



# PRESCOTT CITY COUNCIL JOINT SPECIAL MEETING/ STUDY SESSION AGENDA

**PRESCOTT CITY COUNCIL  
JOINT SPECIAL MEETING/STUDY SESSION  
TUESDAY, JUNE 2, 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 Roecker
- ◆ **ROLL CALL:**  
  
MAYOR AND CITY COUNCIL:  
  
Mayor Wilson  
Councilman Bell  
Councilman Lamerson  
Councilwoman Lopas  
Councilman Luzius  
Councilman Roecker  
Councilwoman Suttles
- ◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

## **SPECIAL MEETING**

1. [Approval of the Substantial Amendment to 2008 Annual Action Plan \(CDBG-R Funding\).](#)
2. Adjournment.

## STUDY SESSION

### I. PROCLAMATION

- A. June 6-7, 2009 as *Father-Son Golf Tournament 50<sup>th</sup> Year Anniversary Weekend in Prescott.*

### II. DISCUSSION ITEMS

- A. Award of bid to Cactus Asphalt, Inc., for the FY2010 Chip Seal and Various Pavement Repairs Project in an amount not to exceed \$870,633.60.
- B. Adoption of Resolution No. 3963-0969 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, adopting a Tentative Budget, adopting the estimated amounts required to meet the public expenses for the City of Prescott for the Fiscal Year 2009-10, authorizing and directing publication of statements and schedules of the Tentative Budget, together with Notice of Hearing on said Budget and Notice of Date of Final Adoption of said Budget, and Notice of Date of Establishment of the Expenditure Limitation, and Notice of the Date for Fixing a Tax Levy.
- C. Approval to complete a grant application to the Governor's Office of Highway Safety seeking 402 Federal Grant Funds in the amount of \$40,505.00 to be used for officer overtime, employee related expenses and purchase of equipment necessary to support highway safety and education efforts.
- D. Approval to complete a grant application to the Governor's Office of Highway Safety seeking 410 Federal Grant Funds in the amount of \$60,000.00 to be used for continued operation of the Tri-City DUI Task Force during the period of October 2009 through September 2010.
- E. Approval to complete a grant application to the U.S. Department of Justice, Bureau of Justice Assistance (BJA), for grant funds in the amount of \$19,525.00 to purchase supplies and equipment necessary to improve and enhance law enforcement programs.
- F. Approval of the Site Plan for The Bradshaws Phase V, a Planned Area Development on a ±24,710 sq. ft. parcel located west of Bradshaw Drive and north of the Peridot, Owner: Wescap Investments, S109-001.

- G. Adoption of Resolution No. 3964-0970 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Amended Development Agreement with Wescap Investments, LLC, for “Amendment No. One to the Development Agreement McDonald/Bradshaw Drive (City Contract No. 96-150)”, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above. (The Bradshaws)
- H. Approval of a real Estate Purchase Agreement with Joseph & Barbara Gardner, for 1.52 acres of real property on Skyline Drive near Thumb Butte for open space purposes with an appraised value of \$228,000.00; with a cost to the City of \$180,000.00 and \$48,000.00 donated by the Gardners.
- I. Approval to continue discussions with ADOT to amend IGA/JPA 04-030 between the City and State to include right-of-way enhancement and sidewalk improvements along north side of Sheldon Street and west side of Gurley Street within the area of the SR69/SR89 Interchange project.
- J. Adoption of Ordinance No. 4702-0945 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, adopting the Revisions to Standard Details for Public Works Infrastructure and amending the Land Development Code to include the Revised Standard Details.
- K. Discussion of Ordinance No. 4665-0908 regarding water and sewer development fees.
- L. Adoption of Resolution No. 3965-0971 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution No. 3941-0947 and adopting a new resolution to authorize the application for a Clean Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA).
- M. Notice of Public Hearing (June 9, 2009) and consideration of a liquor license application submitted by Michael Angel Bonilla, applicant for the BDPC, LLC, for a Series 12, Restaurant, license for Chi-Town Pizza, located at 1385 Iron Springs Road.
- N. Notice of Public Hearing (June 9, 2009) and consideration of a liquor license application submitted by Elizabeth Ann McIntire, Applicant for Prescott Inn & Suites, for a Series 11, Hotel/Motel, License for Prescott Inn & Suites located at 4499 Highway 69.
- O. Discussion on creation of a standing committee to review the City of Prescott Street’s Capital Improvement Program.

- P. Approval of the Minutes of the Prescott City Council Workshop of May 12, 2009, the Joint Special Meeting/Study Session of May 19, 2009; the Budget Workshop of May 21, 2009; the Public Workshop of May 26, 2009; the Regular Voting Meeting of May 26, 2009; and the Joint Special Meeting/Study Session of June 2, 2009.
- Q. Selection of items to be placed on the Regular Voting Meeting Agenda of June 9, 2009.

**III. ADJOURNMENT**

## **SPECIAL MEETING**

- 1. Call to Order.
- 2. Recess into Executive Session.
- 3. **EXECUTIVE SESSION**
  - A. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS Section 38-431.03(A)(4).
    - i. Salt River Valley Water Users' Association vs. City of Prescott
    - ii. Asphalt Paving & Supply, Inc. v. Granite Dells Estates Properties, Inc., Granite Dells Estates Properties II, Inc.; City of Prescott.
- 4. Adjournment.

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing 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

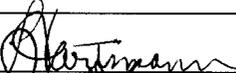
**COUNCIL AGENDA MEMO June 02, 2009**

**DEPARTMENT:** City Manager - Grants

**AGENDA ITEM:** Substantial Amendment to the 2008 Annual Action Plan (CDBG-R funding)

**Approved By:**

**Date:**

**Department Head:** Linda Hartmann 

May 11, 2009

**Finance Director:**



**City Manager:** Steve Norwood

**Background:**

City of Prescott is eligible to receive \$78,860 in Community Development Block Grant-Recovery (CDBG-R) funding from the United States Department of Housing and Urban Development (HUD through the American Recovery and Reinvestment Act of 2009) (ARRA or "the Recovery Act") The administering department for these funds is City Manager's Department, Grants Administration Division. The departmental contact is Linda Hartmann as noted above.

This funding, referred to as "CDBG-R", is separate from the regular, annual CDBG funds that the City receives every Year. Prescott received \$290,372.00 for Federal Fiscal Year 2008 (July 01, 2008 – June 30, 2009). And has received notice for Federal Fiscal Year 2009 \$294,666 (July 01, 2009- June 30, 2010).

The City of Prescott is required to amend its existing 2008 Annual Action Plan to include the CDBG-R funds. The Annual Action Plan provides specific information about projects that are currently being funded as CDBG eligible activities and it is expected that similar activities will be eligible for CDBG-R funding. The existing Annual Action 08 plan be found at City Hall, Located at 201 S. Cortez St.; the City of Prescott Library at 215 E. Goodwin St.; and Public Works 433 N. Virginia Street.

The CDBG program enables local governments to undertake a wide range of activities intended to create suitable living environments, provide decent affordable housing and create economic opportunities, primarily for persons of low and moderate income. The full range of CDBG-eligible activities and projects will be considered for CDBG-R funds based on further guidance as provided by HUD; however the Recovery Act directs that priority be given to projects that can award contracts based on bids within 120 days from the date the funds are made available.

**Proposed Projects included in this amendment:**

**Renovation of a low income multi-family housing duplex**, to include replacement of flooring, energy efficient heating and cooling, ADA compliant ramps/rails, ADA compliant bathrooms/fixtures, weatherization, kitchen repairs and replacement, re-plumb water gas and electrical hookups. The complete renovation and modernization of this multi family low income unit meet the national of objective of Decent Housing with an outcome of Availability/Accessibility. Additionally, this project provides for job creation/retention. When funds are available this project can be completed within 90 days of release of funds. (\$67,031)

**Meals on Wheels program support.** This program serves the elderly population through its homebound program. Approximately 80% of the clientele are low to moderate income. The program is supported through fund raising efforts, USDA Long Term Care, (this agency is going to reduce by .25 cents the reimbursement for the meals), and Northern Arizona Council of Governments (NACOG). (This agency also is expected to reduce its rates of reimbursement) donations from citizens, etc. There are private clientele that also pay for their meals. This is a public service and therefore only 15% of the total grant amount can be dedicated to this project. Supporting this public service for the elderly meets a National Objective: Limited Clientele with an Outcome: Accessibility (\$11,829.)

**Recommended Action:** Approve the Substantial Amendment to 2008 Annual Action Plan

# PROCLAMATION

## “FATHER-SON GOLF TOURNAMENT 50 YEAR ANNIVERSARY” June 6 & 7, 2009

WHEREAS, for 50 years the City of Prescott and Antelope Hills along with the Arizona Golf Association and nearly 40 local volunteer have hosted the Father-Son Golf Tournament; and

WHEREAS, the tournament started in 1960 on the North Course and was run by local volunteers, allowing for Fathers and their Sons to come to cool Prescott for a weekend of bonding and golf; and

WHEREAS, three years later the Arizona Golf Association joined the volunteers in hosting this tournament; and

WHEREAS, the Father-Son Trophy was named after Bob Warren, Prescott resident and President of the Arizona Golf Association from 1963-1967, who was later named a life member on the Board of Directors of the Association; and

WHEREAS, today approximately 290 teams play in the tournament on both the North and South courses at Antelope Hills; and

WHEREAS, what started out in 1960 as a small tournament in Prescott has grown to be the biggest golf tournament in the State of Arizona, hosting celebrities such as PGA golfers Billy Mayfair, Tom & Paul Purtzer and former vice-president Dan Quail; and

WHEREAS, last year 480 players from 12 different states participated and used lodging in 300 local hotel rooms.

NOW THEREFORE, I, Jack D. Wilson, Mayor of the City of Prescott, Arizona, do hereby proclaim:

**June 6 & 7, 2009**  
**Father-Son Golf Weekend in Prescott**

IN WITNESS THEREOF, I have hereunto set my hand and caused the Seal of the City of Prescott to be affixed this 2<sup>nd</sup> day of June, 2009.



JACK D. WILSON, MAYOR  
City of Prescott

ATTEST:

M  
L  
S  
M

<b>COUNCIL AGENDA MEMO – 06/02/09 &amp; 06/09/09</b>	
<b>DEPARTMENT:</b>	Public Works
<b>AGENDA ITEM:</b>	Award of bid to Cactus Asphalt, Inc., for the FY 2010 Chip Seal and Various Pavement Repairs Project in an amount not to exceed \$870,633.60.

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head:</b> Mark Nietupski	
<b>Finance Director:</b> Mark Woodfill	
<b>City Manager:</b> Steve Norwood <i>[Signature]</i>	05/21/09

**Item Summary**

This item is to award a contract for applying rubberized chip seal on local streets; the project limits are generally located in the Ranch at Prescott subdivision and the Yavapai Hills subdivision. Additionally, unpaved streets that recently received a dust suppression membrane of recycled asphalt by City forces will receive an application of conventional chip seal to complete the membrane. Award is contingent on Council approval of the Fiscal Year 2010 Capital Improvement Program Budget.

**Background**

The project consists of a preventative maintenance application of asphalt rubber emulsion binder and mineral chips. This treatment is a key component of cost-effective life-cycle pavement management strategy. The application of rubberized chip seal will provide a new wearing surface and extend the underlying pavement service life.

The project generally consists of approximately 177,000 square yards of rubber chip sealing of various city streets, approximately 80,000 square yards of conventional chip seal of previously unpaved streets, and approximately 9,515 square feet of various pavement repairs to include striping and pavement markings.

**Bid Results**

Two bids were received on May 7, 2009, as follows:

<u>Bidder</u>	<u>Location</u>	<u>Total Bid</u>
Cactus Asphalt, Inc.	Tolleson, AZ	\$ 870,633.60
International Surfacing Systems, Inc.	Chandler, AZ	\$ 977,283.40
Engineer's Estimate		\$1,190,260.00

Written bid confirmation has been received from Cactus Asphalt, Inc.

**Agenda Item:** Award of bid to Cactus Asphalt, Inc., for the FY 2010 Chip Seal and Pavement Repair Project in an amount not to exceed \$870,633.60.

**Schedule**

The contract allows thirty (45) calendar days for completion of the work with project milestones listed below:

Award of Contract	June 9, 2009
Pre-Construction Meeting	June 17, 2009
Notice to Proceed (NTP)	July 6, 2009
Substantial Project Completion	August 14, 2009

**Budget**

FY 2010 funding for this project will be from the One Cent Sales Tax for Streets and Open Space; Account No. 66-88694.

**Attachment** - Streets List

**Recommended Action:** **MOVE** to award to Cactus Asphalt, Inc., Tolleson, Arizona, the bid for the FY 2010 Chip Seal and Pavement Repair Project, in an amount not to exceed \$870,633.60

## CONVENTIONALLY PAVED STREETS TO RECEIVE RUBBERIZED CHIP SEAL

PLEASANT VALLEY DR	900' W/O JACK DR	JACK DR
COUNTRY PARK DR	ROBBIE LN	WILLOW CREEK RD
ROBBIE LN	COUNTRY PARK DR	PINE COVE RD
THUMB BUTTE RD	PONDEROSA LN	WOODLAND CR
THUMB BUTTE RD	W GURLEY ST	IDYLWILD RD
IDYLWILD RD	THUMB BUTTE RD	W GURLEY ST
LINDBERGH DR	AC START	OREGON AV
DONNY BROOK CR	RAINBOW RIDGE DR	S END
HEATHER BROOK CR	RAINBOW RIDGE DR	N CUL DE SAC
PEBBLE BROOK CR	CUL DE SAC	RAINBOW RIDGE DR
WINDSPIRIT CR	RAINBOW RIDGE DR	N CUL DE SAC
EAGLES HAVEN CR	WIND SPIRIT	END
RAVENCREST CR	RAINBOW RIDGE DR	END
BRANDYWINE CR	RAINBOW RIDGE DR	N CUL DE SAC
FOX HOLLOW CR	RAINBOW RIDGE DR	N CUL DE SAC
AUTUMN OAK WY	RAINBOW RIDGE DR	RAINBOW RIDGE DR
WINDMERE CR	AUTUMN OAK WY	END
RAINBOW RIDGE DR	W LEE BLVD	LEE BLVD
MORNING GLOW WY	W LEE BLVD	360' E/O MISTY MEADOW CR
SUNNYBRAE CR	MORNING GLOW WY	E CUL DE SAC
TRANQUIL COVE CR	W CUL DE SAC	MORNING GLOW WY
MISTY MEADOW CR	S CUL DE SAC	MORNING GLOW WY
MORNING GLOW CR	S CUL DE SAC	W LEE BLVD
SOFTWIND CR	S CUL DE SAC	W LEE BLVD
SLEEPY GLEN CR	N CUL DE SAC	W LEE BLVD
FALLING STAR CR	W LEE BLVD	N CUL DE SAC
ECHO HILLS CR	W LEE BLVD	N CUL DE SAC
WHISPERING WAY CR	W LEE BLVD	W CUL DE SAC
COPPERSTILL CR	MYSTIC CANYON DR	CUL DE SAC
WINDCLOUD DR	MYSTIC CANYON DR	LEE BLVD
LARKHAVEN CR	S CUL DE SAC	WINDCLOUD DR
SHADOWHAWK DR	MYSTIC CANYON DR	LEE BLVD
GLEN ECHO CR	S CUL DE SAC	SHADOWHAWK DR
SUNNY COVE CR	SHADOWHAWK DR	N CUL DE SAC
SLEEPY HOLLOW CR	S CUL DE SAC	MYSTIC CANYON DR
GLENHEATHER CR	S CUL DE SAC	SLEEPY HOLLOW CR
MYSTIC CANYON DR	W LEE BLVD	W LEE BLVD
SILVERHILL CR	MYSTIC CANYON DR	N CUL DE SAC
LOOKOVER CR	W LEE BLVD	CUL DE SAC
NIGHTSTAR CR	W LEE BLVD	CUL DE SAC
MOONRIDGE CR	CUL DE SAC	CLOUDCROSSING CIR
CLOUDCROSSING CR	CUL DE SAC	W LEE BLVD

GOLDEN OAK CR  
SANDPIPER DR  
ROCKRIMMON CR  
SUNRISE BLVD  
ORGANO CT  
LIVING ROCK CT  
DAHLIA CT  
ORIOLE CT  
PITAYA CT  
SUNAMI CT  
TANAGER CT  
CACTUS PL  
CACTUS PL  
MEADOWLARK LN  
COAL DR  
FLOWER CT  
DRAGONFLY DR  
TAWA CT  
WILLET CT

CUL DE SAC  
W LEE BLVD  
SANDPIPER DR  
ORGANO CT  
SUNRISE BLVD  
W CUL DE SAC  
SUNRISE BLVD  
W CUL DE SAC  
SUNRISE BLVD  
N CUL DE SAC  
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W CUL DE SAC  
SUNRISE BLVD  
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W CUL DE SAC

W LEE BLVD  
LEE BLVD  
N CUL DE SAC  
HORNET DR  
E CUL DE SAC  
SUNRISE BLVD  
E CUL DE SAC  
SUNRISE BLVD  
N CUL DE SAC  
SUNRISE BLVD  
SUNRISE BLVD  
SUNRISE BLVD  
E END  
CACTUS PL  
CACTUS PL  
COAL DR  
CACTUS PL  
CACTUS PL  
SUNRISE BLVD

## **MILLINGS PAVED STREETS TO RECEIVE CONVENTIONAL CHIP SEAL**

PLEASANT VALLEY DR  
DARCA DR  
GARDEN LN  
LAKE VIEW LN  
GENEVA DR  
NORMA LN  
HIGHLANDER PL  
CRAIGS LN  
PINE COVE RD  
WOODLAND HILLS DR  
CYCLORAMA DR  
ATTERBURY DR  
LUELLA LN  
MABEL LN  
FERN DR  
FERN DR  
STEVENS DR  
BUCKSKIN RD  
AUSTIN RD  
DUNN DR  
PAUL PL  
DOUGLAS LN  
ROCKFORD DR

CITY LIMITS  
S CUL DE SAC  
S CUL DE SAC  
S CUL DE SAC  
EWIN DR  
GENEVA DR  
S END  
ROBBIE LN  
CRAIGS LN  
CRAIGS LN  
COUNTRY PARK DR  
CYCLORAMA DR  
N CUL DE SAC  
FERN DR  
S END  
ATTERBURY DR  
OAKLAWN DR  
RIDGE RD  
DUNN DR  
RIDGE RD  
NOLTE DR  
S END  
S END

900' W/O JACK DR  
PLEASANT VALLEY DR  
PLEASANT VALLEY DR  
HORIZON HILLS DR  
NORMA LN  
PAMELA ST  
COUNTRY PARK DR  
WOODLAND HILLS DR  
ROBBIE LN  
ROBBIE LN  
EWIN DR  
FERN DR  
ATTERBURY DR  
N CUL DE SAC  
ATTERBURY DR  
MABEL LN  
E END  
AUSTIN RD  
BUCKSKIN RD  
E END  
NOLTE DR  
PULLIAM DR  
DOUGLAS LN

MONTE RD  
LA PALOMA LN  
DOUGLAS AV  
MOUNTAIN VIEW LN  
PIÑON DR  
DELANO AV  
DELANO AV  
DELANO AV  
KAY CEE LN  
LORRAINE DR  
APRIL DR  
SAVAGE LN  
COTTONWOOD AV  
IDYLWILD RD  
RING DR  
LINDBERGH DR  
WHITNEY ST  
WHITNEY ST  
LINWOOD AV  
LINWOOD AV  
SHASTA ST  
MANZANITA ST  
MANZANITA ST  
MANZANITA PL  
PONDEROSA LN  
PAAR DR  
KEEN ST  
KEEN ST  
MILE HIGH DR  
ROSE GARDEN CV  
MAYO ST  
PAAR DR  
DOUGHERTY ST  
NORRIS RD  
ASH ST  
ELM ST

S END  
DEMERSE AVE  
END  
S CUL DE SAC  
DELANO AVE  
PINION DR  
W END  
NORTHSIDE DR  
DELANO AVE  
ROBIN DR  
LORRAINE DR  
ROSSER ST  
W END  
LINDBERGH DR  
S END  
IDYLWILD RD  
S END  
LINWOOD AV  
WHITNEY ST  
SHASTA ST  
LINWOOD AV  
LINWOOD AV  
MANZANITA PL  
MANZANITA ST  
THUMB BUTTE RD  
MILLER CREEK  
PAAR DR  
MAYO ST  
END  
MILE HIGH DR  
OREGON AV  
GAIL GARDNER WAY WY  
PAAR DR  
DOUGHERTY ST  
WILLOW ST N  
ASH ST

PULLIAM DR  
MIRAMONTE DR  
NORTHSIDE DR  
DOUGLAS AVE  
N END  
E END  
DEMERSE AVE  
NORTHSIDE DR  
N END  
APRIL DR  
W END  
N CUL DE SAC  
VYNE ST  
THUMB BUTTE RD  
IDYLWILD RD  
AC START  
LINWOOD AV  
N END  
JOSEPHINE ST  
GAIL GARDNER WY  
OREGON AV  
MANZANITA PL  
N END  
W END  
E END  
KEEN ST  
N/O MILE HIGH DR  
PAAR DR  
END  
END  
KEEN ST  
DOUGHERTY ST  
NORRIS RD  
E END  
ELM ST  
WESTERN AV

<b>COUNCIL AGENDA MEMO – June 2 &amp; 9, 2009</b>
<b>DEPARTMENT: Budget and Finance</b>
<b>AGENDA ITEM: Resolution Adoption of the Tentative Budget for Fiscal Year 2010 and Setting the Public Hearing for the Final Budget, Expenditure Limitation and Tax Levy for the City of Prescott.</b>

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head: Mark Woodfill</b>	
<b>Finance Director: Mark Woodfill</b>	
<b>City Manager: Steve Norwood</b> <i>SNorwood</i>	<i>05/24/09</i>

**BACKGROUND**

A workshop was held on May 21, 2009 to discuss the proposed budget where Council directed modifications to the budget. Attached are the Council directed adjustments to the budget.

