing stock on the older housing units in the neighborhood. b. Support programs that upgrade the existing housing units.

Recommended Action: MOVE to approve the City of Prescott 2009 Annual Action Plan and the Amendment to the Consolidated Plan, Goals and Objectives

PROCLAMATION

"Mental Health Month"

WHEREAS, There is a proven connection between good mental health and overall personal health; and

WHEREAS, mental illnesses affect almost every family in America; and

WHEREAS, people with mental illnesses recover if given the necessary services and supports in their communities; and

WHEREAS, people with mental illnesses make important contributions to our families and our communities; and

WHEREAS, millions of adults and children are disabled by mental illnesses every year; and

WHEREAS, only one out of two people with a serious form of mental illness seeks treatment for their mental illness; and

WHEREAS, stigma and fear of discrimination keep many who would benefit from mental health services seeking help; and

WHEREAS, research shows that the most effective way to reduce stigma is through personal contact with someone with a mental illness; and

WHEREAS, good mental health is critical to the well-being of our families, communities, schools, and businesses; and

WHEREAS, greater public awareness about mental illnesses can change negative attitudes and behaviors toward people with mental illnesses.

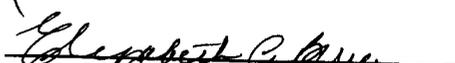
NOW THEREFORE, I, Jack D. Wilson, Mayor of the City of Prescott, Arizona, do hereby proclaim May 2009 as MENTAL HEALTH MONTH and call upon all Prescott citizens to recommit our community to increasing awareness and understanding of mental illnesses, reducing stigma and discrimination, and promoting appropriate and accessible services for all people with mental illness.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Seal of the City of Prescott to be affixed this 5th day of May 2009.





JACK D. WILSON, MAYOR
City of Prescott

ATTEST:


ELIZABETH A. BURKE, CITY CLERK
City of Prescott

PROCLAMATION

"ARIZONA HISTORIC PRESERVATION MONTH"
MAY, 2009

WHEREAS, the National Trust for Historic Preservation will commence National Preservation Month in May, 2009; and

WHEREAS, the idea behind preservation month is the celebration of diverse and irreplaceable heritage by participating in local events throughout the nation; and

WHEREAS, Arizona has a diverse and unique history as represented by the numerous significant historic and pre-historic properties within our community and State; and

WHEREAS, "This Place Matters" is the theme for National Historic Preservation Month 2009, sponsored by the National Trust, the Arizona Preservation Foundation, the City of Prescott and many state and local organizations, businesses, and neighborhood associations; and

WHEREAS, historic preservation is an effective tool for identifying and saving the places that tell America, Arizona and Prescott's story, for revitalizing neighborhoods, promoting economic development, fostering local pride and maintaining community character while enhancing livability; and

WHEREAS, historic preservation month helps to demonstrate the importance of our heritage, which is represented by historic travel, heritage education, historic homeownership and community revitalization; and

WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

NOW, THEREFORE, I, JACK WILSON, Mayor of the City of Prescott, Arizona, do proclaim May 2009, as:

"ARIZONA HISTORIC PRESERVATION MONTH"

and call upon the people of Prescott, Arizona to join their fellow citizens across Arizona and the United States in recognizing and participating in this special observance.

IN WITNESS WHEREOF. I have hereunto set my hand and caused the

BUILDING SAFETY WEEK
May 3 - 10, 2009

WHEREAS, building safety affects many aspects of life, and because of construction codes enforcement, people enjoy the comfort of structures that are safe and sound; and

WHEREAS, building safety and fire-prevention officials work with citizens to address building safety and fire prevention concerns; and

WHEREAS, the dedicated members of the International Code Council, in partnership with building and fire prevention officials, architects, engineers, and others in the construction industry, develop and enforce the codes that safeguard Americans in the building where we live, work, play and learn; and

WHEREAS, construction codes provide safeguards to protect the public from natural disasters that can occur all across the country, including snowstorms, hurricanes, tornadoes, wildland fires, as well as earthquakes, and construction codes also work to minimize other potential building catastrophes; and

WHEREAS, Building Safety Week, sponsored by the International Code Council, is an opportunity to educate the public and to increase public awareness of the role building safety and fire prevention-officials, local and state building departments, and federal agencies play in the first line of defense to protect the public; and

WHEREAS, this year's theme, "Building Safety: Where You Live, Work and Play", encourages all Americans to raise our awareness of building safety and take appropriate steps to ensure the places where we live, work, play and learn are safe; and

WHEREAS, this year, as we observe Building Safety Week, I ask everyone to consider projects to improve building safety at home and in the community, and to recognize the local building safety and fire prevention officials and the important role that they play in public safety;

NOW THEREFORE, I Jack D. Wilson, Mayor of the City of Prescott, do hereby proclaim May 3 - 10, 2009.

"BUILDING SAFETY WEEK"

IN WITNESS THEREOF, I have hereunto set my hand and caused the Seal of the City of Prescott to be affixed this 5th day of May 2009.

A handwritten signature in black ink, appearing to read "Jack D. Wilson".

JACK D. WILSON, MAYOR
City of Prescott

ATTEST:

A faint, illegible signature or stamp located below the "ATTEST:" text.

PROCLAMATION

“NATIONAL DAY OF PRAYER, 2009”

MAY 7, 2009

WHEREAS, America trusts in the abiding power of prayer and asks for the wisdom to discern God’s will in time of joy and of trial; and

WHEREAS, as we observe this National Day of Prayer, we recognize our dependence on the Almighty, we thank Him for the many blessings he has bestowed upon us, and we put our country’s future in his hands; and

WHEREAS, from our Nation’s humble beginnings, prayer has guided our leaders and played a vital role in the life and history of the Unites States; and

WHEREAS, Americans of many different faiths share the profound conviction that God listens to the voice of His children and pours His grace upon those who seek Him in prayer; and

WHEREAS, on this National Day of Prayer, we ask God’s continued blessings on our country; and

WHEREAS, Congress by Public Law 100-307, as amended has called on our Nation to reaffirm the role of prayer in our society by recognizing each year a “National Day of Prayer”.

THEREFORE, the City of Prescott proclaims May 7, 2009 as National Day of Prayer and urge all citizens to give thanks, each according to his or her own faith, for the freedoms and blessings we have received and for God’s continued guidance, comfort, and protection.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Seal of the City of Prescott to be affixed this 5th day May 2009.



Handwritten signature of Jack D. Wilson in black ink.

JACK.D. WILSON, MAYOR
City of Prescott

ATTEST:

Handwritten signature of Elizabeth A. Burke in black ink.
ELIZABETH A. BURKE, CITY CLERK
City of Prescott

I-E

PROCLAMATION

“HOSPITAL WEEK IN PRESCOTT” May 10-16, 2009

WHEREAS, the American Hospital Association has proclaimed May 10-16, 2009 as National Hospital Week with the theme: A Healthy Commitment in Changing Times; and

WHEREAS, individuals across the country will be celebrating this time-honored event; and

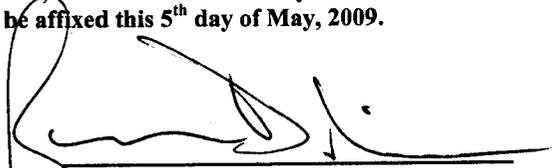
WHEREAS, the hard working people who compose our hospitals diverse universal regard and appreciation for keeping our community healthy.

NOW THEREFORE, I, Jack D. Wilson, Mayor of the City of Prescott, Arizona, do hereby declare May 10-16, 2009 to be Hospital Week in Prescott, Arizona.

Hospital Week in Prescott

And urge residents to express their appreciation for the people, facilities and technologies that make trustworthy, reliable health care possible in our community.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Seal of the City of Prescott to be affixed this 5th day of May, 2009.



JACK D. WILSON, MAYOR
City of Prescott

ATTEST:



ELIZABETH A. BURKE, CITY CLERK
City of Prescott



COUNCIL AGENDA MEMO – 05/05 & 05/12/09

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DEPARTMENT: Fire

AGENDA ITEM: Approval of a Station 72/51 Exchange of Occupancy IGA between Central Yavapai Fire District (CYFD) and Prescott Fire Department (PFD).

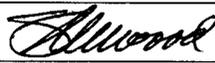
Approved By:

Date:

Department Head: Darrell Willis

Finance Director: Mark Woodfill

City Manager: Steve Norwood



04/29/09

Background

CYFD owned Station 51, located on Sixth Street, is currently staffed by CYFD, and is the busiest response district, by call volume, in the City of Prescott. City owned Station 72, located on the corner of Williamson Valley and Iron Springs, is currently staffed by PFD personnel and is the fourth busiest station by call volume in the City of Prescott. The intent of the exchange of occupancy is to move CYFD closer to their actual district boundaries and have PFD take the burden of the busiest station in the City. The exchange of occupancy also moves CYFD closer to their Williamson Valley Station 57 at the Outer Loop Road, creating more opportunity for them to train and conduct meetings. PFD and CYFD have exchanged occupancies or shared stations several times for response needs in the past without issue. This move has been planned since April of 2004.

Status

If approved, the exchange of occupancy will take place around the middle of May 2009. Each department will maintain their current engine call sign, E-72 and E-51 and respond to the respective response area of the station they occupy. This IGA does not in any way effect the automatic aid response in place. The current PFD Station 72 will become CYFD Station 51 and the CYFD Station 51 will become PFD Station 72. The initial term of the IGA is for a ten year period. For either party to terminate this IGA, the party wishing to terminate must submit a one year prior written notification to the non-terminating party.

Financial

There is no financial gain or loss in this exchange of occupancy as each agency will pay for the utilities of the station they occupy and no rent is assessed to either.

Recommendation: Move to adopt Resolution No. 3951-0957.

RESOLUTION NO. 3951-0957

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT FIRE DEPARTMENT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT ("IGA") WITH CENTRAL YAVAPAI FIRE DISTRICT (CYFD) TO EXCHANGE OCCUPANCIES OF CYFD'S STATION 51 FOR PRESCOTT FIRE DEPARTMENT'S STATION 72 AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, the CYFD owned Station 51, located on Sixth Street, is currently staffed by Central Yavapai Fire District (CYFD), and is the busiest response district; City owned Station 72, located on the corner of Williamson Valley and Iron Springs, is currently staffed by Prescott Fire Department (PFD); and

WHEREAS, the parties hereto wish to enter into an agreement for the mutual exchange of occupancy of these stations to move CYFD closer to their actual district boundaries and have PFD provide service to the busiest station in the City. The exchange is also intended to move CYFD closer to their Williamson Valley Station 57 at the Outer Loop Road, creating more opportunity for them to train and conduct meetings; and

WHEREAS, there is no financial gain or loss in this exchange as each agency will pay for the utilities of the station they occupy and no rent is assessed to either; and

WHEREAS, it is determined that this mutual exchange of occupancy is in the public interest of the citizens of Prescott.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT the City of Prescott hereby approves the attached Intergovernmental Agreement (Exhibit "A") for the exchange of stations between CYFD and Prescott Fire Dept.

Section 2. THAT the Mayor and staff are hereby authorized to execute the attached Intergovernmental Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 12th day of May, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

EXHIBIT 'A'

INTERGOVERNMENTAL AGREEMENT
FOR EXCHANGE OF OCCUPANCY AND USE

THIS INTERGOVERNMENTAL AGREEMENT FOR EXCHANGE OF OCCUPANCY AND USE (this ``IGA'') is made effective on the _____ day of _____, 2009 (the ``Effective Date''), by and between the CENTRAL YAVAPAI FIRE DISTRICT, a political subdivision of the State of Arizona (``CYFD''), and the CITY OF PRESCOTT, a municipal corporation of Arizona (the ``City'').

RECITALS

WHEREAS, CYFD currently owns and operates a fire station located at 530 Sixth Street, Prescott, Arizona, legally described as set forth in Exhibit ``A'' attached hereto, and together with all improvements thereon, shall be referred to in this IGA as ``Station 51''; and

WHEREAS, the City currently owns and operates a fire station located at 1700 Iron Springs Road, Prescott, Arizona, legally described as set forth in Exhibit ``B'' attached hereto, and together with all improvements thereon, shall be referred to in this IGA as ``Station 72''; and

WHEREAS, the parties wish to cooperate with each other in order to more effectively and economically provide effective fire services within their respective areas of coverage and to augment the parties' mutual aid of the other as agreed upon between the parties in the Intergovernmental Agreement for Automatic Aid for Fire Protection and Other Emergency Services, dated as of July 1, 2002; and

WHEREAS A.R.S. §11-952 authorizes the parties to jointly exercise any powers common to them and to enter into one (1) or more intergovernmental agreements for cooperative action; and

WHEREAS, CYFD and the City desire to enter into an exchange of occupancy and use of Station 51 and Station 72.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

COVENANTS

1. Purpose. The purpose of this IGA is to permit CYFD and the City to exchange the occupancy and use of Station 51 and Station 72 subject to the terms and conditions of this IGA.

2. Term. The initial term of this IGA shall be 10 years, commencing on the Effective Date and execution of this IGA by both parties, and shall renew itself automatically from year to year thereafter, until terminated.

3. Uses. Each party hereby agrees that Stations 51 and 72 are to be used under this IGA by the occupying party as a fire station, including all reasonable uses relating thereto. Should a party desire to put the station it occupies to a different use, the occupying party may do so only with the express written consent of the other party. Each party may erect on the station it occupies such signs as are necessary to properly call attention to the facilities thereon.

4. Improvements. Each party may improve or remodel the station it occupies at its own expense for the purpose of such party's business, including but not limited to, modifying, increasing or changing the capacity/capability of the electrical, plumbing or other mechanical equipment, installing signs, shelving, fixtures and equipment, provided that the plans and specifications of the improvements or remodel are first submitted to the Owner, and further provided that the Owner approve those plans.

5. Division of Structural and Maintenance Issues. The parties acknowledge that each station has or may have various structural issues and that maintenance and upkeep will be required on each facility during the term of this IGA. The parties agree to divide the responsibilities for those structural and maintenance requirements as follows.

- (A) Structural Issues. Except for damages caused by the negligence of the party occupying the building (in which case the occupying party shall be responsible for the repair expense), the Owner of each structure shall be responsible for defects in, and maintaining and repairing at its own expense the following structural components of its respective building: the external walls, framing, foundation or subflooring and trusses. In addition, except for damages caused by the negligence of the party occupying the building (in which case the occupying party shall be responsible for the expense of repair), the Owner of each structure shall also be responsible for any defects in the sewer, electrical or water service to that building. All other aspects of each building, structural or otherwise, shall be maintained by and at the expense of the party occupying the building as provided for immediately below. If an occupying party discovers a structural defect that it does not want to repair, it may, as its sole remedy, terminate this IGA.

(B) Maintenance Issues. The party occupying each building shall be responsible for repairing and maintaining at its expense all aspects of each building not specifically identified as part of the structural responsibility of the Owner in Section 5(A) above. This maintenance responsibility includes, but is not limited to the interior walls, painting, ceilings, floors, doors, windows, electrical wiring from the service box to the interior of the structure, plumbing and fixtures inside the structure, heating or air conditioning systems, waste water disposal, drains, eaves, troughs, downspouts, gutters, fencing, roofing and the external parking lot, lighting and sidewalks. Each party understands and agrees that it is the occupying party's responsibility to confirm, prior to executing this IGA, that the other party's station, and all included mechanical systems, are adequate to accommodate and serve the occupying party's needs and that by executing this IGA, the occupying party confirms that it has been given an opportunity to inspect and approves of the other party's station and all mechanical systems.

(C) Duty of Upkeep. Each party will be responsible for the day-to-day upkeep of the station it occupies and agrees to keep the station it occupies clean, and in a good state of repair and condition, including but not limited to the maintenance issues identified in Section 5(B) above. In addition, each party shall be responsible for any damage it causes to the station it occupies.

6. Utilities. Each party shall pay before delinquency all charges for utilities used at the station it occupies, including water, gas, telephone, sewage, waste disposal and electricity.

7. Encumbrances. Each party's fee interest in their respective station shall remain unsubordinated to any debt incurred by the occupying party for construction and improvements at the station, or otherwise. The occupying party shall not permit a lien, mortgage or encumbrance whatsoever to attach to the other party's station.

8. Leases. Neither party may sublease the station it occupies, in whole or in part, without the Owner's express written consent, but such consent shall not be unreasonably withheld.

9. Waste, Nuisance, Abandonment. During the term of this IGA, each party shall comply with the applicable laws affecting the station it occupies. Neither party shall commit any waste or nuisance at the station it occupies. Neither party shall vacate or abandon the other party's station at any time during the term

of this IGA, unless that abandonment is pursuant to the termination of this IGA as provided for herein.

10. Indemnification. Each party hereby agrees to indemnify, defend and hold harmless the other party, or any of its departments, agencies, officers or employees for any violations incurred under any local, state or federal laws and regulations or for judgments, claims or demands assessed in connection with or as a result of an indemnifying party's negligent use or omission in connection with its occupancy of the station it occupies. The occupying party shall defend and indemnify the owner against all such claims, liability, loss or damages whatsoever on account of any such loss, injury, death or damage.

11. Liability Insurance. During the entire term of this Agreement and any extensions thereof, each party shall maintain at its own expense the following forms of insurance coverage insurance in connection with its use and occupancy of the other party's fire station in which it operates pursuant to this Agreement:

General Liability Insurance. A policy or policies of general liability insurance (or self insurance) in an amount of not less than \$_____. The general liability policy or policies shall include insurance against any and all claims and/or demands made by any person or persons, including but not limited to invitees, for any injuries received in connection with the operation, maintenance, occupancy and use of the fire station being occupied, and for any other risks normally insured against by such policies, including damages or injuries incurred and/or claimed for bodily injury, death or otherwise.

Property and Casualty Insurance. A policy or policies of property and casualty insurance in an amount of not less than \$_____. The property and casualty policy or policies shall include insurance against all loss and/or damage to all buildings and/or facilities located at the fire station being occupied by the party, including but not limited to loss and/or damage caused by acts of God, including but not limited to fire, windstorm, earthquake or otherwise. Either party may also maintain its own insurance against such damage, as it deems appropriate.

All policies required above shall name the other party as an additionally named insured. Each party shall provide the other with proof of insurance within 30 days after the execution of this Agreement, and prior to actually occupying the facility. Thereafter, each party shall provide proof of renewal of each policy at each renewal period. In addition, each party shall make available its insurance information to the other party upon request. A party may self-insure in accordance with the above-referenced liability amounts. Each party shall notify the other in the event there is any change in the coverage referred to herein.

12. Right of Entry. Each party shall at all times during the term of this IGA retain the right to enter its respective station and make inspections thereof at reasonable times.

13. Rules and Regulations. Each party shall adopt reasonable rules and regulations with respect to the use of the station it occupies. These rules shall include, but not be limited to, the conduct of the parties and any invitees, damage or destruction caused by any of the parties, inspections of the station on a periodic basis to confirm cleanliness, repair and maintenance of the station, and related matters.

14. No Third Party Beneficiaries. This agreement is for the benefit of the parties specifically named herein, and shall not be construed as a third party beneficiary contract.

15. Termination. Either party may terminate this IGA without reason or cause upon giving one year prior written notice to the non-terminating party. Upon termination of this IGA, Fire Station 51 shall remain the property of CYFD and CYFD shall resume unrestricted occupancy of Fire Station 51 and Fire Station 72 shall remain the property of the City and the City shall resume unrestricted occupancy of Fire Station 72.

Either party may cancel this Agreement pursuant to the terms of A.R.S. §38-511.

16. Duties Upon Termination or Abandonment. Upon the termination of this Agreement or either party's discontinued use of the building it is occupying for any reason, the occupying party shall leave the station it has occupied in at least as good a condition and repair as when such party took occupancy of the station, ordinary wear and tear resulting from proper use alone excepted. The occupying party shall repair any holes or other damage to the walls and return the interior portions of the station it occupies to a good and workmanlike condition prior to terminating occupancy of the station, subject to the improvements made with the consent of the Owner.

Any improvements or other personal property owned and placed in Station 51 by the City, and which can be removed without damage to the structure, internal walls or functional

operation of the building, shall be the property of and may be removed by the City at the termination of this Agreement or the City's abandonment of the building it was occupying. Likewise, any improvements or other personal property owned and placed in Station 72 by CYFD, and which can be removed without damage to the structure, internal walls or functional operation of the building, shall be the property of and may be removed by the CYFD at the termination of this Agreement or the City's abandonment of the building it was occupying.

Any equipment, improvements or other personal property owned and placed in a station by the occupying party which cannot be removed without damage to the structure, internal walls or functional operation of the building, shall remain at the site and shall be transferred in fee to the other party upon termination of this IGA. The parties agree that to the extent either party has installed any heating, air conditioning, plumbing, electrical or other type of systems or equipment during their occupancy, such systems or equipment affects the functional operation of the building and shall not be removed at the expiration of its occupancy.

17. Default. If default shall be made by either party in any of the covenants or conditions agreed to be performed by a party pursuant to this IGA, and if such default shall continue for fifteen (15) days after written notice thereof from the other party (unless defaulting party has commenced to cure such default within said fifteen (15) day period and shall thereafter diligently prosecute the curing thereof), or if either party shall abandon the other party's station, or any part thereof, then the other party shall have the right to terminate this IGA by providing a written notice of termination to the defaulting party. The defaulting party shall then have six (6) months to vacate the other party's station upon receipt of the other party's written notice to do so.

18. Non-Discrimination. The parties, with regard to this IGA, will not discriminate on the grounds of race, color, national origin, religion, sex, disability, familial status or any other status protected under applicable local, state or federal law in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The parties will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Orders 99-4 and 2000-4, or any other status protected under applicable local, state or federal law.

19. Legal Arizona Workers Act Compliance. Both parties are government entities that are required to comply with A.R.S. §41-4401. Both parties hereby warrant that they will, at all times during the term of this Contract, comply with all federal immigration laws applicable to the employment of their respective employees, and with the E-Verify requirements of A.R.S. § 23-214 (A) (together the ❖ State and Federal Immigration Laws'). Both parties shall further ensure that each

subcontractor who performs any work under this contract likewise complies with the State and Federal Immigration Laws.

Each party agrees and warrants that the other party shall have the right at any time to inspect its books and records and the books and records of any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws. Each party agrees that any act by it or its subcontractors that results in the impediment or denial of access to its books and records or that of its subcontractors shall be a material breach of the Contract by that party.

Nothing herein shall make either party or its subcontractors an agent or employee of the other. Nothing herein shall act to establish privity of contract between one party and the subcontractors of the other party.

Any breach by either party or any of its subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting that party to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, the party who breached this provision shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, subject to the non-breaching party's approval as soon as possible so as not to delay project completion and at no additional expense to the non-breaching party. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of the party who breached this provision.

Each party shall advise its subcontractor of the other party's rights and the subcontractor's obligations under this Article by including a provision in its contract with each subcontractor in the following form:

``SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR's employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that [CYFD or the City (as the case may be)] may inspect the SUBCONTRACTOR'S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract.''

of Arizona and shall be deemed made and entered into in Yavapai County.

25. Waiver of Jury Trial, Attorneys' Fees and Costs. The parties hereto expressly covenant and agree that in the event of a dispute arising from this IGA, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The parties hereto further expressly covenant and agree that in the event of dispute, mediation, arbitration, or litigation arising from this IGA, each party shall bear its own attorneys' fees and costs and neither party shall be entitled to an award of attorneys fees, either pursuant to this IGA, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.

26. Savings Clause. In the event any phrase, clause, sentence, section, or other portion of this IGA shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this IGA shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

27. Entire Agreement. This IGA constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein.

IN WITNESS WHEREOF, the parties enter into this IGA on the date(s) set forth below.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Prescott this _____ day of _____, 2009.

Mayor

ATTEST:

City Clerk

PASSED, APPROVED AND ADOPTED by the Governing Board of the Central Yavapai Fire District this _____ day of _____, 2009.

Chairman of the Board

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the City of Prescott, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the City of Prescott.

GARY KIDD, Esq.
City Attorney

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Central Yavapai Fire District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Central Yavapai Fire District.

WILLIAM R. WHITTINGTON, Esq.
Attorney for the District

EXHIBIT ``A''
Legal Description - CYFD Station 51

A portion of property in Section 33, Township 14 North, Range 2 West, Gila and Salt River Meridian, described as follows:

BEGINNING AT THE NORTHWEST CORNER OF THAT CERTAIN 1.486 ACRE PARCEL OF LAND DESCRIBED IN DEED TO THE CITY OF PRESCOTT, RECORDED FEBRUARY 6, 1970, IN BOOK 585, PAGES 694 THROUGH 698, RECORDS OF SAID COUNTY; THENCE SOUTHERLY ALONG THE WESTERLY BOUNDARY OF SAID 1.486 ACRE PARCEL, BEING ALONG THE ARC OF A CURVE FROM WHICH A RADIAL BEARS NORTH $83^{\circ}07'53''$ EAST (BEARING BASED ON SAID DEED RECORDED IN BOOK 585, PAGES 694 THROUGH 698), CONCAVE EASTERLY AND HAVING A RADIUS OF 2321.83 FEET, THROUGH A CENTRAL ANGLE OF $3^{\circ}42'44''$, A DISTANCE OF 150.43 FEET; THENCE SOUTH $86^{\circ}54'25''$ WEST, 141.65 FEET; THENCE WESTERLY AND SOUTHWESTERLY ALONG THE ARC OF A CURVE, TANGENT TO THE PRECEDING COURSE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 296.48 FEET, THROUGH A CENTRAL ANGLE OF $42^{\circ}18'37''$, A DISTANCE OF 218.94 FEET; THENCE NORTH $45^{\circ}24'12''$ WEST ALONG THE NORTHWESTERLY PROLONGATION OF THE RADIAL OF LAST SAID CURVE, 30.00 FEET TO THE SOUTHERLY TERMINUS OF THE EASTERLY LINE OF THAT CERTAIN 7.289 ACRE PARCEL OF LAND, AS SAID EASTERLY LINE IS DESCRIBED IN DEED TO THE CITY OF PRESCOTT, RECORDED OCTOBER 14, 1976, IN BOOK 1039, PAGES 799 THROUGH 803, AS DOCUMENT NO. 25482, OFFICIAL RECORDS OF SAID COUNTY, AS HAVING A BEARING OF SOUTH $1^{\circ}12'35''$ WEST AND A LENGTH OF 216.25 FEET, SAID SOUTHERLY TERMINUS HEREINAFTER REFERRED TO AS POINT ``A''; THENCE NORTH $1^{\circ}12'35''$ EAST ALONG SAID EASTERLY LINE, 216.25 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED FIRST IN DEED TO THE SANTA FE PRESCOTT AND PHOENIX RAILWAY COMPANY (PREDECESSOR IN INTEREST TO THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY), RECORDED MAY 22, 1899, IN BOOK 47 OF DEEDS, PAGES 560 THROUGH 563, RECORDS OF SAID COUNTY; THENCE NORTH $88^{\circ}47'25''$ EAST ALONG SAID NORTHERLY BOUNDARY 341.68 FEET TO POINT OF BEGINNING.

BEGINNING AT SAID POINT ``A''; THENCE GENERALLY IN A EASTERLY DIRECTION ALONG A LINE PARALLEL AND/OR CONCENTRIC WITH AND DISTANT GENERALLY NORTHERLY 30.00 FEET, MEASURED AT RIGHT ANGLES AND/OR RADIALLY FROM THE SOUTHERLY BOUNDARY OF SAID HEREINABOVE DESCRIBED 1.388 ACRE PARCEL OF LAND THE FOLLOWING TWO (2) COURSES: (1) NORTHEASTERLY AND EASTERLY ALONG THE ARC OF A CURVE FROM WHICH A RADIAL BEARS SOUTH $45^{\circ}24'12''$ EAST, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 326.48 FEET, THROUGH A CENTRAL ANGLE OF $42^{\circ}18'37''$ A DISTANCE OF 341.09 FEET; THENCE (2) NORTH $86^{\circ}54'25''$ EAST, 138.30 FEET TO POINT OF ENDING IN SAID HEREINABOVE DESCRIBED WESTERLY BOUNDARY.

SAID PARCEL OF LAND CONTAINS AN AREA OF 0.255 OF AN ACRE, MORE OR LESS.

Santa Fe expressly reserves and excepts all minerals contained in the above-described land, including, without limiting the

generality thereof, oil, gas and other hydrocarbon substances, as well as metallic or other solid minerals, provided that Santa Fe shall not have the right to go upon or use the surface of said land, or any part thereof, for the purpose of drilling for, mining, or otherwise removing, any of said minerals. Santa Fe may, however, and hereby reserves the right to, remove any of said minerals from said land by means of wells, shafts, tunnels, or other means of access to said minerals which may be constructed, drilled or dug from other land, provided that the exercise of such rights by Santa Fe shall in no way interfere with or impair the use of the surface of the land hereby conveyed or of any improvements thereon.

TO HAVE AND TO HOLD the land hereby conveyed unto Grantee, their successors and assigns, forever.

SUBJECT to the liens of current taxes not delinquent, also to rights and rights of way, easements, conditions, restrictions and reservations of record.

SUBJECT, also to contract dated July 31, 1899, favor City of Prescott for sewer line crossings.

SUBJECT, also to contract dated March 31, 1917, favor Mountain States Telephone and Telegraph Company for a wire line crossing.

SUBJECT, also to contract dated March 1, 1920, favor City of Prescott for a sewer line crossing.

SUBJECT, also to contract dated January 31, 1958, favor City of Prescott for a pipeline crossing.

SUBJECT, also to contract dated May 1, 1958, for Arizona Public Service Company for a wire line crossing.

SUBJECT, also to contract dated July 1, 1960, favor Arizona Public Service Company for a wire line crossing.

EXHIBIT ``B''

Legal Description - City of Prescott Station 72

A parcel located in section 20, Township 14 North, Range 2 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, more fully described as follows:

BEGINNING at the Southwest corner of said Section 20; thence North $89^{\circ}34'46''$ East along the South line of said Section 20, 30.00 feet, more or less, to a point on a curve to the right having a delta angle of $89^{\circ}51'$ and a radius of 63.62 feet, said point being the TRUE POINT OF BEGINNING, thence, along the arc of said curve to the right 75.00 feet, more or less to the point of tangency of said curve; thence North $24^{\circ}20'$ East, 99.89 feet along the Easterly right-of-way line of Williamson Valley Road; thence North $89^{\circ}34'46''$ East, 170.00 feet; thence South $15^{\circ}21'54''$ East, 164.48 feet to a point on the South line of said Section 20; thence South $89^{\circ}34'46''$ West, along the South line of said Section 20, a distance of 197.64 feet to the POINT OF BEGINNING.

Said parcel containing 0.64, more or less.

Subject to: Current taxes and assessments, patent reservations and exceptions, easements, right-of-way, covenants, conditions, restrictions, liens and encumbrances of record.

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| COUNCIL AGENDA MEMO – 05/05/09 & 05/12/09 | |
| DEPARTMENT: Fire | |
| AGENDA ITEM: Approval for a Shared Reserve Inter Governmental Agreement (IGA) with Chino Valley Fire District (CVFD) and Prescott Fire Department (PFD). | |

| | |
|--|-----------------|
| Approved By: | Date: |
| Department Head: Darrell Willis | |
| Finance Director: Mark Woodfill | |
| City Manager: Steve Norwood <i>SNorwood</i> | <i>04/29/09</i> |

Background

PFD and CVFD have maintained a Mutual Aid IGA for over twenty years and a joint training IGA for 16. In order for mutual or automatic to be effective, CVFD, PFD, and Central Yavapai Fire District (CYFD) work from the same Standard Operating Guidelines (SOG) for the purpose of standardizing fire and emergency scene management. Due to the fact that we all train together and aid each other, the concept of sharing each others personnel resources to save overtime costs originated. Both CYFD and CVFD currently have reserve programs in place. Both use their reserve personnel for "Auxiliary Manning" and emergency backfill. The concept is for the shared reserve program to be managed by CYFD as they currently have the best resources to do so.

Status

Upon approval of this IGA all agencies will have the same capability to use each others reserve and full-time personnel in the event that a department cannot meet their minimum staffing requirements or is in need of emergency backfill. A Joint Reserve Training Academy was conducted and completed in March of 2009. All three departments had a hand in the training to include the driving of ancillary equipment and the use of the different self-contained breathing apparatus (SCBA) each department uses. All Reserves have been trained and can perform all the duties included in the firefighter's job description.

Financial

To maintain our minimum staffing requirement, instead of paying overtime to a full-time firefighter to fill a vacancy, a Reserve can be hired at straight time for a 32% to 63% cost savings. Depending on the wages of the vacancy the Reserve is filling, this equates to a savings of \$151.00 to \$557.00 for a 24-hour shift. The IGA provides for a method to compensate whichever department provides the auxiliary personnel.

Recommendation: MOVE to adopt Resolution No. 3952-0958.

RESOLUTION NO. 3952-0958

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT FIRE DEPARTMENT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT ("IGA") WITH CHINO VALLEY FIRE DISTRICT TO SHARE PERSONNEL RESOURCES AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, CHINO VALLEY FIRE DISTRICT (CVFD) and PRESCOTT FIRE DISTRICT (PFD) wish to cooperate with each other in order to more effectively and economically provide fire protection, medical response and related services in their respective districts; and

WHEREAS, CVFD and PFD desire to make use of each others' pool of reserve firefighters and EMS personnel, from time to time; and

WHEREAS, CVFD and PFD have maintained a Mutual Aid IGA for over 20 years and a joint training IGA for 16 years. PFD and Central Yavapai Fire District already have the capability to share personnel through their Automatic Aid IGA. Both CYFD and CVFD currently have reserve programs in place. Both use their reserve personnel for "Auxiliary Manning" and emergency backfill. The concept is for the shared reserve program to be managed by CYFD as they currently have the best resources to do so.

WHEREAS, a Joint Reserve Training Academy was conducted and completed in March of 2009, therefore, all Reserves have been trained and can perform all the duties included in the firefighter's job description; and

WHEREAS, to maintain minimum staffing requirements, instead of paying overtime to a full-time firefighter to fill a vacancy, a Reserve can be hired at straight time for a 32% to 63% cost savings. The IGA provides for a method to compensate whichever department provides the auxiliary personnel.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT the City of Prescott hereby approves the attached Intergovernmental Agreement (Exhibit "A") between Chino Valley Fire District and Prescott Fire Department for the sharing of each other's personnel resources.

Section 2. THAT the Mayor and Staff are hereby authorized to execute the attached Intergovernmental Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 12th day of May, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

EXHIBIT 'A'

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CITY OF PRESCOTT (PRESCOTT FIRE DEPARTMENT)
AND CHINO VALLEY FIRE DISTRICT
(SHARED RESERVES)**

Preamble

This Intergovernmental Agreement (IGA) is made and entered into this _____ day of _____ 2009, by and between the CITY OF PRESCOTT, (PRESCOTT FIRE DEPARTMENT), a political subdivision of the state of Arizona ("hereafter CITY") and the CHINO VALLEY FIRE DISTRICT, a political subdivision of the State of Arizona ("CHINO VALLEY"). CHINO VALLEY and CITY may also be referred to herein as a "Party" and jointly referred to herein as the "Parties".

Recitals

WHEREAS, CHINO VALLEY and CITY are both empowered pursuant to A.R.S. §11-952, etc., and A.R.S. §48-805, etc., to enter into this Agreement for purposes of carrying out their mutual responsibilities; and

WHEREAS, CHINO VALLEY and CITY wish to cooperate with each other in order to more effectively and economically provide fire protection, medical response and related services in their respective districts; and

WHEREAS, CHINO VALLEY and CITY desire to make use of each others pool of reserve firefighters and EMS personnel, from time to time.

NOW THEREFORE, in consideration of mutual promises and covenants contained herein, the Parties agree as follows:

Covenants

SECTION 1 - PURPOSE

The purpose of this Intergovernmental Agreement ("Agreement") is to provide the following services ("Services Provided"): (1) to allow CHINO VALLEY and CITY to use each others Reserves, (both firefighters and EMS personnel), to provide for

``call back'' on large incidents or at such other times when the requesting agency is in need of coverage; and (2) to allow CHINO VALLEY and CITY to each hire from a joint pool to meet their needs for full time employees. It is anticipated (but not required) that a Requesting Agency will first look to its own pool of Reserves (if any).

SECTION 2 - SCOPE

CITY's Responsibilities and Obligations:

1. CITY shall:

- (a) Provide CHINO VALLEY with a current list of Reserves (if any), including each person's contact information and rate of compensation (``Rate of Compensation''). CITY shall, as the Primary Employer, timely maintain that information and keep it current and updated;
- (b) Ensure that each of its Reserves meet the qualifications of that Reserves' respective functions;
- (c) Inform each of its Reserve members about this Agreement and that each person is encouraged but not obligated to respond if contacted for service.

CHINO VALLEY's Responsibilities and Obligations:

1. CHINO VALLEY shall:

- (a) Provide CITY with a current list of its Reserves, including each person's contact information and Rate of Compensation. CHINO VALLEY shall, as the Primary Employer, timely maintain that information and keep it current and updated;
- (b) Ensure that each of its Reserves meet the qualifications of that Reserves' respective functions;
- (c) Inform each of its Reserve members about this Agreement and that each person is encouraged but not obligated to respond if contacted for service.

SECTION 3 - CONSIDERATION

The Parties' mutual undertakings and agreement shall be the consideration for entering into this Agreement.

SECTION 4 -- GENERAL PROVISIONS

1. Each Party shall, simultaneously with the execution of this Agreement, and as often thereafter as practical, update the Rate of Compensation schedule for its Reserves. In the event a Requesting Agency uses a Reserve listed as a Reserve by a Primary Employer, the Requesting Agency shall reimburse the Primary Employer at the Primary Employer's Rate of Compensation for any such Reserve member so utilized.
2. Each Party shall be responsible for the supervision of not only their own personnel, but also for any Reserve utilized from the Primary Employer.
3. Notwithstanding this IGA for joint use of the Reserve personnel referenced herein, each Reserve shall be considered the employee of the Primary Employer for whom the Reserve was originally recruited, for purposes of benefits and insurance coverage.
4. All forms of employee benefits, including life and health insurance, sick leave, paid vacation and all other benefits, if any of employment shall remain the responsibility of the entity with which the Reserve is primarily employed. However, the Requesting Agency shall be invoiced by the Primary Employer and shall reimburse the Primary Employer for the cost of the benefits that accrue to the Reserve during the Requesting Agency's use of that Reserve, to the extent those benefits are based on the compensation earned by the Reserve during the Requesting Agency's use of that Reserve (e.g.: retirement contributions amount, Medicare premiums and state unemployment compensation premiums. The Requesting Agency will not reimburse for life or health premiums or paid leave benefits). The payment of any such benefits or premiums shall not establish an employer/employee relationship between the Requesting Agency and the Reserve.
5. Nothing contained in this Agreement shall create any partnership, joint venture or joint employment relationship between the Parties. Except as

specifically provided hereunder, each Party shall at all times be an independent operator and shall not at any time purport to act as an agent of any other part, or any of its officers or agents.

6. Each Party shall be excused for delay or failure to perform its obligations under this IGA, in whole or part, when and to the extent that such delay or failure is a result of scheduling conflicts or causes beyond the control and without the fault or negligence of the Party unable to perform. Such causes include, without limitation, acts of God, acts of the public enemy, acts of the United States government, fire, floods, epidemics, quarantine restrictions or embargo.
7. Each Party shall be allowed to hire from the pool of potential employees but is not required to do so.

SECTION 5 - LEGAL ARIZONA WORKERS ACT COMPLIANCE

Both Parties are government entities that are required to comply with A.R.S. §41-4401. Both Parties hereby warrant that they will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, and with the E-Verify requirements of A.R.S. § 23-214 (A) (together the State and Federal Immigration Laws'). Both Parties shall further ensure that each subcontractor who performs any work under this Agreement likewise complies with the State and Federal Immigration Laws.

Each Party agrees and warrants that the other Party shall have the right at any time to inspect its books and records and the books and records of any subcontractor in order to verify compliance with the State and Federal Immigration Laws. Each Party agrees that any act by it or its subcontractors that results in the impediment or denial of access to its books and records or that of its subcontractors shall be a material breach of the Agreement by that Party.

Nothing herein shall make either Party or its subcontractors an agent or employee of the other. Nothing herein shall act to establish privity of Agreement between one Party and the subcontractors of the other Party.

Any breach by either Party or any of its subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Agreement subjecting that party

to penalties up to and including suspension or termination of this Agreement. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, the Party who breached this provision shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, subject to the non-breaching Party's approval as soon as possible so as not to delay project completion and at no additional expense to the non-breaching party. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of the Party who breached this provision.

Each Party shall advise its subcontractor of the other Party's rights and the subcontractor's obligations under this Article by including a provision in its Agreement with each subcontractor in the following form:

``SUBCONTRACTOR hereby warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to SUBCONTRACTOR'S employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that [CITY or CHINO VALLEY, as the case may be] may inspect the SUBCONTRACTOR'S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this Agreement subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this Agreement.''

SECTION 6 - SEVERABILITY

If any provision of this Agreement shall be held to be unconstitutional, invalid, or unenforceable, it shall be deemed severable; however, the remainder of the Agreement shall not be affected and shall remain in full force and effect.

SECTION 7 - TERM

The term of this Agreement shall be effective from January 1, 2009, through December 31, 2009, and shall automatically renew for successive one year terms thereafter unless terminated by either party.

SECTION 8 - TERMINATION

This Agreement will terminate automatically should the governing body of either Party fail to allocate funds for its continued implementation. Should termination occur due to said non-allocation, the non-allocating Party shall give ninety (90)

days written notice to the other Party prior to termination.

In addition, either Party may terminate their participation in this Agreement, for any reason, effective ninety (90) days from the giving of written notice to the other Party at the following addresses:

**CITY of Prescott Fire Department
Attn: Fire Chief
201 S. Cortez
Prescott, AZ 86302**

**Chino Valley Fire District
Attn: Fire Chief
P.O. Box 264
Chino Valley, Arizona 86323**

Either Party may cancel this Agreement, pursuant to the terms of A.R.S. §38-511.

SECTION 9- INDEMNIFICATION

Each party (as Indemnitor'') agrees to indemnify, defend, and hold harmless the other party (as ``Indemnatee'') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as ``claims'') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the Indemnatee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

Each Party shall make available its insurance information, including, but not limited to verification of coverage, to the other upon request.

SECTION 10 - WORKERS' COMPENSATION COVERAGE

All Reserves of a Party to this Agreement who work under the jurisdiction or control of the other Party pursuant to this Agreement shall be deemed to be employees of the Party who is his or her primary employer, as provided in A.R.S. § 23-1022(D), and the primary employer/Party of such an employee shall be solely liable for payment of workers' compensation benefits for the

purposes of this section. Each Party herein shall comply with provisions of AR.S. § 23-1022 (E) by posting the public notice required.

SECTION 11 - NON-DISCRIMINATION

The Parties, with regard to this Agreement, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Parties will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Orders 99-4 and 2000-4.

SECTION 12 - BINDING EFFECT

This Agreement shall be binding upon the Parties and any successor-in-interest. No provision herein is intended to create a third beneficiary interest in any person or entity, including but not limited to the respective employees or agents by either Party.

SECTION 13 - WAIVER OF JURY TRIAL

The Parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, each Party agrees to waive its right to trial by jury.

SECTION 14- WAIVER OF ATTORNEYS' FEES

The Parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither Party shall be entitled to an award of attorneys' fees, either pursuant to the Agreement, pursuant to A.R.S. §12-341.01(A) and (E), or pursuant to any other state or federal statute.

SECTION 15 - WAIVER OF BREACH

The waiver by either Party of any breach by the other of any term, covenant, or condition of any this Agreement shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition of the Agreement. No term, covenant, or condition hereof can be waived except by the written consent of both Parties and forbearance or indulgence by either

Party in any regard whatsoever, shall not constitute a waiver of the term, covenant, or condition to be performed by the other Party.

SECTION 16 - AMENDMENT AND CONSTRUCTION

This Agreement sets forth the entire understanding of the Parties as to the matters set forth herein as of the date of this Agreement and cannot be altered or otherwise amended except pursuant to an instrument in writing signed by the authorized representatives of each of the Parties hereto. This Agreement is intended to reflect the mutual intent of the Parties with respect to the subject matter hereof, and no rule of strict construction shall be applied against any Party.

IN WITNESS WHEREOF, the Parties enter into this Agreement on the date(s) set forth below.

APPROVALS

CITY OF PRESCOTT, PRESCOTT FIRE DEPARTMENT, a political subdivision of the state of Arizona

CHINO VALLEY FIRE DISTRICT

By: _____
Bill Wagner, Chair/Fire Board

By: _____

Jack Wilson, Mayor

Date: _____

Date: _____

By: _____

Liz Burke, City Clerk

By: _____

Bob McLandress, Clerk/Fire Board

Date: _____

Date: _____

By: _____
Darrell Willis,
Emergency Services Director

By: _____
John Ginn, Fire Chief

Date: _____

Date: _____

By: _____
Bruce Martinez, Deputy
Fire Chief

Date: _____

The foregoing Agreement has been reviewed by undersigned counsels, who have determined that the Agreement is in proper form and within the powers and authority granted under the laws of this state.

CITY of Prescott, Fire
Department Attorney:

CHINO VALLEY Fire District
Attorney:

By: _____
Gary Kidd
Date: _____

By: _____
William R. Whittington
Date: _____

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|--|--|
| COUNCIL AGENDA MEMO – 05/05/09 & 05/12/09 | |
| DEPARTMENT: Fire | |
| AGENDA ITEM: Approval for a Shared Reserve Inter Governmental Agreement (IGA) with Central Yavapai Fire District (CYFD) and Prescott Fire Department (PFD). | |

| | |
|---|-----------------|
| Approved By: | Date: |
| Department Head: Darrell Willis | |
| Finance Director: Mark Woodfill | |
| City Manager: Steve Norwood <i>Ellwood</i> | <i>04/29/09</i> |

Background

PFD and CYFD have maintained an Automatic Aid and a Joint Training IGA for over twenty years. In order for mutual or automatic to be effective, CYFD, PFD, and Chino Valley District (CVFD) work from the same Standard Operating Guidelines (SOG) for the purpose of standardizing fire and emergency scene management. Due to the fact that we all train together and aid each other, the concept of sharing each others personnel resources to save overtime costs originated. Both CYFD and CVFD currently have reserve programs in place. Both use their reserve personnel for "Auxiliary Manning" and emergency backfill. The concept is for the shared reserve program to be managed by CYFD as they currently have the best resources to do so.