The remaining steps in the fiscal year 2010 budget process are:

June 9	Adopt tentative budget	Set the public hearing date for: <ul style="list-style-type: none"> <li>• Final budget</li> <li>• Expenditure limitation</li> <li>• Tax levy</li> </ul> Set the date for adoption of the tax levy, and authorize the publishing of the tentative budget forms in the paper for two consecutive weeks
June 23	Public Hearing	Public hearing on the budget, expenditure limitation and property tax levy
June 23	Final adoption	Sets the final budget for FY 10 Establishes the expenditure limitation for FY 10 Adopts the Capital Improvement Program Approve of City Job Roster Identification of Unfunded Capital
July 14	Adoption of Tax Levy	

Attached is the resolution for the adoption of the tentative budget along with the related schedules. This resolution sets a date of June 23, 2009 for the public hearing of the final budget, expenditure limitation, and the tax levy, as well as setting the tentative budget for FY 2010. This tentative budget incorporates the changes from the Council Workshop.

<b>Recommended Action: MOVE to adopt Resolution No. 3963-0969.</b>
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# City of Prescott Tentative Budget Fiscal Year 2010

City of Prescott  
Tentative Budget  
Fiscal Year 2010

# Reconciliation

Total Budget Presented at Workshop	179,392,423
Council Directed Additions:	
Elks Fire Sprinkler (Capital Improvement Fund)	256,000
FAA Mandated Airport Projects (Capital Improvement Fund)	200,000
Automated Parking Fee Collection (General Fund)	75,000
Elks Marquee (Capital Improvement Fund)	72,372
Sharlot Hall Funding (Transient Occupancy Tax)	30,000
Prescott Creeks Match (Transient Occupancy Tax)	6,250
Total Council Directed Additions	<u>639,622</u>
Other Additions/(Deletions):	
Open Space Carryover (1% Streets and Open Space Fund)	2,391,397
Water Conservation Retrofit Projects (Water Fund)	50,000
Yavapai College Fence (Airport)	21,000
Fuel Tank Relocation (Airport)	19,000
Adjustments for Interfund Transfers	(1,694,749)
Total Other Additions	<u>786,648</u>
Tentative Adopted Budget	<u>180,818,693</u>

180,818,693

# Total Budget

	FY09	FY10	%
	<u>Budget</u>	<u>Budget</u>	<u>Change/</u> <u>Budget</u>
Operating	80,833,236	81,448,527	0.8%
Capital Outlay/Projects	175,443,927	99,370,166	-43.4%
<b>Total</b>	<u>256,277,163</u>	<u>180,818,693</u>	<u>-29.4%</u>

City of...  
 Department of...  
 Finance

# Remaining Steps

- **June 9 Adopt Tentative Budget**
  - Set public hearing date for:
    - Final Budget
    - Expenditure Limitation
    - Property Tax Levy
  - Set date of property tax levy
  - Authorize the publishing of tentative budget
- **June 23 Public Hearing & Final Adoption**
  - Public Hearing on Budget, Expenditure Limitation & Tax Levy
  - Set the Final Budget for FY10
  - Establish Expenditure Limitation for FY10
  - Adopt CIP for FY11-FY15
- **July 14 Adoption of Tax Levy**

**RESOLUTION NO. 3963-0969**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ADOPTING A TENTATIVE BUDGET, ADOPTING THE ESTIMATED AMOUNTS REQUIRED TO MEET THE PUBLIC EXPENSES FOR THE CITY OF PRESCOTT FOR THE FISCAL YEAR 2009-10, AUTHORIZING AND DIRECTING PUBLICATION OF STATEMENTS AND SCHEDULES OF THE TENTATIVE BUDGET, TOGETHER WITH NOTICE OF HEARING ON SAID BUDGET AND NOTICE OF DATE OF FINAL ADOPTION OF SAID BUDGET, AND NOTICE OF DATE OF ESTABLISHMENT OF THE EXPENDITURE LIMITATION, AND NOTICE OF THE DATE FOR FIXING A TAX LEVY**

**ENACTMENTS:**

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

SECTION 1. THAT the statements and schedules attached are hereby adopted as the estimated amounts required to meet the public expenses for the City of Prescott and as the tentative budget for the fiscal year 2009-10. Copies of said statements and schedules have been distributed to the Council and are on file in the office of the City Manager. Said copies are attached hereto for the purpose of publication only, except that they are hereby ordered to be entered into the minutes of the City Council of the City of Prescott.

SECTION 2. THAT the Clerk is hereby authorized and directed to publish in the manner prescribed by law, the attached statements and schedules as said tentative budget, together with a copy of this Resolution as notice of the meetings of the City Council, to wit:

- A. That the City Council will meet on the 23rd day of June, 2009, at 3:00 P.M., in the Council Chambers of the Municipal Offices Building, 201 South Cortez Street, Prescott, Arizona, at a Regular Meeting to hold a public hearing when and where any citizen may appear and be heard or submit written comments in favor of or against any proposed use within the budget, expenditure limitation, or the tax levy; at said time and place or after said hearing for the purpose of finally adopting the budget and establishment of the expenditure limitation for the fiscal year 2009-10 for the City of Prescott. The proposed budget may be examined on weekdays at 201 South Cortez Street, Prescott, Arizona, between 8:00 A.M. and 5:00 P.M.
- B. That the City Council will further meet at a Special Meeting on the 14th day of July, 2009, at 3:00 P.M. in the Council Chambers of the Municipal Building, 201 South Cortez Street, Prescott, Arizona, for the purpose of

adopting the property tax levy for fiscal year 2009-10 for the City of Prescott.

SECTION 3. THAT upon the recommendation by the City Manager and with the approval of the Council, expenditures may be made from the appropriation for contingencies. The transfers of any sums within or without any specific appropriations shall conform to Article VI, Section 11, Prescott City Charter.

SECTION 4. THAT money from any fund may be used for any of these appropriations except money specifically restricted by State Law, City Charter, codes, ordinance, or resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, on this 9<sup>th</sup> day of June, 2009.

\_\_\_\_\_  
JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
ELIZABETH A. BURKE, City Clerk

\_\_\_\_\_  
GARY D. KIDD, City Attorney

**OFFICAL BUDGET FORMS**  
**CITY OF PRESCOTT, ARIZONA**  
**Fiscal Year 2010**

**CITY OF PRESCOTT, ARIZONA**

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**CITY OF PRESCOTT, ARIZONA**  
**Summary Schedule of Estimated Revenues and Expenditures/Expenses**  
**Fiscal Year 2010**

FUND	ADOPTED BUDGETED EXPENDITURES/EXPENSES* 2009	ACTUAL EXPENDITURES/EXPENSES ** 2009	FUND BALANCE/ NET ASSETS*** July 1, 2009**	PROPERTY TAX REVENUES 2010	ESTIMATED REVENUES OTHER THAN PROPERTY TAXES 2010	OTHER FINANCING		INTERFUND TRANSFERS		TOTAL FINANCIAL RESOURCES AVAILABLE 2010	BUDGETED EXPENDITURES/EXPENSES 2010
						2010 SOURCES	<USES>	2010 IN	<OUT>		
1. General Fund	\$ 33,857,409	\$ 32,015,617	\$ 11,061,644	Primary: \$ 1,235,701 Secondary:	\$ 29,422,757	\$	\$	\$ 250,000	\$ (1,769,743)	\$ 43,739,845	\$ 31,112,233
2. Special Revenue Funds	49,962,589	32,049,564	898,856		34,311,845	20,500,000		5,074,314	(3,490,615)	64,275,630	53,628,238
3. Debt Service Funds Available	2,369,675	2,369,675	223,209	1,646,680	453,615					2,323,504	1,966,840
4. Less: Designation for Future Debt Retirement											
5. Total Debt Service Funds	2,369,675	2,369,675	223,209	1,646,680	453,615					2,323,504	1,986,840
6. Capital Projects Funds	50,152,426										
7. Permanent Funds	100,000	100,000	708,892		25,000					733,892	100,000
8. Enterprise Funds Available	104,703,002	46,078,040	46,400,453		38,801,921	39,027,413		131,634	(320,590)	124,682,011	84,190,196
9. Less: Designation for Future Debt Retirement											
10. Total Enterprise Funds	104,703,002	46,078,040	46,400,453		38,801,921	39,027,413		131,634	(320,590)	124,682,011	84,190,196
11. Internal Service Funds	15,132,062	8,131,580	7,570,733		8,647,818			125,000		16,343,551	9,801,186
12. TOTAL ALL FUNDS	\$ 256,277,163	\$ 120,744,476	\$ 66,863,787	\$ 2,882,381	\$ 111,662,956	\$ 59,527,413	\$	\$ 5,580,948	\$ (5,580,948)	\$ 252,098,433	\$ 180,818,693

	2009	2010
EXPENDITURE LIMITATION COMPARISON		
1. Budgeted expenditures/expenses	\$ 256,277,163	\$ 180,818,693
2. Add/subtract: estimated net reconciling items		
3. Budgeted expenditures/expenses adjusted for reconciling items	256,277,163	180,818,693
4. Less: estimated exclusions		
5. Amount subject to the expenditure limitation	\$ 256,277,163	\$ 180,818,693
6. EEC or voter-approved alternative expenditure limitation		
	\$	\$

\* Includes Expenditure/Expense Adjustments Approved in 2008-09 from Schedule E.  
 \*\* Includes actual amounts as of the date the proposed budget was prepared, adjusted for estimated activity for the remainder of the fiscal year.  
 \*\*\* Amounts in this column represent Fund Balance/Net Asset amounts except for amounts invested in capital assets, net of related debt, and reserved/restricted amounts established as offsets to assets presented for informational purposes (i.e., prepaids, inventory, etc.).

**CITY OF PRESCOTT, ARIZONA**  
**Summary of Tax Levy and Tax Rate Information**  
**Fiscal Year 2010**

	<b>2009</b>	<b>2010</b>
1. Maximum allowable primary property tax levy. A.R.S. §42-17051(A)	\$ 1,278,666	\$ 1,338,494
2. Amount received from primary property taxation in the <b>current year</b> in excess of the sum of that year's maximum allowable primary property tax levy. A.R.S. §42-17102(A)(18)	\$	
3. Property tax levy amounts		
A. Primary property taxes	\$ 1,214,192	\$ 1,235,701
B. Secondary property taxes	1,937,779	1,646,680
C. Total property tax levy amounts	\$ 3,151,971	\$ 2,882,381
4. Property taxes collected*		
A. Primary property taxes		
(1) <b>Current year's</b> levy	\$ 1,197,088	
(2) Prior years' levies	17,104	
(3) Total primary property taxes	\$ 1,214,192	
B. Secondary property taxes		
(1) <b>Current year's</b> levy	\$ 1,906,425	
(2) Prior years' levies	31,354	
(3) Total secondary property taxes	\$ 1,937,779	
C. Total property taxes collected	\$ 3,151,971	
5. Property tax rates		
A. City/Town tax rate		
(1) Primary property tax rate	0.1839	0.1695
(2) Secondary property tax rate	0.2394	0.2002
(3) Total city/town tax rate	0.4233	0.3697
B. Special assessment district tax rates		
Secondary property tax rates - As of the date the proposed budget was prepared, the City of Prescott did not operate any special assessment districts for which secondary property taxes are levied.		

\* Includes actual property taxes collected as of the date the proposed budget was prepared, plus estimated property tax collections for the remainder of the fiscal year.

**CITY OF PRESCOTT, ARIZONA**  
**Summary by Fund Type of Revenues Other Than Property Taxes**  
**Fiscal Year 2010**

SOURCE OF REVENUES	ESTIMATED REVENUES 2009	ACTUAL REVENUES* 2009	ESTIMATED REVENUES 2010
<b>GENERAL FUND</b>			
<b>Local taxes</b>			
Privilege and Use Tax	\$ 15,121,000	\$ 13,350,018	\$ 12,677,500
Franchise Taxes	1,564,191	1,577,355	1,608,902
<b>Licenses and permits</b>	<b>895,915</b>	<b>406,827</b>	<b>397,750</b>
<b>Intergovernmental</b>			
State	12,282,566	11,658,393	10,812,411
Local Jurisdictions	2,304,733	2,296,466	2,344,708
<b>Charges for services</b>	<b>753,529</b>	<b>559,901</b>	<b>540,720</b>
<b>Fines and forfeits</b>	<b>449,000</b>	<b>448,750</b>	<b>442,500</b>
<b>Interest on investments</b>	<b>200,000</b>	<b>200,000</b>	<b>200,000</b>
<b>In-lieu property taxes</b>	<b>94,550</b>	<b>74,142</b>	<b>74,142</b>
<b>Miscellaneous</b>	<b>331,975</b>	<b>348,983</b>	<b>324,124</b>
<b>Total General Fund</b>	<b>\$ 33,997,459</b>	<b>\$ 30,920,835</b>	<b>\$ 29,422,757</b>
<b>SPECIAL REVENUE FUNDS</b>			
<b>Highway User Revenue Fund</b>			
Intergovernmental - State	\$ 3,895,679	\$ 3,147,610	\$ 3,118,684
Intergovernmental - Local Jurisdictions	294,264	241,512	284,544
Miscellaneous	278,950	268,336	232,721
<b>Total Highway User Revenue Fund</b>	<b>\$ 4,468,893</b>	<b>\$ 3,657,458</b>	<b>\$ 3,635,949</b>
<b>Local Transportation Assistance Fund</b>			
Streets and Open Space Tax	\$ 14,684,000	\$ 12,810,002	\$ 12,195,000
Intergovernmental - State			1,000,000
Intergovernmental - County		98,654	2,010,000
Interest Earned	519,000	131,000	120,000
Intergovernmental - Local Jurisdictions	799,080	409,920	157,420
Miscellaneous		1,598	480,000
<b>Total Local Transportation Assistance Fund</b>	<b>\$ 16,002,080</b>	<b>\$ 13,451,174</b>	<b>\$ 15,962,420</b>
<b>Transient Occupancy Tax</b>			
Transient Occupancy Tax	\$ 680,715	\$ 530,000	\$ 491,817
Fees/Donations	37,000	30,000	38,000
Miscellaneous	3,000	3,036	100
<b>Total Transient Occupancy Tax Fund</b>	<b>\$ 720,715</b>	<b>\$ 563,036</b>	<b>\$ 529,917</b>
<b>Capital Improvement Fund</b>			
Interest Earned	\$ 176,389	\$ 250,000	\$ 250,000
Sale of Property		25,500	
Miscellaneous	1,000	500	500
<b>Total Capital Improvement Fund</b>	<b>\$ 177,389</b>	<b>\$ 276,000</b>	<b>\$ 250,500</b>
<b>Impact Fees Fund</b>			
Impact Fees	\$ 596,995	\$ 322,700	\$ 322,700
Miscellaneous	123,918	97,820	97,820
<b>Total Impact Fees Fund</b>	<b>\$ 720,913</b>	<b>\$ 420,520</b>	<b>\$ 420,520</b>
<b>Grant Funds</b>			
Miscellaneous Grants	5,169,923	1,394,392	13,512,539
<b>Total Grants Fund</b>	<b>\$ 5,169,923</b>	<b>\$ 1,394,392</b>	<b>\$ 13,512,539</b>
<b>Total Special Revenue Funds</b>	<b>\$ 27,259,913</b>	<b>\$ 19,762,580</b>	<b>\$ 34,311,845</b>

\* Includes actual revenues recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated revenues for the remainder of the fiscal year.

**CITY OF PRESCOTT, ARIZONA**  
**Summary by Fund Type of Revenues Other Than Property Taxes**  
**Fiscal Year 2010**

<u>SOURCE OF REVENUES</u>	<u>ESTIMATED REVENUES 2009</u>	<u>ACTUAL REVENUES* 2009</u>	<u>ESTIMATED REVENUES 2010</u>
<b>DEBT SERVICE FUNDS</b>			
Special Assessments	\$ 322,151	\$ 322,151	\$ 332,151
Interest Earned	137,366	137,395	121,464
<b>Total Debt Service Funds</b>	<b>\$ 459,517</b>	<b>\$ 459,546</b>	<b>\$ 453,615</b>
<b>PERMANENT FUNDS</b>			
Acker Trust	20,000	25,000	25,000
	\$ 20,000	\$ 25,000	\$ 25,000
<b>Total Permanent Funds</b>	<b>\$ 20,000</b>	<b>\$ 25,000</b>	<b>\$ 25,000</b>
<b>ENTERPRISE FUNDS</b>			
Water Fund	\$ 22,030,453	\$ 15,454,609	\$ 16,040,675
Wastewater Fund	7,949,402	6,554,892	6,958,609
Solid Waste/Transfer Station Fund	9,798,603	9,068,208	9,400,449
Golf Course Fund	4,166,660	3,135,529	3,377,007
Airport Fund	14,122,642	1,727,634	2,960,681
Parking Garage Fund	75,800	60,282	64,500
<b>Total Enterprise Funds</b>	<b>\$ 58,143,560</b>	<b>\$ 36,001,154</b>	<b>\$ 38,801,921</b>
<b>INTERNAL SERVICE FUNDS</b>			
Central Garage Fund	\$ 4,481,785	\$ 4,664,351	\$ 3,709,176
Self-Insurance Fund	2,355,204	1,867,909	2,044,627
Facilities Maintenance Fund	1,180,934	1,182,456	990,793
Engineering Fund	2,357,610	2,052,868	1,903,222
<b>Total Internal Service Funds</b>	<b>\$ 10,375,533</b>	<b>\$ 9,767,584</b>	<b>\$ 8,647,818</b>
<b>TOTAL ALL FUNDS</b>	<b>\$ 130,255,982</b>	<b>\$ 96,936,699</b>	<b>\$ 111,662,956</b>

\* Includes actual revenues recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated revenues for the remainder of the fiscal year.