Status

Upon approval of this IGA all agencies will have the same capability to use each others reserve and full-time personnel in the event that a department cannot meet their minimum staffing requirements or is in need of emergency backfill. A Joint Reserve Training Academy was conducted and completed in March of 2009. All three departments had a hand in the training to include the driving of ancillary equipment and the use of the different self-contained breathing apparatus (SCBA) each department uses. All Reserves have been trained and can perform all the duties included in the firefighter's job description.

Financial

To maintain our minimum staffing requirement, instead of paying overtime to a full-time firefighter to fill a vacancy, a Reserve can be hired at straight time for a 32% to 63% cost savings. Depending on the wages of the vacancy the Reserve is filling, this equates to a savings of \$151.00 to \$557.00 for a 24-hour shift. The IGA provides for a method to compensate whichever department provides the auxiliary personnel.

Recommendation: MOVE to adopt Resolution No. 3956-0962.

RESOLUTION NO. 3956-0962

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT FIRE DEPARTMENT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT ("IGA") WITH CENTRAL YAVAPAI FIRE DISTRICT TO SHARE PERSONNEL RESOURCES AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, CENTRAL YAVAPAI FIRE DISTRICT (CYFD) and PRESCOTT FIRE DISTRICT (PFD) wish to cooperate with each other in order to more effectively and economically provide fire protection, medical response and related services in their respective districts; and

WHEREAS, CYFD and PFD desire to make use of each others' pool of reserve firefighters and EMS personnel, from time to time; and

WHEREAS, CYFD and PFD have maintained a Mutual Aid and Joint Training IGA for over 20 years. PFD and Central Yavapai Fire District already have the capability to share personnel through their Automatic Aid IGA. Both CYFD and CVFD currently have reserve programs in place. Both use their reserve personnel for "Auxiliary Manning" and emergency backfill. The concept is for the shared reserve program to be managed by CYFD as they currently have the best resources to do so.

WHEREAS, a Joint Reserve Training Academy was conducted and completed in March of 2009, therefore, all Reserves have been trained and can perform all the duties included in the firefighter's job description; and

WHEREAS, to maintain minimum staffing requirements, instead of paying overtime to a full-time firefighter to fill a vacancy, a Reserve can be hired at straight time for a 32% to 63% cost savings. The IGA provides for a method to compensate whichever department provides the auxiliary personnel.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT the City of Prescott hereby approves the attached Intergovernmental Agreement (Exhibit "A") between Central Yavapai Fire District and Prescott Fire Department for the sharing of each other's personnel resources.

Section 2. THAT the Mayor and staff are hereby authorized to execute the attached Intergovernmental Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 12th day of May, 2009.

JACK D WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A BURKE, City Clerk

GARY D KIDD, City Attorney

EXHIBIT 'A'**INTERGOVERNMENTAL AGREEMENT
BETWEEN CITY OF PRESCOTT (PRESCOTT FIRE DEPARTMENT)
AND CENTRAL YAVAPAI FIRE DISTRICT
(SHARED RESERVES)****Preamble**

This Intergovernmental Agreement (IGA) is made and entered into this ____ day of _____ 2009, by and between the CITY OF PRESCOTT, (PRESCOTT FIRE DEPARTMENT), , a political subdivision of the state of Arizona ("hereafter CITY") and the CENTRAL YAVAPAI FIRE DISTRICT, a political subdivision of the State of Arizona ("CYFD"). CYFD and CITY may also be referred to herein as a "Party" and jointly referred to herein as the "Parties".

Recitals

WHEREAS, CYFD and CITY are both empowered pursuant to A.R.S. §11-952, etc., and A.R.S. §48-805, etc., to enter into this Agreement for purposes of carrying out their mutual responsibilities; and

WHEREAS, CYFD and CITY wish to cooperate with each other in order to more effectively and economically provide fire protection, medical response and related services in their respective districts; and

WHEREAS, CYFD and CITY desire to make use of each others pool of reserve firefighters and EMS personnel, from time to time.

NOW THEREFORE, in consideration of mutual promises and covenants contained herein, the Parties agree as follows:

Covenants**SECTION 1 - PURPOSE**

The purpose of this Intergovernmental Agreement ("Agreement") is to provide the following services ("Services Provided"): (1) to allow CYFD and CITY to use each others Reserves, (both firefighters and EMS personnel), to provide for

``call back'' on large incidents or at such other times when the requesting agency is in need of coverage; and (2) to allow CYFD and CITY to each hire from a joint pool to meet their needs for full time employees. It is anticipated (but not required) that a Requesting Agency will first look to its own pool of Reserves (if any).

SECTION 2 - SCOPE

CITY's Responsibilities and Obligations:

1. CITY shall:

- (a) Provide CYFD with a current list of Reserves (if any), including each person's contact information and rate of compensation (``Rate of Compensation''). CITY shall, as the Primary Employer, timely maintain that information and keep it current and updated;
- (b) Ensure that each of its Reserves meet the qualifications of that Reserves' respective functions;
- (c) Inform each of its Reserve members about this Agreement and that each person is encouraged but not obligated to respond if contacted for service.

CYFD's Responsibilities and Obligations:

1. CYFD shall:

- (a) Provide CITY with a current list of its Reserves (if any), including each person's contact information and Rate of Compensation. CYFD shall, as the Primary Employer, timely maintain that information and keep it current and updated;
- (b) Ensure that each of its Reserves meet the qualifications of that Reserves' respective functions;
- (c) Inform each of its Reserve members about this Agreement and that each person is encouraged but not obligated to respond if contacted for service.

SECTION 3 - CONSIDERATION

The Parties' mutual undertakings and agreement shall be the consideration for entering into this Agreement.

SECTION 4 -- GENERAL PROVISIONS

1. Each Party shall, simultaneously with the execution of this Agreement, and as often thereafter as practical, update the Rate of Compensation schedule for its Reserves. In the event a Requesting Agency uses a Reserve listed as a Reserve by a Primary Employer, the Requesting Agency shall reimburse the Primary Employer at the Primary Employer's Rate of Compensation for any such Reserve member so utilized.
2. Each Party shall be responsible for the supervision of not only their own personnel, but also for any Reserve utilized from the Primary Employer.
3. Notwithstanding this IGA for joint use of the Reserve personnel referenced herein, each Reserve shall be considered the employee of the Primary Employer for whom the Reserve was originally recruited, for purposes of benefits and insurance coverage.
4. All forms of employee benefits, including life and health insurance, sick leave, paid vacation and all other benefits, if any of employment shall remain the responsibility of the entity with which the Reserve is primarily employed. However, the Requesting Agency shall be invoiced by the Primary Employer and shall reimburse the Primary Employer for the cost of the benefits that accrue to the Reserve during the Requesting Agency's use of that Reserve, to the extent those benefits are based on the compensation earned by the Reserve during the Requesting Agency's use of that Reserve (e.g.: retirement contributions amount, Medicare premiums and state unemployment compensation premiums. The Requesting Agency will not reimburse for life or health premiums or paid leave benefits). The payment of any such benefits or premiums shall not establish an employer/employee relationship between the Requesting Agency and the Reserve.
5. Nothing contained in this Agreement shall create any partnership, joint venture or joint employment relationship between the Parties. Except as

specifically provided hereunder, each Party shall at all times be an independent operator and shall not at any time purport to act as an agent of any other part, or any of its officers or agents.

6. Each Party shall be excused for delay or failure to perform its obligations under this IGA, in whole or part, when and to the extent that such delay or failure is a result of scheduling conflicts or causes beyond the control and without the fault or negligence of the Party unable to perform. Such causes include, without limitation, acts of God, acts of the public enemy, acts of the United States government, fire, floods, epidemics, quarantine restrictions or embargo.
7. Each Party shall be allowed to hire from the pool of potential employees but is not required to do so.

SECTION 5 - LEGAL ARIZONA WORKERS ACT COMPLIANCE

Both Parties are government entities that are required to comply with A.R.S. §41-4401. Both Parties hereby warrant that they will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, and with the E-Verify requirements of A.R.S. § 23-214 (A) (together the State and Federal Immigration Laws"). Both Parties shall further ensure that each subcontractor who performs any work under this Agreement likewise complies with the State and Federal Immigration Laws.

Each Party agrees and warrants that the other Party shall have the right at any time to inspect its books and records and the books and records of any subcontractor in order to verify compliance with the State and Federal Immigration Laws. Each Party agrees that any act by it or its subcontractors that results in the impediment or denial of access to its books and records or that of its subcontractors shall be a material breach of the Agreement by that Party.

Nothing herein shall make either Party or its subcontractors an agent or employee of the other. Nothing herein shall act to establish privity of Agreement between one Party and the subcontractors of the other Party.

Any breach by either Party or any of its subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Agreement subjecting that party

to penalties up to and including suspension or termination of this Agreement. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, the Party who breached this provision shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, subject to the non-breaching Party's approval as soon as possible so as not to delay project completion and at no additional expense to the non-breaching party. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of the Party who breached this provision.

Each Party shall advise its subcontractor of the other Party's rights and the subcontractor's obligations under this Article by including a provision in its Agreement with each subcontractor in the following form:

``SUBCONTRACTOR hereby warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to SUBCONTRACTOR'S employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that [CITY or CYFD, as the case may be] may inspect the SUBCONTRACTOR'S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this Agreement subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this Agreement.''

SECTION 6 - SEVERABILITY

If any provision of this Agreement shall be held to be unconstitutional, invalid, or unenforceable, it shall be deemed severable; however, the remainder of the Agreement shall not be affected and shall remain in full force and effect.

SECTION 7 - TERM

The term of this Agreement shall be effective from January 1, 2009, through December 31, 2009, and shall automatically renew for successive one year terms thereafter unless terminated by either party.

SECTION 8 - TERMINATION

This Agreement will terminate automatically should the governing body of either Party fail to allocate funds for its continued implementation. Should termination occur due to said non-allocation, the non-allocating Party shall give ninety (90)

days written notice to the other Party prior to termination.

In addition, either Party may terminate their participation in this Agreement, for any reason, effective ninety (90) days from the giving of written notice to the other Party at the following addresses:

CITY of Prescott Fire Department
Attn: Fire Chief
201 S. Cortez
Prescott, AZ 86302

Central Yavapai Fire District
Attn: Fire Chief
8555 E. Yavapai Road
Prescott Valley, Arizona 86314

Either Party may cancel this Agreement, pursuant to the terms of A.R.S. §38-511.

SECTION 9- INDEMNIFICATION

Each party (as Indemnitor'') agrees to indemnify, defend, and hold harmless the other party (as ``Indemnatee'') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as ``claims'') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the Indemnatee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

Each Party shall make available its insurance information, including, but not limited to verification of coverage, to the other upon request.

SECTION 10 - WORKERS' COMPENSATION COVERAGE

All Reserves of a Party to this Agreement who work under the jurisdiction or control of the other Party pursuant to this Agreement shall be deemed to be employees of the Party who is his or her primary employer, as provided in A.R.S. § 23-1022(D), and the primary employer/Party of such an employee shall be solely liable for payment of workers' compensation benefits for the

purposes of this section. Each Party herein shall comply with provisions of AR.S. § 23-1022 (E) by posting the public notice required.

SECTION 11 - NON-DISCRIMINATION

The Parties, with regard to this Agreement, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Parties will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Orders 99-4 and 2000-4.

SECTION 12 - BINDING EFFECT

This Agreement shall be binding upon the Parties and any successor-in-interest. No provision herein is intended to create a third beneficiary interest in any person or entity, including but not limited to the respective employees or agents by either Party.

SECTION 13 - WAIVER OF JURY TRIAL

The Parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, each Party agrees to waive its right to trial by jury.

SECTION 14- WAIVER OF ATTORNEYS' FEES

The Parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither Party shall be entitled to an award of attorneys' fees, either pursuant to the Agreement, pursuant to A.R.S. §12-341.01(A) and (E), or pursuant to any other state or federal statute.

SECTION 15 - WAIVER OF BREACH

The waiver by either Party of any breach by the other of any term, covenant, or condition of any this Agreement shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition of the Agreement. No term, covenant, or condition hereof can be waived except by the written consent of both Parties and forbearance or indulgence by either

Party in any regard whatsoever, shall not constitute a waiver of the term, covenant, or condition to be performed by the other Party.

SECTION 16 - AMENDMENT AND CONSTRUCTION

This Agreement sets forth the entire understanding of the Parties as to the matters set forth herein as of the date of this Agreement and cannot be altered or otherwise amended except pursuant to an instrument in writing signed by the authorized representatives of each of the Parties hereto. This Agreement is intended to reflect the mutual intent of the Parties with respect to the subject matter hereof, and no rule of strict construction shall be applied against any Party.

IN WITNESS WHEREOF, the Parties enter into this Agreement on the date(s) set forth below.

APPROVALS

CITY OF PRESCOTT, PRESCOTT FIRE DEPARTMENT, a political subdivision of the state of Arizona

CENTRAL YAVAPAI FIRE DISTRICT

By: _____

By: _____
William E. Pierce, Chair/Fire Board

Jack Wilson, Mayor

Date: _____

Date: _____

By: _____
Elizabeth A. Burke, City Clerk
Date: _____

By: _____
Charles Allen, Clerk/Fire Board

Date: _____

By: _____
Darrell Willis, Fire Chief

By: _____
John Ginn, Fire Chief

Date: _____

Date: _____

The foregoing Agreement has been reviewed by undersigned counsels, who have determined that the Agreement is in proper

form and within the powers and authority granted under the laws of this state.

CITY of Prescott, Fire
Department Attorney:

CENTRAL YAVAPAI Fire District
Attorney:

By: _____
Gary Kidd
Date: _____

By: _____
William R. Whittington
Date: _____

| |
|---|
| COUNCIL AGENDA MEMO – 05/05 & 05/12/09 |
| DEPARTMENT: EMERGENCY SERVICES / COMMUNICATIONS |
| AGENDA ITEM: Approval of an Addendum Agreement to the existing Intergovernmental Agreement for Joint Dispatch Services to Include Walker Fire Protection Association into the Prescott Regional Communication Center |

| | |
|---|-----------------|
| Approved By: | Date: |
| Department Head: Darrell Willis, Emergency Services Director | |
| Finance Director: Mark Woodfill | |
| City Manager: Steve Norwood <i>SNorwood</i> | <i>04/30/09</i> |

BACKGROUND

Walker Fire Protection Association serving the community of Walker has requested inclusion into the Prescott Regional Communications Center (PRCC) as a partner agency. Currently PRCC receives all 9-1-1 calls for Walker and utilizes an antiquated system of notifying "on call" Walker personnel by phone of calls for service. PRCC has no phone or radio contact with Walker personnel after the dispatcher hangs up the phone. During medical incidents PRCC personnel are trained in Emergency Medical Dispatching and at times spend 5-10 minutes giving instructions on patient care while Walker units are being notified and dispatched to the scene of an emergency. PRCC dispatchers cannot directly relay additional information or routing information to the Walker units. In the case of Wildland fire incidents, a tremendous amount of confusion exists due to the fact that there is not a central dispatch center and coordinated radio frequencies being utilized. Walker Fire Protection is an all volunteer agency that is attempting to become a Fire District and improve the services they provide to their community.

In 2008, the City of Prescott renewed an Intergovernmental Agreement (IGA) with eight agencies to receive Dispatch Services through the Prescott Regional Dispatch Center (PRCC); the IGA is in effect through June of 2011. The PRCC received a written request from the Walker Fire Chief requesting PRCC Dispatch Services in January of 2009. Our eight current Partners were notified of the request and asked to respond, in writing, with concerns/questions regarding said additional Partner. They unanimously agreed that the PRCC should provide Dispatch Services to Walker Fire Protection Association. In March of 2009, an addendum was signed by the Walker Fire Chairman of the Board and the County Attorney representing them, agreeing with the terms and conditions of the current IGA.

FINANCIAL

The cost of Dispatch Services is based on a workload of defined "calls for service" per the IGA. The City of Prescott bills each agency on a monthly basis for their share of the workload. The annual minimum, as defined in the IGA, is \$5000. This dollar amount encompasses both capital and operating expenses and will be charged to Walker Fire. The other agencies currently paying the minimum fee are Yavapai College Police,

AGENDA ITEM: Approval of an Addendum Agreement to the existing Intergovernmental Agreement for Joint Dispatch Services to Include Walker Fire Protection Association into the Prescott Regional Communication Center

Groom Creek Fire District and Williamson Valley Fire District. The proposed 2009/2010 budget for the PRCC is \$2,399,500; the City of Prescott funds approximately 60% of the PRCC budget.

STATUS

The Prescott City Attorney has reviewed the issue of including Walker into the PRCC and has concerns about the liability being taken on by the City of Prescott. While this may be a valid concern, PRCC is currently doing the work of dispatching the Walker Fire Protection Association without the benefit of Standard Operating Procedures that are part of our agreement with the eight current partners. Including Walker into PRCC will improve our coordination of area fire and medical personnel as well as relieve the dispatchers of a very frustrating situation of not having the ability to directly communicate with first responders.

Upon approval of this agreement, the PRCC will provide Dispatch Services to the Walker Fire Protection Association as described in City of Prescott Agreement No. 2008-323. This same service is currently provided to all Partnered agencies. Walker Fire will pay the City of Prescott as outlined in the current IGA. This agreement will not require additional dispatchers, or other resources at the PRCC.

Attached to this Council Memo is the current IGA, the letter requesting Dispatch Service from Walker Fire, the addendum signed by the County Attorney and the Addendum Agreement.

Recommended Action: MOVE to adopt Resolution No. 3954-0960.

RESOLUTION NO. 3954-0960

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN ADDENDUM TO INTERGOVERNMENTAL AGREEMENT ("IGA") TO INCLUDE WALKER FIRE PROTECTION ASSOCIATION INTO THE PRESCOTT REGIONAL COMMUNICATIONS CENTER (PRCC) AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, Walker Fire Protection Association, serving the community of Walker, has requested inclusion into the Prescott Regional Communications Center (PRCC) as a partner agency; and

WHEREAS, the City of Prescott wishes to approve the addition of the Walker Fire Protection Association to the Prescott Regional Communications Center (PRCC); and

WHEREAS, the cost of dispatch services is based on a workload of defined "calls for service" per the IGA. The annual minimum of \$5,000, as defined in the IGA will be charged to Walker Fire. This agreement will not require additional dispatchers or other resources at the PRCC.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT the City of Prescott hereby approves the attached Addendum to Intergovernmental Agreement No. 2008-323, (Exhibit "A") to include the Walker Fire Protection Association into the Prescott Regional Communications Center (PRCC) as a partner agency.

Section 2. THAT the Mayor and Staff are hereby authorized to execute the attached Addendum to Intergovernmental Agreement No. 2008-323 adding the Walker Fire Protection Association to said Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 12th day of May, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

EXHIBIT 'A'

INTERGOVERNMENTAL AGREEMENT
JOINT DISPATCH SERVICES

ADDENDUM

THIS AGREEMENT, entered into this 1st day of April, 2009, by and between the CITY OF PRESCOTT, a municipal corporation of Arizona ("City"), and the TOWN OF PRESCOTT VALLEY, a municipal corporation of Arizona (Prescott Valley), the CENTRAL YAVAPAI FIRE DISTRICT ("CYFD"), the GROOM CREEK FIRE DISTRICT (Groom Creek), the WILLIAMSON VALLEY FIRE DISTRICT (Williamson Valley), the CHINO VALLEY FIRE DISTRICT (Chino Valley) the YAVAPAI COMMUNITY COLLEGE DISTRICT (Yavapai College) and the WALKER FIRE PROTECTION ASSOCIATION (all hereinafter collectively referred to as the "Participating Agencies").

1. The Participating Agencies agree, pursuant to this Addendum, that Walker Fire Protection Association be added under the terms and subject to all provisions of that certain Intergovernmental Agreement, Contract No. 2008-323, which is duly recorded and incorporated into this Agreement.

2. The parties agree that the caption and terms of IGA, Contract No. 2008-323 shall be amended to reflect the incorporation of Walker Fire Protection Association into the Intergovernmental Agreement.

PASSED, APPROVED AND ADOPTED by the Walker Fire Protection Association this _____ day of _____, 2009.

Name: Bob Neberman
Chairman of the Board

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott this _____ day of _____, 2009.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk
City Clerk

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the Town of Prescott Valley this _____ day of _____, 2009.

HARVEY SKOOG, Mayor

ATTEST:

DIANE RUSSELL, Town Clerk

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Central Yavapai Fire District this _____ day of _____, 2009.

Name: Sandra Heiden
Chairman of the Board

ATTEST:

Name: Charlie Allen, Clerk

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Groom Creek Fire District this _____ day of _____, 2009.

Name: Robert Schulz
Chairman of the Board

ATTEST:

Name: Terry Hammon, Clerk

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Williamson Valley Fire District this _____ day of _____, 2009.

Name: Marcia Struble
Chairman of the Board

ATTEST:

Name: Terry Batt, Clerk

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Chino Valley Fire District this _____ day of _____, 2009.

Name: Dave West
Chairman of the Board

ATTEST:

Name: Bill Wagner, Clerk

PASSED, APPROVED AND ADOPTED by the Yavapai Community College District Governing Board this _____ day of _____, 2009.

Name: Ray Sigafos
Board Chair

ATTEST:

Name: Dr. Utpal K. Goswami, Acting
President

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the City of Prescott, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the City of Prescott.

GARY KIDD
City Attorney

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Town of Prescott Valley, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Town of Prescott Valley.

IVAN LEGLER
Town Attorney

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Central Yavapai Fire District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Central Yavapai Fire District.

Name: WILLIAM WHITTINGTON
Attorney for the Central Yavapai Fire

District

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Groom Creek Fire District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Groom Creek Fire District.

Name: DAVID HUNT
Attorney for the Groom Creek Fire
District

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Williamson Valley Fire District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Williamson Valley Fire District.

Name: DAVID HUNT
Attorney for the Williamson Valley Fire
District

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Chino Valley Fire District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Chino Valley Fire District.

Name: DAVID HUNT
Attorney for the Chino Valley Fire
District

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Yavapai Community College District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Yavapai Community College District.

Name: DAVID HUNT
Attorney for the Yavapai Community
College District

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Walker Fire Protection Association, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Walker Fire Protection Association.

Name: DAVID HUNT
Attorney for the Walker Fire Protection
Association



Walker Fire Protection Association

5881 S. Walker Road
Prescott, AZ 86303

"A Community Working Together"

January 28, 2009

Darrell Willis

Walker Fire Protection Association is requesting consideration to be dispatched by Prescott Alarm in cases of fire and medical emergencies. Details of a mutual agreement shall be agreed upon after approval of acceptance.

Thank You.

Bud Mellor
Fire Chief
Walker Fire

17
Fee
\$9
\$8
\$5
\$1
\$9

RECORDED AT THE REQUEST OF:

City of Prescott, Arizona

WHEN RECORDED, PLEASE RETURN TO:

Prescott City Clerk's Office
Interoffice Mail

Ana Wayman-Trujillo, Recorder
OFFICIAL RECORDS OF YAVAPAI COUNTY
CITY OF PRESCOTT

B-4621 P-487
09/12/2008 02:35P
9.00 4263356



B-4621 P-487
Page: 1 of 17
INAG 4263356

pk

Caption: City of Prescott Agreement No. 2008-323

Intergovernmental Agreement between The City of Prescott, Town of Prescott Valley, Central Yavapai Fire District, Groom Creek Fire District, Williamson Valley Fire District, Chino Valley Fire District and the Yavapai Community College District.

Approved by Resolution No. 3895
Adopted 6/24/08 – Effective 7/24/08

**DO NOT REMOVE
THIS IS PART OF THE OFFICIAL DOCUMENT**



**INTERGOVERNMENTAL AGREEMENT
JOINT DISPATCH SERVICES**

-Restated-

THIS AGREEMENT, entered into this 1st day of June, 2008, by and between the CITY OF PRESCOTT, a municipal corporation of Arizona ("City"), and the TOWN OF PRESCOTT VALLEY, a municipal corporation of Arizona (Prescott Valley), the CENTRAL YAVAPAI FIRE DISTRICT ("CYFD"), the GROOM CREEK FIRE DISTRICT (Groom Creek), the WILLIAMSON VALLEY FIRE DISTRICT (Williamson Valley), the CHINO VALLEY FIRE DISTRICT (Chino Valley) and the YAVAPAI COMMUNITY COLLEGE DISTRICT (Yavapai College) (all hereinafter collectively referred to as the "Participating Agencies" or individually as the "Participating Agency").

WITNESSETH:

WHEREAS, the parties all have implicit authority to operate dispatch facilities for their respective emergency services; and

WHEREAS, it is the desire of the parties to consolidate dispatch services; and

WHEREAS ARS §11-952 authorizes the parties to jointly exercise any powers common to them and to enter into one (1) or more inter-governmental agreements for cooperative action; and

WHEREAS, the parties have concluded that the most effective means of providing for consolidated dispatch services is for the City to serve as lead agency in the operation of consolidated dispatch services for the participating agencies; and

WHEREAS, the parties wish to modify and restate, in its entirety, the terms of that certain Joint Dispatch Intergovernmental Agreement originally dated April 26, 2005;

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein, the parties hereto agree to amend and restate the above-referenced 2005 Dispatch Agreement as follows:

ARTICLE 1. PURPOSE.

- A. The purpose of this Intergovernmental Agreement (IGA) is for the City to provide consolidated dispatch services for both the City and the police departments and/or fire departments of the Participating Agencies at the City's dispatch facility.

ARTICLE 2. IGA TERM.

- A. This IGA is effective as of the opening and commencement of operations of the new Prescott Regional Public Safety Communications Center (hereinafter referred to as the "Effective Date"), currently located at 216 S. Cortez Street, Prescott, Arizona, and shall continue until June 30, 2011.



(hereinafter referred to as the "Effective Date"), currently located at 216 S. Cortez Street, Prescott, Arizona, and shall continue until June 30, 2011.

- B. Subject to the limitations of Article 5, this IGA shall be effective until June 30, 2011, at which time, as to each party, it will be automatically renewed for consecutive periods of twenty-four months beginning June 30, 2011, unless one of the parties gives written notice to the other parties of its intent to terminate, which notice must be given to each participating party no later than three hundred sixty (360) days prior to the intended termination date.

ARTICLE 3. PERFORMANCES - CITY.

- A. The City shall provide the following services under this IGA:

1. All needed on-site personnel, facilities, work spaces, equipment and utilities needed to operate a dispatch center, known as the Prescott Regional Public Safety Communications Center ("Dispatch Center"), for fire suppression and emergency services (including medical), police and animal control dispatching for all of the Participating Agencies and the City ("Consolidated Dispatch Services"), as well as provide the necessary training, supervision, compensation, insurance, benefits, licenses, or other requirements for the personnel working out of said Dispatch Center. Any external infrastructure (including but not limited to radio towers, FCC licensing, RF or hardware links to the Dispatch Center, etc.) shall be the responsibility of the Agency which owns, uses or controls such external infrastructure.

Remote or local radio base/repeater stations and control stations that are to be connected to the Prescott Regional Public Safety Communications Center's console system must be either a 2-wire or 4-wire circuit and employ either tone or E&M signaling. Direct Current (DC) signaling will not be supported. Line levels shall appear at the console connection point on a 600 ohm balanced line at -10 dBm receive and 0 dBm transmit.

2. The necessary equipment in the communication center to support Mobile Data Computers and Automatic Vehicle Locators for the partners of the center. This equipment is scheduled to be operational by July 1st of 2008. The above mentioned equipment will be maintained and or replaced through the current expenditures portion of this agreement.

- B. Operate the Dispatch Center in compliance with all applicable local, state and federal laws, including but not limited to working conditions, physical accommodations, and security. The City will continue to provide EMD



(emergency medical dispatch) protocol, services, and training during the term of this Agreement.

- C. The parties agree that the fire department dispatch protocol presently in effect shall continue to be used for purposes of emergency fire and EMD under this Agreement, and that the same may be modified after consultation with the participating agencies.
- D. Provide separate fire and police dispatch services by separate dispatch personnel so that no individual dispatcher on duty will be responsible for simultaneously providing dispatch services for both (1) fire suppression and emergency services (including medical), and (2) police and animal control.
- E. Use its best efforts to dispatch manpower and/or apparatus within one (1) minute of receiving a call for fire agencies and for police emergency, priority-one traffic. Said dispatch shall be consistent with the dispatch protocol then in effect.
- F. Upon reasonable request, provide to the Participating Agencies detailed information regarding personnel services, dispatcher deployment, operating expenditures and administrative services that are proposed to be charged to the Participating Agencies.
- G. Upon request of a Participating Agency, provide standard computer aided dispatch (CAD) management reports necessary to determine numbers of calls for service, response times, at scene times, daily call logs and other standard reports available through CAD. The City will make its best efforts to satisfy any such request within ten (10) days of said request having been made, or as otherwise agreed between the affected Participating Agencies. The City will make its best efforts to provide any other requested nonstandard reports.
- H. A Reverse 911 (R-911) type of system will be maintained by the Prescott Regional Communications Center and will be available to all partnered agencies for use during an emergency or for non emergency use with the approval of the Director. All ongoing costs of this service will be paid through the current expenditures portion of this agreement.

ARTICLE 4. PERFORMANCES - PARTICIPATING AGENCIES.

- A. Each Participating Agency shall provide the following services under this IGA:
 - 1. Within 30 days of billing by the City, remit to the City, on a monthly basis, its proportionate share, as determined by Article 5, of the actual costs incurred-pursuant to Article 3(G) above.



2. Each Participating Agency shall establish a phone number separate from that of the Dispatch Center for administrative and non-emergency calls, to be answered at the Participating Agency's facility, and to publish and advertise the same.

ARTICLE 5. DETERMINATION OF PAYMENTS.

- A. It is understood by the parties that the fee payment is based on a workload division of costs as set forth in Schedule "A". The net cost for each Participating Agency shall be divided by the percentage of workload (calls for service) as a percentage of the Dispatch Center's total calls for service. The percentage of workload to determine payments for the current fiscal year shall be recalculated annually based upon the previous calendar year's percentage of workload. Calls for service shall be determined as follows:
 1. Fire "Call for Service" - Alarm numbers, not CAD incident numbers, will be used for tracking "calls for service". When a request is received that initiates a response by any field personnel, a CAD incident will be created and an Alarm number assigned to the incident. Calls that are canceled after the dispatch will receive an Alarm number.
 2. Police "Call for Service": any time there is a response by police personnel based upon a request processed by the Dispatch Center. Any on-sight self-initiated activity by police personnel based upon public safety needs. Any request received by the Dispatch that is entered into CAD will be documented as a Call for Service regardless of whether or not it is assigned to police personnel (e.g., an alarm company calls back and cancels a burglar alarm because they found a responsible person on premise prior to the call being dispatched).
- B. Each Participating Agencies' monthly payments to the City shall include and be determined by multiplying the following two cost components by each Agencies' percentage of workload as calculated in 5(A):
 1. Current Expenditures - is the amount of current operating and additional capital expenditures incurred after the commencement of operations.
 2. Initial Capital - is the initial capital the City of Prescott paid to setup the Dispatch Center, which will be repaid by the participants monthly over a 10-year period.
- C. Subject to the limitations below, if a Participating Agency terminates its participation in this Agreement, its obligation for Initial Capital payments, as calculated in 5(B)(2) shall, to the extent permitted by law, include the



obligation to pay such amounts over the full 10-year repayment period, even if a Participating Agency ceases receiving services from the Dispatch Center. Such remaining payments to be made by an Agency that terminates its participation or ceases receiving services from the Dispatch Center shall be determined based on the Agency's workload of total calls for service for the last full fiscal year that the Agency participated in this Agreement or received services from the Dispatch Center; this workload of total calls shall remain the same and be used for each year that the Agency shall continue to make payments.

Notwithstanding anything contained in this Agreement to the contrary, with respect to any Participating Agency governed under Title 48 or Title 15 of the Arizona Revised Statutes, in the event that it is determined by a Participating Agency that said Participating Agency may not commit to payments of funds beyond a specific fiscal year in which funds have been actually appropriated for payment by the Participating Agency under this Agreement (including any period after termination of the Agency's participation), said Participating Agency's obligation to make payments under this Agreement and its participation in this Agreement shall terminate on the last day of the fiscal year during which said funds were actually appropriated by said Participating Agency. Said Participating Agency shall immediately notify the City and each other Participating Agency of such occurrence of non-appropriation. The Participating Agency shall be obliged only to make such payments as are duly and lawfully appropriated by the governing body for a specific fiscal period, including but not limited to any period of time after termination of participation under this Agreement, and forward.

- D. Until its participation under this Agreement is terminated, each Participating Agency to this Agreement shall pay a minimum annual fixed fee of \$5,000 each fiscal year, which shall include Current Expenditures and Initial Capital. After the City has determined the total monthly payments actually paid by a Participating Agency at the end of each fiscal year, the balance of this amount is due within 30 days of the City's billing.

ARTICLE 6. DISPOSITION OF PROPERTY.

- A. Upon partial or complete termination of this IGA, all property acquired by the City in the operation of the Dispatch Center and used in or affixed to the Dispatch Center will remain the property of and shall be the responsibility of the City. Any equipment or technical material acquired by a Participating Agency and used primarily outside of the Dispatch Center shall be the property and responsibility of the Participating Agency that acquired and used said equipment or technical material.
- B. Each Participating Agency shall provide the name and phone number of that agency's technical repair specialist.



ARTICLE 7. DISCLOSURE OF INFORMATION.

- A. To the extent permitted by law, the parties, their respective officers, employees, subcontractors, agents and assigns, shall not divulge to third parties any information obtained by them through their respective performances under this IGA, subject to Arizona public records law.

ARTICLE 8. LIAISON OFFICERS.

- A. The Chiefs of each Participating Agency shall appoint a Liaison Officer to assist the City's Regional Communications Director in coordinating the performances hereunder. In the event of a dispute or other issue between the parties which does not constitute a "default", the same shall be communicated between the Liaison Officers and the City's Regional Communications Director, and they shall mutually attempt to resolve the matter within a reasonable period not to exceed twenty-one (21) days, unless a longer specified period is otherwise mutually agreed to by the parties. Thereafter, the matter shall be referred to the Prescott City Manager for final resolution.
- B. The Liaison Officers and the City's Regional Communications Director shall meet as and when needed; provided, however, that the Liaison Officers and the City's Regional Communications Director shall hold an annual meeting in January of each year to discuss operational issues, performance issues, financial issues, Capital Expenditures, the terms under which another agency may become an additional Participating Agency and a party to this agreement, and any other issues relating to this Agreement.
- C. In the event of a need for an unbudgeted Capital Expenditure, the Regional Communications Director and the Liaison Officers shall meet as soon as reasonably practical to mutually determine the actual need for any such Capital Expenditure, all pursuant to the other provisions of this Article. Due consideration shall be given to each parties financial needs and budgetary constraints. All parties shall make reasonable efforts to identify, meet, and determine such need prior to the occurrence of an actual need for an unbudgeted Capital Expenditure.
- D. In the event that the parties contemplate that another agency may become an additional Participating Agency and a party to this agreement, the Regional Communications Director and the Liaison Officers shall meet as soon as reasonably practical to mutually determine the terms under which such agency may become a Participating Agency and party to this agreement, subject to the other provisions of this Article.



ARTICLE 9. TIME IS OF THE ESSENCE.

- A. Time is of the essence in this IGA. It is expected that the parties shall diligently and deliberately carry out their respective performances hereunder.

ARTICLE 10. AMENDMENTS.

- A. This IGA may be amended at any time by mutual written agreement. No other agreements or understandings shall modify the provisions of this IGA.

ARTICLE 11. INDEMNIFICATION.

- A. In the event of any litigation, claims or other costs being incurred by the City as a result of its operation of the Dispatch Center, then and in that event each Participating Agency shall share in the cost thereof pursuant to the formula as provided for in Article 5 above.

ARTICLE 12. NOTICES.

- A. Any notice by either party to the other shall be considered duly served if delivered in person to the office of the authorized representative listed below, or if deposited in the U.S. mail, properly stamped with required postage, and addressed to the authorized representative listed below. Either party may change its representative or the address thereof giving the other written notice. Unless changed, notices shall be sent to the following:

City: City Manager
City of Prescott
201 S. Cortez Street
Prescott, AZ 86303

Copy to: Police Chief
City of Prescott
222 S. Marina Street
Prescott, AZ 86303

Town: Town Manager
Town of Prescott Valley
7501 E. Civic Circle
Prescott Valley, AZ 86314

Copy to: Police Chief
Town of Prescott Valley
7601 E. Civic Circle
Prescott Valley, AZ 86314



CYFD: Fire Chief
Central Yavapai Fire District
8555 E. Yavapai Road
Prescott Valley, AZ 86314

Yavapai College: Director of Campus Safety
Yavapai College
1100 E. Sheldon Street
Prescott, AZ 86301

Groom Creek: Fire Chief
Groom Creek Fire District
1110 Friendly Pines Road
Prescott, AZ 86303-8206

Williamson Valley: Fire Chief
Williamson Valley Fire District
15450 Williamson Valley Road
Prescott, AZ 86305-7451

Chino Valley: Fire Chief
Chino Valley Fire District
1133 West Road 3 North
P. O. Box 265
Chino Valley, AZ 86323-0264

ARTICLE 13. ACCOUNTING AND AUDITING.

- A. The City shall keep accurate and complete records of its performances hereunder in accordance with Generally Accepted Accounting Practice (GAAP). The Participating Agencies (including their respective auditors) shall have the right at any reasonable time to examine, audit, and reproduce all records pertaining to costs, including (but not limited to) payrolls, employees' time sheets, invoices and all other evidence of expenditures for the performances hereunder. Such records shall be kept by the City as required by the Arizona State Library and Public Records, Manual for Records Retention and Disposition for Arizona State Agencies, and the City shall make such records available for the periods they are required to be maintained by the manual.

ARTICLE 14. GOVERNING LAW.

- A. This IGA shall be interpreted in accordance with the substantive and procedural laws of the State of Arizona and shall be deemed made and entered into in Yavapai County.



ARTICLE 15. ALTERNATIVE DISPUTE RESOLUTION.

A. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The parties hereto further expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.

ARTICLE 16. SAVINGS CLAUSE.

A. In the event any phrase, clause, sentence, section, Article or other portion of this IGA shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this IGA shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

ARTICLE 17. ENTIRE AGREEMENT.

A. This IGA constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein.

ARTICLE 18. CONFLICT OF INTEREST.

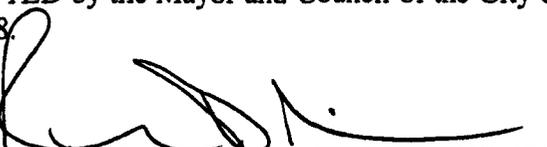
A. This IGA may be canceled without penalty pursuant to ARS §38-511 in the event of a conflict of interest as described therein by any person significantly involved in negotiating this IGA on behalf of the respective parties.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott this 24 day of June 2008.

SEAL

APPROVED BY CITY COUNCIL

RES # 3895-0863 ORD # -
DATE: 6-24-08 EFF.: 7-24-08



Jack Wilson, Mayor

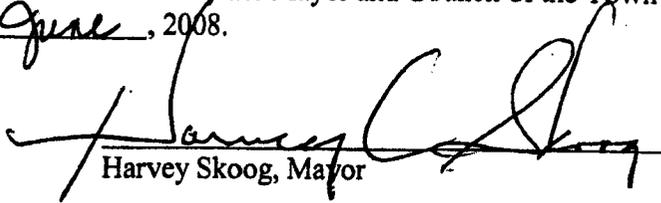
ATTEST:

APPROVED AS TO FORM:

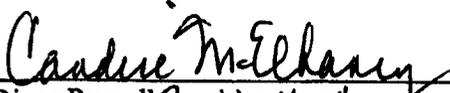

Liz Burke
City Clerk



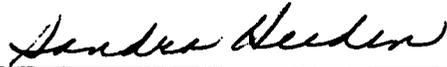
PASSED, APPROVED AND ADOPTED by the Mayor and Council of the Town of Prescott Valley this 12th day of June, 2008.


Harvey Scoog, Mayor

ATTEST:


~~Diane Russell~~ Candice McElhany
Deputy Town Clerk

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Central Yavapai Fire District this 9th day of June, 2008.


Name: Sandra Heiden
Chairman of the Board

ATTEST:


Name: Charlie Allen
Clerk

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Groom Creek Fire District this _____ day of _____, 2008.

Name: Robert Schulz
Chairman of the Board

ATTEST:

Name: Terry Hammon
Clerk



Harvey Skoog, Mayor

ATTEST:

Diane Russell
Town Clerk

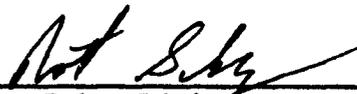
PASSED, APPROVED AND ADOPTED by the Board of Directors of the Central Yavapai Fire District this ____ day of _____, 2008.

Name: Sandra Heiden
Chairman of the Board

ATTEST:

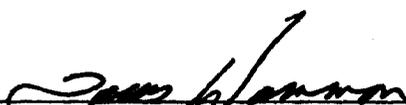
Name: Charlie Allen
Clerk

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Groom Creek Fire District this 26 day of July, 2008.



Name: Robert Schulz
Chairman of the Board

ATTEST:



Name: Terry Hammon
Clerk



Office of the President

1100 East Sheldon Street • Box 6901 • Prescott, Arizona 86301-3297
(928) 776-2023 • FAX: (928) 776-2019

TO: City of Prescott
Town of Prescott Valley
Central Yavapai Fire District
Groom Creek Fire District
Williamson Valley Fire District
Chino Valley Fire District

From: Dr. Utpal K. Goswami, Acting President

Date: September 9, 2008

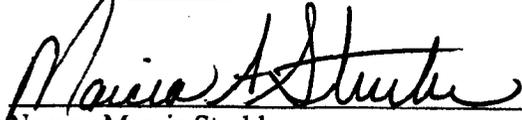
Subject: Joint Dispatch Intergovernmental Agreement

Attached is the original, signed Intergovernmental Agreement – Joint Dispatch Services – Restated. This agreement was entered into the first day of June 2008 by and between the City of Prescott, Town of Prescott Valley, Central Yavapai Fire District, Groom Creek Fire District, Williamson Valley Fire District, Chino Valley Fire District and Yavapai Community College District.

According to ARS §15-1444 – General Powers of District Governing Boards and Yavapai College District Governing Board Policies and Procedures for Agreements and Contracts, the President of Yavapai College has the authority to sign any renewal Intergovernmental Agreements and Memorandums of Understanding. Since this is a renewal contract, I have signed this document as Acting President, in the absence of Dr. James Horton, President of Yavapai College.



PASSED, APPROVED AND ADOPTED by the Board of Directors of the Williamson Valley Fire District this 17 day of June, 2008.


Name: Marcia Struble
Chairman of the Board

ATTEST:


Name: Terry Batt
Clerk

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Chino Valley Fire District this ____ day of _____, 2008.

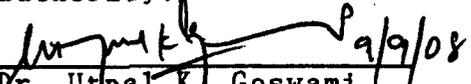
Name: Dave West
Chairman of the Board

ATTEST:

Name: Bill Wagner
Clerk

PASSED, APPROVED AND ADOPTED by the Yavapai Community College District Governing Board this ____ day of _____, 2008.

Refer to attached letter from Yavapai College regarding signature authority.


Name: Ray Sigafos
Board Chair
Dr. Utpal K. Goswami
ATTEST: Acting President

Name: Donna Michaels
Board Secretary



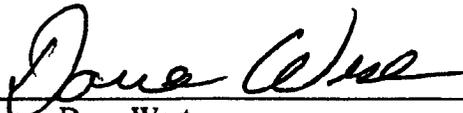
PASSED, APPROVED AND ADOPTED by the Board of Directors of the Williamson Valley Fire District this ____ day of _____, 2008.

Name: Marcia Struble
Chairman of the Board

ATTEST:

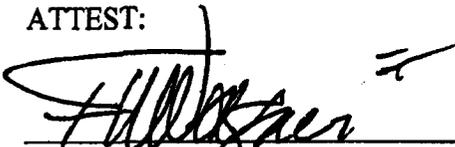
Name: Terry Batt
Clerk

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Chino Valley Fire District this 19 day of JUNE, 2008.



Name: Dave West
Chairman of the Board

ATTEST:



Name: Bill Wagner
Clerk

PASSED, APPROVED AND ADOPTED by the Yavapai Community College District Governing Board this ____ day of _____, 2008.

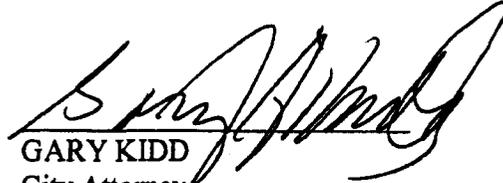
Name: Ray Sigafos
Board Chair

ATTEST:

Name: Donna Michaels
Board Secretary



Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the City of Prescott, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the City of Prescott.


GARY KIDD
City Attorney

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Town of Prescott Valley, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Town of Prescott Valley.


IVAN LEGLER
Town Attorney

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Central Yavapai Fire District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Central Yavapai Fire District.


Name: WILLIAM WHITTINGTON
Attorney for the Central Yavapai Fire District



Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Groom Creek Fire District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Groom Creek Fire District.

Name: DAVID HUNT
Attorney for Groom Creek Fire District

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Williamson Valley Fire District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Williamson Valley Fire District.