**CITY OF PRESCOTT, ARIZONA**  
**Summary by Fund Type of Other Financing Sources<Uses> and Interfund Transfers**  
**Fiscal Year 2010**

FUND	OTHER FINANCING 2010		INTERFUND TRANSFERS 2010	
	SOURCES	<USES>	IN	<OUT>
<b>GENERAL FUND</b>				
Capital Improvement Fund	\$	\$	\$ 250,000	\$ (1,753,621)
1% Streets and Open Space Fund				(6,000)
Parking Garage Fund				(10,122)
<b>Total General Fund</b>	\$	\$	\$ 250,000	\$ (1,769,743)
<b>SPECIAL REVENUE FUNDS</b>				
Capital Improvement Fund	\$	\$	\$ 3,123,848	\$ (1,762,219)
1% Streets and Open Space Fund	20,500,000		253,205	(925,000)
Highway Users Revenue Fund			264,590	
Grant Funds			1,432,671	
Impact Fees Fund				(803,396)
<b>Total Special Revenue Funds</b>	\$ 20,500,000	\$	\$ 5,074,314	\$ (3,490,615)
<b>DEBT SERVICE FUNDS</b>				
	\$	\$	\$	\$
<b>Total Debt Service Funds</b>	\$	\$	\$	\$
<b>CAPITAL PROJECTS FUNDS</b>				
	\$	\$	\$	\$
<b>Total Capital Projects Funds</b>	\$	\$	\$	\$
<b>PERMANENT FUNDS</b>				
	\$	\$	\$	\$
<b>Total Permanent Funds</b>	\$	\$	\$	\$
<b>ENTERPRISE FUNDS</b>				
Parking Garage Fund	\$	\$	\$ 10,122	\$
Solid Waste/Transfer Station Fund				(264,590)
Water Fund	27,524,433			(28,000)
Wastewater Fund	11,502,980			(28,000)
Airport Fund			121,512	
<b>Total Enterprise Funds</b>	\$ 39,027,413	\$	\$ 131,634	\$ (320,590)
<b>INTERNAL SERVICE FUNDS</b>				
Central Garage	\$	\$	\$ 125,000	\$
<b>Total Internal Service Funds</b>	\$	\$	\$ 125,000	\$
<b>TOTAL ALL FUNDS</b>	\$ 59,527,413	\$	\$ 5,580,948	\$ (5,580,948)

**CITY OF PRESCOTT, ARIZONA**  
**Summary by Department of Expenditures/Expenses Within Each Fund Type**  
**Fiscal Year 2010**

FUND/DEPARTMENT	ADOPTED BUDGETED EXPENDITURES/ EXPENSES 2009	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED 2009	ACTUAL EXPENDITURES/ EXPENSES* 2009	BUDGETED EXPENDITURES/ EXPENSES 2010
<b>GENERAL FUND</b>				
City Council	\$ 59,353	\$	\$ 50,222	\$ 55,941
City Clerk	125,712		25,073	75,150
City Court	521,285		505,485	525,193
City Manager	1,604,204		1,575,502	1,760,663
Legal Department	285,357		264,958	277,292
Budget & Finance	1,911,028		1,514,077	1,746,610
Administrative Services	585,576		537,011	236,756
Community Development	2,430,949		2,206,904	1,638,460
Parks, Recreation & Library	6,079,335		5,962,392	5,452,628
Police Department	10,217,104		9,644,623	9,863,514
Fire Department	7,550,839		7,366,468	7,045,674
Regional Communications	2,486,667		2,362,902	2,434,352
<b>Total General Fund</b>	<b>\$ 33,857,409</b>	<b>\$</b>	<b>\$ 32,015,617</b>	<b>\$ 31,112,233</b>
<b>SPECIAL REVENUE FUNDS</b>				
Highway User Fund	\$ 4,165,866	\$	\$ 4,016,336	\$ 3,882,857
1% Streets and Open Space	23,225,513	4,437,595	21,895,353	29,388,936
Transient Occupancy Tax	839,122		672,691	594,393
Capital Improvement Fund	11,160,211		3,836,654	4,614,042
Impact Fee Fund	223,200		750	191,700
Grant Funds	5,911,082		1,627,780	14,956,310
<b>Total Special Revenue Funds</b>	<b>\$ 45,524,994</b>	<b>\$ 4,437,595</b>	<b>\$ 32,049,564</b>	<b>\$ 53,628,238</b>
<b>DEBT SERVICE FUNDS</b>	<b>\$ 2,369,675</b>	<b>\$</b>	<b>\$ 2,369,675</b>	<b>\$ 1,986,840</b>
<b>CAPITAL PROJECTS FUNDS</b>				
Public Safety Projects	\$ 42,818,040	\$ (4,437,595)	\$	\$
Park Upgrades	4,000,000			
Rodeo Grounds	3,196,981			
Runway 3R-21L Land	4,575,000			
<b>Total Capital Projects Funds</b>	<b>\$ 54,590,021</b>	<b>\$ (4,437,595)</b>	<b>\$</b>	<b>\$</b>
<b>PERMANENT FUNDS</b>				
Trust Funds	100,000		100,000	100,000
<b>Total Permanent Funds</b>	<b>\$ 100,000</b>	<b>\$</b>	<b>\$ 100,000</b>	<b>\$ 100,000</b>
<b>ENTERPRISE FUNDS</b>				
Water Fund	\$ 48,740,756	\$	\$ 18,144,334	\$ 55,707,840
Wastewater Fund	28,002,728		13,038,218	12,880,361
Solid Waste/Transfer Station	10,061,302		8,509,154	9,082,788
Golf Course Fund	4,470,926		4,219,596	3,372,782
Airport Fund	13,309,432		2,070,415	3,069,265
Parking Garage Fund	117,858		96,323	77,160
<b>Total Enterprise Funds</b>	<b>\$ 104,703,002</b>	<b>\$</b>	<b>\$ 46,078,040</b>	<b>\$ 84,190,196</b>
<b>INTERNAL SERVICE FUNDS</b>				
Central Garage	\$ 9,330,254	\$	\$ 3,010,207	\$ 4,689,818
Self-Insurance Fund	2,265,204		1,828,529	2,223,627
Engineering Fund	2,357,610		2,142,872	1,898,948
Facilities Maintenance Fund	1,178,994		1,149,972	988,793
<b>Total Internal Service Funds</b>	<b>\$ 15,132,062</b>	<b>\$</b>	<b>\$ 8,131,580</b>	<b>\$ 9,801,186</b>
<b>TOTAL ALL FUNDS</b>	<b>\$ 256,277,163</b>	<b>\$</b>	<b>\$ 120,744,476</b>	<b>\$ 180,818,693</b>

\* Includes actual expenditures/expenses recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated expenditures/expenses for the remainder of the fiscal year.

**CITY OF PRESCOTT, ARIZONA**  
**Summary by Department of Expenditures/Expenses**  
**Fiscal Year 2010**

<b>DEPARTMENT/FUND</b>	<b>ADOPTED BUDGETED EXPENDITURES/ EXPENSES 2009</b>	<b>EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED 2009</b>	<b>ACTUAL EXPENDITURES/ EXPENSES * 2009</b>	<b>BUDGETED EXPENDITURES/ EXPENSES 2010</b>
<b>Public Works:</b>				
1% Streets and Open Space	\$ 23,225,513	\$ 4,437,595	\$ 21,895,353	\$ 29,388,936
Streets (HURF) Fund	821,082		2,637,542	2,582,799
Engineering	2,357,610		2,142,872	1,898,948
Water Fund	48,740,756		18,144,334	55,707,840
Wastewater Fund	28,002,728		13,038,218	12,880,361
<b>Department Total</b>	<b>\$ 103,147,689</b>	<b>\$ 4,437,595</b>	<b>\$ 57,858,319</b>	<b>\$ 102,458,884</b>
<b>Field Operations:</b>				
Streets (HURF) Fund	\$ 3,344,784		\$ 1,378,794	\$ 1,300,058
Solid Waste/Transfer Station	10,061,302		8,509,154	9,082,788
<b>Department Total</b>	<b>\$ 13,406,086</b>	<b>\$</b>	<b>\$ 9,887,948</b>	<b>\$ 10,382,846</b>

\* Includes actual expenditures/expenses recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated expenditures/expenses for the remainder of the fiscal year.

**COUNCIL AGENDA MEMO – June 2 & 9, 2009**

**DEPARTMENT: POLICE**

**AGENDA ITEM: Recommendation for Council to approve completion of a grant application to the Governor’s Office of Highway Safety seeking 402 Federal Grant Funds in the amount of \$40,505 to be used for officer overtime, employee related expenses and purchase of equipment necessary to support highway safety and education efforts.**

<b>Approved By:</b>		<b>Date:</b>
<b>Department Head:</b> Randy Oaks		05/26/09
<b>Finance Director:</b> Mark Woodfill		
<b>City Manager:</b> Steve Norwood <i>SNorwood</i>		05/26/09

**Summary:**

The Prescott Police Department requests approval to submit an application for grant funding provided by the Governor’s Office of Highway Safety in the amount of \$40,505. Awarded funds will allow continued speed and aggressive driver enforcement, as well as purchase updated accident scene diagramming equipment.

**Background:**

The Prescott Police Department has received notification from the Governor’s Office of Highway Safety regarding the availability of additional Special Operations 402 grant funds. The Prescott Police Department requests permission to apply for funds in the amount of \$40,505, with the majority of requested funds being allocated to pay overtime and employee related operating costs for officers to work special speed/aggressive driver enforcement and provide public safety education throughout the grant period. Funds are also being requested to purchase fifty (50) Child Safety Seats, and an updated Accident Investigation Measurement System (AIMS) that will enhance our Department’s ability to accurately diagram accident scenes.

Because of the May 29, 2009 deadline for this grant application, and the cycle of Prescott City Council Meetings, we are submitting the initial application in order to meet the submittal deadline pending City Council approval on June 9, 2009.

**Financial Impact:**

There are no requirements for local matching funds associated with this grant award. Consequently, there would be no fiscal impact to the City.

**Recommended Action: MOVE to approve completion of a grant application to the Governor’s Office of Highway Safety for 402 grant funds in the amount of \$40,505.**

<b>COUNCIL AGENDA MEMO – June 2 &amp; 9, 2009</b>	
<b>DEPARTMENT: POLICE</b>	
<b>AGENDA ITEM: Recommendation for Council to approve completion of a grant application to the Governor’s Office of Highway Safety seeking 410 Federal Grant Funds in the amount of \$60,000 to be used for continued operation of the Tri-City DUI Task Force during the period of October 2009 through September 2010.</b>	

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head: Randy Oaks</b>	05/26/2009
<b>Finance Director: Mark Woodfill</b>	
<b>City Manager: Steve Norwood</b>	

**Summary:**

The Prescott Police Department requests approval to submit an application for grant funding provided by the Governor’s Office of Highway Safety in the amount of \$60,000 to continue operation of the Tri-City DUI Task Force.

**Background:**

In October of 1994, the Prescott Police Department was successful in applying for grant funds through the Arizona Governor’s Office of Highway Safety (GOHS) to form the Northern Arizona (now the Tri-City) DUI Task Force. The Task Force was created in May of 1995, with the Prescott Police as administrator. This multi-agency Task Force has continued to conduct special enforcement operations each year since its inception with grant funding provided by GOHS.

The DUI Task Force operates primarily in the Tri-City area, but also includes the surrounding county and forestland, as well as agencies in the Verde Valley. Participating agencies in the Task Force have included the Prescott Police Department, Prescott Valley Police Department, Yavapai County Sheriff’s Office, Arizona Department of Public Safety, Chino Valley Police Department, Cottonwood Police Department, Clarkdale Police Department, Camp Verde Marshal’s Office and the Sedona Police Department.

The Prescott Police Department has received notification from the Governor’s Office of Highway Safety of the availability to apply for additional DUI Task Force 410 grant funds. Our Department requests permission to apply for funds in the amount of \$60,000 to allow continued operation of the Tri-City DUI Task Force. This is the same amount of grant funds applied for and received during this last fiscal year. These funds will pay for officer overtime and employee related operating costs necessary to conduct DUI Task Force Enforcement Programs throughout the grant period.

Because of the May 29, 2009 deadline for this grant application, and the cycle of Prescott City Council Meetings, we are submitting the initial application in order to meet the submittal deadline pending City Council approval on June 9, 2009.

**AGENDA ITEM: Recommendation for Council to approve completion of a grant application to the Governor's Office of Highway Safety seeking 410 Federal Grant Funds in the amount of \$60,000 to be used for continued operation of the Tri-City DUI Task Force during the period of October 2009 through September 2010.**

**Financial Impact:**

There are no requirements for local matching funds associated with this grant award. Consequently, there would be no fiscal impact to the City.

**Recommended Action: MOVE to approve completion of a grant application to the Governor's Office of Highway Safety for 410 grant funds in the amount of \$60,000.**

<b>COUNCIL AGENDA MEMO – June 2 &amp; 9, 2009</b>
<b>DEPARTMENT: POLICE</b>
<b>AGENDA ITEM: Recommendation for Council to approve completion of a grant application to the U.S. Department of Justice, Bureau of Justice Assistance (BJA), seeking grant funds in the amount of \$19,525 for the purchase of law enforcement program equipment and supplies.</b>

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head: Randy Oaks</b>	
<b>Finance Director: Mark Woodfill</b>	
<b>City Manager: Steve Norwood</b> 	<b>05/28/09</b>

**Summary:**

The Prescott Police Department requests approval to submit an application for grant funding provided by the U.S. Department of Justice, Bureau of Justice Assistance, in the amount of \$19,525.

**Background:**

On May 26, 2009, the Prescott Police Department received notification that the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, had allocated Edward Byrne Memorial Justice Assistance Grant (JAG) funds in the amount of \$19,525 to the Prescott Police Department. The application deadline for this grant is July 9, 2009.

Awarded funds will be used to purchase equipment and supplies that will enhance and improve law enforcement programs. Additionally, allocated funds may be expended over a period of four grant period years.

Although the grant award is under the \$20,000 procurement code guideline, this matter is being brought before the Council to satisfy U.S. Department of Justice requirements that the application be made available for review by the governing body, and provided for public comment, no fewer than 30 days before the application is submitted.

**Financial Impact:**

There are no requirements for local matching funds associated with this grant award. Consequently, there would be no initial fiscal impact to the City.

<b>Recommended Action: MOVE to approve completion of a grant application to the U.S. Department of Justice, Bureau of Justice Assistance (BJA), for grant funds in the amount of \$19,525.00 to purchase supplies and equipment necessary to improve and enhance law enforcement programs.</b>
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<b>COUNCIL AGENDA MEMO – 6/2/09 &amp; 6/9/09</b>
<b>DEPARTMENT:</b> COMMUNITY DEVELOPMENT
<b>AGENDA ITEM:</b> “The Bradshaws” Amended Site Plan–A Planned Area Development on a ±24,710 sq. ft. parcel located west of Bradshaw Drive–SI09-001.

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head:</b> Tom Guice	
<b>Finance Director:</b>	
<b>City Manager:</b> Steve Norwood 	05/20/09

**Parcel No:** 110-04-141z (±24,710 sq. ft.)                      **Zoning:** BG-PAD  
**Location:** Southeast corner of Bradshaw Drive and Stetson Road  
**Agent/Applicant:** Chris Fergis, Fergis and Harding, Inc, 7227 N. 16<sup>th</sup> St #212, Phoenix, AZ  
**Owner:** Bradshaw Senior Community/Prescott LP, 4745 N. 7<sup>th</sup> St. #110, Phoenix, AZ

**REQUEST.** This is a request to amend the previously approved Council site plan to include a 2-story apartment building as part of a new Phase 5. It is located on a newly created pie-shaped parcel at the southeastern part of the overall site. The developer has indicated that he would like to add 1-bedroom units to the project and a separate building is proposed to accommodate them.

Phase 2 of the development will be correspondingly reduced by 8 units in order to maintain the overall number of units (172) as originally approved by Council. To achieve this reduction, 2 of the apartment buildings closest to the adjoining property owners on the east will be reduced by 4 units (20 to 16) and also in height from 3 stories to 2 stories, and from 38.5’ to 29.5’ in overall height. This reduction in height will further alleviate visual concerns previously expressed in the past by at least one adjoining property owner on the east property line.

In summary, instead of 60 units, Phase 2 (see below) will now consist of a 52-unit family apartment complex of 3 buildings with 2 and 3 bedroom units.

**Background and Prior Council Approvals.** The Bradshaw Campus site plan was approved in 2008 by City Council. The campus has access from Bradshaw Drive and presently is a 4-phased Planned Area Development (PAD) totaling 172 apartment units.  
Phase 1: A 46-unit, 3-story senior apartment building.  
Phase 2: A 60-unit family apartment complex of 3 buildings with 2 and 3 bedroom units.  
Phase 3: A 46-unit, 3-story senior apartment building similar to Phase 1.  
Phase 4: A 20-unit, 3-story apartment building similar in design to Phase 2

2008, Feb. SI07-003 – Bradshaw Senior Community Site Plan for a 126 units of senior and family apartment living located east of Bradshaw Drive and south of Stetson on ±10.47 acres and WSA08-003 – Water Service Agreement for 60 units of family apartments in Phase 2.

2007, Feb.- SI07-001 Bradshaw Senior Community Site Plan for a 52 unit senior apartment building (later reduced to 46 units) on ±2.86 acres and WSA07-011–Water Service Agreement for 52 units.

**Agenda Item: SI09-001 – “The Bradshaws” Amended Site Plan- A ‘PAD’**

**AREA MEETING.** A 35 minute area meeting was held on April 20th with 2 residents attending. The main comment discussed was the elevation of the new apartment building next to the neighboring properties (see Grading below). Moving the dumpster to another location was mentioned by the architect.

**STAFF ANALYSIS.**

**Access.** The proposed parking lot driveway network will provide the needed access to the site. Legal access to the individual parcels will be provided through easements delineated in a land split which is to be approved by the City and is a Planning Division condition of approval.

**Zoning.** The property is zoned Business General (BG) which allows residential development. Surrounding zoning and land uses:

Direction	Land Use	Zoning
North	Single-family, vacant,	BG and SF9
East	Single-family, vacant	SF9
South	Peridot- Assisted Living	BG-PAD
West	Apartments and single-family	MF-H and SF-9

**Land Development Code (LDC) Requirements.** In summary, the site plan meets City requirements for development of this Business General (BG) Planned Area Development; some of which include:

	Proposed	LDC
Density ( <i>All Phases</i> ):	16.42 DUA	32 D.U.A. max..via PAD
Max. Height:		
Phase 1	± 43'	50' max.
Phase 2 (1 bldg.)	± 38.5'	50' max.
(2 bldgs.)	± 29.5'	50' max.
Phase 5:	± 30.5'	50' max.

	Proposed	LDC
Density ( <i>All Phases</i> ):	16.42 DUA	32 D.U.A. max..via PAD
Max. Bldg Lot Coverage:	22%	60% ( <i>All Phases</i> )
Setbacks: (Phase 5)		
Rear:	20'	10'
Side:	20'	12'

Open Space (*All Phases*): 47.3%      25% min. for a Planned Area Development  
 (456,488 sq. ft – (±)100,118 sq. ft. (buildings) – 140,378 sq. ft (parking and drives) = 215,992 sq. ft = **47.3%**)

Parking (*All Phases*):  
 1 per bedroom      350 spaces required  
 Guest 0.5 / unit: (20 max): 20      350 space provided

**Grading.** The finish floor elevation (see Exhibit B) of the 8-unit apartment building is ±5464'. The 30.5' building height added to the finish floor gives an elevation of 5494.5'. The estimated finish floor elevation of the home of the neighbor who appeared at the Area Meeting is 5493'.

**Agenda Item: SI09-001 – “The Bradshaws” Amended Site Plan- A ‘PAD’**

**Traffic.** The Traffic Study (TIA) associated with the 2008 Site Plan approval satisfied all the traffic issues and no additional improvements are required on Bradshaw or Stetson.

**Parking.** The site plan *provides* the required number of parking stalls. The architect has “clouded” the parking stalls which will be *removed* if and when Council adopts the LDC amendment for Workforce Housing parking. (The public hearing for this amendment is scheduled for the Planning Commission on June 11).

**Development Agreement #96-150** covers the entire 5 phase ±10.47 acre site of “The Bradshaws”. The agreement addresses (but not limited to) the following:

- Neighborhood meeting required.
- Site plan review/approval by both Planning and Zoning Commission and City Council.
- Limits on use with residential uses permitted
- Right of way dedication
- Limit LOS “C” on traffic generation from the project site

The amended project meets the DA requirements.

**Water Service Agreement.**

A Water Service Agreement was previously prepared for the 60 units of Phase II and 21 acre-feet of water annually. No new agreement is needed for the additional phase and transfer of units because the legal description for the property remains the same.

**PLANNING COMMISSION RECOMMENDATION.**

At their April 30<sup>th</sup> meeting the Commission recommended approval subject to City Department Comments by a vote 6:0.

**Recommended Action MOVE** to approve the Amended Site Plan for “The Bradshaws--A Planned Area Development” subject to City Department comments dated June 2 and 9, 2009.

**CITY DEPARTMENT COMMENTS**

**Engineering:** John Lambert 777-1694/Dick Mastin 777-1273

1. Site plan as shown reflects past approval for conceptual general layout of infrastructure. Approval of site plan is not an approval to construct, a complete set of civil plans with Grading Drainage, SWPPP, Sewer and Water along with all reports shall be submitted for review prior to approval to construct.
2. GIS indicates there are existing water and sewer mains located in the proposed expansion area. The mains will need to be located in common/open space areas.

**Planning**

1. Required erosion control and landscaping shall be provided in accordance with Sections 6.5, 6.7.8, and 6.8.4.D of the Land Development Code with appropriate calculations indicated on the site plan to clarify compliance with the LDC. The tree replacement requirement (Sec.6.5.4) applies to this site.
2. Comply with all City and Agency Building Permit and Site Plan Permit requirements prior to the issuance of Building Permits.
3. The site plan shall substantially comply with Exhibits ‘A’ and ‘B’ dated 4/15/09.
4. Lighting must meet the outdoor lighting requirements of the LDC and will be reviewed at the time of the Building Permit application.
5. Signage is by separate permit.
6. Prior to the issuance of a Building Permit, a land division application is to be approved by the City.
7. Prior to the issuance of a Building Permit for the last phase of development, a Preliminary Plat application needs to be approved by City Council.
8. Prior to the issuance of a Certificate of Occupancy for the last phase of development, a Final Plat is to be approved by City Council, and recorded within 6 months of Council approval.
9. A total of 350 parking stalls are required unless City Council approves a the Land Development Code amendment to reduce the number.
10. Label the site plan as a “Planned Area Development” at the time of Building Permit application.

**Utilities:** Site Plan is approved for conceptual general layout. A complete set of civil plans and reports shall be submitted for review prior to approval to construct.