Name: DAVID HUNT
Attorney for Williamson Valley Fire District

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Chino Valley Fire District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Chino Valley Fire District.

Name: DAVID HUNT
Attorney for Chino Valley Fire District

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Yavapai Community College District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Yavapai Community College District.

Name: DAVID HUNT
Attorney for Yavapai Community College District

INTERGOVERNMENTAL AGREEMENT
JOINT DISPATCH SERVICES
-Restated-

ADDENDUM

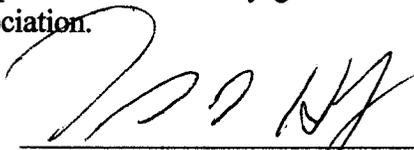
THIS AGREEMENT, entered into this 1st day of April, 2009, by and between the CITY OF PRESCOTT, a municipal corporation of Arizona ("City"), and the TOWN OF PRESCOTT VALLEY, a municipal corporation of Arizona (Prescott Valley), the CENTRAL YAVAPAI FIRE DISTRICT ("CYFD"), the GROOM CREEK FIRE DISTRICT (Groom Creek), the WILLIAMSON VALLEY FIRE DISTRICT (Williamson Valley), the CHINO VALLEY FIRE DISTRICT (Chino Valley) the YAVAPAI COMMUNITY COLLEGE DISTRICT (Yavapai College) and WALKER FIRE PROTECTION ASSOCIATION (all hereinafter collectively referred to as the "Participating Agencies").

PASSED, APPROVED AND ADOPTED by the Walker Fire Protection Association this Fourth day of March, 2009.



Name: Bob Neberman
Chairman of the Board

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Walker Fire Protection Association, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the Walker Fire Protection Association.



Name: DAVID HUNT
Attorney for Walker Fire
Protection Association

COUNCIL AGENDA MEMO – May 05 & 12, 2009

DEPARTMENT: City Manager - Grants

AGENDA ITEM: Approval of contract with Core 5, LLC for the Campbell Street Improvements federally funded project.

Approved By:

Date:

Department Head: Linda Hartmann

Finance Director:

City Manager: Steve Norwood



04/30/09

Background

As part of the City's 2008 CDBG program, council approved funding for improvements to Campbell St, located in the Dexter Neighborhood. This federally funded project consists of 700 LF of 28' wide 3" Asphalt Pavement together with roll curb, gutter, sidewalk and driveway entrances on the east side of the roadway and involves a concrete valley gutter at Hillside.

On April 6, 2009, the City published a Notice inviting bids for this project. On April 23, five proposals were received:

| | |
|---------------------------------|---------------------|
| Asphalt Paving and Supply, Inc. | \$149,981.25 |
| Empire Excavation | \$138,585.00 |
| Fann Contracting | \$137,250.00 |
| L Bar L Construction, Inc. | \$130,847.40 |
| Core 5, LLC. | \$110,549.00 |

The successful proposer is Core R, LLC of Prescott Valley, AZ with a bid of \$110,549.00

Staff has verified licensing trade and project references and is satisfied that his company is up to the task of the Campbell Street Paving project. Core 5 enjoys an excellent reputation.

Technical work will be monitored/inspected/enforced by the Public Works Department. The Grants Administrator will perform all administrative management functions as required for verification of compliance with CDBG requirements, including Federal Standards/Davis Bacon requirements and payment to the contractor.

Approval of this contract serves in the best interest of the City of Prescott and is in keeping with strategies and goals set forth in the FY 2008 Annual Action Plan submitted to the U.S. Department of Housing and Urban Development in May 2008.

Recommended Action: MOVE to approve the CDBG Construction Contract in an amount not to exceed \$110,549.00 with Core %, LLC for the Federally Funded Project known as Campbell Street Improvements

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| COUNCIL AGENDA MEMO – 05 & 12 May 2008 |
| DEPARTMENT: City Manager, Grants |
| AGENDA ITEM: Approval of contract with JEBCO for the Federally Funded Renovation & Remodel of WYGC Hillside Clinic. |

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|---|--------------|
| Approved By: | Date: |
| Department Head: Linda Hartmann <i>LHartmann</i> | 4-30-2009 |
| Finance Director: | |
| City Manager: Steve Norwood <i>SNorwood</i> | 05/01/09 |

As part of the City's 2008 CDBG Program, council approved funding for improvements to the West Yavapai Guidance Clinic. The improvements include renovation of 6 bedrooms, 7 bathrooms and a storage closet.

On April 6, 2009 the City published a Notice Inviting Bids for this federally funded project. On April 23, 2009 three proposals were received.

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|----------------------------|-------------|
| Better Living | \$64,560.00 |
| Granite Peaks Construction | \$54,885.00 |
| JEBCO | \$50,583.00 |

All three proposals exceeded the funding authorized; however, following the City of Prescott Procurement Code, Section 18: Awards, Paragraph (J), which addresses all bids received exceeding available monies and negotiation with the lowest responsive contractor including changes to the bid requirements, staff contacted the lowest responsive bidder to negotiate.

Staff proposes the removal of the Merritt Street Sidewalk, Division Street to Lincoln Street segment which will make it possible to reach a cost within the confines of the available CDBG funding. The lowest responsive bidder is amenable to that change.

The successful proposer is JEBCO at \$42,163.00.

Staff has verified licensing, trade and project references and is satisfied that this company is up to the task of the Guidance Clinic renovation. It is noted that JEBCO enjoys an excellent reputation.

The Grants Administrator will perform all administrative management functions as required for verification of compliance with CDBG requirements, including Federal Labor Standards/Davis Bacon requirements and payment to the contractor.

Approval of this contract serves in the best interest of the City of Prescott and is in keeping with strategies and goals set forth in the FY 2008 Annual Action Plan submitted to the U.S. Department of Housing and Urban Development in May 2008.

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| Recommended Action: MOVE to approve CDBG construction contract in the amount not to exceed \$42,163.00 with JEBCO for this Federally Funded Project. |
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| COUNCIL AGENDA MEMO – 05/05 & 05/12/09 |
| DEPARTMENT: Community Development |
| AGENDA ITEM: Request for Preliminary Plat extension for Granite Creek Village. |

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|--|-----------------|
| Approved By: | Date: |
| Department Head: Tom Guice | |
| Finance Director: | |
| City Manager: Steve Norwood <i>SNorwood</i> | <i>04/20/09</i> |

REQUEST

Granite Creek Village was granted Preliminary Plat approval by the City Council on April 22, 2008. The Land Development Code requires submittal of the Final Plat for review no later than 12 months following the Preliminary Plat approval. In this case the developer is requesting an extension of that period through March of 2012, due to the decline in the housing market.

City Council may grant extensions to preliminary plats and staff recommends approval of this request. Staff suggests extending the date by which a Final Plat must be submitted until April 22, 2012, which is four years from the date of City Council approval of the Preliminary Plat.

Recommended Action: MOVE to approve the extension of Preliminary Plat PP07-006, Granite Creek Village, until April 22, 2012.

**GRANITE CREEK
DEVELOPMENT LLC**

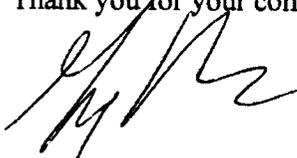
PO Box 10967 Prescott AZ 86304

April 20, 2009

From: Granite Creek Development LLC
To: Tom Guice
Subject: Extension of preliminary plat for Granite Creek Village

The depression we are experiencing in the housing market has put a stop to the developing of Granite Creek Village. I am asking that the preliminary plat be extended to March 2012 to give the economy time to recover.

Thank you for your consideration.



Guy Naus, Manager

RECEIVED

APR 22 2009

CITY OF PRESCOTT
COMMUNITY DEVELOPMENT

PO Box 10967
Prescott AZ 86304

PHONE (928) 778-5903
FAX (928) 541-0270
E-MAIL nausinc@cableone.net
WEB SITE <http://www.nausconstruction.com>

COUNCIL AGENDA MEMO – 05/05 & 05/12/09

DEPARTMENT: Community Development - Planning

AGENDA ITEM: Public hearing - Annexation of a portion of the Granite Dells Ranch with associated minor amendments to the General Plan and Airport Specific Area Plan **Owner:** Granite Dells Ranch Holdings (Cavan Real Estate Investments) **Agent:** Mark Reddie, LVA Urban Design Studio, Tempe, Arizona

Approved By:

Date:

Department Head: Tom Guice / Craig McConnell

Finance Director:

City Manager: Steve Norwood

REQUEST

Granite Dells Ranch is requesting a Proposition 400 Annexation, minor General Plan Land Use Map amendment, Airport Specific Area Plan (ASAP) Map amendment, Rezoning and a Master Plan approval. The project encompasses various properties totaling 498 acres located in proximity to Side Road/Highway 89A, of which 387 acres is a Proposition 400 annexation. The balance of the project is land already within the City boundary, upon which the existing Hanson aggregate plant is situated. The applicant is proposing a commercial and industrial subdivision only; no residential uses are planned.

Per ARS, upon annexation the area will be zoned similar to the existing zoning within the County. Should the annexation application be approved, a change of zoning within 450 acres is requested from residential to commercial and industrial zoning districts (SF-9, RE-2, BR and IL). These zoning districts allow for the proposed commercial uses while protecting the reach of Granite Creek that runs through the project. Additionally, the City is rezoning the Peavine Trail adjacent to the project to open space (OS).

A minor General Plan Land Use Map amendment of 165 acres is proposed from residential to commercial in an area in the northeast portion of the project. An ASAP Land Use Map amendment is also requested for 165 acres from residential to commercial in this same area.

A Master Development Plan has been provided outlining the commercial/industrial subdivision. The applicants do not wish to apply for a preliminary plat at this time. The applicants must eventually go through the City of Prescott commercial subdivision plat and site plan review process which will specifically address infrastructure, parking, lighting, landscaping, trails and other attributes before building permits may be issued. Traffic and utilities (water and wastewater) analyses and a cost/benefit study have been completed.

Agenda Item: Annexation of a portion of the Granite Dells Ranch with associated minor amendments to the General Plan and Airport Specific Area Plan

CONSISTENCY WITH THE GENERAL PLAN

Certain aspects of the proposed project vary from the City’s adopted 2003 General Plan. The area is designated as Open Space, Residential, Commercial and Commercial/Employment on the General Plan Land Use Map. Therefore, the configuration of the Open Space, Commercial and Commercial/Employment designations are proposed to be adjusted.

The open space area shown in the General Plan follows the FEMA 100 year flood plain. The applicant desires to reduce the open space/100 year flood plain area to match a Letter of Map Revision (LOMR - an engineering study used to modify the FEMA flood plain). The balance of the open space area is proposed as Commercial/Employment.

EXISTING SITE AND AREA CONDITIONS

This relatively flat site is currently vacant with the exception of the industrial aggregate plant operating in Granite Creek, which is identified as a FEMA 100 year flood plain. There is a small pond for watering cattle east of the Peavine Trail.

The property is subject to the Airport Specific Area Plan (ASAP), but sufficiently distant from actual Airport facilities to not require any special construction techniques for noise abatement. It is also within the inner Airport Influence Area as described in the ASAP. The ASAP Land Use Plan Map shows a portion of the project area as Open Space and Residential, with other areas indicated as Commercial and Mixed Commercial/Employment. The requested amendment to the ASAP Land Use Map would change the residential designation located within the project area to a commercial designation.

The Peavine Trail currently runs along Side Road. The Trails Committee has asked that the trail be routed to pass under Highway 89A through a large existing culvert roughly in the center of the project. The applicant has been working with the Public Works and Parks and Recreation Departments, and is donating the land to be used for ROW, public parking, a trail head and realignment of the trail through the culvert. The trail head and parking area are to be built during construction of the City’s Granite Dells Parkway Traffic Interchange Project (see attached).

SURROUNDING ZONING AND LAND USE

| Direction | Current Zoning | Current Land Use |
|-----------|---------------------------------|---|
| North | Industrial & County Residential | Vacant Land & Industrial |
| South | Commercial & Industrial | Vacant (Fann) & Residential |
| East | County Residential | Vacant Land |
| West | Industrial | Peavine Trail, Residential & Industrial |

Agenda Item: Annexation of a portion of the Granite Dells Ranch with associated minor amendments to the General Plan and Airport Specific Area Plan

COMPATIBILITY WITH NEIGHBORHOOD CHARACTERISTICS, ZONING & LAND USE

The surrounding properties to the south and west of the proposed project are predominantly industrially zoned. Residences currently exist on Side Road to the west, however, the land owners recently rezoned to Industrial Light. There are two residentially zoned parcels that were not a part of the rezoning request. Properties to the north (owned by Cavan) and to the east (owned by the State) are residentially zoned within the unincorporated area of the County. A portion of the land to the north is industrially zoned within the City boundary. The surrounding industrial zoning and proximity to the airport would encourage restricted residential uses within the project area.

The Prescott Airport is currently developing the 2009 Airport Master Plan. As a result of this endeavor, the ASAP and the Land Development Code are expected to be amended in the near future to reflect FAA guidelines in the vicinity of the airport. Specifically, staff is anticipating adoption of certain single family residential prohibitions and height restrictions very near the airport based on FAA Part 77 guidelines.

PROPOSITION 400 REQUIREMENTS AND PROCESS

Proposition 400 establishes local requirements for annexations over 250 acres. Council must approve the annexation by a three-fourths majority. There is a required public comment period of 60 days which began when the Planning & Zoning Commission made a formal recommendation regarding the Master Development Plan. Also, all effluent generated by this project must be reserved for permanent aquifer recharge.

No Council action is needed at this time. Formal approval of the annexation, rezoning, and General Plan amendment applications will occur when this item returns to Council in June 2009. The public process has been refined to allow for same day approval of the annexation, rezoning and General Plan amendment applications (when this item returns to Council in June, the General Plan Amendment and Rezoning may be approved on the same day, but via separate meeting agendas).

PREVIOUS COMMISSION AND COUNCIL ACTION

Annexation of the Hanson portion of the project occurred in 1963. Hanson currently operates an aggregate plant and mineral extraction according to provisions of federal and state laws.

On January 27, 2009, Council approved a Procedural Pre-Annexation Agreement and Temporary Construction Easement (TCE) pertaining to the property. Per these agreements, approximately 26 acres are being dedicated to ADOT with an additional 11 acres to the City for right-of-way (ROW), and access is granted for construction of the SR 89A/Granite Dells Parkway (Side Road relocated) traffic interchange.

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| Agenda Item: Annexation of a portion of the Granite Dells Ranch with associated minor amendments to the General Plan and Airport Specific Area Plan |
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The Planning and Zoning Commission made a positive recommendation regarding the annexation application and Master Development Plan at their February 26, 2009, meeting.

The Open Space Committee reviewed this item on February 11, 2009. The Committee elected to schedule a tour of the property; Councilwoman Lopas was in attendance. Among the topics of discussion was the possible re-alignment of the trail along Granite Creek to eliminate at-grade crossings in the portion of the project north of Highway 89A. Trail issues are typically discussed during platting, however, the draft development agreement (attached) contains specific provisions regarding the Peavine Trail.

TRAFFIC, STREETS AND UTILITIES

The proposed Master Plan identifies primary access to the property from a traffic interchange on Highway 89A at Granite Dells Parkway. A future multi-lane major arterial will extend north and south from this interchange. Granite Dells Parkway will intersect with Centerpointe East Drive, a link running westerly to existing Side Road; and farther south with Dells Ranch Road (previously known as the Side Road Connector). The applicant will be donating the right-of-way for these roads. Construction of the traffic interchange and Granite Dells Parkway will be in phases as warranted by traffic volumes.

The property will be served by various water and sewer utilities projects being provided by the City as set forth by the Capital Improvement Program within the overall City budget, and specifically identified in Exhibit "E" to the development agreement. These projects will benefit lands of Granite Dells Ranch (Cavan) as well as those of many other owners east of SR 89, on both the north and south sides of Highway 89A. Recovery of the capital investments for the "new growth" components of these projects will be accomplished via impact fees which have already been adopted. Granite Dells Ranch will be responsible for installing on-site utilities to City standards.

More specific information regarding traffic, streets, and utilities for the future development can be found both in the technical analyses prepared by Jacobs Engineering (transportation) and Carollo Engineers (utilities), and cost-benefit analysis prepared by Applied Economics. All of these documents have been made available to the public during the 60-day review period which began with the Planning & Zoning Commission adoption of recommendations to Council regarding the Master Plan.

AGENCY COMMENTS

The General Plan, annexation and rezoning requests have been reviewed by various agencies. No objections have been received, however, the Open Space and Trails Committees have expressed concern regarding the possibility of street crossings of the Peavine Trail. A Council public workshop is planned in late May to address this topic as it relates to both the Granite Dells Ranch (Cavan) and Granite Dells Estates (Fann)

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| Agenda Item: Annexation of a portion of the Granite Dells Ranch with associated minor amendments to the General Plan and Airport Specific Area Plan |
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properties in the vicinity of Highway 89A / Side Road. Policy direction forthcoming from the workshop will be incorporated into the final version of the attached draft development agreement. Thereafter, preliminary and final plat applications will reflect the configuration decided for each such crossing.

PUBLIC COMMENTS

Due to the industrial nature of the area, an area meeting was not scheduled. Notices were mailed regarding the subject annexation, zoning change and General Plan/ASAP amendment applications to the surrounding subdivisions and property owners of record. The mailing included the Master Plan, vicinity map and a description of the request. Also, the application has been advertised and posted in excess of requirements prescribed by the Arizona Revised Statutes.

Eight written comments have been received from the public as of this writing. Concern mainly focuses on the trail and infrastructure issues. Trail users are requesting grade-separated street crossings to preserve the trail experience through the proposed project area. Concern is expressed regarding the cost of realigning the trail and infrastructure costs. Three e-mails have been received requesting that Cavan repair the railroad trestle. However, the trestle is neither within the project boundary nor does the project affect trail usage at the trestle location. Upon learning that the trestle is not part of the project, two of the three letters were retracted and then updated.

DEVELOPMENT AGREEMENT

The attached draft development agreement implements the Procedural Pre-Annexation Agreement and Temporary Construction Easement (TCE) approved by Council on January 27, 2009. The draft will be finalized for Council consideration in June 2009, to accompany the annexation, General Plan minor amendment, rezoning, and Airport Specific Area Plan amendment items pertaining to this proposed development. Highlights of the development agreement are as follows:

- Offsite transportation improvements are identified by Exhibit C-2
- A preliminary site plan is provided in Exhibit D
- Intersections of streets with the Peavine Trail are addressed in Paragraph 3.10
- Calculation and application of credits for certain right-of-way dedications involving street oversizing are addressed in Paragraph 3.14
- City water and wastewater infrastructure improvements are addressed in Paragraphs 3.15 and 3.16, and Exhibit E

Upon annexation the City will provide water and wastewater services to the property. Because the development is nonresidential, the water needed will be provided as each individual project is approved. Pursuant to the City of Prescott Water Management Policy 2005-2010, as amended, only individual development projects requiring more

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| Agenda Item: Annexation of a portion of the Granite Dells Ranch with associated minor amendments to the General Plan and Airport Specific Area Plan |
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than five (5) acre-feet per year require a formal allocation of water from the City. All other development is served by water that has already been allocated in prior residential allocations. Each residential dwelling unit is allocated 0.35 acre-feet/year, 0.25 acre-feet for the actual residential use, and 0.10 acre-feet for community-wide nonresidential development. As nonresidential projects are developed, their water use is factored into the overall pumping of the City. No purchase of additional water to serve this annexation area, and the future development within it, will be necessary.

FISCAL IMPACT ANALYSIS

A formal fiscal impact analysis of this prospective development was performed by Applied Economics (Phoenix) according to detailed "Cost-Benefit Analysis Guidelines for Proposed Annexations" updated in 2008 jointly by the City's Finance Department, and appointed, independent Financial Review Committee. The scope of analysis consisted of identifying and estimating costs and benefits to the City expected to result from the annexation. Examples of costs included water, wastewater, and street infrastructure and related maintenance; police, fire, and other governmental services to sustain existing levels of service. Benefits included various tax and fee revenues, land donations and easements, and creation of community facilities.

Both the complete report, "Fiscal impacts of the Granite Dells Ranch Annexation Area on the City of Prescott (February 5, 2009)", and "Report of the City of Prescott Citizen's Committee (Financial Review Committee)" were (and remain) posted on the City website for the required 60-day public comment period. These documents include the following findings:

- The Applied Economics analysis was professionally rendered and complied with the cost-benefit guidelines
- The impact analysis covered a 25-year time period, during which the area would be completely built out
- The land use mix consisted of 114 acres of retail, 158 acres of office, and 68 acres of service uses, with development projected to occur between 2011 and 2020
- Projected development could increase City employment by close to 4,800 jobs
- A series of sensitivity analyses were performed varying the rate of development, occupancy rates, and variations in infrastructure costs and impact fees; the "gradual growth" scenario defined by the report identified a positive net present value fiscal impact of \$55 million over 25 years, and a payback period for City infrastructure investment of seven (7) years

In summary, the development planned within this annexation area will be revenue-positive, providing a long term, on-going economic benefit to the City.

Agenda Item: Annexation of a portion of the Granite Dells Ranch with associated minor amendments to the General Plan and Airport Specific Area Plan

COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends (7-0) the following actions for the Granite Dells Ranch commercial/industrial subdivision:

1. Move to recommend the property be zoned at the time of annexation Rural Estate 2 Acre A(RE-2A), Anx09-001.
2. Move to recommend approval of General Plan Map Amendment (GP09-001).
3. Move to recommend approval of the Airport Specific Area Plan Amendment (LUP09-001).
4. Move to recommend approval of the Master Development Plan dated 8-12-08.
5. Move to recommend approval of rezoning (RA09-001) from SF-9 and RE-2A to NOS (Peavine Trail), Business Regional and Industrial Light.
6. Properties owners within the project area shall grant Avigation Easements to be specified by the Development Agreement.
7. Development shall be in general conformance with the Master Development Plan dated 8-12-08.
8. That there not be at-grade crossings on the Peavine Trail.

ATTACHMENTS

TO VIEW THE FOLLOWING DOCUMENTS, PLEASE VISIT:

<http://www.cityofprescott.net/leadership/growth/gdr.php>

- Vicinity and Zoning Map
- Master Development Plan
- Annexation Map
- General Plan Map
- Written Public Comments
- Fiscal Impact Analysis
- Draft Development Agreement
- Pre-annexation Development Agreement

Recommended Action:

(May 5, 2009, Study Session)

Open the Public Hearing and receive initial public input.

(May 12, 2009, Voting Session)

Receive additional public input; then **MOVE** to close the public hearing.

COUNCIL AGENDA MEMO – 05/05 & 05/12/09

III-I

DEPARTMENT: Community Development

AGENDA ITEM: Proposed amendments to the Land Development Code (LDC) including amending permitted uses in the Industrial Light (IL) district to allow schools and associated dormitories; allowing compact parking spaces for multi-family housing; allowing the “pole” portion of flag lots to exceed 150 feet in length; allowing hotels/motels in industrial districts and clarification of criteria for mobile food vendors.

Approved By:

Date:

Department Head: Tom Guice

Finance Director:

City Manager: Steve Norwood



BACKGROUND

The Unified Development Code Committee (UDC) heard requests to amend various sections of the LDC over the past several months. As a result of the discussions at the UDC meetings, recommendations were made to the Planning and Zoning Commission to amend the LDC.

PLANNING & ZONING COMMISSION

The Planning and Zoning Commission (P&Z) considered the proposed changes at their April 9, 2009 meeting and unanimously recommended approval of the following changes.

Changes to the Industrial Light (IL) district:

This proposal is to change the permitted uses of the Industrial Light (IL) district to permit, by right, K-8 and 9-12 schools in this district. Several requests have come from either K-12, private, charter or technical schools who would like to locate within the Industrial Light (IL) zoning district. Many IL zoned areas are actually developed as business/industrial parks that are much lower intensity than industrial developments in the heavier Industrial General districts. Because of the apparent desirability to locate various types of schools in business park developments (like the Centerpoint developments) the UDC and Planning and Zoning Commission recommended that the Use Table 2.3 be amended to permit both categories of schools in the IL district.

No text amendments are necessary to accomplish the direction of the UDC. The table will be amended to indicate a P (for permitted) in the IL column for Schools, public or private, 9-12 and Schools, public or private, K-8.

In a connected matter, the UDC and P&Z considered a proposal to allow dormitories associated with technical schools in the IL district by Conditional Use Permit. Staff has had contact from flight-related technical schools desiring to have students stay on-site for the duration of each class. The IL district prohibits residential uses and by LDC definitions

Agenda Item: Proposed amendments to the Land Development Code

dormitories are a residential use. The UDC and Planning and Zoning Commission recommended that the Use Table 2.3 be amended to permit dormitories in the IL district.

Compact Parking spaces:

The LDC currently allows compact parking for 'non-residential' (i.e. commercial) development (only). Section 6.2.5.C, Compact Parking, states *"Up to 15 percent of the total number of required parking spaces for nonresidential development may be designated as compact spaces when clearly labeled"*.

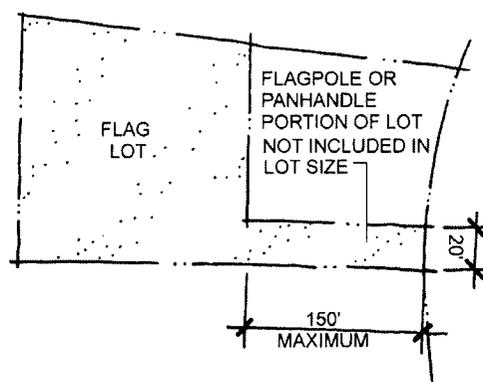
The UDC and Planning and Zoning Commission recommended that residential compact parking stalls be allowed up to the same 15 percent allowance of commercial spaces by amending the code to read:

"Section 6.2.5.C, Compact Parking

Up to 15 percent of the total number of required parking spaces nonresidential development may be designated as compact spaces when clearly labeled"

Flag Lot dimensions:

Section 7.4.5.B.4 of the Land Development Code regulates minimum and maximum dimensions of Flag Lots. Among the requirements is a maximum allowance of 150 feet for the length of the pole portion of the lot. This distance was originally established in concert with the Fire Department to address Fire Department concerns about access to the structure. Single-family fire sprinkler systems were not in common use at the time this provision was included and the Fire Department did not yet have local code amendments to provide for additional fire apparatus access.



Section 7.4.5.B.4

Requests for longer flag pole lengths have been handled by either variances or plat waivers by the City Council. A common condition applied by both the City Council and the Board of Adjustment in those situations has been to require homes on such flag lots to be fire sprinkled and have adequate fire apparatus access. These same conditions are often required by the Fire Department for homes on code-compliant flag lots, as well as, non-flag

Agenda Item: Proposed amendments to the Land Development Code

lots where the homes are placed more than 150 feet from the street. Since the residential sprinkler systems and fire apparatus access have been used as mitigation for longer flag lengths a number of times in the past, and have been approved by the Fire Department, it would appear that this is an effective alternative.

The UDC and Planning & Zoning Commission approved the following text modifications:

“Section 7.4.5.B. 4. Flag Lots

Notwithstanding other provisions of this Code to the contrary, flag shaped or panhandle shaped lots may be created in any zone if all of the following requirements are met (Refer also to Sec. 2.7.2D2.b) (attached):

- a. The lot has at least 20 feet of frontage on a dedicated public or private street, which frontage serves as access only to the subject lot or parcel;
- b. The flagpole or panhandle portion of the lot shall be at least 20 feet in width;
- c. The ~~depth~~ length of the flagpole or panhandle shall be not exceed 150 feet as measured from the adjacent public or private street unless acceptable fire safety alternatives are provided. The Community Development Director shall consult the Fire Department prior to approving such alternatives;
- d. The flagpole or panhandle portion of the lot shall not be included in calculating lot size; and
- e. Flag lots may not be further subdivided following initial subdivision approval.”

Hotels/motels in the IL District:

Future development near the airport proposes new industrial areas based upon recent General Plan amendments. Hotels and motels are not currently allowed in the Industrial Light (IL) zone. Hotel and motel uses are generally held to be commercial in nature and are often found adjacent to, or near, airports in many other communities. Because the LDC treats hotels and motels as residential uses, they are not permitted in the industrial districts.

The UDC Committee and the P&Z Commission determined that hotels and motels are commercial in nature and recommended that they be permitted within the IL and IG zones. This will be accomplished by amending Table 2.3 to indicate a P for permitted in the IL and IG districts for these uses.

Mobile Food Vendors:

In the past the City staff has received numerous requests for Mobile Food Vendors to place their carts throughout the city. The issue has been in finding suitable locations for such businesses. Each request has been handled on a case-by-case basis. Most requests have been for the Downtown Business District, but some have been else where.

Agenda Item: Proposed amendments to the Land Development Code

(Courthouse Plaza events are a separate matter handled through agreements with the County and the Prescott Downtown Partnership).

When considering mobile food vendors (coffee, pretzel, hot dog carts, etc.) the city has required that they must be located at a principal structure and accessory to a principal use. In addition to these requirements, the vendor could not locate in or block the public right-of-way or impede vehicular traffic. Beyond these conditions they must also adhere to all health department regulations.

As a result of recent inquiries, staff recommended to the UDC and the P&Z Commission the addition of Mobile Food Vendors to Table 2.3, Permitted Uses, as a use under the category of 'Accessory Uses'.

| PERMITTED USE TABLE 2.3 | | | | | | | | | | | | | | | | | | | | | | | |
|-------------------------------|--------------------------------------|----|-------|-------|-------|------|------|----|------|------|--|----|-----|----|----|-----|------------------|----|----|-----|----|----|--------|
| SPECIFIC USE | RESIDENTIAL BASE ZONING DISTRICTS | | | | | | | | | | NONRESIDENTIAL BASE ZONING DISTRICTS | | | | | | Use Standards | | | | | | |
| | RE-2 | AC | SF-35 | SF-18 | SF-12 | SF-9 | SF-6 | RT | MF-M | MF-H | SPC | RS | NOS | MU | RO | NOB | | BG | BR | DTB | IT | IL | IG |
| Accessory Uses (see Sec. 2.5) | | | | | | | | | | | | | | | | | | | | | | | |
| Mobile Food Vendors | | | | | | | | | | | | | | C | C | C | P | P | C | P | P | P | 2.5.52 |

In addition, staff recommended that a new accessory use category be added to Section 2.5 / Accessory Uses and Structures, under the heading: Section 2.5.13 / Mobile Food Vendors.

The following addresses concerns for public health, welfare and safety while still allowing the small mobile food business owner the maximum flexibility to locate where he/she desires.

Section 2.5.13 / Mobile Food Vendors

A two- or four-wheeled vehicle designed to carry foods and permitted by the County's Health Department. Such vehicles shall not be self propelled. The dimensions of such vehicles shall not exceed 8 feet by 5 feet for a total of 40 square feet of footprint. Umbrellas shall not be greater than six feet in diameter. All mobile food vendors are subject to the following standards:

- A. Mobile Food Vendors are only allowed to operate on private property of an existing operating business.
- B. Mobile Food Vendors must either be located adjacent to the principal structure or within the confines of the parking lot of the existing business.
- C. Mobile Food Vendors shall require a Conditional Use Permit according to Section 9.3. / Conditional Use Permits with the exception of those mobile food

Agenda Item: Proposed amendments to the Land Development Code

vendors operating within those Zoning Districts identified as a permitted use in Table 2.3. / Permitted Use Table.

- D. Mobile Food Vendors shall not operate within the public right-of-way.
- E. Mobile Food Vendors shall not encroach into any parking spaces required by the existing business and shall not impede vehicular circulation within the parking area of that business.
- F. Mobile Food Vendors' signs shall be an integral part of the vending cart with lettering not exceeding ten inches in height. Only the name of the vendor or the vending company, the products offered, and the price of the products shall be included on the sign.
- G. Mobile Food Vendors' signs shall not be internally illuminated or make use of flashing or intermittent lighting, animation, or noisemaking devices. Graphic illustrations shall display only the products being offered.
- H. Mobile Food Vendors shall keep the area within 15 feet of the location of the vending cart free from all litter and debris resulting from the operation.
- I. Mobile Food Vendors shall maintain a clearly-marked trash container near their cart for litter. Use of public trash receptacles for this purpose is prohibited.
- J. Mobile Food Vendors shall not sell to vehicular traffic at any location.

Recommended Action: MOVE to adopt Ordinance No. 4700-0943.

ORDINANCE NO. 4700-0943

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AMENDING *LAND DEVELOPMENT CODE*, TABLE 2.3, SCHOOLS IN THE IL DISTRICT; TABLE 2.3, DORMITORIES IN THE IL DISTRICT; SECTION 6.2.5.C, COMPACT PARKING SPACES; Section 7.4.5.B.4, FLAG LOT DIMENSIONS; TABLE 2.3, HOTELS/MOTELS IN THE IL DISTRICT; TABLE 2.3 MOBILE FOOD VENDORS; AND SECTION 2.5.13, MOBILE FOOD VENDORS

RECITALS:

WHEREAS, the City Council of the City of Prescott has determined that it would be in the best interest of public necessity, interest, convenience or general welfare to amend the *Land Development Code*; and

WHEREAS, the requirements Title 10 of the Prescott City Code has been complied with.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. Use Table 2.3, Industrial Light District, Schools, indicate "P" (for permitted) in the IL Column for Schools, public or private, 9-12, and Schools, public or private, K-8.

Section 2. Section 6.2.5.C, Compact Parking. Up to 15 percent of the total number of required parking spaces ~~for nonresidential development~~ may be designated as compact spaces when clearly labeled.

Section 3. Use Table 2.3 Flag Lots

7.4.5.B.4c. The ~~depth~~ length of the flagpole or panhandle shall be not exceed 150 feet as measured from the adjacent public or private street unless acceptable fire safety alternatives are provided. The Community Development Director shall consult the Fire Department prior to approving such alternatives;

Section 4. Use Table 2.3 Hotels/Motels in the IL District and the IG District, indicate "P" (for permitted) in the IL and IG zones.

Section 5. Use Table 2.3 Mobile Food Vendors, Accessory Uses, indicate "P" (for permitted) in the BG, BR, IT, IL, IG districts; and, indicate "C" (for conditional) in the MU, RO, NOB, DTB districts.

Section 6. Section 2.5.13 / Mobile Food Vendors. A two- or four-wheeled vehicle designed to carry foods and permitted by the County's Health Department. Such vehicles shall not be self propelled. The dimensions of such vehicles shall not exceed 8 feet by 5 feet for a total of 40 square feet of footprint. Umbrellas shall not be greater than six feet in diameter. All mobile food vendors are subject to the following standards:

A. Mobile Food Vendors are only allowed to operate on private property of an existing operating business.

B. Mobile Food Vendors must either be located adjacent to the principal structure or within the confines of the parking lot of the existing business.

C. Mobile Food Vendors shall require a Conditional Use Permit according to Section 9.3 / Conditional Use Permits with the exception of those mobile food vendors operating within those Zoning Districts identified as a permitted use in Table 2.3 / Permitted Use Table.

D. Mobile Food Vendors shall not operate within the public right-of-way.

E. Mobile Food Vendors shall not encroach into any parking spaces required by the existing business and shall not impede vehicular circulation within the parking area of that business.

F. Mobile Food Vendors' signs shall be an integral part of the vending cart with lettering not exceeding ten inches in height. Only the name of the vendor or the vending company, the products offered, and the price of the products shall be included on the sign.

G. Mobile Food Vendors' signs shall not be internally illuminated or make use of flashing or intermittent lighting, animation, or noisemaking devices. Graphic illustrations shall display only the products being offered.

H. Mobile Food Vendors shall keep the area within 15 feet of the location of the vending cart free from all litter and debris resulting from the operation.

I. Mobile Food Vendors shall maintain a clearly-marked trash container near their cart for litter. Use of public trash receptacles for this purpose is prohibited.

J. Mobile Food Vendors shall not sell to vehicular traffic at any location.

PASSED AND ADOPTED by the Council of the City of Prescott, Arizona, on this 12th day of May, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

M
L
S
M

III-J

COUNCIL AGENDA MEMO – 05/05 & 05/12/09

DEPARTMENT: Public Works

AGENDA ITEM: Award of two contracts for quality assurance testing services for City capital construction projects, (1) to Ninyo & Moore; and (2) to Western Technologies, Inc.; each in an amount not to exceed \$80,000.00.

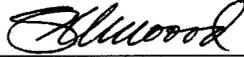
Approved By:

Date:

Department Head: Mark Nietupski

Finance Director: Mark Woodfill

City Manager: Steve Norwood



04/30/09

Item Summary

This item is to award two (2) separate contracts for quality assurance (QA) “on call” testing services for City street and utility capital improvement projects. Construction QA tests include soil characteristics and earthwork compaction, concrete and asphalt paving material properties and composition.

The first contract, is recommended for award to Ninyo & Moore with the second contract recommended for award to Western Technologies, Inc. Two contracts will provide the City flexibility when assigning new projects for QA testing. Under these QA testing contracts the firm selected to work on a City project cannot work for the contractor under City contract for construction of the same capital project.

Background

On March 13, 2009, the Public Works Department advertised for Statements of Qualifications (SOQs) from geotechnical firms interested in providing on-call materials testing for the City’s capital construction projects. Responses were received from the five firms listed below:

- ATL, Inc. (Phoenix)
- Quality, Testing. LLC (Phoenix)
- Western Technologies, Inc. (Flagstaff/Prescott)
- Ninyo & Moore (Phoenix/Prescott)
- Speedie & Associates (Phoenix)

Pursuant to professional services selection procedures, three firms were short listed and interviewed: Western Technologies, Inc., Ninyo & Moore and Quality Testing, LLC. Upon completion of the interview process the following ranking was established:

1. Ninyo & Moore
2. Western Technologies, Inc.
3. Quality Testing, LLC

AGENDA ITEM: Award of two contracts for quality assurance testing services for City capital construction projects, (1) to Ninyo & Moore; and (2) to Western Technologies, Inc.; each in an amount not to exceed \$80,000.00.

Subsequent negotiations with Ninyo & Moore and Western Technologies the top ranked firms were successfully concluded. The contracts provide for performance of the required "on-call" services as needed (project by project). Billing will be at fixed unit prices for tests and hourly rates for on site technician services and in-place materials testing and sampling when required.

Neither firm is guaranteed to earn the recommended amount of \$80,000.00 during the respective contract terms.

One hundred thirty thousand dollars were spent for QA testing last year.

Budget

For the remainder of FY 09 and into FY 10 invoices for services will be charged to each project for which the services are accomplished, and then allocated to the specific budget accounts funding the project (i.e., One Cent Sales Tax for Streets and Open Space, Water and Sewer Funds).

Attachments - Schedule of Fees

Recommended Action: (1) **MOVE** to award a contract to Ninyo & Moore for quality assurance testing services in an amount not to exceed \$80,000.00; and (2) **MOVE** to award a contract to Western Technologies for quality assurance testing services in an amount not to exceed \$80,000.00.

3001 South 35th Street, Suite 6, Phoenix, AZ 85034 • Phone 602/243-1600 • Fax 602/243-2699 • www.ninyoandmoore.com

Date: April 10, 2009

Project No: 601106001

To: City of Prescott
433 North Virginia Street
Prescott, Arizona 86302

Project Name: City of Prescott

Attention: Mr. Tim Burkeen

| We Transmit: | Via: | For Your: | The following: |
|---|--|--|--|
| <input checked="" type="checkbox"/> herewith | <input checked="" type="checkbox"/> mail | <input type="checkbox"/> use | <input type="checkbox"/> drawings |
| <input type="checkbox"/> under separate cover | <input type="checkbox"/> overnight mail | <input type="checkbox"/> review & comment | <input type="checkbox"/> show drawing/product data |
| <input type="checkbox"/> as requested | <input type="checkbox"/> messenger | <input type="checkbox"/> information | <input type="checkbox"/> specifications |
| | <input type="checkbox"/> facsimile | <input checked="" type="checkbox"/> record | <input type="checkbox"/> calculations |
| | <input type="checkbox"/> e-mail | <input type="checkbox"/> distribution | <input type="checkbox"/> subconsultant agreement |
| | | <input type="checkbox"/> approval/acceptance | <input type="checkbox"/> change order |
| | | <input type="checkbox"/> signature | <input type="checkbox"/> report |
| | | | <input checked="" type="checkbox"/> originals |
| | | | <input type="checkbox"/> copy of letter |
| | | | <input type="checkbox"/> diskettes <input type="checkbox"/> zip disk <input type="checkbox"/> CD |

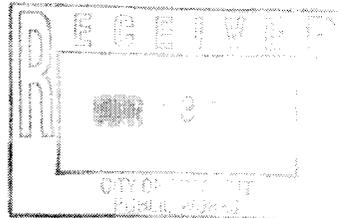
| Description | Action |
|--|-----------|
| <input type="checkbox"/> 2009 Schedule of Fees | No Action |
| | No Action |

Dear Mr. Burkeen,

Submitted herewith is the 2009 City of Prescott Schedule of Fees for Quality Assurance and Compliance Testing for Capital Improvement Project in Prescott, Arizona.

Thank You,

J. Zachary Wright
Project Geologist
Ninyo & Moore
3001 South 35th Street
Phoenix, Arizona 85034
Phone (602) 243-1600
Fax (602) 243-2699



- Geotechnical Engineering
- Engineering Geology
- Materials Testing and Inspection
- Construction Management
- Engineering Design
- Environmental Engineering
- Environmental Site Assessments
- Regulatory Compliance and Permitting
- Water Quality and Resource Evaluations
- Hazardous Waste Management
- Soil and Groundwater Remediation
- Asbestos and Lead-Based Paint Surveys
- Geophysical Studies
- Mineral Resource Evaluations
- Value Engineering
- Forensic Studies
- Expert Witness Testimony

April 10, 2009
Project No. 601106001

Mr. Tim Burkeen
Capital Program Manager
City of Prescott
Public Works Department
433 North Virginia Street
Prescott, Arizona 86302

Subject: 2009 Schedule of Fees
Quality Assurance and Compliance Testing for Capital Improvement Projects
Prescott, Arizona

Dear Mr. Burkeen:

Thank you for selecting Ninyo & Moore to perform for the Quality Assurance and Compliance Testing on Capital Improvement Projects for the City of Prescott. We look forward to the opportunity to continue our mutually beneficial relationship for years to come. We commit to continue to provide excellent service with the attention to detail that the City has become accustomed to from Ninyo & Moore. We propose to use the same schedule of fees that exists in our 2008 contract for the upcoming 2009-contract term. You will find a copy of the current contract fee schedule attached to this letter. We also propose to bill the projects in the same manner as last year.

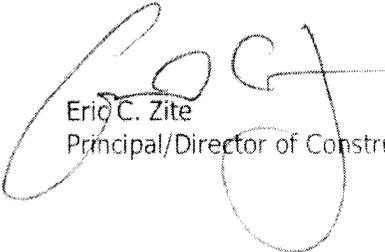
We appreciate the opportunity and look forward to working with you. We are available to schedule a meeting to discuss the contract details at your convenience. Please call us if you have any questions at (602) 243-1600.

Sincerely,
NINYO & MOORE



J. Zachary Wright
Project Geologist
ECR/JZW/EZ/ttn

Attachments: Schedule of Fees
Distribution (1) Addressee



Eric C. Zite
Principal/Director of Construction Services

**CITY OF PRESCOTT
2009 SCHEDULE OF FEES**

HOURLY CHARGES FOR PERSONNEL

| | |
|--|--------|
| Principal Engineer/Geologist/Environmental Scientist..... | \$ 130 |
| Senior Engineer/Geologist/Environmental Scientist..... | \$ 115 |
| Senior Project Engineer/Geologist/Environmental Scientist..... | \$ 104 |
| Project Engineer/Geologist/Environmental Scientist..... | \$ 98 |
| Senior Staff Engineer/Geologist/Environmental Scientist..... | \$ 94 |
| GIS Analyst..... | \$ 85 |
| Staff Engineer/Geologist/Environmental Scientist..... | \$ 85 |
| Field Operations Manager..... | \$ 80 |
| Supervisory Technician..... | \$ 60 |
| Senior Field/Laboratory Technician..... | \$ 50 |
| Field/Laboratory Technician..... | \$ 50 |
| Technical Illustrator/CAD Operator..... | \$ 50 |
| Geotechnical/Environmental/Laboratory Assistant..... | \$ 50 |
| Information Specialist..... | \$ 32 |
| Data Processing, Technical Editing, or Reproduction..... | \$ 32 |

OTHER CHARGES

| | |
|---|---------------|
| Expert Witness Testimony..... | \$ 320/hr |
| Coring Machine Usage (includes technician)..... | \$ 125/hr |
| Vapor Emission Kits..... | \$ 32/kit |
| Field Vehicle Usage..... | \$ 40/day |
| Direct Project Expenses..... | Cost plus 15% |
| Laboratory testing, geophysical equipment, and other special equipment provided upon request. | |

NOTES

- For field and laboratory technicians and special inspectors, overtime rates at 1.5 times the regular rates will be charged for work performed in excess of 8 hours in one day Monday through Friday and all day on Saturday and Sunday.
- Rates at twice the regular rates will be charged for all work in excess of 12 hours in one day and all day on holidays.
- Lead-time for any requested service is 24 hours.
- Special Inspector and Field Technician rates are based on a 2-hour minimum charge.
- The given rates do not apply to projects that are subject to Davis Bacon/prevaling wage provisions.

INVOICES

Invoices will be rendered monthly unless otherwise arranged, and are payable upon receipt. A service charge of 1.5 percent per month may be charged on accounts not paid within 30 days. Attorney fees or other costs incurred in collecting delinquent accounts will be paid by the client.