5440 + 3' to high point

- Fin Floor @ Bradshaw Senior 1 (overall height)

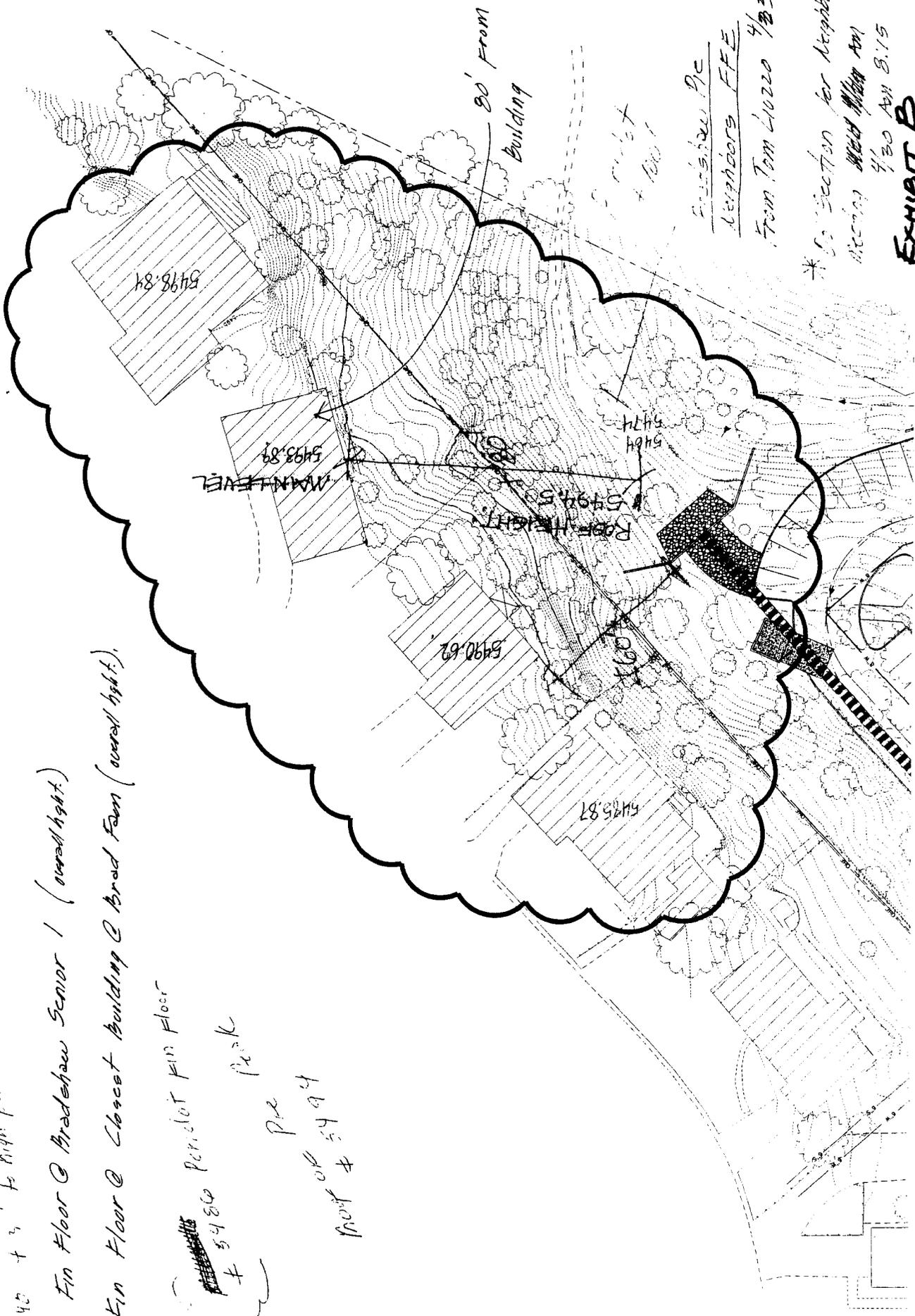
- Fin Floor @ Closest Building @ Brad Farm (overall height)

5450 Periclot Fin Floor

5450 Periclot Periclot

Periclot

front of 5494



Bradshaw Dr  
Neighbors FFE  
From Tom Luzzo 4/23

\* See Section for Neighbor Meeting Held March 2011 4:30 AM 8:15  
**EXHIBIT B**

<b>COUNCIL AGENDA MEMO – 6/2/09 &amp; 6/9/09</b>
<b>DEPARTMENT:</b> COMMUNITY DEVELOPMENT
<b>AGENDA ITEM:</b> Amendment No. One to Development Agreement #96-150 for “The Bradshaws”–A Planned Area Development on a ±10.47 acre site located west of Bradshaw Drive.

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head:</b> Tom Guice	
<b>Finance Director:</b>	
<b>City Manager:</b> Steve Norwood <i>SNorwood</i>	<i>05/20/09</i>

**Parcel No:** 110-04-193A, -193B, -141w, -141y, -141z (±10.47 acres.) **Zoning:** BG-PAD  
**Location:** Southeast corner of Bradshaw Drive and Stetson Road  
**Agent/Applicant:** Chris Fergis, Fergis and Harding, Inc, 7227 N. 16<sup>th</sup> St #212, Phoenix, AZ  
**Owner:** WESCAP and others.  
Bradshaw Senior Community/Prescott LP, 4745 N. 7<sup>th</sup> St. #110, Phoenix, AZ

**REQUEST.** This is a request to amend Development Agreement #96-150 for the ±10.47 acre site development to defer certain impact fees.

**Background.** The Bradshaw Campus site plan was approved in 2008 by City Council. The campus has access from Bradshaw Drive and with the recent proposal for an additional phase, the project is a 5-phased planned area development (PAD) totaling 172 apartment units.

- Phase 1: A 46-unit, 3-story senior apartment building.
- Phase 2: A 52-unit family apartment complex of 3 buildings with 2 and 3 bedroom units.
- Phase 3: A 46-unit, 3-story senior apartment building similar to Phase 1.
- Phase 4: A 20-unit, 3-story apartment building similar in design to Phase 2
- Phase 5: An 8-unit, 2-story apartment building.

**STAFF ANALYSIS.**

**Development Agreement #96-150** covers the entire 5 phase ±10.47 acre site of “The Bradshaws”. The agreement addresses (but is not limited to) the following:

- Neighborhood meeting required.
- Site plan review/approval by both Planning and Zoning Commission and City Council.
- Limits on use with residential uses permitted
- Right of way dedication
- Limit LOS “C” on traffic generation from the project site

**Amendment No. One to Development Agreement #96-150.** The applicant indicates that the deferral of these fees would tremendously assist the project’s financial modeling (see attached letter) by placing less strain on the lenders and equity investors. The amended Development Agreement (attached) includes two new items:

1. To defer payment of certain City fees required at the time of Building Permit issuance until the issuance of the Certificate of Occupancy.  
Impact Fees: Fire, Library, Parks, Police, Public Building and Recreation.

Street Service Fee

Public Works Fees: Sewer-Buy-In, System Impact and Water Resource Development Fee.

**Arizona Revised Statues (ARS).** Cities may defer such development fees in accordance with ARS Section 9-463.05.B.3 which states:

“3...The developers of residential dwelling units shall be required to pay development fees when construction permits for the dwelling units are issued, or at a later time if specified in a development agreement pursuant to Section 9-500.05.”  
*(This ARS section address Development Agreements which states the following: If a development agreement provides for fees to be paid at a time later that the issuance of construction permits, the deferred fees shall be paid no later than fifteen days after the issuance of a certificate of occupancy...)*”

**Term of Affordability**

In accordance with the Low Income Housing Tax Credit Program, as described in Section 42 of the Internal Revenue Code and as administered by the Arizona Department of Housing (“LIHTC Program”); the property owners are obligated to provide 30 years of affordable housing. (This is stated on page one of the DA).

Staff has attached the amended Development Agreement and the original Development Agreement.

**STAFF RECOMMENDATION.**

Staff recommends approval at the amended Development Agreement with the attached resolution.

**RESOLUTION NO. 3964-0970**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN AMENDED DEVELOPMENT AGREEMENT WITH WESCAP INVESTMENTS, LLC, FOR "AMENDMENT NO. ONE TO THE DEVELOPMENT AGREEMENT MCDONALD/BRADSHAW DRIVE (CITY CONTRACT NO. 96-150)", AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE**

**RECITALS:**

WHEREAS, WESTCAP Investments, LLC, is the owner of certain real property in the City limits that is the subject of the above-referenced Development Agreement; and

WHEREAS, the parties wish to enter into an Amended Development Agreement, pursuant to ARS Section 9-500.05 relating to the development of that property, which amends and supersedes all prior Development Agreements.

**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 Amended Development Agreement with WESTCAP Investments, LLC, attached hereto as Exhibit "A."

SECTION 2. THAT the Mayor and Staff are hereby authorized to take all such steps as may be necessary to effectuate said Amended Development Agreement.

**PASSED AND ADOPTED** by the Mayor and Council of the City of Prescott on this 9<sup>th</sup> day of June, 2009.

\_\_\_\_\_  
JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
ELIZABETH A. BURKE, City Clerk

\_\_\_\_\_  
GARY D. KIDD, City Attorney

**EXHIBIT 'A'****AMENDMENT ONE TO THE  
DEVELOPMENT AGREEMENT  
MCDONALD/BRADSHAW DRIVE  
(CITY CONTRACT NO. 96-150)**

THIS AGREEMENT ("Agreement"), is entered into this \_\_\_\_ day of \_\_\_\_\_, 2009, by and among the **CITY OF PRESCOTT**, an Arizona municipal corporation (hereinafter "CITY") and **WESCAP INVESTMENTS, INC.**, an Arizona corporation; **WILLIAM E. SPREITZER**, an individual; **BRADSHAW SENIOR/PRESCOTT LP**, an Arizona limited partnership; **BRADSHAW CROSSING/PRESCOTT LP**, an Arizona limited partnership; and **BRADSHAW SENIOR II/PRESCOTT LP**, an Arizona limited partnership (hereinafter "Property Owners"). Collectively City and Property Owners are referred to herein as "Parties".

**RECITALS:**

WHEREAS, Charles B. McDonald, Jr. Qualified Trust ("Trust") was the owner of certain real property in the City limits described in Exhibit A attached; and

WHEREAS, the City and the Trust entered into a Development Agreement on December 10, 1996 (City Contract No. 96-150, recorded on January 22, 1997 in Book 3346, page 411 of the records of the Yavapai County Recorder); and

WHEREAS, the Trust sold all the property described in the attached Exhibit A ("Property") to the Property Owners; and

WHEREAS, the Property Owners have divided the Property into five parcels representing five phases of development. The legal descriptions of these five phases ("Five Phases") are attached on Exhibit B; and

WHEREAS, the Property Owners intend to develop the Five Phases by utilizing the Low Income Housing Tax Credit Program, as described in Section 42 of the Internal Revenue Code and as administered by the Arizona Department of Housing ("LIHTC Program"); and

WHEREAS, pursuant to the terms of the Development Agreement described above, the Property Owners are bound by the terms of the Development Agreement; and

WHEREAS, the Parties wish to enter into this Amendment One to the Development Agreement (City Contract No. 96-150), pursuant to ARS Section 9-500.05 relating to the development of the Property which amends the Development Agreement.

**ENACTMENTS:**

That the Development Agreement (City Contract No. 96-150) be amended to add new Section 13 to read as follows:

13. The City shall defer the payment of the City's impact, development, buy-in and resource fees ("Fees") until the issuance of the Certificates of Occupancy for each of the Five Phases. Payment of the Fees for each of the Five Phases shall be made prior to issuance of any temporary or final Certificates of Occupancy. Payment of grading permit fees, building permit fees, and plan review and plan check fees will be made prior to issuance of the permits and prior to commencement of construction for each of the Five Phases, Payment of all inspection fees will be made upon request of the City. The cost of the domestic and irrigation water meters will be made at the time the water meters are purchased. The impact, development, buy-in and resource fees associated with the water meters will be deferred until issuance of the temporary or final Certificates of Occupancy. In the event any phase of the Five Phases is not developed under the LIHTC Program, that phase will not qualify for the deferment of the Fees, and all Fees for that phase shall be due and payable to the City prior to the commencement of construction.

This Amendment One to the Development Agreement (City Contract No. 96-150) shall be recorded in the office of the Yavapai County Recorder.

All other terms and conditions of the previous Development Agreement (City Contract No. 96-150) shall remain in full force and effect.

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

\_\_\_\_\_  
 GARY D. KIDD, City Attorney

STATE OF ARIZONA        )  
                                           ) ss.  
 COUNTY OF YAVAPAI        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by Jack D. Wilson, Mayor of the City of Prescott, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged that he executed it.

\_\_\_\_\_  
 Notary Public





STATE OF ARIZONA            )  
                                          ) ss  
COUNTY OF MARICOPA        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by William E. Spreitzer, the President of WESCAP Investments, Inc., an Arizona corporation, the General Partner of Bradshaw Senior II/Prescott LP, an Arizona limited partnership, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged that he executed it for the purposes therein contained and, that he has the authority to so execute.

\_\_\_\_\_  
Notary Public

1 of 2

PARKING AS PER ORDINANCE

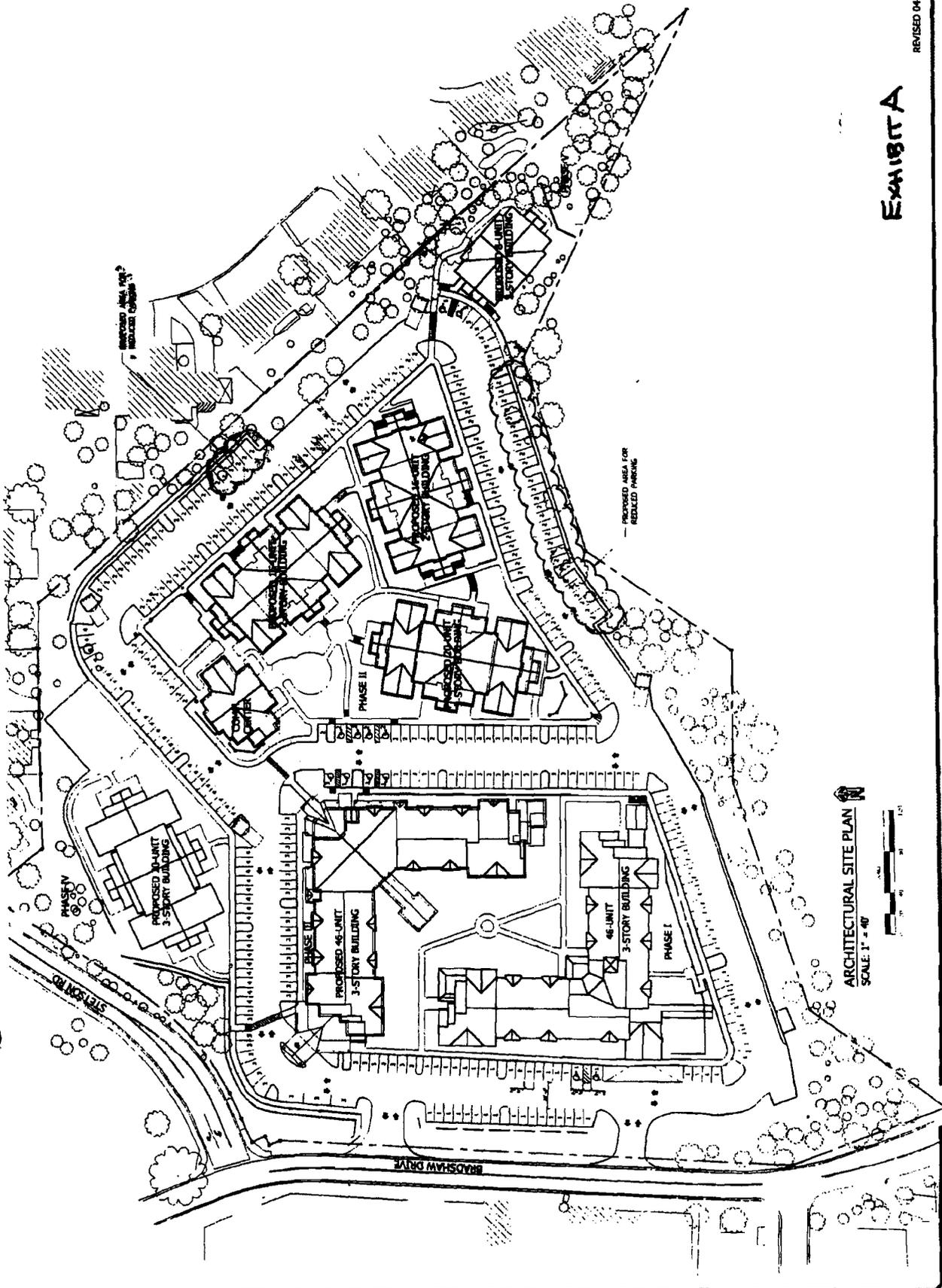
PROJECT DATA - PHASE I	PROJECT DATA - PHASE II	PROJECT DATA - PHASE III	PROJECT DATA - PHASE V
<p><b>PROJECT DATA - PHASE I</b></p> <p><b>PROJECT NAME:</b> BRADSHAW CROSSINGS APARTMENTS - PHASE I</p> <p><b>PROJECT ADDRESS:</b> 1-4-047 1/2 AC, EAST 7<sup>TH</sup> AVENUE CORPUS CHRISTI, TEXAS 78401</p> <p><b>OWNER:</b> WESCAP INVESTMENTS, INC.</p> <p><b>DESIGNER:</b> FERGUS &amp; HARDING, II</p> <p><b>DATE:</b> APRIL 06, 2009</p> <p><b>SCALE:</b> 1/4" = 1'-0" (SEE PLAN)</p> <p><b>NOTES:</b></p> <p>1) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>2) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>3) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>4) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>5) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>6) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>7) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>8) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>9) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>10) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>11) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>12) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>13) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>14) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>15) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>16) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>17) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>18) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>19) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>20) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p>	<p><b>PROJECT DATA - PHASE II</b></p> <p><b>PROJECT NAME:</b> BRADSHAW CROSSINGS APARTMENTS - PHASE II</p> <p><b>PROJECT ADDRESS:</b> 1-4-047 1/2 AC, EAST 7<sup>TH</sup> AVENUE CORPUS CHRISTI, TEXAS 78401</p> <p><b>OWNER:</b> WESCAP INVESTMENTS, INC.</p> <p><b>DESIGNER:</b> FERGUS &amp; HARDING, II</p> <p><b>DATE:</b> APRIL 06, 2009</p> <p><b>SCALE:</b> 1/4" = 1'-0" (SEE PLAN)</p> <p><b>NOTES:</b></p> <p>1) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>2) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>3) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>4) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>5) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>6) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>7) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>8) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>9) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>10) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>11) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>12) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>13) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>14) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>15) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>16) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>17) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>18) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>19) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>20) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p>	<p><b>PROJECT DATA - PHASE III</b></p> <p><b>PROJECT NAME:</b> BRADSHAW CROSSINGS APARTMENTS - PHASE III</p> <p><b>PROJECT ADDRESS:</b> 1-4-047 1/2 AC, EAST 7<sup>TH</sup> AVENUE CORPUS CHRISTI, TEXAS 78401</p> <p><b>OWNER:</b> WESCAP INVESTMENTS, INC.</p> <p><b>DESIGNER:</b> FERGUS &amp; HARDING, II</p> <p><b>DATE:</b> APRIL 06, 2009</p> <p><b>SCALE:</b> 1/4" = 1'-0" (SEE PLAN)</p> <p><b>NOTES:</b></p> <p>1) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>2) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>3) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>4) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>5) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>6) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>7) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>8) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>9) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>10) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>11) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>12) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>13) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>14) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>15) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>16) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>17) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>18) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>19) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>20) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p>	<p><b>PROJECT DATA - PHASE V</b></p> <p><b>PROJECT NAME:</b> BRADSHAW CROSSINGS APARTMENTS - PHASE V</p> <p><b>PROJECT ADDRESS:</b> 1-4-047 1/2 AC, EAST 7<sup>TH</sup> AVENUE CORPUS CHRISTI, TEXAS 78401</p> <p><b>OWNER:</b> WESCAP INVESTMENTS, INC.</p> <p><b>DESIGNER:</b> FERGUS &amp; HARDING, II</p> <p><b>DATE:</b> APRIL 06, 2009</p> <p><b>SCALE:</b> 1/4" = 1'-0" (SEE PLAN)</p> <p><b>NOTES:</b></p> <p>1) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>2) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>3) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>4) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>5) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>6) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>7) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>8) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>9) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>10) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>11) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>12) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>13) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>14) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>15) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>16) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>17) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>18) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>19) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p> <p>20) ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.</p>

EXHIBIT A

2 of 2

**EXHIBIT A**

REVISED 04-15-09



**ARCHITECTURAL SITE PLAN**  
 SCALE: 1" = 40'



**WESCAP INVESTMENTS, INC.**

4745 North 7th Street, Suite 110 Phoenix, AZ 85014 602-279-9300 Fax: 602-277-8491

Via e-mail: [tom.guice@cityofprescott.net](mailto:tom.guice@cityofprescott.net)

January 22, 2009

Thomas A. Guice, Director  
Community Development Department  
CITY OF PRESCOTT  
201 South Cortez Street  
Prescott, AZ 86303

RE: **Bradshaw Crossing Apartments**  
125 thru 131 Bradshaw Drive, Prescott

Dear Mr. Guice:

On January 21, 2009, WESCAP Investments, Inc. ("WESCAP") was notified by the Arizona Department of Housing ("ADOH") that WESCAP received an award of housing tax credits for the development of the second phase of WESCAP's "The Bradshaws" campus: Bradshaw Crossing Apartments.

Bradshaw Crossing Apartments (the "Project") is a 52-unit, family workforce/affordable apartment development comprised of three apartment buildings and one community center. There are four (4) items that WESCAP would like the City of Prescott (the "City") to consider to assure the timely development of the Project:

1. **Amend Existing Development Agreement**

WESCAP is reviewing every possibility to make the Project and the remaining phases of The Bradshaws campus as appealing as possible to lenders and equity investors, especially during these trying economic times. One of the ways to enhance the financial viability of the Project is to defer the payment of the City's impact, development, buy-in and resource fees. The delayed payment puts less strain on the development budget up-front, which is more appealing to lenders and equity investors (the purchasers of the tax credits).