SCHEDULE OF FEES FOR LABORATORY TESTING
Laboratory Test, Test Designation, and Price Per Test

| | | | |
|--|----------|--|-----------|
| Soils | | Flexural Test, C 78..... | \$ 30.00 |
| Atterberg Limits, D 4318, T 89, T 90..... | \$ 50.00 | Flexural Test, C 293..... | \$ 90.00 |
| Atterberg Limits, D 4318, T 89, T 90 (wet prep)..... | \$ 85.00 | Gunitite/Shotcrete, Panels, 3 cut cores per panel and test, ACI..... | \$ 200.00 |
| California Bearing Ratio (CBR), D 1883..... | \$350.00 | Jobsite Testing Laboratory..... | Quote |
| Chloride and Sulfate Content, ARIZ 733, 736..... | \$100.00 | Lightweight Concrete Fill, Compression, C 495..... | \$ 45.00 |
| Consolidation, (with time rate) D 2435, T 216..... | \$250.00 | Petrographic Analysis, C 856..... | Quote |
| Consolidation, Full Cycle (with out time rate) D 2435..... | \$175.00 | Splitting Tensile Strength, C 496..... | \$ 75.00 |
| Consolidation, Hydro (response to wetting) D 2435..... | \$ 80.00 | Reinforcing and Structural Steel | |
| Remolded Swell (swell potential) D 4546..... | \$ 95.00 | Fireproofing Density Test, UBC 7-6..... | \$ 50.00 |
| Direct Shear – Undisturbed (three points), D 3080, T 236..... | \$250.00 | Hardness Test, Rockwell, A-370..... | \$ 45.00 |
| Direct Shear – Remolded (three points), D 3080, T 236..... | \$300.00 | High Strength Bolt, Nut & Washer Conformance, set, A-32..... | \$ 130.00 |
| Expansion Index, D 4829, UBC 18-2..... | \$120.00 | Mechanically Spliced Reinforcing Tensile Test, ACI..... | \$ 85.00 |
| Hydraulic Conductivity, D 5084..... | \$300.00 | Pre-Stress Strand (7 wire), A 416..... | \$ 130.00 |
| Hydrometer Analysis, D 422, T 88..... | \$140.00 | Chemical Analysis, A-36, A-615..... | \$ 130.00 |
| Double Hydrometer Analysis, D 422, T 88..... | \$270.00 | Reinforcing Tensile or Bend up to No. 11, A 615 & A 706..... | \$ 50.00 |
| Maximum Density, D 696..... | \$115.00 | Structural Steel Tensile Test: Up to 200,000 lbs. (machining extra), A 370..... | \$ 65.00 |
| Maximum Density, D 1557..... | \$125.00 | Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI..... | \$ 65.00 |
| Moisture, Ash, & Organic Matter of Peat/Organic Soils..... | \$ 90.00 | Asphalt Concrete | |
| Moisture Only, D 2216, T 265..... | \$ 20.00 | Asphalt Mix Design Review, Job Spec..... | \$ 300.00 |
| Moisture and Density, D 2937..... | \$ 35.00 | Asphalt Content/Gradation (Ignition Oven), T308, D6307..... | \$ 165.00 |
| Permeability, CH, D 2434, T 215..... | \$220.00 | Marshall Stability, Flow and Unit Weight, T-245..... | \$ 165.00 |
| pH and Resistivity, ARIZ 236 b..... | \$105.00 | Marshall and Unit Weight T-245..... | \$ 110.00 |
| R-value, D 2844, T 190..... | \$250.00 | Maximum Theoretical Unit Weight (Rice), D 2041..... | \$ 70.00 |
| Sand Equivalent, D 2419, T 176..... | \$ 65.00 | Bulk Specific Gravity per specimen (non-absorptive), D 2726..... | \$ 25.00 |
| Sieve Analysis, D 422, (includes 200 wash)..... | \$ 70.00 | Bulk Specific Gravity per specimen (coated), D 1188..... | \$ 45.00 |
| 200 Wash, D 1140..... | \$ 80.00 | Aggregates | |
| Triaxial Shear, U.U., D 2850, per point..... | \$125.00 | Absorption, Fine, C 128..... | \$ 80.00 |
| Triaxial Shear, C.U., w/ pore press D 4767, T297 per point..... | \$300.00 | Clay Lumps and Friable Particles, C 142..... | \$ 100.00 |
| Triaxial Shear, C.U., w/o pore press, D 4767, T297, per point..... | \$175.00 | Fractured Face ARIZ 212E..... | \$ 55.00 |
| Triaxial Shear, C.D., D 4767, T297 per point..... | \$300.00 | Los Angeles Abrasion, C 131 or C 535..... | \$ 175.00 |
| Triaxial Shear, multistage – 3 points for cost of 2..... | | Mortar making properties of fine aggregate, C 87..... | \$ 300.00 |
| Specific Gravity, D 854..... | \$ 80.00 | Organic Impurities, C 40..... | \$ 55.00 |
| Unconfined Compression, D 2166, T 208..... | \$160.00 | Potential Reactivity of Aggregate (Chemical Method), C 289..... | Quote |
| Masonry | | Sand Equivalent, T 176..... | \$ 90.00 |
| Concrete Block Compression Test, 8x8x16, C 140..... | \$ 55.00 | Sieve Analysis, Coarse or Fine Aggregate, C 136..... | \$ 50.00 |
| Cores, Compression or Shear Bond..... | \$ 35.00 | Sieve Analysis, Coarse & Fine Aggregate, C 136..... | \$ 70.00 |
| Masonry Grout, 3x3x6 prism compression, UBC 21-18..... | \$ 15.00 | Sodium Sulfate Soundness (per size fraction), C 88..... | \$ 250.00 |
| Masonry Mortar, 2x4 cylinder compression, UBC 21-16..... | \$ 15.00 | Specific Gravity & Absorption, Coarse, C 127..... | \$ 55.00 |
| Masonry Prism, half size, compression, UBC 21-17..... | \$105.00 | Specific Gravity & Absorption, Fine, C 128..... | \$ 55.00 |
| Concrete | | Unit Weight C29, T19..... | \$ 50.00 |
| Compression Tests, 6 x 12, 4 x 8 Cylinder, C 39..... | \$ 15.00 | | |
| Concrete Mix Design Review, Job Spec..... | \$130.00 | | |
| Concrete Mix Design, per Trial Batch, 6 cylinder, ACI..... | \$650.00 | | |
| Concrete Cores, Compression (excludes sampling), C 42..... | \$ 35.00 | | |
| Drying Shrinkage, C 157..... | \$300.00 | | |

Special preparation of standard test specimens will be charged at the technician's hourly rate.

Ninyo & Moore is accredited to perform the AASHTO and ADOT equivalent of many ASTM test procedures.



**Western
Technologies
Inc.**

The Quality People
since 1955

2400 East Huntington Drive
Flagstaff, Arizona 86104
(928) 774-8700 • fax (928) 774-6469

April 14, 2009

City of Prescott
201 South Cortez Street
Prescott, Arizona 86303

Attn: Mr. Craig Taylor

Re: Calendar Year 2009
Quality Assurance and Compliance Testing
Various Capital Improvement Projects
Prescott, Arizona

WT Ref. No. 2549P061

Western Technologies Inc. is pleased to present the attached proposal consisting of typical scope of services and unit rate fee schedule for providing materials engineering services for the referenced project.

It is our understanding that the specific scope and quantity of services will depend upon the requirements of the particular projects for which we are selected.

We look forward to working with you. If you should have any questions, please feel free to call our Prescott Office at (928) 443-5010 or our Flagstaff Office at (928) 774-8700.

Respectfully submitted,
WESTERN TECHNOLOGIES INC.
Materials Engineering Services


Brian Swick
Project Manager


John Hahle
Managing Director

EXHIBIT A
MATERIAL TESTING SERVICES FEE SCHEDULE
 Ref. No. 2549P061

PERSONNEL AND EQUIPMENT:

| | |
|--|-------------|
| Engineering Technician | 55.00/hour |
| Inspector | 75.00/hour |
| Project Manager | 85.00/hour |
| Project Engineer /Principal | 125.00/hour |
| Special Equipment (coring, blast monitor, ultrasonic, bolt tension device) | 95.00/day |

LABORATORY TESTING SERVICES:

Soils and Aggregates:

| | |
|---|---------------|
| Sieve Analysis | \$ 75.00/each |
| Moisture Density Relations, ASTM D698 (standard proctor) | 125.00/each |
| Moisture Density Relations, ASTM D1557 (modified proctor) | 150.00/each |
| 1-Point Proctor | \$60.00/each |
| Specific Gravity & Absorption (+#4) | 65.00/each |
| Specific Gravity & Absorption (-#4) | 75.00/each |
| Plasticity Index (dry prep.) | 55.00/each |
| Plasticity Index (wet prep.) | 95.00/each |
| LA Abrasion (500 Rev.) | 150.00/each |
| Sand Equivalent (set of 3) | 85.00/each |
| Remolded Swell | 150.00/each |
| ASTMD4972, pH of Soils | 40.00/each |
| AASHTOT288, Minimum Resistivity | 95.00/each |
| pH and Resistivity | 135.00/each |

Asphaltic Concrete:

| | |
|--|----------------|
| Asphalt Content by Nuclear Gauge or Ignition Oven | \$ 100.00/each |
| MA Gradation, Cold Feed or Ignition Sample | 75.00/each |
| Calibration of Nuclear Asphalt Content Gauge or Ignition Oven (per mix design) | 350.00/each |
| Unit Weight & Thickness of Drilled AC | 30.00/each |
| Maximum Specific Gravity (Rice) | 130.00/each |
| Marshall Density, Set of 3 Specimens | 110.00/each |
| Marshall Density with Stability & Flow, Set of 3 Specimens | 160.00/each |

Portland Cement Concrete:

| | |
|--|---------------|
| Compression Tests on Standard Concrete and Mortar (includes molds) | \$ 15.00/each |
| Compression Tests on Grout | 25.00/each |
| Compression Tests on Drilled Concrete Cores (includes trimming) | 40.00/each |
| Unit Weight of Hardened Concrete Cores | 25.00/each |

Explanation of Unit Rates and Fees

Overtime rates are 1.5 times regular rate for hours over eight hours per day, weekends, holidays, and for special calls after normal seasonal working hours.

All field personnel rates are portal-to-portal, with a 2 hour minimum charge.

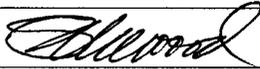
Fees will be billed on a time and materials basis at the unit rates contained herein. If services are requested which are not included here, the rates charged will be those of WT's Fee Schedule in effect at the time of the request. WT provides many other services not listed. Rates for these services will be provided upon request.



COUNCIL AGENDA MEMO – 05/05 & 05/12/09

DEPARTMENT: ADMINISTRATIVE SERVICES-FACILITIES

AGENDA ITEM: COUNCIL APPROVAL TO IMPROVE SECURITY AND ACCESS TO CITY HALL, TO INCLUDE UTILITY SERVICES, MAYOR & COUNCIL AND ADMINISTRATIVE OFFICES.

| | |
|--|--------------|
| Approved By: | Date: |
| Department Head: MIC FENECH | 04/29/09 |
| Finance Director: MARK WOODFILL | |
| City Manager: STEVE NORWOOD  | 04/30/09 |

BACKGROUND:

There have been numerous incidents of uninvited access throughout the administrative areas of City Hall. These incidents have become contentious, bordering on dangerous at times. Utility billing staff has been subjected to outbursts of anger, and assault. In fact, it is not uncommon for Police to be called to City Hall. The economy and the times we live in have undoubtedly added to the inherent danger of working in any government sector. Our Police Department's assessment of access and control in City Hall has pointed to a number of deficiencies that should be corrected as soon as possible. These deficiencies include but are not limited to unrestricted access through the gate door to administration, counters that may be breached due to low height, no significant barrier between utility billing staff and the public, and insufficient video monitoring of activities and the public entering and exiting City Hall, particularly around utility billing. Attached is a short narrative of recent public outbursts. The total of Police Department's recommendations would be too costly at this time. However, we have included the most necessary items to install immediately.

FINANCIAL:

The 2009 budget identified improvements to City Hall security and budgeted \$193,000 for security and space improvements of which \$125,000 was to be funded through a Homeland Security grant. Although the grant failed, staff has identified the remaining \$68,000 as being sufficient to significantly improve the restricting of access to the administrative areas, raising the barriers of the counters by installing glass partitions, reworking the ingress/egress points with secure doors to further limit unrestricted access as well as meet fire exit codes, install added video capabilities, and rework the counters to provide more access to the public for service issues. The estimated cost for these improvements is approximately \$60,000, including some security measures not listed here for security's sake. This will make significant improvements for employee safety and security without incurring other major expense for mechanical systems.

Agenda Item: COUNCIL APPROVAL TO IMPROVE SECURITY AND ACCESS TO CITY HALL, TO INCLUDE UTILITY SERVICES, MAYOR & COUNCIL AND ADMINISTRATIVE OFFICES

CONSTRUCTION:

Facilities staff will work with local vendors where possible and available for demolition, construction and installation of the various elements of this project. Although no one vendor's procurement will approach \$20,000, staff wanted to ensure Council's approval, understanding and need of this project.

Recommended Action: MOVE to approve the construction of security and access measures to City Hall not to exceed \$68,000.

The City of Prescott has over 22,000 utility customers. We are getting more and more phone calls from customers who are complaining about the rates, the amount of water they used, the paperwork they have to fill out, etc. These customers are not using profanity, but they are letting us know they are angry and frustrated. There are other customers who are aggressive and hostile in their tone and actions towards the cashiers. There is another group of customers who are using profanity directed at the city and even personally at the cashiers. In the last three weeks we have had at least 15 upset customers who have been openly hostile and used profanity towards our Cashiers.

Here are examples of the more disturbing incidents that have occurred over the last several months:

A customer was argumentative and threatening because he did not have a trash can at his house. He was very sarcastic with his comment regarding the City and as he was leaving he turned around and shouted a vile profanity personally directed at the Cashier.

This lady was upset that we shut her water off and she stated we don't know the power she has. If she calls Samantha, she could have us all killed. We told her she shouldn't say things like that and her response was that "Well, I can, if I called, bam, you would all be gone" and then she said that "all checks on Friday are cancelled."

Another lady was upset that her address hadn't been changed, even though she had not requested that we change it. After we resolved this issue for her she demanded that we fax several documents, which were unrelated to City business, for her. We had several customers waiting so she was told that this wasn't a service we provided at which point she became more belligerent and started yelling, stating that we "hadn't heard the last of her."

A customer was upset because his payment wasn't credited to his account and he was upset because the bank and lockbox company were taking too long in researching the payment. He came in and leaned over the counter and in a low voice told the cashier that he owned a wrecking company and he would come and tear the building down. The cashier tried to make a joke out of it but he said, "You don't understand, I am an 80 year old man with nothing to lose."

A customer who was shut off for non-pay came through the drive-thru, used vile profanity, spit on the window and squealed his tires. This time poetic justice prevailed as Lt. Reinhart happened to be walking towards city hall and stopped him and cited him.

Another customer who was shut off for non-pay after yelling at the Cashiers turned and left the building pushing the door so hard it slammed against the wall almost breaking the glass.

Although this is not unusual at the city, it is increasing and with violence increasing around the country, we feel we need to be proactive in protecting our employees.

COUNCIL AGENDA MEMO – 05/05 & 05/12/09

III-L

DEPARTMENT: City Clerk

AGENDA ITEM: Adoption of Resolution No. 3957-0963 repealing Resolution No. 3927-0933 and adopting new Rules of Procedure for the Prescott City Council to allow for an amendment thereto.

Approved By:

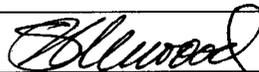
Date:

Department Head: Elizabeth A. Burke, City Clerk

04/30/09

Finance Director: Mark Woodfill

City Manager: Steve Norwood



04/30/09

Summary

Resolution No. 3957-0963, attached, repeals Resolution No. 3927-0933 which adopted new Rules of Procedures for the Prescott City Council, and adopts new Rules of Procedures.

Background

At a recent Council meeting, after a member of the public that had been placed on the agenda under Public Comment did not show up for the second time, Council directed staff to bring back an amendment to the Rules of Procedure to limit that individual from requesting to place another item on an agenda for a period of six months.

The attached resolution includes that amendment as indicated under Rule 4A. In order to keep a clean copy of the Rules of Procedure available at all times, staff recommends repealing the old Rules and adopting the attached new Rules as one complete document.

Recommended Action: MOVE to adopt Resolution No. 3957-0963.

RESOLUTION NO. 3957-0963

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, REPEALING RESOLUTION NUMBER 3927-0933 AND ADOPTING NEW RULES OF PROCEDURE FOR THE PRESCOTT CITY COUNCIL

RECITALS:

WHEREAS, Resolution Number 3927-0933, adopted December 16, 2008, repealed prior resolutions and adopted new Rules of Procedure for the Prescott City Council; and

WHEREAS, the Prescott City Council wishes to adopt amendments to said Rules of Procedure for the Prescott City Council.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, Resolution Number 3927-0933 is hereby repealed.

SECTION 2. THAT, Exhibit A, attached hereto and made a part hereof, shall be the new Rules of Procedure for the Prescott City Council.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 12th day of May, 2009.

JACK D WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A BURKE, City Clerk

GARY D KIDD, City Attorney

EXHIBIT 'A'

RULES OF PROCEDURE

for the

PRESCOTT CITY COUNCIL



MAY 2009

RULES OF PROCEDURE FOR THE PRESCOTT CITY COUNCIL

RULE 1 GENERAL RULES

- A. Rules of Journal (Article II, Section 15, City Charter): The Council shall determine its own rules and order of business subject to the provisions of this Charter. It shall keep a journal of its proceedings and the journal shall be open to public inspection during regular office hours.
- B. Written Rules of Procedure: The rules of procedure of the Council shall be in writing and be available to all interested citizens.
- C. Rules of Parliamentary Practice: The rules of parliamentary practice, comprised in Robert's Rules of Order, latest edition, shall govern the Council in all cases to which they are applicable, provided they are not in conflict with these rules or with the Charter of the City of Prescott.

RULE 2 COUNCIL CODE OF ETHICS

City Council members and officials occupy positions of public trust. Council members and all City officials shall strictly adhere to both the spirit and the letter of the laws of the State of Arizona pertaining to conflicts of interest.

In addition to matters of pecuniary interest, Council members shall refrain from making use of special knowledge or information before it is made available to the general public; shall refrain from violation of Council rules; shall refrain from appointing immediate family members, business associates, or employees to municipal boards and commissions; shall refrain from influencing the employment of municipal employees; and shall refrain from using their influence as members of the governing body in attempts to secure contracts, zoning, or other favorable municipal action for friends, immediate family members, or business associates.

RULE 3 CITY OFFICIALS

- A. City Manager, City Clerk, City Treasurer and City Attorney: The City Manager, Clerk, Treasurer and Attorney shall perform their respective duties as set forth in the Charter of the City of Prescott. Whenever there may be any questions concerning the interpretation of the powers and duties of the aforementioned City officials as enumerated in the City Charter, the City Council shall be the final arbitrator of any such dispute and, by a majority vote of its members, shall settle any such issue as a matter of Council policy.

- B. Chief of Police: The Chief of Police or such members of the Police Department as he may designate, shall be Sergeant-at-Arms of the Council meetings.
- C. Officials and Employees to Attend: The head of any department, or officer or employee of the City, when requested by the Council or City Manager, shall attend any regular, adjourned or special meeting and confer with the Council on all matters relating to City business.

RULE 4 COUNCIL MEETINGS

- A. Regular and Special Meetings: The City Council shall hold regular and special meetings according to the provisions of the City Charter. Council meetings shall be conducted in accordance with the procedures set forth in these rules unless a motion to suspend the rules (as hereinafter provided) is first passed by the Council. Regular meetings of the Council shall begin at 3:00 P.M. on the second and fourth Tuesday of each month, unless a different day or time is determined by a majority of the Council.

At regular meetings of the Council, members of the public may be permitted to speak on an item not otherwise listed on the agenda, if they have requested to do so by giving notice to the City Clerk of their name, address, phone number, and topic. Said notice is to be given no later than 5:00 p.m. on the Wednesday preceding the regular meeting at which time has been confirmed to be available; and the member of the public and their topic shall appear on the regular meeting agenda. In this event, members of the public shall be permitted to speak for a period not to exceed five (5) minutes provided, however, that a member of the public may not speak on the same topic more frequently than at a six-month interval. Copies of all documents and/or other materials proposed to be exhibited by a member of the public for an item not otherwise listed on the agenda shall be provided to the City Clerk by said deadline. Exhibition of any documents and/or other materials deemed to be offensive or otherwise inappropriate shall not be permitted.

In the event that twice in any six-month period a member of the public who has been placed on the agenda for Public Comment does not appear or notify the City Clerk's Office of their inability to appear prior to the meeting, said individual shall not be entitled to request placement of an item on the agenda under Public Comment for a period of six months from the second occurrence of failure to appear or notify the City Clerk's Office.

- B. Executive Sessions: The Council may meet in executive session in accordance with the procedures and purposes set forth in State law and not otherwise.
- C. Study Sessions: Study sessions are public meetings of the Council for the purposes of briefing Council members on the items included on the regular meeting agenda. The rules of procedure shall be:
1. The Council shall meet in study session at 3:00 P.M. on the first and third Tuesday of each month, unless a different day or time is determined by a majority vote of the Council.

2. The study session shall be devoted primarily to any matters regarding which the interchange of information preliminary to public discussion is deemed to be essential.
 3. No formal vote shall be taken on any matter under discussion nor shall any Council member enter into a commitment with another respecting a vote to be taken subsequently in a public meeting of the Council provided that nothing herein shall prevent a polling of the Council or the taking of an informal consensus on any matter under discussion.
 4. At study sessions, members of the public shall be permitted to speak with permission of the Chair, when invited to do so by the Council, or when they have information pertinent to the issue under discussion, for a period not to exceed five (5) minutes.
- D. Scheduling Agenda Items. The Mayor may place any item on an agenda for consideration or discussion by the Council. Any two (2) councilmen may place an item on an agenda for consideration or discussion by the Council
- E. Withdrawing Agenda Items. When an item is initially placed on an agenda, it may only be withdrawn by the individual (Mayor or Councilmembers) who placed that item on the agenda.

RULE 5 PRESIDING OFFICER

The Mayor or, in his absence, the Mayor Pro Tempore, shall take the chair at the hour appointed for the Council to meet and shall immediately call the members to order. In the case of absence of both the Mayor and the Mayor Pro Tempore, the City Clerk shall call the Council to order. If a quorum is found to be present, the Council shall proceed to elect, by a majority vote of those present, a chairman of the meeting.

RULE 6 CONDUCT OF MEETINGS

The presiding officer shall serve as Council Parliamentarian. He shall preserve decorum and decide all questions of order, subject to appeal to the Council.

- A. During Council meetings, Council members shall preserve order and decorum and shall not delay or interrupt the proceedings or refuse to obey the orders of the presiding officer or the rules of the Council. Every Council member desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine himself to the question under debate and shall avoid all offensive or indecorous language. A Council member once recognized shall not be interrupted while speaking unless called to order by the presiding officer or unless a point of order or other privileged motion is raised by another Council member. If a Council member is called to order while he is speaking, he shall cease speaking immediately until the question of order is determined. If ruled to be in order, he shall be permitted to proceed. If ruled not to be in order, he shall remain silent or shall alter his remarks so as to comply with the rules of the Council. A Council member, with permission of the

presiding officer, may address questions to the City Manager or staff or members of the audience, but he shall confine his questions to the particular issue before the Council. If a point of order is raised and the presiding officer fails to act, any member of the Council may move to require him to enforce the rules and the affirmative vote of the majority of the Council shall be required to require the presiding officer to act.