Continued

**WESCAP would like the City to consider the deferment of certain fees until the issuance of the Certificates of Occupancy including:**

- **Fire Impact Fee**
- **Library Impact Fee**
- **Parks Impact Fee**
- **Police Impact Fee**
- **Public Building Impact Fee**
- **Recreation Impact Fee**
- **Street Service Fee**
- **PW – Commercial Sewer Buy-In**
- **PW – Residential Sewer Buy-In**
- **PW – System Impact Fees**
- **PW – Water Resource Dev. Fee**

**The deferment of payment of the impact, development, buy-in and resource fees helps tremendously with the financial modeling of the Project and the future phases. The deferment occurs prior to new residents using the facilities within the City. Payment of all fees would occur prior to occupancy of the Project and the future phases. All deferred fees would be paid prior to issuance of any temporary or final Certificates of Occupancy.**

**Payment of all grading permit fees, building permit fees, and plan review and plan check fees would occur prior to issuance of the permits and prior to the commencement of construction. Payment of all inspection fees would be due upon request from the City. The cost of the domestic and irrigation water meters for the Project would be paid at the time the water meters are purchased, which typically occurs about 60 to 90 days prior to completion of construction. The impact and resource fees associated with the water meters would be deferred and due prior to issuance of the Certificates of Occupancy.**

**An existing Development Agreement, dated January 20, 1997 (see attached), was recorded for The Bradshaws campus. Perhaps the existing Development Agreement can be amended to address the deferment of payment of the impact, development, buy-in and resource fees. However, the deferment of payment of the fees shall occur only in the event the Project and each subsequent phase of The Bradshaws campus are developed as workforce or affordable housing.**

**Continued**

Thomas A. Guice, Director  
Community Development Department  
CITY OF PRESCOTT  
Prescott, AZ 86303

January 22, 2009  
Page 3

2. **Water Service Agreement #2008 – 210**

It appears to WESCAP that the Water Service Agreement for Phase II of The Bradshaws campus was approved by the City Council on February 26, 2008. See your attached letter dated March 13, 2008. If the Water Service Agreement for the Project has not been approved by the City Council, WESCAP requests that one be considered by the City Council for 52 units of workforce/affordable housing.

3. **Comprehensive Signage Plan**

The Site Plan for The Bradshaws campus was approved by the City Council on February 26, 2008. WESCAP will be submitting the Comprehensive Signage Plan for the entire development, all phases of The Bradshaws campus, on Wednesday, January 28, 2009.

4. **Submittal of Civil Plans and Building Plans for Phase II**

The civil plans and building plans for Phase II are scheduled for submittal to the City on Friday, February 6, 2009.

WESCAP requests that the City consider presenting items 1, 2 and 3 listed above to the City Council for simultaneous consideration if possible.

We are excited about the allocation of housing tax credits by ADOH for Phase II and eager to start construction. We appreciate the strong public/private partnership between the City and WESCAP that has made workforce/affordable housing a reality in Prescott.

Sincerely,

WESCAP Investments, Inc.

  
William E. Spreitzer, President

Attachments

5440 + 3' to high point

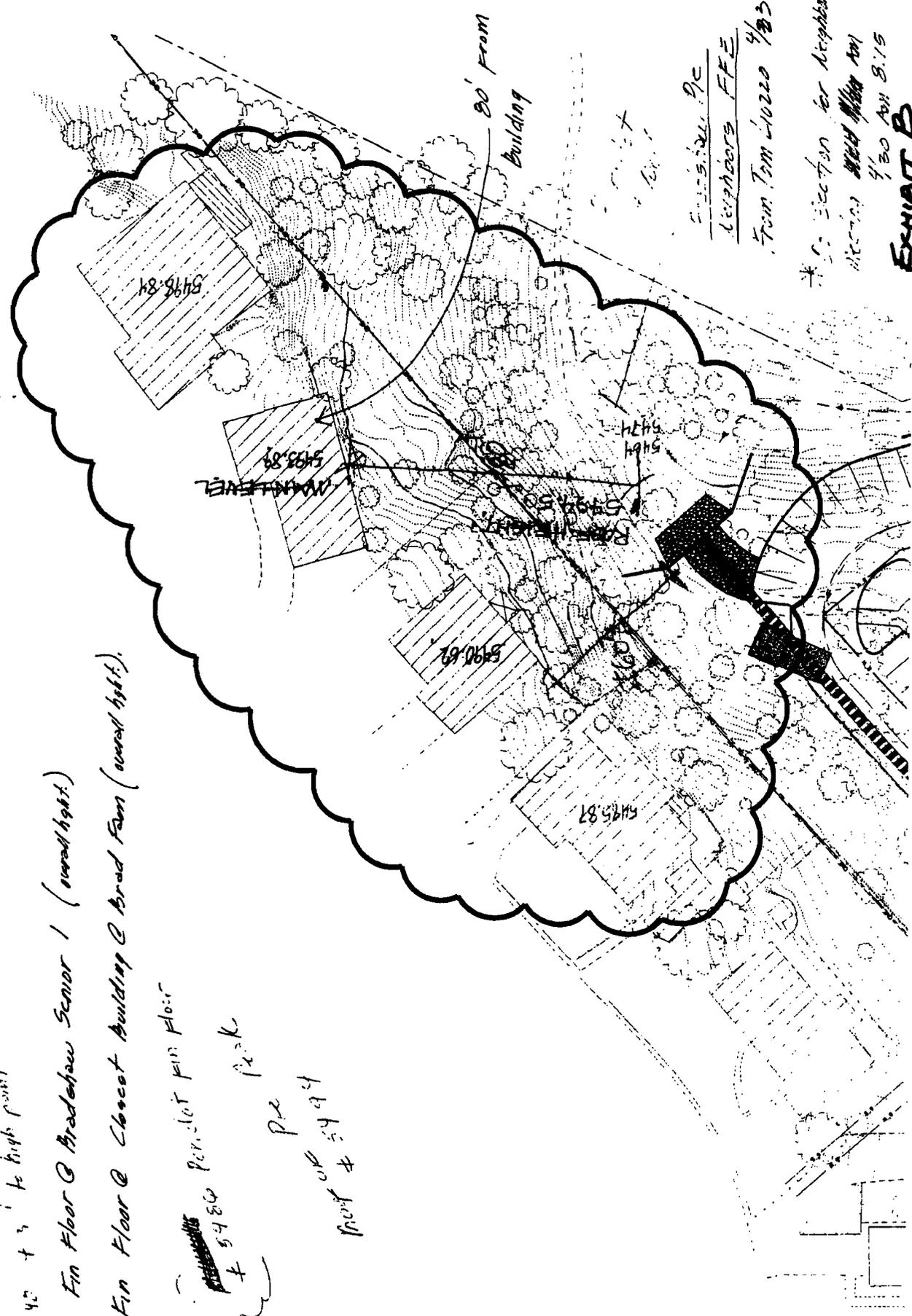
- Fin Floor @ Bradshaw Senior 1 (overall height)

- Fin Floor @ Choctaw Building @ Brad Farm (overall height)

Permit Fin Floor

5480  
+ 5480  
Perk

Perk  
Foot of 5494

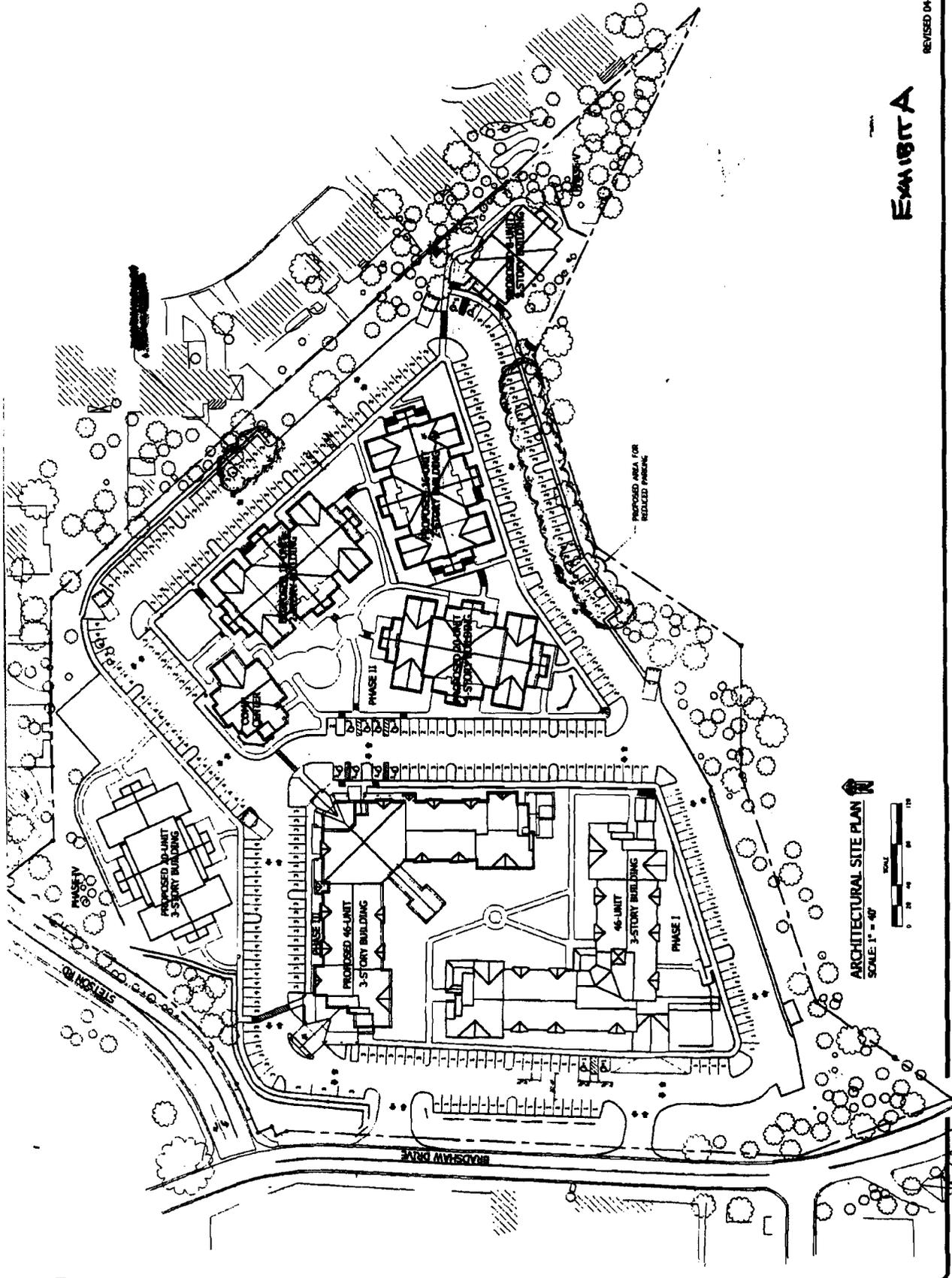


5498.84  
5498.84  
5498.84  
5498.84  
5498.87  
5498.87

80' From Building  
ROAD  
\* See Section for description  
1/30 AM 8:15  
EXHIBIT B

REVISED 04-15-09

**EXHIBIT A**



**INDEXED &  
MICROFILMED**

	INSTRUMENT # 9703498		
	OFFICIAL RECORDS OF		
	YAVAPAI COUNTY		
	PATSY C. JENNEY-COLON		
	REQUEST OF:		
	CITY OF PRESCOTT		
	DATE: 01/22/97	TIME: 13:00	
	FEE: 6.50	SC: 4.00	PT:
	BOOK 3346	PAGE 411	PAGES: 012

BK	FEE
	10.50
MAP	94
PCL	95
	91
	10.50
	RR

#96-150

**DEVELOPMENT AGREEMENT  
MC DONALD/BRADSHAW DRIVE**

WHEREAS the City of Prescott (hereinafter, the "City") is authorized and empowered to enter into this Development Agreement (this "Agreement") pursuant to Arizona Revised Statutes ("ARS") Section 9-500.05; and

WHEREAS the Charles B. McDonald Jr. Qualified Trust (hereinafter referred to as the "Trust") is the legal owner of the real property described on Exhibit "A", attached hereto and by this reference incorporated herein as if fully set forth (hereinafter referred to as the "Property"); and

WHEREAS the City and the Trust wish to enter into this Agreement to provide for rezoning of the Property, and to provide for certain permitted uses and certain excluded uses thereof.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto to each other such party, the parties hereto agree as follows:

1. This Agreement shall relate to the Property and, except as hereinafter specifically provided, shall become operative with respect to said Property upon recordation with the Yavapai County Recorder.

2. The Property shall have the right arising pursuant to this Agreement to all permitted uses, density, intensity and height limitations as allowed in Business "A" PAD Zoning as of the date of this Agreement. Notwithstanding the foregoing provision, the Property shall not be entitled to the following uses which would otherwise be allowed within the aforementioned zone: agricultural produce markets, appliance sales and service, ambulance service, antique shops, auction/swap meet indoors, auditoriums, bakeries, banks, bars, battery charging and repair, catering (mobile), candy stores, cleaning and dyeing shops and plants, clothing manufacturers, conservatories/greenhouses, copy shops, delicatessen stores, department stores,

**McDonald Agreement**

**Page 2**

dressmakers and tailors, dry wall supply, electronic equipment sales and repair, fabric shops, flower shops, new and used furniture, grocery stores and supermarkets, hardware stores, laundries (full service and self service), rental libraries, light manufacturing, mini-storage, mortuaries, movers (household goods and office), pet grooming, photographic shops and studios, plumbing shops, poultry shops, radio sales and repair, recreational vehicle storage yard, recreational vehicle park, second hand stores, service stations, shoe repair shops, shoe shining shops, retail shoe shops, soda fountains, soft drink fountains, mini-storages, studio (including movie, fine arts), tailor shops, taxi cab service, taxidermy, tea rooms, theaters, tile shops, tire shops, tobacco stores, trade schools, upholstery shops, veterinary clinics and video sales and rentals.

3. That notwithstanding the foregoing, the Trust hereby agrees that:

A. In developing the property, and in consideration of the City granting a rezoning to Business "A" PAD, the Trust hereby agrees to comply with the following terms and conditions:

i. That, upon the request of the City, the Trust shall dedicate to the City required right of way for the extension of Stetson Road, as shown in the attached Exhibit "B", upon request by the City.

ii. That the use of the Property shall be limited to uses which generate traffic on Bradshaw Drive not in excess of the levels of service "C", as determined by the methods of analysis as provided for in the 1994 Southeast Prescott Traffic Study by BRW, Inc.

iii. That the Trust shall pay the proportionate cost of any off-site improvements or signalization required pursuant to the foregoing analysis prior to the issuance of any building permits, including but not limited to payment for the proportionate cost of any off-site right of way acquisition for turn lanes on Gurley Street, in the amount of \$770.00 per acre.

iv. That prior to the issuance of any building permits for the Property, the Trust shall pay to the City the proportional cost of the Southeast Prescott Traffic Study by BRW, Inc. (1994), in the amount of \$116.00 per acre.

B. That prior to development of the Property, the Trust hereby agrees to submit the proposed Site Plan of the proposed development to the Planning and Zoning Commission for City Council approval. The City shall provide notice to property owners within 300 feet of the property (at the Trust's expense) of at least one area meeting to be held by the City and the Trust prior to formal consideration by the City Council of said site plan, in order to give property owners in the vicinity an opportunity to review and provide input on said plan. The acceptance, rejection or modification of said Site Plan by the City Council shall be at its sole discretion, to mitigate, among other things, the impact by the development upon nearby properties with respect to light, noise, traffic and visual intrusion.

4. The Property shall be subject to the City's General Plan. It is further agreed by and between the parties that Business "A" Zoning for the Property is in compliance with the City's General Plan.

5. Pursuant to A.R.S. Section 38-511, the City of Prescott may, within three years after the date this Agreement is approved by the City, cancel this agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the City is, at any time while the agreement or any extension of the agreement is in effect, an employee or agent of any other party to the agreement in any capacity or a consultant to any other party of the agreement with respect to the subject matter of the agreement. In the event of the foregoing, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this agreement on behalf of the City of Prescott from any other party to the agreement arising as a result of this agreement.

6. That the Trust hereby agrees to indemnify and hold harmless the City, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits as a result of the negligence or intention error of the property owner under this agreement, whether said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the Trust.

7. This Agreement is the result of negotiations by and among the City and the Property Owners, and any ambiguity herein shall not be interpreted against any party hereto.

**McDonald Agreement**

**Page 4**

8. The rights and obligations of the Trust under and in connection with this Agreement shall attach upon due recordation of this Agreement shall constitute real property interests and shall, respectively, run with the land to the benefit of all subsequent owners and holders of interests of the Property or any part thereof. In connection with any future transfer of the property in whole or in part, or of any interest therein, the rights and obligations hereunder of the Trust shall automatically be transferred to the extent of the property interest transferred, without derogation of any such rights with respect to any property interest retained or otherwise transferred.

9. This Agreement embodies the entire Agreement of the parties with regard to the subject matter hereof. There are no representations, promises, warranties, understandings or agreements expressed or implied, oral or otherwise, in relation thereto, except those expressly referred to or set forth herein. The Trust hereby acknowledges and agrees, and hereby warrants, that the execution and delivery of this Agreement is its free and voluntary act and deed, and that said execution and delivery have not been induced by, nor done in reliance upon, any representations, promises, warranties, understandings or agreements made by the City, its agents, officers, employees or representatives, except as such are expressly set forth in this Agreement.

10. No promise, representation, warranty or agreement made subsequent to the execution and delivery of this Agreement by any party hereto as to the subject matter hereof, and no revocation, partial or otherwise, or change, amendment or addition to, or alteration or modification of, this Agreement, shall be valid unless the same shall be in writing and signed by all parties to be bound or affected thereby.

11. The prevailing party or parties in any legal action brought to enforce this Agreement or any part hereof or rights and/or obligations hereunder shall have the right to recover its costs (including its reasonable attorneys' fees and costs) from the non-prevailing party or parties to such action.

12. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona.

IN WITNESS WHEREOF, this Agreement is executed and delivered by the  
Property Owners this 20 day of January, 1997.

Property Owner:

*Charles B McDonald Jr*  
Signature

Name: Charles B McDonald Jr  
Printed or Typed

Title: Trustee

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of  
Prescott this 10<sup>th</sup> day of DECEMBER, 1996.