- B. The presiding officer shall have the authority to preserve decorum in meetings as far as the audience, staff members, and City employees are concerned. The City Manager shall also be responsible for the orderly conduct and decorum of all City employees under his direction and control. Any remarks shall be addressed to the Chair and to any or all members of the Council. No member of the staff or audience shall enter into any discussion, either directly or indirectly, without first having obtained the floor by permission of the presiding officer,
- C. Citizens of the City and any other members of the public attending Council meetings shall also observe the same rules of propriety, decorum and good conduct applicable to members of the Council. Any person making personal, impertinent, and slanderous remarks or who becomes boisterous while addressing the Council, or while attending the Council meeting, shall be removed from the room if the Sergeant-at-Arms is so directed by the presiding officer, and such person shall be barred from further attendance at that particular Council meeting. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the presiding officer, who shall direct the Sergeant-at-Arms to remove such offenders from the room.

Should the presiding officer fail to act, any member of the Council may move to require him to enforce the rules, and the affirmative vote of the majority of the Council shall require the presiding officer to act.

Any member of the public desiring to address the Council must first be recognized by the Chair, shall state his name and address in an audible tone for the record, and shall limit his remarks to the question under discussion. Any remarks shall be addressed to the Chair and to any members of the Council.

RULE 7 RIGHT OF APPEAL

Any Council member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state his reason for the same, and the presiding officer may briefly explain his ruling, but there shall be no debate on the appeal, and no other member shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the Chair be sustained?" If the majority of the members present vote "Aye", the ruling of the Chair is sustained, otherwise it is overruled.

RULE 8 LIMITATION OF DEBATE

No member of the Council or public shall be allowed to speak more than once upon any one subject until all the Council members have had an opportunity to speak. No member of the Council or of the public shall be allowed to speak for a period longer than five minutes, without

the leave of the presiding officer. Citizens groups shall identify themselves and shall be represented in presentation to the Council by one of the members of the group and cumulative or redundant speeches to the Council on the same issue shall be terminated at the discretion of the presiding officer.

RULE 9 VOTING

The vote on any question shall be taken by Ayes and Nays to be electronically tabulated, and the results thereof shall be disclosed simultaneously. In the event that the vote is unable to be electronically recorded, there shall be a roll call vote. It shall be out of order for members to explain their vote during the voting process. There shall be no additional debate or speaking after the vote is taken.

RULE 10 MOTIONS TO BE STATED BY CHAIR

When a motion is made and seconded, it shall be so stated by the Chair or, at his direction, by the City Clerk, before debate commences.

RULE 11 CITY COUNCIL AGENDA FORMAT

NORMAL BUSINESS

- I. CALL TO ORDER
- II. INTRODUCTIONS
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE
- V. ROLL CALL
- VI. SUMMARY OF CURRENT OR RECENT EVENTS BY PRESIDING OFFICER AND/OR CITY MANAGER
- VII. APPROVAL OF MINUTES
- VIII. CANVASS ELECTION RETURNS, SPECIAL AWARD PRESENTATIONS, SPECIAL GUESTS, RESOLUTIONS OR COMMENDATION, PROCLAMATIONS, ETC.

AGENDA ITEMS

- I. CONSENT AGENDA
- II. PUBLIC HEARINGS
- III. PUBLIC (10-minute time limit)
- IV. COMMUNICATIONS AND/OR PETITIONS
- V. MAYOR AND COUNCIL ITEMS
- VI. CITY MANAGER ITEMS
- VII. SCHEDULED AGENDA BUSINESS
- VIII. RESOLUTIONS
- IX. ORDINANCES
- X. ADJOURNMENT

Council Agenda formats are considered to be general guidelines for the published agenda. The Mayor is hereby authorized to deviate from the arrangement as set forth therein, or to delete a specific category from a particular agenda, at his or her discretion.

RULE 12

MOTION TO ADJOURN – WHEN NOT IN ORDER – NOT DEBATABLE

A motion to adjourn shall be in order at any time, except as follows: (A) When repeated without intervening business or discussion; (B) When made as an interruption of a member while speaking; (C) When the previous question has been ordered; and (D) While a vote is being taken. A motion to adjourn is debatable only as to the time to which the meeting is adjourned.

RULE 13

CONSIDERATION OF PETITIONS

Only those petitions submitted in writing at a regular Council meeting by a citizen of the City shall require Council action within thirty (30) days thereafter. (Article II, Section 18, City Charter).

All other petitions submitted to the Mayor and/or Council members or other agencies of the City in the regular course of business, shall be considered in accordance with the laws of the State of Arizona, the City Charter or the City Code of the City of Prescott. (Examples: Annexation, improvement district, protests, elections, etc.)

Unsigned communications or petitions, including newspaper articles or clippings, shall not be introduced in the minutes of Council meetings.

RULE 14

MOTION TO SUSPEND THE RULES

A motion to suspend the rules set forth herein shall be in order unless it pertains to rules mandated by the Charter of the City of Prescott or the laws of the State of Arizona. A motion to suspend the rules must be seconded, it is not debatable (except that the reason for the motion may be briefly explained by the mover) and requires at least a two-thirds vote of the members of the Council present at the meeting.

III-M

COUNCIL AGENDA MEMO – 05/05 & 05/12/09

DEPARTMENT: Water Resource Management

AGENDA ITEM: Approval of a resolution authorizing the use of the Water Smart logo by the Upper Verde River Watershed Protection Coalition

Approved By:

Date:

Department Head: James Holt

05/04/09

Deputy City Manager: Craig McConnell

City Manager: Steve Norwood

SNorwood

05/04/09



Item Summary

Approval of this resolution would support the Upper Verde River Watershed Protection Coalition's (UVRWPC) use of the Water Smart logo (above) in its printed and electronic educational materials related to the efficient use and conservation of water throughout the members' planning boundaries. UVRWPC members are: Yavapai County, City of Prescott, Town of Prescott Valley, Town of Chino Valley, Town of Dewey-Humboldt, and the Yavapai-Prescott Indian Tribe.

Background

The City of Prescott is the only local government in this area currently authorized by Sage Consulting, owner of the copyrighted logo, to use the Water Smart logo on its water conservation cards and products. The logo is well recognized and has received significant consumer support. The UVRWPC wishes to purchase the right to use the Water Smart logo for use on water conservation materials they intend to distribute throughout their planning areas.

The proposed Copyright License Agreement (attached) between Sage Consulting and members of the UVRWPC is being presented to all members' governing bodies for approval.

Financial Impact

The right to use the Water Smart logo will be purchased by the UVRWPC. A portion of the cost will be supplemented with a regional grant from the Bureau of Reclamation.

Attachments

Exhibit "A" - Copyright License Agreement
Resolution No. 3958-0964

Recommended Action: MOVE to adopt Resolution No. 3958-0964.

COPYRIGHT LICENSE AGREEMENT

THIS AGREEMENT, entered into this 26 day of Nov., 2008, by and between Melody Reifsnnyder, d/b/a Sage Consulting (**Licensor**) and Yavapai County, The Yavapai-Prescott Indian Tribe, the City of Prescott, the Town of Prescott Valley, the Town of Chino Valley, and the Town of Dewey-Humboldt under that certain Intergovernmental Agreement forming the Upper Verde River Watershed Protection Coalition, (**Licensee**);

WITNESSETH:

WHEREAS, **Licensee**, through an Intergovernmental Agreement recorded on May 23, 2007, with the Yavapai County Recorder at #B-4509 P-87 (IGA), was formed to ensure adequate water resources for residents in the incorporated and unincorporated areas of the Upper Verde River Watershed Area while protecting the Watershed Area through collaborative efforts on a regional basis; and

WHEREAS, **Licensor** owns the copyright, title, trademarks and all other related rights in and to the "Water Smart Logo" (Logo) and the "Water Smart Cards" (Cards) which have been designed to encourage the public to use water resources wisely; and

WHEREAS, the Logo was first published on 6/28/06 and was registered with the U.S. Copyright Office effective 6/07/06; and

WHEREAS, the City of Prescott has previously found the Logo and Cards to be useful tools in its efforts to conserve water resources, and the Logo and Cards are widely recognized by the public as symbols of wise water use; and

WHEREAS, **Licensee** desires to include the Logo and Cards in its efforts carry on collaborative efforts on a regional basis to conserve water and thus protect the Watershed Area; and

WHEREAS, **Licensor** has agreed to provide **Licensee** with the right to incorporate the Logo into its printed and electronic materials related to water usage and service (including similar use by each of the entities which formed **Licensee** under the IGA); and

WHEREAS, **Licensor** has further agreed to allow **Licensee** the additional right to determine the basis of use of the Logo and Cards by any other entities located within Yavapai County;

NOW, THEREFORE, in consideration of the promises, conditions, covenants and warranties herein contained, the parties agree as follows:

1. Non-Exclusive Rights Granted. **Licensor** hereby grants to **Licensee**, its successors and assigns (including the entities which have formed **Licensee** under the IGA), a non-exclusive right, license and privilege to:

a. incorporate the Logo into all printed and electronic materials related to water usage and service by **Licensee** (including the entities which have formed **Licensee** under the IGA), including (but expressly not limited to) all activities relating to advertising, publicizing, marketing and distribution of public information; and

b. use the Cards as set forth herein for all activities relating to advertising, publicizing, marketing and distribution of public information with regard to water usage and conservation (including, but expressly not limited to, modifying the Cards with regard to the water systems and programs of **Licensee** (including the entities which have formed **Licensee** under the IGA); and

2. Exclusive Rights Granted. **Licensor** hereby grants to **Licensee**, its successors and assigns (including the entities which have formed **Licensee** under the IGA), an exclusive right, license and privilege to:

a. establish conditions and procedures for use of the Logo and Cards by any other public or private entity located within Yavapai County on the date of this Agreement, during the term of the Agreement.

3. Licensor Warranties and Rights Retained.

a. **Licensor** warrants and represents that it owns all right, title and interest in and to the Logo and the Cards.

b. **Licensor** reserves unto itself all rights of every kind and nature except those specifically granted to **Licensee** herein.

4. Licensee's Rights and Obligations.

a. **Licensee** shall be solely responsible for providing all funding and technical expertise for the use of the Logo and the Cards as set forth herein, except that **Licensor** may provide certain additional edits to the Cards as requested by **Licensee** (including the entities which have formed **Licensee** under the IGA) at the rate of \$75/hour.

b. **Licensee** shall be the sole owner of the printed and electronic materials on which the Logo is placed (including the entities which have formed **Licensee** under the IGA), as well as the Cards developed and used by **Licensee** (including the entities which have formed **Licensee** under the IGA), with all proprietary rights thereto, except that such ownership shall not include ownership of the copyright in and to the Logo or the Cards not specifically granted in Sections 1 and 2 above.

5. Payments. For the rights granted herein by **Licensor**, **Licensee** shall pay to **Licensor** the following royalties as full compensation under the Agreement:

a. A fixed sum of **\$6,000.00** for use of the Logo during the term, paid within thirty (30) days after the recording of this Agreement in the Office of the Yavapai County Recorder; and

b. A one-time fee \$250 for each Card used by **Licensee** (and for each Card used by any entity which has formed **Licensee** under the IGA), payable at any time prior to the actual distribution or other use of the Card. The \$250 charge shall include placement of any organization logos and contact information on the Cards, as well as printer coordination. Additional edits to existing Cards are charged by **Licensor** at \$75/hour, payable within 30 days after invoice. New Cards or rewrites of existing Cards by **Licensor** at the requested of **Licensee** (including the entities which have formed **Licensee** under the IGA) are charged at \$750 per Card

(which includes photos and printer coordination), payable within 30 days after invoice. Payments for Cards used by individual entities which have formed **Licensee** shall be paid directly by said entities. All other payments shall be from **Licensee**.

6. Further Warranty and Indemnifications.

a. **Licensor** warrants and represents that it has the full right, power and authority to enter into this Agreement and to grant the rights granted herein; that it has not previously licensed the use of the Logo or the Cards to third parties within Yavapai County for purposes similar to those described herein; and that **Licensee's** inclusion and use of the Logo in printed and electronic materials (including the printed and electronic materials of the entities which have formed **Licensee** under the IGA) will not violate any rights of any kind or nature whatsoever of any third party. **Licensor** shall indemnify and hold harmless **Licensee**, its successors, assigns (including the entities which have formed **Licensee** under the IGA), their respective officers, directors, agents and employees, for, from and against any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' fee), arising out of or in any way connected with any breach of any representation or warranty made by **Licensor** herein.

b. **Licensee** (including the entities which have formed **Licensee** under the IGA) shall indemnify and hold harmless **Licensor**, its successors and assigns, for, from and against any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees), arising out of or in any way connected with any claim that use of the Logo and the Cards by **Licensee** (including the entities which have formed **Licensee** under the IGA) infringes any intellectual property rights or other rights of any third party, except to the extent such claim arises from a breach by **Licensor** of Section 6(a) above.

7. Term and Termination.

a. The term of this Agreement shall be thirty-five (35) years from the date of execution by both parties, unless terminated earlier pursuant to this section.

b. This Agreement shall be subject to termination at the election of **Licensor**, by written notice to **Licensee**, where there has been a default in the due observance or performance of any material covenant, condition or agreement herein by **Licensee** (including the entities which have formed **Licensee** under the IGA), and such default has continued for a period of 30 days after written notice specifying the same shall have been given to **Licensee**.

c. This Agreement shall be subject to termination at the election of **Licensee**, by written notice to **Licensor**, where there has been a default in the due observance or performance of any material covenant, condition or agreement herein by **Licensor** and such default has continued for a period of 30 days after written notice specifying the same shall have been given to **Licensor**.

d. Termination or expiration of this Agreement shall not extinguish any of **Licensee's** or **Licensor's** obligations under this Agreement (including, but not limited to, the obligation to pay royalties) which by their terms continue after the date of termination or expiration.

8. General Provisions.

a. **Successors/Assigns.** This Agreement is binding upon and shall inure to the benefit of the respective successors and/or assigns of the parties hereto.

b. Counterpart. This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

c. Integration. This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof, and may not be modified or amended except by written agreement executed by the parties hereto.

d. Governing Law: Forum. This Agreement shall be governed by the laws of the State of Arizona, applicable to agreements made and to be wholly performed therein.

e. Notice. The address of each party hereto as set forth below shall be the appropriate address for the mailing of notices, checks and statements, if any, hereunder. All notices shall be sent certified or registered mail and shall not be deemed received or effective unless and until actually received. Either party may change its mailing address by written notice to the other.

f. This Agreement is subject to the requirements of ARS §38-511 with regard to conflicts-of-interest.

IN WITNESS WHEREOF, the parties have caused this Copyright License Agreement to be executed the day and year set forth above.

Licensor: Melody Reifsnyder, d/b/a Sage
Consulting



Melody Reifsnyder
3039 N. Date Creek Drive
Prescott Valley, AZ 86314
928-778-6759, melody_reif@msn.com

**Licensee: Upper Verde River Watershed Protection
Coalition**

Yavapai County

Carol Springer, Board Chairman

ATTEST:

Julie Ayers, Clerk of the Board, Yavapai County

APPROVED AS TO FORM:

Dave Hunt, Board Attorney, Yavapai County

Yavapai-Prescott Indian Tribe

Ernest Jones, President

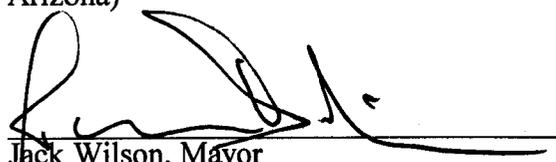
ATTEST:

Tribal Clerk

APPROVED AS TO FORM:

Tribal Attorney

City of Prescott (a municipal corporation of
Arizona)



Jack Wilson, Mayor

ATTEST:



Liz Burke, City of Prescott Clerk

APPROVED AS TO FORM:

Gary Kidd, City of Prescott Attorney

Town of Prescott Valley (a municipal corporation of
Arizona)

Harvey C. Skoog, Mayor
7501 E. Civic Circle
Prescott Valley, AZ 86314
928-759-3100

ATTEST:

Diane Russell, Town of Prescott Valley Clerk

APPROVED AS TO FORM:

Ivan Legler, Town of Prescott Valley Attorney

Town of Chino Valley (a municipal corporation of
Arizona)

Karen Fann, Mayor

ATTEST:

Jamie Lewis, Town of Chino Valley Clerk

APPROVED AS TO FORM:

Town of Chino Valley Attorney

Town of Dewey-Humboldt (a municipal corporation
of Arizona)

Earl Goodwin, Mayor

ATTEST:

Debbie Gifford, Town of Dewey-Humboldt Clerk

APPROVED AS TO FORM:

Town of Dewey-Humboldt Attorney

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| COUNCIL AGENDA MEMO – 05/05 & 05/12/09 | |
| DEPARTMENT: City Clerk | |
| AGENDA ITEM: Public Hearing and consideration of a liquor license application from Hai Liu, Applicant for Hong Kong Restaurant, for a Series 12, Restaurant, license for Hong Kong Restaurant located at 520 Miller Valley | |

| Approved By: | Date: |
|--|--------------|
| Department Head: Elizabeth A. Burke | 04/29/09 |
| Finance Director: Mark Woodfill | |
| City Manager: Steve Norwood <i>SNorwood</i> | 04/29/09 |

A Liquor License Application, City No. 09-140 State No. 12133440, has been received from Hai Liu, Applicant for Hong Kong Restaurant, for a Series 12, Restaurant, License for Hong Kong Restaurant located at 520 Miller Valley.

The public hearing will be held at the Regular Council Meeting of Tuesday, May 12, 2009. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have. This is a new application.

A copy of the application is available for Council's review in the City Clerk's Office.

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| Recommended Action: (1) MOVE to close the Public Hearing; and (2) MOVE to approve/deny State Liquor License Application No. 12133440 for a new Series 12, Restaurant, Liquor License for Hong Kong Restaurant located at 520 Miller Valley Road. |
|---|

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.
12. Proximity to licensed childcare facilities as defined by A.R.S. § 36-881.

Historical Note

Former Rule 2; Former Section R4-15-02 renumbered as Section R4-15-102 without change effective October 8, 1982 (Supp. 82-5). Repealed effective July 11, 1983 (Supp. 83-4). New Section adopted effective March 3, 1993 (Supp. 93-1). R19-1-102 recodified from R4-15-102 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5119, effective January 9, 2006 (Supp. 05-4).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp

**ARIZONA STATE LIQUOR LICENSES
TYPES / PURPOSES
AS OF 04/07**

License Types: Series 01 In-State Producer's License

Allows an in-state producer to produce or manufacture spirituous liquor and sell the product to a licensed wholesaler.

License Types: Series 02 Out-of-State Producer's License

Allows an out-of-state producer, exporter, importer or rectifier to ship spirituous liquor into the state to a licensed Arizona wholesaler.

License Types: Series 03 Domestic Microbrewery License

Allows the licensee of a microbrewery to manufacture or produce not less than 5,000 gallons of beer in each calendar year following the first year of operation and not more than 620,000 gallons of beer in a calendar year.

License Types: Series 04 Wholesaler's License

Allows a wholesaler to warehouse and distribute for sale, spirituous liquor to a licensed retailer.

License Types: Series 05 Government License

Allows the holder of a government license to sell and serve spirituous liquor solely for consumption on the premises for which the license is issued. The license is issued in the name of a county, city, town or state university whose governing body has authorized its use.

License Types: Series 06 Bar License – Transferable

Allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

License Types: Series 07 Beer and Wine Bar License - Transferable

Allows a beer and wine bar retailer to sell and serve beer and wine, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

License Types: Series 08 Conveyance License (Airplanes, Trains, and Boats)

Allows the owner or lessee of an operating airline, railroad or boat to sell all spirituous liquors in individual portions or in original containers for consumption *only* on the plane, train or boat.

License Types: Series 09 Liquor Store License (All spirituous liquors) - Transferable

Allows a spirituous liquor store retailer to sell all spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

License Types: Series 10 Beer and Wine Store License (Beer and wine only)

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.

License Types: Series 11 Hotel/Motel License (with Restaurant)

Allows the holder of a hotel/motel license to sell and serve spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

License Types: Series 12 Restaurant License

Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

License Types: Series 13 Domestic Farm Winery License

Allows a domestic farm winery licensee to manufacture or produce more than two hundred (200) gallons, but less than seventy-five thousand (75,000) gallons of wine annually, from grapes or other agricultural products, of which at least seventy-five percent (75%) are grown in this state.

License Types: Series 14 Club License

Allows the holder of a club license to sell and serve spirituous liquor for consumption only on the premises owned, leased or occupied by the club, and only to bona fide members of the club and their guests.

License Types: Series 15 Special Event License

Allows a charitable, civic, fraternal, political or religious organization to sell and serve spirituous liquor for consumption only on the premises where the spirituous liquor is sold, and only for the period authorized on the license. This is a temporary license.

Non-transferable License Types: Series 16 Wine Festival/Wine Fair License (Temporary)

1. Wine festival license: Allows a licensed domestic farm winery to serve samples of its products on the wine festival premises and the sale of such products in original containers for consumption off the wine festival premises.
2. Wine fair license: Allows a licensed domestic farm winery to serve samples of its products at a sanctioned county or state fair, and the sale of such products in original containers for consumption off the fair premises.

License Types: Series 17 Direct Shipment License

Allows an out-of-state producer, exporter, importer, or rectifier to take orders from retail customers by telephone, mail, catalog or the Internet. The orders must be shipped into the state to a licensed Arizona wholesaler. The wholesaler must sell the product to a licensed retailer. The retailer will deliver the spirituous liquor to the customer.

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| COUNCIL AGENDA MEMO – 05/05 & 05/12/09 |
| DEPARTMENT: City Clerk |
| AGENDA ITEM: Public Hearing and consideration of a liquor license application from Billie Nelson, Applicant for The Rose Restaurant, for a Series 12, Restaurant, license for the Rose Restaurant located at 234 S. Cortez |

| Approved By: | Date: |
|--|--------------|
| Department Head: Elizabeth A. Burke | 04/29/09 |
| Finance Director: Mark Woodfill | |
| City Manager: Steve Norwood  | 04/29/09 |

A Liquor License Application, City No. 09-139 State No. 12133441, has been received from Billie Nelson, Applicant for The Rose Restaurant, for a Series 12, Restaurant for **The Rose Restaurant** located at 234 South Cortez Street.

The public hearing will be held at the Regular Council Meeting of Tuesday, May 12, 2009. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have. This license application is a new license due to new ownership.

A copy of the application is available for Council's review in the City Clerk's Office.

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| Recommended Action: (1) MOVE to close the Public Hearing. (2) MOVE to approve/deny State Liquor License Application No. 12133441 for a new Series 12, Restaurant, Liquor License for The Rose Restaurant located at 234 South Cortez. |
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