*Paul S. Daly*  
Paul S. Daly, Mayor

**SEAL**

Attest:

*Marie L. Watson*  
Marie L. Watson  
City Clerk

Approved as to form:

*John R. Moffitt*  
John R. Moffitt  
City Attorney



## EXCLUDED USES

- \* agricultural produce markets
- \* appliance sales and service
- \* ambulance service
- \* antique shops
- \* auction/swap meet indoors
- \* auditoriums
- \* bakeries
- \* banks
- \* bars
- \* battery charging and repair
- \* catering (mobile)
- \* candy stores
- \* cleaning and dyeing shops and plants
- \* clothing manufacturers
- \* conservatories/greenhouses
- \* copy shops
- \* delicatessen stores
- \* department stores
- \* dressmakers and tailors
- \* dry wall supply
- \* electronic equipment sales and repair
- \* fabric shops

- \* flower shops
- \* new and used furniture
- \* grocery stores and supermarkets
- \* hardware stores
- \* laundries (full service and self service)
- \* rental libraries
- \* light manufacturing
- \* mini-storage
- \* mortuaries
- \* movers (household goods and office)
- \* pet grooming
- \* photographic shops and studios
- \* plumbing shops
- \* poultry shops
- \* radio sales and repair
- \* recreational vehicle storage yard
- \* recreational vehicle park
- \* second hand stores
- \* service stations
- \* shoe repair shops
- \* shoe shining shops
- \* retail shoe shops

- \* soda fountains
- \* soft drink fountains
- \* mini-storages
- \* studio (including movie, fine arts)
- \* tailor shops
- \* taxi cab service
- \* taxidermy
- \* tea rooms
- \* theaters
- \* tile shops
- \* tire shops
- \* tobacco stores
- \* trade schools
- \* upholstery shops
- \* veterinary clinics
- \* video sales and rentals

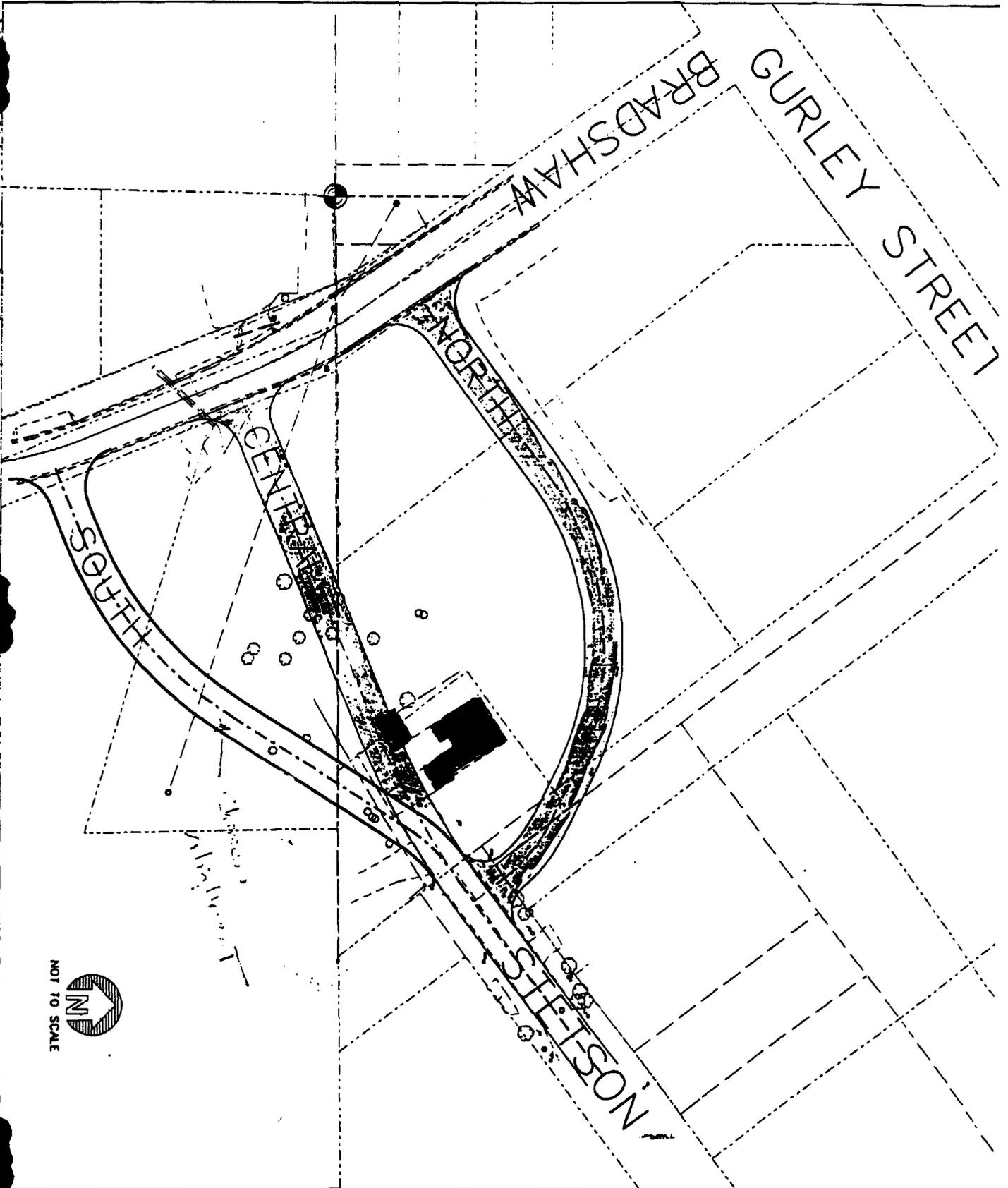
**EXHIBIT "A"**

All that part of Lot 2 and the Southeast quarter of the Northeast quarter of Section 3, Township 13 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

COMMENCING at the North quarter corner of said Section 3; thence North 89°18' East, 401.41 feet, along the Southerly line of the TRITLE TRACT to the TRUE POINT OF BEGINNING; thence South 0°42' East, 166.01 feet; thence North 72°35'30" West, 274.47 feet to the Easterly right of way line of Crook Avenue; thence South 21°22' East, 157.93 feet along said right of way line; thence continuing along said right of way line South 2°35'30" West, 495.16 feet; thence continuing along said right of way line South 21°27' East, 155.91 feet; thence continuing along said right of way line South 73°44'30" East, 123.49 feet; thence leaving said right of way and running along the Northerly line of the land described as Parcel I in a deed recorded in Book 250 of Official Records, page 388, North 65°38' East, 145.05 feet; thence South 89°29' East, 187.45 feet; thence South 82°49' East, 361.46 feet; thence South 44°24' East, 226.79 feet; thence South 19°08' East, 248.08 feet; thence South 1°43' West, 243.65 feet; thence South 36°13' West, 200.10 feet to the Northerly right of way line of Double "D" Drive; thence South 77°09' East approximately 25 feet along said right of way line to the most Westerly corner of Lot 1, THE KNOLL SUBDIVISION, as set forth in Book 19 of Maps, page 87, records of Yavapai County, Arizona; thence along the Westerly line of said Lot 1, North 29°55' East, 8.59 feet; thence continuing along the Westerly line of said Lot 1, North 36°13' East, 190.71 feet to the Easterly line of Lot 2 of said Section 3; thence Northerly along the said Easterly line of Lot 2 to the most Southerly corner of PARK EAST SUBDIVISION, as set forth in Book 10 of Maps, page 32, records of Yavapai County, Arizona; thence North 42°22'30" West, 854 feet to the most Westerly corner of said PARK EAST SUBDIVISION; thence South 89°18' West along the Northerly line of said Lot 2 of Section 3, a distance of 315.17 feet to the TRUE POINT OF BEGINNING.

EXHIBIT "B"

City of Madison, Wisconsin  
Design: dgm  
Sep. 3, 1996 09:24:31



RESOLUTION NO. 2937

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO A DEVELOPMENT AGREEMENT WITH THE CHARLES MCDONALD TRUST, AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE.

WHEREAS, the Charles McDonald Trust is the owner of certain real property within the City limits; and

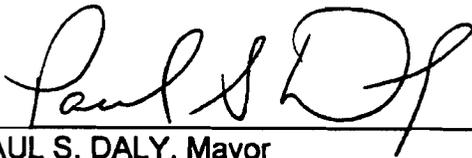
WHEREAS, the parties wish to enter into a Development Agreement, pursuant to ARS Section 9-500.05 relating to the development of that property.

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

SECTION 1. THAT, the City of Prescott hereby approves the Development Agreement with the Charles McDonald Trust, attached hereto as Exhibit "A".

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

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 10th day of DECEMBER, 1996.

  
\_\_\_\_\_  
PAUL S. DALY, Mayor

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
MARIE L. WATSON, City Clerk

  
\_\_\_\_\_  
JOHN R. MOFFITT, City Attorney

COUNCIL AGENDA MEMO – June 2, 2009

M  
L  
S  
M

DEPARTMENT: Parks, Recreation & Library

AGENDA ITEM: Approval of Real Estate Purchase Agreement with Joseph & Barbara Gardner of real property near Thumb Butte for Open Space preservation.

Approved By:

Date:

Department Head: Debbie Horton *[Signature]*

5-20-09

Finance Director: Mark Woodfill

City Manager: Steve Norwood *[Signature]*

05/22/09

**BACKGROUND:**

The Open Space Acquisition Advisory Committee have been engaged in active, ongoing efforts to accomplish City acquisition of real property in the Thumb Butte area recommended by the Committee. This proposed acquisition consists of a parcel of land on Skyline Drive totaling 1.52 acres, adjoining and surrounded by existing Open Space known as "Gill Hill."

The attached draft agreement is the product of recent negotiations, and is subject to review by the Seller. Staff is requesting authorization to proceed with Council's approval of the purchase in a form substantially similar to the draft presented, recognizing that there may be some technical revisions prior to opening escrow and that the City retains the right to cancel the agreement for any reason during the escrow period. Key points of the purchase agreement include:

- Total appraised value of the parcel is \$228,000.
- Total negotiated purchase price for the parcel is \$180,000, total donation to the City will be \$48,000.

The City gratefully acknowledges the generosity of this contribution from Joseph & Barbara Gardner.

**BUDGET:**

The amount of \$4,588,156 is available in current Fiscal Year 2009 budget for open space acquisition.

**Recommended Action:** Recommended Action: MOVE to approve a Real Estate Purchase Agreement with Joseph & Barbara Gardner, for 1.52 acres of real property on Skyline Drive near Thumb Butte for Open Space purposes; and authorize the Mayor and City staff to take all steps necessary to complete the purchase.

**REAL ESTATE PURCHASE AGREEMENT  
(Vacant Land – Gardner Parcel)**

THIS REAL ESTATE PURCHASE AGREEMENT (“Agreement”) is made and entered into by and between Joseph Gardner and Barbara H. Gardner, husband and wife, (“Sellers”), and the City of Prescott, an Arizona municipal corporation, (“Buyer”).

**W I T N E S S E T H :**

WHEREAS, Sellers own certain real property consisting of approximately 1.52 acres located in Yavapai County, Arizona, in the area commonly known as Thumb Butte.

WHEREAS, Sellers desire to sell and Buyer desires to purchase such real property in accordance with the terms and conditions specified herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the parties hereby agree as follows:

1.     DESCRIPTION OF PROPERTY.

The real property which is the subject of this Agreement consists of approximately 1.52 acres located in the Thumb Butte area, Yavapai County, Arizona (the “Property”) as more fully described in Exhibit “A” attached hereto.

2.     AGREEMENT TO SELL AND PURCHASE.

Subject to the terms of this Agreement, Sellers hereby agree to sell to Buyer, and Buyer hereby agrees to purchase from Sellers, on the terms and conditions herein set forth, the Property, together with all privileges, rights-of-way, easements, licenses, water rights, and other rights and benefits appurtenant to or used in connection with the beneficial use and enjoyment of such real property. The Property for purposes of the purchase provided for herein, is sometimes hereinafter referred to as the Purchase Parcel. The parties acknowledge and agree that the property is being purchased with open space funds, is intended to and shall be used as open space for the benefit of the citizens of Prescott and shall, upon completion of sale, constitute and be made part of the City of Prescott’s open space. The parties agree that the property is intended and shall be used for open space purposes only and not to be used for water tanks or for other structures not compatible with open space uses.

3.     OPENING AND CLOSING DATES.

“Opening of Escrow” shall occur when Escrow Agent accepts this Agreement as provided at the end of this Agreement. Subject to the satisfaction of all contingencies as set forth herein, the closing of this transaction (the “Closing” or the “Close of Escrow”) shall take place at the office of the Escrow Agent on or before May 31, 2009 ( the” Scheduled Closing Date”).

4. PURCHASE PRICE.

The purchase price for the property is agreed to be \$180,000.00.

A. Seller and Buyer understand and agree that the difference between the appraised value, as defined herein as the purchase price, and the sum of One Hundred Eighty Thousand Dollars (\$180,000.00) is intended to be and shall be and shall constitute a charitable gift by and from Seller to the City of Prescott. Both parties agree and understand that the City of Prescott intends to and is purchasing the property for One Hundred Eighty Thousand Dollars (\$180,000.00) and that any difference between that amount and the value of the property as determined by the appraisal is and shall constitute a charitable donation.

B. The dollar value of the charitable gift shall be determined by deducting the One Hundred Eighty Thousand Dollars (\$180,000.00) from the appraised value of the property and the buyer accepts such dollar value as the value of the charitable gift, and shall recognize such donation and gift in accordance with the City of Prescott's normal practices and process for acceptance of such charitable donations to the City.

C. Buyer shall provide payment for the purchase price to the Sellers as follows:

(1) The sum of Five Thousand Dollars (\$5,000.00) (the "Earnest Money Deposit") shall be deposited with the Escrow Agent, in cash or certified funds, within three (3) days from the Opening of Escrow, and shall be disbursed to the Sellers upon the Close of Escrow. The Earnest Money Deposit shall be refundable until expiration of the Sixty (60) day Examination Period, at which time, if Buyer has failed to terminate this Agreement, it shall become non-refundable and shall be forfeited to Sellers upon Buyer's failure to perform, subject only to (a) the conditions of Section 4 hereof and (b) to performance by Sellers of their obligations hereunder. Immediately upon receipt of the Earnest Money Deposit, the Escrow Agent shall deposit the funds in a short-term interest-bearing account at a financial institution mutually acceptable to Buyer and Sellers. The interest earned on such deposit shall accrue to the benefit of the Buyer, except in the event Sellers become entitled to retain the Earnest Money Deposit by reason of Buyer's failure to perform, in which event said interest shall accrue to the benefit of the Sellers.

(2) The balance of the remaining purchase price in the sum of One Hundred and Seventy Five Thousand dollars (\$175,000.000) shall be paid as follows:

a) Buyer shall pay the balance of One Hundred and Seventy-Five thousand dollars to Escrow Agent for the benefit of Sellers plus or minus pro-rations as hereinafter provided, in cash or certified funds or by wire, on or before the Scheduled Closing Date, unless the

Scheduled Closing Date is extended by mutual agreement of the parties in which case the balance shall be paid to Escrow Agent on or before the agreed upon extended closing date. The balance shall not bear interest and shall be paid and disbursed to Sellers on or before Close of Escrow during the City of Prescott's fiscal year 2008-2009.

5. EXAMINATION PERIOD.

(A) Buyer shall have a period commencing on the date of Opening of Escrow and ending at 5:00 p.m. on the \_\_\_\_\_ (\_\_\_th) day after the Opening of Escrow but not later than \_\_\_\_\_, 2009 (the "Examination Period") during which to make its examination and investigation of the Property, and this Agreement is subject to and conditioned upon Buyer's approval of same in Buyer's sole and absolute discretion. Buyer's activities during the Examination Period shall include, without limitation, investigation of all aspects of the Property that Buyer deems advisable to confirm that the Property is suitable for Buyer's intended use

(B) Within the Sixty (60) day examination period after the Opening of Escrow, or such shorter time period as will allow the closing of escrow prior to \_\_\_\_\_, 2009, Sellers shall assist in and cooperate with Buyer obtaining information and documents and any real property information possessed by Sellers to assist Buyer in obtaining and procuring, at Buyers' sole cost, a survey of the Property (the "Survey") prepared by an Arizona licensed civil engineer. The Survey shall be certified to Buyer, Sellers and Escrow Agent and shall meet the minimum ALTA/ASCM standards for issuance by Escrow Agent of a standard coverage owner's policy of title insurance. The Survey shall contain a legal description of the Property. In addition, Sellers agree to reasonably cooperate with Buyer during the Examination Period and to furnish Buyer such other documents, instruments and information in Sellers' possession concerning the Property or its operation as Buyer may, from time to time, reasonably request.

(C) Following the Opening of Escrow, Buyer, its agents and employees may enter upon the Property at any time for the purpose of conducting any and all tests, investigations, inspections, studies, and surveys which Buyer in its discretion may deem advisable. If Buyer desires an environmental report or any other reports of any kind with respect to the Property, Buyer shall obtain such reports at its expense during the Examination Period. Buyer hereby agrees to indemnify Sellers and the Property and holds Sellers and the Property free and harmless from any and all loss or liability resulting from the activities of Buyer, its agents and employees upon the Property, and from any and all mechanics', material man's and other liens resulting from such conduct of Buyer, its agents and employees upon the Property. The foregoing indemnification shall survive the termination of this Agreement. Buyer agrees to deliver to Sellers, within five days (5) copies of any reports pertaining to any examination or inspection report received by Sellers.

(D) At any time prior to the expiration of the Examination Period, if Buyer determines, for any reason whatsoever, that it does not desire to complete the transaction

contemplated herein, Buyer may terminate this Agreement by so notifying Sellers and Escrow Agent in writing. Upon termination of this Agreement pursuant to this paragraph, the escrow provided for herein shall be immediately canceled, the Earnest Money Deposit and all earnings thereon shall be returned to Buyer, and Buyer shall pay all escrow fees in connection with the escrow or the cancellation thereof. Notwithstanding anything to the contrary contained in this agreement, it is agreed that in the event that either Buyer or Sellers wish to cancel this agreement as may be provided herein during the examination period, they shall be required to provide written notice of their intent to cancel this agreement which notice shall be provided to the other party and to Escrow Agent, not later than Ten (10) days prior to the closing date specified herein.

7. TITLE REVIEW PERIOD.

(A) Escrow Agent is hereby instructed to deliver to Buyer and Sellers, as soon as practicable after the Opening of Escrow, a title commitment for an ALTA standard coverage Owner's title insurance policy (the "Title Report"), together with full, complete and legible copies of all instruments of record referred to therein. Buyer shall pay the premium for the standard portion of the title insurance policy, and Buyer shall pay all costs for any extended coverage and/or endorsements in excess of the cost of a standard coverage policy, if so desired by Buyer.

(B) Buyer shall have ten (10) days after receipt of the Title Report and the Survey (the "Title Review Period") to give written notice of objection to any matter shown on the Title Report or the Survey. In the event an amended Title Report is issued or an amended Survey is prepared, Buyer shall have ten (10) days from Buyers' receipt of the amended Title Report or Survey within which to give written notice of objection to any matter shown on the amended Title Report or amended Survey. Sellers will, within ten (10) days after timely notification of any objection, advise Buyer in writing whether or not Sellers will attempt to eliminate or cure any matter to which Buyer has objected. In the event that Sellers advise Buyer that Sellers will not attempt to eliminate or cure the matter to which Buyer has objected, Buyer, may exercise its options in writing within five (5) days after receipt of Sellers' notice, may elect to (i) waive the objection; or (ii) terminate this Agreement and the escrow. If Buyer fails to give written notice of its election within the time period provided, Buyer will be deemed to have waived the objection. If Sellers advise Buyer that Sellers will attempt to eliminate any matter to which Buyer has objected, Sellers shall use their best efforts to cure such matters on or before the Scheduled Closing Date, provided, however, Sellers shall have no liability to Buyer for failure to cure such matters, and in the event such matters are not cured on or before the Scheduled Closing Date, Buyer shall at its option have the right to either (i) terminate this Agreement, or (ii) waive its objections to such matters. Upon termination of this Agreement pursuant to the terms of this paragraph, the escrow provided for herein shall be immediately canceled, the Earnest Money Deposit, together with all earnings thereon, shall be returned to the Buyer, and Sellers and Buyer shall each pay one-half (1/2) of the fees in connection with the escrow or the cancellation thereof.

(C) If Buyer fails to give written notice of any objection to the Title Report or the Survey within the time provided above, Buyer will be deemed to have approved all matters

shown on the Title Report and the Survey, and the Property shall be conveyed to the Buyer subject to all such matters. All matters shown on the Title Report and the Survey, except those to which Buyer timely objects are hereinafter referred to as "Permitted Title Exceptions".

(D) Notwithstanding anything to the contrary in the preceding subparagraphs, Sellers shall be obligated to remove any financial liens and monetary obligations without the necessity of Buyers' objecting to said matters. If any monetary liens or encumbrances have not been removed on or before the Scheduled Closing Date, the Buyer may cancel the agreement and obtain refund of the escrow deposit.

#### 8. SELLERS' REPRESENTATIONS AND WARRANTIES.

Sellers represent, warrant and covenant to Buyer those matters set forth below, with the understanding that Buyer shall rely upon said representations, warranties and covenants. All representations and warranties shall survive the Closing for a period of One (1) year after the entire Property is paid.

(A) Sellers and all persons acting for and on behalf of Sellers have the full power, capacity and authority to enter into and deliver this Agreement, to perform all obligations of Sellers hereunder, to complete and close this transaction in accordance with this Agreement and to sign, deliver and perform any documents and instruments in connection herewith on behalf of Sellers.

(B) Sellers are not aware of any liens, encumbrances, claims of liens or encumbrances, or any possible defects, or claims of defects to the title to the Property which do not appear in the Title Report, and Sellers shall protect Buyer against or remove as a lien or encumbrance any such matter arising prior to the Closing except those caused by Buyer.

(C) The Property is not subject to any written or oral agreement which grants to any person or entity other than the Buyer an option, right of first refusal or other right to acquire any interest in the Property.

(D) Sellers have no knowledge of any pending, threatened or contemplated action of eminent domain or any other public or quasi-public taking of all or any portion of the Property.

(E) Sellers have not authorized any work on the Property which could result in any mechanics' liens, claims of lien or other claims against the Property, and all bills for work done or material supplied to the Property have been paid. Sellers shall indemnify, defend, protect and hold Buyer harmless from any unrecorded mechanics', surveyors' or engineers' liens, claims of lien or other claims against the Property occurring or arising for work or services performed at Sellers' request to or for the Property prior to the Closing, except for work performed by or on behalf of Buyer.

(F) To Sellers' knowledge, there are not any adverse claims of adjoining property owners against the Property; there are no adverse parties in possession of the Property

or any part thereof; and there are no encroachments by Sellers on the Property or by others in the Property, except as disclosed in the Title Report.

(G) To Sellers' knowledge, but without any investigation or inquiry of any kind, the Property has not been used by Sellers or any of Sellers' predecessors in title, nor by anyone else, to generate, manufacture, refine, transport, treat, store, handle, discharge or dispose of hazardous or toxic wastes or substances, except for insecticides, pesticides, chemicals, and other substances used in connection with the growing and harvesting of agricultural products or the preparation or use of the land for agricultural purposes. Sellers are not aware of any proceeding or inquiry by any governmental authority with respect to the presence of hazardous materials on the Property or the migration of hazardous materials from or to other property.

## 9. DISCLAIMER.

(A) Except as herein specifically set forth, Sellers make no representations or warranties, express or implied, with respect to, and shall have no liability for: (1) the condition of the Property or the suitability of the Property for Buyer's intended use or for any use whatsoever; (2) any applicable building or zoning laws or regulations or with respect to compliance therewith or with respect to the existence of or compliance with any required permits, if any, of any governmental agency; (3) the availability of water, sewer or other utilities; (4) water, sewer or other utility districts; (5) access to any public or private sanitary sewer system; or (6) the presence of any hazardous substances on or under the Property. Without limiting the generality of the foregoing, but subject to the representations set forth in Section 8, Sellers shall have no liability to Buyer with respect to the condition of the Property under common law, or any federal, state, or local law or regulation, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, 42 U.S.C.A. §9601 et seq., or any similar state statutes in Arizona, including but not limited to the Arizona State Superfund Act, as codified in A.R.S. §49-281 through 287, and Buyer hereby waives any and all claims which the Buyer has or may have against the Sellers with respect to the condition of the Property (except claims for a breach of Sellers' representations and warranties set forth in Section 8), including any private causes of action arising under the foregoing statutes concerning the Property and any conditions in the Property.

(B) Buyer's failure to terminate this Agreement during the Examination Period shall act as an acknowledgment by Buyer that: (i) during the Examination Period Buyer has had the opportunity to review the Property to determine if the Property is in violation of any federal, state or local environmental law, rule or regulation or otherwise contains levels or concentrations of "hazardous substances", "hazardous materials", "toxic substances" or "hazardous waste", as such terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended 42 U.S.C. §9601 et seq., the Hazardous Materials Transportation Act 49 U.S.C. §1801 et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et seq., or the Toxic Substances Control Act, as amended, 15 U.S.C. §2601 et seq., or analogous provisions of state law; (ii) Buyer is purchasing the Property "as is"

in its present condition, subject only to the representations and warranties contained in this Agreement; and (iii) Buyer has fully inspected the Property and assumes the responsibility and risks of all defects and conditions, including such defects and conditions, if any, that cannot be observed by casual inspection.

(C) By closing the transaction hereunder, Buyer agrees that (i) Buyer shall be deemed to have accepted all risks associated with adverse physical characteristics and existing environmental conditions that may or may not have been revealed by the Buyer's investigation of the Property, (ii) as between the Buyer and the Sellers, Buyer shall be deemed to have accepted all costs and liability associated in any way with the physical and environmental condition of the Property, and (iii) the Buyer hereby waives any and all objections, setoffs, claims, or causes of action (whether under a statute or common law) concerning the physical characteristics and existing conditions of the Property, including, without limitation, any environmental hazards.

(D) Notwithstanding the foregoing disclaimers, waivers and releases, nothing in this Section 9 shall be deemed to relieve Sellers of any liability to Buyer for release of hazardous materials or other environmental contamination on the Property caused by Sellers or Sellers' officers, directors, shareholders, employees, agents, contractors, or invitees; nor shall this Section be deemed to release Sellers from liability for breach of any express representations or warranties contained in this Agreement.

10. POSSESSION.

Possession of the Property and risk of loss will be delivered to the Buyer at Close of Escrow.

11. CONDEMNATION.

If any condemnation or eminent domain proceedings are commenced with respect to the Property, or any part thereof, prior to the Closing, Sellers shall promptly give Buyer written notice thereof, and Buyer shall have the option, to be exercised within fifteen (15) days after receipt of such notice, to (i) close the purchase of the Property on the Scheduled Closing Date subject to such proceedings, whereupon any award paid or to be paid in connection therewith shall be paid to or assigned to Buyer by Sellers at the Closing, or (ii) terminate this Agreement and receive a return of the Earnest Money Deposit, whereupon the rights and obligations of the parties to this Agreement shall cease and terminate, except for rights and obligations which by the express terms of this Agreement survive its termination.

12. CLOSING MATTERS.

(A) On or before the Scheduled Closing Date, Sellers shall deposit with Escrow Agent, for delivery to Buyer at the Closing, the following items, which shall be in form satisfactory to Buyer and be duly executed and acknowledged (where applicable): (i) a Special Warranty Deed conveying fee simple title to the Property to Trustee, subject only to the

Permitted Title Exceptions; (ii) an Affidavit of Real Property Value; (iii) an affidavit of Sellers' non-foreign status, as required pursuant to Section 20; and (iv) such other documents as may be required by Escrow Agent.

(B) On or before the Scheduled Closing Date, Buyer shall deposit with Escrow Agent, for delivery to Sellers at the Closing, (i) the balance of the purchase price consisting of the remaining sum of one hundred seventy-five Thousand dollars (\$175,000.000) in cash or certified funds

(C) All real property taxes and assessments shall be prorated as of the Closing Date on the latest information available to the Escrow Agent. All Escrow fees and all other closing costs shall be charged to and paid by Buyer. If any tax or assessments affects the property and any additional land not a part of the Property, only that portion of the tax or assessment attributable to the Property shall be prorated between Buyer and Sellers, and the remainder of said tax or assessment shall remain the sole obligation of the Sellers. The determination of the portion of the tax or assessment attributable to the Property shall take into account the value of improvements (if any) made to the property and/or any other property covered by the tax bill to properly account for differences in the valuation of, and resulting tax or assessment levied against the Property covered by the bill.

13. BROKERS' COMMISSIONS.

Buyer and Sellers warrant, each to the other, that, there are no fees or commissions owing to any broker or other party for bringing about the sale contemplated hereunder by buyer. If any other person shall assert a claim to a fee, commission or other compensation on account of alleged employment as a broker or finder or for performance of services as a broker or finder in connection with this transaction, the party hereto under whom the broker or finder is claiming shall indemnify and hold harmless the other party against and from any such claim and all costs, expenses and liabilities incurred in connection with such claim or any action or proceeding brought thereon (including, but without limitation, counsel and witness fees and court costs in defending against such claim).

14. NOTICES.

All notices, requests and other communications hereunder shall be given in writing and either (i) personally served on the party to whom it is given, or (ii) mailed by registered or certified mail, postage prepaid, return receipt requested, or (iii) sent by private overnight courier such as Federal Express or Airborne, or (iv) sent by facsimile to the number set forth below, as long as such facsimile transmission is confirmed as received by the transmission

equipment, and is followed the next business day by another permissible means of notice hereunder, addressed as follows:

If to Sellers:

Joseph and Barbara Gardner  
2210 Skyline Drive  
Prescott, AZ 86303

With a copy to:

If to Buyer:

City Attorney  
City of Prescott  
201 S. Cortez Street  
Prescott, AZ 86302  
Phone (928) 777-1274

If to Escrow Agent:

Connie Allman  
Yavapai Title  
123 N. Montezuma  
Prescott, Arizona 86301  
928-445-2528

All notices shall be deemed given when delivered or, if mailed as provided above, on the second day after the day of mailing, and if sent by overnight courier, on the next day after the date of deposit with the courier, and if sent by facsimile, upon machine confirmation of receipt. Any party may change his address for the receipt of notices at any time by giving written notice thereof to the other parties in accordance with the terms of this section. The inability to deliver notice because of a changed address of which no notice was given, or rejection or other refusal to accept any notice, shall be deemed to be the effective receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept.

15. SELLERS' REMEDIES.

Provided Sellers are not in default hereunder, in the event the escrow hereunder fails to close because of a breach by the Buyer or Buyer's inability to satisfy any of the conditions precedent set forth herein, Sellers shall not be entitled to specifically enforce this Agreement. In that event, the Earnest Money Deposit that has been deposited into escrow, together with all earnings thereon, shall be released to Sellers, free of all claims of Buyer. Sellers' sole remedy shall be to retain the Earnest Money Deposit and earnings thereon as liquidated damages.

16. BUYER'S REMEDIES.

Provided Buyer is not in default hereunder, in the event the escrow hereunder fails to close because of a breach by the Sellers or Sellers' inability to satisfy any of the conditions precedent set forth herein, Buyer shall not be entitled to specifically enforce this Agreement. In that event, the Earnest Money Deposit that has been deposited into escrow, together with all earnings thereon, shall be released to Buyer, free of all claims of Sellers. Buyers' sole remedy shall be to retain the Earnest Money Deposit and earnings thereon as liquidated damages.

17. RIGHT TO CURE.

The breach by either party of any representation or warranty under this Agreement or such party's failure to perform any covenant, condition or obligation hereunder shall constitute a default hereunder, and the non-breaching party may exercise its remedies, including termination of this Agreement, only if such breach or nonperformance continues more than five (5) business days following the date of notice by the other party specifying such breach or nonperformance.

18. AFFIDAVIT OF NON-FOREIGN STATUS; IRS FORM 1099B.

Sellers shall deliver or cause to be delivered to Escrow Agent at the Close of Escrow an affidavit executed by Sellers under penalty of perjury setting forth Sellers' taxpayer identification number and stating that Sellers are not a foreign person, in accordance with Internal Revenue Code Section 1445(b)(2). Sellers shall also execute and deliver to Escrow Agent at the Close of Escrow a copy of IRS Form 1099B for filing by Escrow Agent with the Internal Revenue Service (the "IRS"). Escrow Agent, as the party responsible for closing the transaction contemplated hereby within the meaning of Section 6045(e)(2)(A) of the Internal Revenue Code of 1986, as amended (the "code"), is instructed to file all necessary information reports, returns and statements (collectively the "reports") regarding the transaction required by the Code, including, but not limited to, the reports required pursuant to Section 6045 of the Code.

19. CLOSING PROTECTION LETTER.

If Escrow Agent acts as an agent for an underwriter and does not issue policies of title insurance, Escrow Agent agrees that, as a condition to acting as the escrow agent for this transaction, it shall cause its underwriter (the "title insurer") to issue to Sellers and Buyer, within twenty (20) days after the Opening of Escrow, an escrow and closing protection letter, insured escrow and closing service, or statement of service responsibility in written form satisfactory to both Sellers and Buyer.

20. MISCELLANEOUS.

(A) This Agreement and the exhibits attached hereto or to be attached hereto, embody the entire agreement between the parties in connection with this transaction, and there

are no oral agreements existing between the parties relating to this transaction that are not expressly set forth herein and covered hereby; this Agreement may not be modified except in a writing signed by all parties.

(B) Time is of the essence of this Agreement.

(C) In the event either party hereto fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the sole remedies shall be as specified in paragraphs 15 and 16 respectively, herein.

(D) The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience, and do not define, limit, construe or describe the scope or intent of such sections or articles of this Agreement nor in any way affect this Agreement.

(E) This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same agreement.

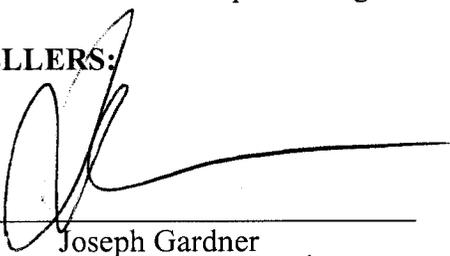
(F) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest and assigns; provided, however, that no assignment of this Agreement shall in any way relieve the assignor of its obligations hereunder. Buyer may assign its rights pursuant to this Agreement by giving written notice of such assignment to Sellers and the Escrow Agent.

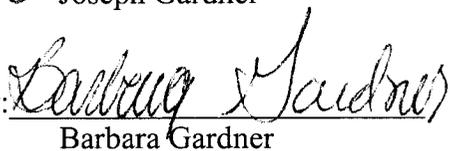
(G) This Agreement shall be construed and interpreted under, governed and enforced according to the laws of the State of Arizona.

(H) Cancellation in the Event of Conflict. The parties hereby note that either party hereto may cancel this agreement in the event of a conflict of interest as defined by A.R.S. § 38-511, the provisions of which are incorporated herein by reference.

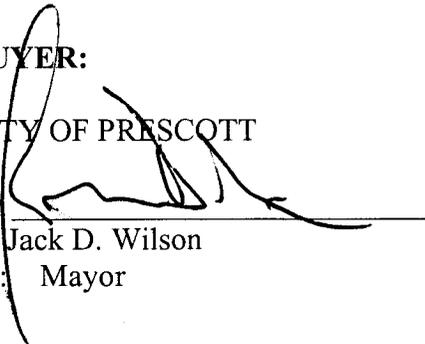
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last date set forth below their respective signatures.

**SELLERS:**

By   
Joseph Gardner

By   
Barbara Gardner

**BUYER:**

CITY OF PRESCOTT  
By   
Jack D. Wilson  
Its: Mayor

By: \_\_\_\_\_  
Attorney for Sellers

Attest:   
Elizabeth A. Burke  
City Clerk

Approved as to form:

By   
Gary D. Kidd  
City Attorney

AGREEMENT AND CONSENT BY ESCROW AGENT

The undersigned, Yavapai Title Company, hereby agrees to (i) accept the foregoing Real Estate Purchase Agreement as instructions to the undersigned, (ii) act as Escrow Agent under said Agreement in consideration of its fees normally charged in such transactions, and (iii) be bound by said Agreement in the performance of its obligations as the Escrow Agent.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2009.

YAVAPAI TITLE AGENCY

By: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

[To Be Attached]

M  
L  
S  
M

<b>COUNCIL AGENDA MEMO – 06/02/09 &amp; 06/09/09</b>	
<b>DEPARTMENT:</b>	Public Works
<b>AGENDA ITEM:</b>	ADOT SR69/SR89 Traffic Interchange Project – Right-of-way enhancement and sidewalk improvements

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head:</b> Mark Nietupski	
<b>Finance Director:</b> Mark Woodfill	
<b>City Manager:</b> Steve Norwood 	05/28/09

**Item Summary**

This item is to discuss a potential amendment to the existing Intergovernmental Agreement (IGA) with the State of Arizona Department of Transportation (ADOT) to provide for cost sharing of right-of-way enhancement and sidewalk improvements associated with the SR69/SR89 Traffic Interchange project.

**Background**

On December 10, 2002, City Council adopted Resolution No. 3495 approving an Intergovernmental Agreement between the Arizona Department of Transportation, Arizona Department of Public Safety, Yavapai Community College District and the City for acquisition of real property for construction of the SR69/SR89 Traffic Interchange improvements. As a condition of that Resolution the City agreed to provide right-of-way enhancement improvements along Sheldon Street easterly onto Gurley Street (the former DPS property) and Yavapai Community College District agreed to maintain the right-of-way enhancements upon completion.

Two years later on March 8<sup>th</sup>, 2005, City Council adopted Resolution No. 3655 requesting the Arizona Department of Transportation include certain features in the SR 69/89 Traffic Interchange project. The requested improvements included the following:

- A) Landscaping of the right-of-way along the former DPS facility entrances on Sheldon Street easterly onto Gurley Street.
- B) Multi-use pathway public safety enhancements consisting of lighting, paving, signing, and striping, plantings, and an irrigation system.
- C) An irrigation system and planting of the College Hill embankment.
- D) The total cost for the above mentioned features is estimated by the State to be \$1,345,000.00. Available funding from the federal HES safety program and the SR 69/89 Traffic Interchange Project of the State is \$1,028,000.00. The difference of \$317,000.00 was to be split with the City contributing \$177,000.00 and the Prescott District Office of the State to contribute \$140,000.00.

**Agenda Item: ADOT SR69/SR89 Traffic Interchange Project - Right-of-way enhancement and sidewalk improvements**

Last, the City requested the State prepare a Joint Project Agreement providing for the aforementioned features and the City's funding responsibility.

One month later, on April 12, 2005, City Council adopted Resolution No. 3666 approving an Intergovernmental Agreement/JPA 04-030 (IGA/JPA) between the State and City to implement the provisions of Resolution No. 3655 and provide for the inclusion of certain features in the interchange project and the City's financial contribution. The IGA/JPA was executed on April 27, 2005.

Unfortunately the executed IGA/JPA, which is the controlling agreement between the City and State, differed in content than that of Resolution No. 3655.

Under the IGA/JPA the State will: design, advertise, bid, construct, administer and make payments for the project. The State is not obligated to provide maintenance, water and power for the multi-use path; nor is the State responsible for funding of striping, symbols, signs and other related improvements to the multi-use path. The State was to invoice the City for its contribution of \$177,000.00.

The City, under the IGA/JPA, was to remit payment of \$177,000.00 toward safety enhancements for the multi-use path, obtain an encroachment permit from ADOT for all planned maintenance of the multi-use path, and upon completion budget for, maintain, and operate the multi-use path improvements including lighting, irrigation, and electrical power at City expense.

Effectively the right-of-way enhancement improvements along Sheldon and Gurley Streets were omitted from the executed IGA/JPA and the sidewalk from Sheldon Street to connect to the multi-use path was not included in the construction plans. It is unclear why these omissions occurred. It may have been a lack of funding due to increasing construction costs at the time (the project was considered for deferral in ADOT's 5-year construction schedule) or simply an oversight in State's preparation of the IGA/JPA from the adopted Resolutions.

There is a need to restore pedestrian connectivity from Sheldon Street to the VA hospital and the City is obligated to install right-of-way enhancements along Sheldon and Gurley Streets. Based on the ADOT unit price contract for the project, the estimated cost of these improvements is approximately \$360,000.00 including sidewalk, right-of-way enhancements, lighting, irrigation, traffic control and engineering. Staff recently met with the ADOT District Engineer to discuss the necessary improvements and the possibility they be completed under the ADOT contract with ADOT sharing in the costs to complete the previously discussed work.

If it is Council's direction to proceed with an amendment to the IGA/JPA the City's proportionate share of the improvements is estimated at \$180,000.00, which amended IGA/JPA would be brought back for City Council action at a later date.

Alternatively, a separate project could be developed and bid by the City at a later date deferring the proposed work due to current economic conditions and budget constraints.

**Agenda Item: ADOT SR69/SR89 Traffic Interchange Project - Right-of-way enhancement and sidewalk improvements**

**Budget**

The proposed improvements could be funded from the One Cent Sale Tax for Streets and Open Space. The recent Pavement Preservation project (Chip Seal) responsive low bid was \$319,627 below the engineer's estimate.

The City share of the improvement costs could be funded from savings realized from that bid; or the savings could be retained to potentially offset any further reductions in the HURF allocation from the State should it occur.

**Attachments**

- Site Plan
- Cost Estimate

**Recommended Action: MOVE** to direct staff to continue discussions with ADOT to amend IGA/JPA 04-030 between the City and State to include right-of-way enhancement and sidewalk improvements along north side of Sheldon Street and west side of Gurley Street within the area of the SR69/SR89 Interchange project; or

**MOVE** to defer right right-of-way enhancement and sidewalk improvements along north side of Sheldon Street and west side of Gurley Street within the area of the SR69/SR89 Interchange project due to budget constraints.

DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	COST
<b>Yavapai College Construction Repairs</b>				
Remove Existing Asphalt	S.Y.	520	2	1040
3" Ac	Ton	114	80	9120
Pavement Marking, Yellow	L.F.	120	0.12	14.4
Concrete Vertical Curb	L.F.	430	26	11180
Retaining Wall	S.F.	465	105	48825
Relocate Fire Hydrant	Ea.	1	1000	1000
Adjust Manholes and Valves	Ea.	2	250	500
				<b>71679.4</b>
<b>Landscaping Adot/DPS front</b>				
Granite Mulch	S.Y.	5000	4	20000
Planting Pits (1-5 gal)	Ea.	1	5000	5000
Planting Pits (15 gal-36" box)	Ea.	1	5000	5000
Tree (15 Gallon)	Ea.	8	110	880
Tree (24" Box)	Ea.	8	250	2000
Tree (36" Box)	Ea.	8	300	2400
Ground Cover (1 Gallon)	Ea.	49	12	588
Shrub (5 Gallon)	Ea.	44	25	1100
Shrub (15 Gallon)	Ea.	148	35	5180
PVC 3/4" Irrigation Pipe	L.F.	2500	3	7500
Irrigation system appurtenances	Ea.	300	27	8100
Controller Assembly	Ea.	1	10000	10000
Landscaping Establishment	Month	12	3200	38400
				<b>106148</b>
<b>Pedestrian Lighting system</b>				
2" Electrical Conduit	L.F.	1550	15	23250
Pedestrian Lighting	Ea.	16	3000	48000
				<b>71250</b>
<b>Sidewalk Construction</b>				
24" CMP	L.F.	20	80	1600
4" Concrete Sidewalk	S.F.	8550	7.5	64125
6" Concrete Sidewalk	S.F.	460	11	5060
				<b>70785</b>
<b>General Engineering</b>				
Electrical & Irrigation Engineering	Lump Sum	1	0.07	<b>22390.368</b>
Traffic Control	Lump Sum	1	0.05	<b>15993.12</b>
<b>TOTAL</b>				<b>358245.888</b>



<b>COUNCIL AGENDA MEMO – 06/02/09 &amp; 06/09/09</b>
<b>DEPARTMENT:</b> Public Works
<b>AGENDA ITEM:</b> Revision and update of Yavapai Association of Governments Standard Details and Land Development Code Amendment

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head:</b> Mark Nietupski	
<b>Finance Director:</b> Mark Woodfill	
<b>City Manager:</b> Steve Norwood <i>[Signature]</i>	<i>05/28/09</i>

**Item Summary**

Approval of this item will update and revise the Yavapai Association of Governments Standard Details for Public Works Infrastructure and incorporate them into the Land Development Code, Section 7.4.2 as amended by ordinance.

**Background**

The City's current Public Works Standard Details are from the Maricopa Association of Governments (MAG) and Yavapai Association of Governments (YAG) Standard Details. The YAG Details supplement the MAG details and are specific to the Prescott region considering operation and maintenance of City streets, water, and sewer systems and local topography, climate, and geologic conditions. The MAG Standard Details were developed for and are more applicable to the Phoenix metropolitan area.

The YAG Details were adopted in 1998 and have not been revised since. In an attempt to better serve the needs of the City and to provide consistency between private development and capital improvement projects, Public Works staff recently revised several of the YAG Details designating them with the YAG reference number followed by the letter "P" for specific application to Prescott.

The revised P-Standard Details were presented, in draft format, to both the engineering and contracting communities. Staff met with several of the engineering firms to discuss their comments; predominately their comments consisted of clarifications which have been addressed. The revised P-Standard Details were also presented to the Unified Development Code Committee on March 26, 2009, and the Planning Commission on April 9, 2009, both recommended approval of the P-Standard Details.

In order for the revised P-Standards to be applicable to both private development and capital improvement projects an amendment to the Land Development Code Section 7.4.2A, is required as follows in the underlined text:

**Agenda Item:** Revision and update of Yavapai Association of Governments Standard Details and Land Development Code Amendment

*All streets, alleys or easements, water, sewer and drainage shall be designed and constructed in accordance with Maricopa Association of Governments (MAG) and Yavapai Association of Governments (YAG) standards and specifications, and City of Prescott modified YAG P-Standard Details (Table 7.4.2D) and in particular regard for the street regulations of Section 7.4.3, Streets.*

Table 7.4.2D lists the revised P-Standards.

The revised YAG P-Standard Details number forty-three (43) and are available in the City Clerk and Public Works Offices.

**Attachments**        - Table 7.4.2D  
                             - Ordinance

**Recommended Action:** MOVE to adopt Ordinance No. 4702-0945.

**ORDINANCE NO. 4702-0945**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ADOPTING THE REVISIONS TO STANDARD DETAILS FOR PUBLIC WORKS INFRASTRUCTURE AND AMENDING THE LAND DEVELOPMENT CODE TO INCLUDE THE REVISED STANDARD DETAILS**

**RECITALS:**

WHEREAS, the City Council of the City of Prescott has determined that approving and adopting The Revisions Standard Details for Public Works Infrastructure as shown in the attached exhibits will benefit and improve the quality of infrastructure for both private and public projects; and

WHEREAS, by adopting these Details both private and public infrastructure will be consistent and using the same Standard Details.

**ENACTMENTS:**

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

SECTION 1. THAT Section 7.4.2A of the Land Development Code will be amended as follows:

All streets, alleys or easements, water, sewer and drainage shall be designed and constructed in accordance with Maricopa Association of Governments (MAG) and Yavapai Association of Governments (YAG) standards and specifications, and City of Prescott modified YAG P-Standard Details (Table 7.4.2D) and in particular regard for the street regulations of Section 7.4.3, Streets.

SECTION 2. THAT Table 7.4.2D, attached hereto as Exhibit A, listing the Revisions to Standard Details will be added to the Land Development Code.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 9<sup>th</sup> day of June, 2009.

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JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

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ELIZABETH A. BURKE, City Clerk

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GARY D. KIDD, City Attorney

**EXHIBIT 'A'**

Table 7.4.2D

**City of Prescott Standard Details**

<b>Detail Number</b>	<b>Description</b>
1-01P	Handrail
1-08P	City of Prescott Urban Mail Box
2-01P	'T' Top Utility Trench
2-02P	Trench Bedding for Single Utility Trench Underground Conduit, Water, Sewer & Storm Drain
2-18P	Modified Roll Curb Driveway Section
2-19P	Modified Vertical Curb Driveway
2-27P	Access Fire Lane
3-03P	Blocking for Water Gate Valves
3-05P	Installing Tapping Sleeves and Valves
3-06P	Vault for 3", 4" & 6" Water Meters
3-07P	Fire Hydrant Installation
3-09P	Fire Hydrant Protection Pole
3-10P	Locations for New Fire Hydrants
3-11P	Vertical Realignment of Water Mains
3-15P	Valve Box
3-16AP	2" Water Meter Set
3-16P	Water Service Connections
3-17P	Air Release Valve
3-18P	Blow Off
3-19P	Tracer Wire for All Pressure Pipe Systems
3-20P	City Utility Clearances Multiple Utility Trench
3-21AP	Reduced Pressure Zone Assembly Installation
3-21BP	Reduced Pressure Zone Assembly Installation Notes
3-A-P	Water Plan General Notes
4-02P	Broken Sewer Line Replacement
4-03BP	Manhole in Drainageways
4-03CP	Manhole External Reinforcing Strapping
4-03P	Precast Concrete Sewer Manhole
4-04P	Concrete Sewer Manhole -- Cast in Place
4-05P	Manhole Frame -- Grade Adjustment
4-14P	Utility Main Exposure -- New Service Connection
4-15P	Sanitation Dumpster Detail
4-A-P	Sewer Plan General Notes
120-1P	Survey Marker
201-P	Thickened Edge Pavement Section
220P	Curb and Gutter -- Types A, B, C, and D
230P	Sidewalks
231P	Sidewalk Ramps -- Type 'A'
240P	Valley Gutter & Spandrels
270P	Sewer Cleanout Frame and Cover Adjustment
380A-P	Reverse Thrust Block
426A-P	Inside Drop Manhole
440-3P	Sewer Building

<b>COUNCIL AGENDA MEMO – June 2, 2009</b>	
<b>DEPARTMENT:</b>	City Manager
<b>AGENDA ITEM:</b>	Discussion of Ordinance No. 4665-0908 re: water and sewer development (impact) fees

<b>Approved By:</b>		<b>Date:</b>
<b>Deputy City Manager:</b>	Craig McConnell <i>Craig McConnell</i>	5-28-09
<b>Finance Director:</b>	Mark Woodfill	
<b>City Manager:</b>	Steve Norwood <i>Steve Norwood</i>	05/28/09

**Background**

Given the recessionary economy, substantial downturn in local and statewide development activity, and proposals to the Arizona Legislature by homebuilder and other groups for an impact fee moratorium, the Council has requested discussion of the water and sewer development fees set by Ordinance No. 4665-0908 (copy attached) which are to become effective July 11, 2009. City policy regarding funding the costs of growth is found in General Plan Section 6.3.2: "... require development to pay for itself by the use of impact fees, buy-in fees, off-site improvement charges, and other legal devices."

According to state law, impact fees are one-time charges assessed to new growth which can only be used to provide the new capacity required to serve that growth. If these fees do not recover the cost of the new capacity, the uncollected fee revenue will be lost, and projects must be removed from the capital improvement program. In those areas of the City where the projects were planned but cannot be constructed due to insufficient funding, the capacity necessary to serve new growth will simply not be available.

In recent weeks information on this issue has been presented to Council by the Prescott Chamber of Commerce and League of Arizona Cities and Towns, and it was also discussed at the FY 10 Budget Workshop. As pointed out at the workshop, the City's water and sewer capital improvement programs include numerous projects where an existing line (water transmission main, sewer main) is to be replaced with a larger one using two funding sources: user rates for the rehabilitation and existing capacity deficiency; and impact fees for the increment of new capacity to be made available to serve new growth.

If impact fees are inadequate or eliminated, it is unrealistic to expect existing customers will embrace paying for new capacity to serve growth through higher water and sewer rates. Accordingly, in the event projects for replacement of existing lines planned to be funded in part by impact fees must be removed from the capital improvement program due to a lack of funding, neither rehabilitation of the aged lines nor remedying the existing capacity deficiencies will be achieved. The more such projects eliminated, the more serious will be the public health and safety consequences; and less benefit the City's significant utilities construction program will contribute to the local economy in these trying times.

**Agenda Item:** Discussion of Ordinance No. 4665-0908 re: water and sewer development (impact) fees

**Financial Implications**

Attached is a comparison of actual water and sewer (wastewater) impact fees collected during the period mid-January through mid-May 2009 versus the revenue which would have been collected if the fees set by Ordinance No. 4665-0908 had become effective on January 11, 2009, instead of being deferred six (6) months to July 11, 2009. As stated at the Budget Workshop, during the last four (4) months, the difference is \$177,125. This is the amount of uncollected fee revenue which has been lost, and cannot be recovered.

The attached information also provides a revenue comparison for active projects currently in plan review. If fees are collected for all these projects at current levels instead of those set by Ordinance No. 4665-0908, due to further deferral of the effective date or cancellation, the difference is an additional \$835,218. Even in this economic slowdown development is occurring, and if impact fees do not fully recover the cost of providing capacity, the City will fall behind in achievement of its "first class utilities" goal.

Other financial consequences of undercollecting or eliminating impact fees include the unavailability of capital financing due to inadequate debt coverage, and lack of revenue to support debt service. Pledges have been made to the Arizona Water Infrastructure Finance Authority (WIFA) which anticipate and require impact fee revenue generated pursuant to Ordinance No. 4665-0908. If fees set by this ordinance are not implemented, WIFA financing will not be available to continue work on the engineering contract approved in April 2009 for the Airport and Sundog Wastewater Treatment Plants Master Plan for Capacity, Technology, and Improvement Projects, which includes design of an urgently needed expansion of the Airport Plant.

Finally, if the Legislature enacts a legally sustainable moratorium during which no impact fees can be collected, the financial impact to the water and sewer funds for the pending projects on the attached sheet would be \$1,789,843.

**Council Discussion and Action**

If following discussion at the June 2nd Study Session the Council directs preparation of an amendment to Ordinance No. 4665-0908, that amendment will be prepared for the Voting Session of June 9, 2009.

**Attachments**           - Ordinance No. 4665-0908 (passed 10/28/09)  
                                  - Comparison of Water/Wastewater Impact Fees

**Recommended Action:**

- (1) Study Session of June 2, 2009 - Council discussion/direction re: water and sewer development (impact) fees and Ordinance No. 4665-0908.
- (2) Voting Session of June 9, 2009 - if necessary, as determined by Council direction of June 2, 2009.

**ORDINANCE NO. 4665-0908**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AMENDING TITLE II, CHAPTER 2-1 AND TITLE III, CHAPTER 3-14, OF THE PRESCOTT CITY CODE, REGARDING THE IMPOSITION OF WATER AND SEWER DEVELOPMENT FEES**

**RECITALS:**

WHEREAS, the City of Prescott (the "City") engaged Economists.com, L.L.C (the "Consultant"), to conduct a study regarding various development (impact) fees charged with respect to the City's water and wastewater systems; and

WHEREAS, the Consultant completed the study and presented to the City with a report entitled "City of Prescott 2008 Water and Wastewater Rate and Impact Fee Study," dated April 2008 (the "Fee Study"), containing the studies and analysis required by ARIZ. REV. STAT. § 9-463.05, as amended; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-463.05(C), the Notice of Intention to assess new impact fees (the "Notice of Intent") was adopted on May 13, 2008, and such Notice of Intent, including the date, time and place of a public hearing to be held before the City Council, was published in *The Daily Courier* on May 21 through May 24, 2008; and

WHEREAS, a public hearing concerning the adoption of the new impact fees as held in accordance with ARIZ. REV. STAT. § 9-463.05(C) on July 22, 2008; and

WHEREAS, the Mayor and City Council of the City of Prescott (the "City Council") (i) finds that the Fee Study fully supports the conclusion that the new development fees for water system impacts, water resource development and wastewater system impacts fully and fairly offset the costs to the City associated to providing these necessary public services to new development in the City and (ii) wishes to implement the findings in the Fee Study by revising the City's development fees in order to ensure the continued viability of its current and future water and wastewater systems.

**ENACTMENTS:**

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

SECTION 1. THAT Section 2-1-22 of the Prescott City Code, entitled "Departments; Public Works Department; Utilities Division; Sewer Buy In fees," is hereby deleted in its entirety and reserved for future use.

SECTION 2. THAT Section 3-14-8 of the Prescott City Code, entitled "Building Regulations; Development Fees; Imposition of Fees," is hereby amended by adding a new subsection (C) to read as follows:

- (C) **THE DEVELOPMENT FEES IN THIS CHAPTER WILL AUTOMATICALLY ADJUST FOR INFLATION USING THE *ENGINEERING NEWS RECORD* – 20 CITY CONSTRUCTION COST INDEX (ENR-CCI) ON THE FIRST DAY OF EACH FISCAL YEAR. THE CITY SHALL PROVIDE PUBLIC NOTICE OF THE ANNUAL ADJUSTMENTS AT LEAST THIRTY DAYS IN ADVANCE OF THEIR EFFECTIVE DATE, PURSUANT TO 9-463.05(F), AS AMENDED.**

SECTION 3. THAT Section 3-14-13 of the Prescott City Code, entitled "Building Regulations; Development Fees; Development Fees for Water Resources," is hereby amended as follows:

**3-14-13: DEVELOPMENT FEES FOR WATER RESOURCES:**

- (A) All new construction **TO BE CONNECTED TO THE CITY'S WATER SYSTEM**, within **OR OUTSIDE** the City limits, shall be assessed the following development fee for water resources:

---

<b>Meter Size (Inches)</b>	
5/8 X 3/4	\$ 4,485 <b>4,594</b>
1	\$ 7,490 <b>11,485</b>
1 1/2	\$14,935 <b>22,970</b>
2	\$23,905 <b>36,752</b>

---

- (B) In the event that a one inch meter is required solely as a result of a ~~house~~ **RESIDENTIAL UNIT** being equipped with an automatic fire sprinkler system, ~~then and in that event~~ the development fee to be assessed pursuant to this section shall be based on a 5/8" X 3/4" meter size; provided, however, that this subsection shall not apply to residences 5,000 square feet or more in size.
- (C) In the event that an upsizing of meter size is required as a result of remodeling, renovation or expansion of a structure, the development fee to be assessed pursuant to this section shall be the difference between the development fee for the upsized meter versus the development fee for the existing meter.
- (D) For water meters and/or service lines greater than two inches (2"), and for meters utilized for irrigation only, the development fees to be assessed pursuant to this section shall be determined by the Public Works Director on the basis of projected water use stated in gallons per day, using the following formula:

Development fee = fee for (5/8" X 3/4") meter x (applicant's projected gallons per day [GPD] water use/residential equivalent unit water use of 235 GPD).

- (E) **FOR WATER METERS FOR MULTI-FAMILY RESIDENTIAL PROJECTS THE DEVELOPMENT FEE SHALL BE CALCULATED USING THE FOLLOWING FORMULA: WATER RESOURCES DEVELOPMENT FEE = (WATER RESOURCES DEVELOPMENT FEE FOR 5/8" X 3/4" METER) X (NUMBER OF RESIDENTIAL UNITS) X 60%.**
- (EF) The development fees to be assessed pursuant to this section shall be offset by any fees paid by an applicant pursuant to PCC Section 2-1-12-(I).
- (FG) Fees collected pursuant to this section may only be used for the acquisition, operations and maintenance of additional water resources, as may be authorized pursuant to Arizona Revised Statutes section 9-463.05.
- ~~(G) The fees provided for in this section shall be increased by five percent (5%) on May 1, 2007, and shall be increased five percent (5%) per annum each May 1 thereafter.~~

SECTION 4. THAT Section 3-14-14 of the Prescott City Code, entitled "Building Regulations; Development Fees; Development Fees for Water System Impacts," is hereby amended as follows:

**3-14-14: DEVELOPMENT FEES FOR WATER SYSTEM IMPACTS:**

- (A) All new construction **TO BE CONNECTED TO THE CITY'S WATER SYSTEM**, within **OR OUTSIDE** the City limits, shall be assessed the following development fee for water system impacts:

---

<b>Meter Size (inches)</b>	
5/8 x 3/4	\$ 4,888 6,209
1	\$ 8,163 15,522
1 1/2	\$16,277 31,044
2	\$26,053 49,671

---

- (B) In the event that a one inch meter is required solely as a result of a ~~house~~ **RESIDENTIAL UNIT** being equipped with an automatic fire sprinkler system, ~~then and in that event~~ the development fee to be assessed pursuant to this section shall be based on a 5/8" X 3/4" meter size; provided, however, that this subsection shall not apply to residences 5,000 square feet or more in size.

- (C) In the event that an upsizing of meter size is required as a result of remodeling, renovation or expansion of a structure, the development fee to be assessed pursuant to this section shall be the difference between the development fee for the upsized meter versus the development fee for the existing meter according to the fee schedule in effect at the time of the application for the upside **UPSIZED** meter.
- (D) For water meters and/or service lines greater than two inches (2"), and for meters utilized for irrigation only, the development fees to be assessed pursuant to this section shall be determined by the Public Works Director on the basis of projected water use stated in gallons per day, using the following formula: Development fee = (fee for 5/8" X 3/4") meter x (applicant's projected gallons per day [GPD] water use/residential equivalent unit water use of 235 GPD).
- (E) The development fees to be assessed pursuant to this section shall be offset by any fees paid by an applicant pursuant to PCC Section 2-1-12-(I).
- (F) Fees collected pursuant to this section may only be used for ~~the acquisition and upgrades~~ **PURPOSES RELATED** to the City's water production, treatment, transmission and distribution system as may be authorized pursuant to Arizona Revised Statutes section 9-463.05, **AS AMENDED**.
- ~~(G) The fees provided for in this section shall be increased by five percent (5%) on May 1, 2007, and shall be increased five percent (5%) per annum each May 1 thereafter.~~

SECTION 5. THAT Chapter 3-14 of the Prescott City Code, entitled "Building Regulations; Development Fees" is hereby amended to include a new Section 3-14-15, entitled "Development Fees for Wastewater System Impacts," to read as follows:

**3-14-15: DEVELOPMENT FEES FOR WASTEWATER SYSTEM IMPACTS:**

- (A) All new construction to be connected to the City's wastewater system, within or outside the City limits, shall be assessed the following development fee for wastewater system impacts (based upon the size of each water meter serving the new construction):

---

<u>Meter Size (inches)</u>	
5/8 x 3/4	\$ 3,273
1	\$ 8,183
1 1/2	\$16,367
2	\$26,187

---

- (B) In the event that a one inch meter is required solely as a result of a Residential Unit being equipped with an automatic fire sprinkler system, the development fee to be assessed pursuant to this section shall be based on a 5/8" X 3/4" meter size; provided, however, that this subsection shall not apply to residences 5,000 square feet or more in size.
- (C) In the event that an upsizing of meter size is required as a result of remodeling, renovation or expansion of a structure, the development fee to be assessed pursuant to this section shall be the difference between the development fee for the upsized meter versus the development fee for the existing meter according to the fee schedule in effect at the time of the application for the upsized meter.
- (D) For water meters and/or service lines greater than two inches (2"), the development fees to be assessed pursuant to this section shall be determined by the Public Works Director on the basis of projected water use stated in gallons per day, using the following formula: Development fee = (fee for 5/8" X 3/4" meter) x (applicant's projected gallons per day [GPD] water use/residential equivalent unit water use of 235 GPD).
- (E) Fees collected pursuant to this section may only be used for purposes related to the City's wastewater system, as may be authorized pursuant to Arizona Revised Statutes section 9-463.05, AS AMENDED.

SECTION 6. THAT the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

SECTION 7. THAT, if any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision of portion hereof shall be deemed separate, distinct, and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 8. THAT, the effective date of this Ordinance shall be July 11, 2009.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona on this 28th day of October, 2008.

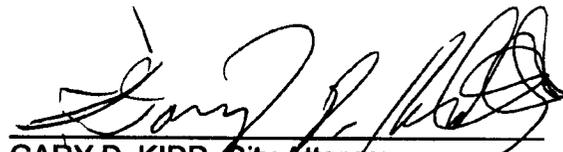


JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

  
ELIZABETH A. BURKE, City Clerk

  
GARY D. KIDD, City Attorney

**Actual Water/Wastewater Impact Fees Collected v. New (Eff. July 11, 2009) for Period January 11-May 2009**

	Current	New	Current	New	Current	New	Current	New	Current	New
# Meters Issued	Wtr System Fee	Wtr System Fee	Wtr Resource Fee	Wtr Resource Fee	Swr Buy-In Fee	Swr Buy-In Fee	Swr Impact Fee	Swr Impact Fee	Total	Total
13	\$ 138,390	\$ 223,519	\$ 126,980	\$ 165,384	\$ 64,120	\$ 117,713	\$ 329,491	\$ 506,616	\$ 177,125	\$ 177,125
<b>Total</b>										

**Water/Wastewater Impact Fees Pending for Projects in Plan Review**

	Current	New	Current	New	Current	New	Current	New	Current	New
Projects in Plan Review	Wtr System Fee	Wtr System Fee	Wtr Resource Fee	Wtr Resource Fee	Swr Buy-In Fee	Swr Buy-In Fee	Swr Impact Fee	Swr Impact Fee	Total	Total
# units	32									
Total # of project	262	\$ 391,620	\$ 642,616	\$ 359,332	\$ 803,491	\$ 203,672	\$ 343,736	\$ 954,624	\$ 1,789,843	\$ 835,218
Total # of units										

Calculations shown are for illustrative purposes and are based upon actual permits applied for or issued for water and sewer connections from January 11, 2009-present. Actual revenue collected for projects in plan review is subject to change as the plans are frequently revised prior to permit issuance.

<b>COUNCIL AGENDA MEMO – June 2 &amp; 9, 2009</b>
<b>DEPARTMENT: FINANCE</b>
<b>AGENDA ITEM: Council Action for Debt Issuance through WIFA</b>

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head:</b>	
<b>Finance Director: Mark Woodfill</b>	
<b>City Manager: Steve Norwood</b> <i>SNorwood</i>	<i>05/20/09</i>

**BACKGROUND**

The Council adopted resolution no. 3941-0947 authorizing a loan from Water Infrastructure Finance Authority of Arizona (WIFA) for the Airport Centrifuge Project in the amount of \$1,027,345. This amount did not include all of the costs and should have been \$1,111,000.00.

The WIFA Board has approved the City's application for this project pending Council adoption of this resolution. This debt will be backed and repaid with revenues from the Wastewater Enterprise Fund and be for a twenty-year term.

**ITEM**

This resolution repeals Resolution No. 3941-0947 and authorizes the debt amount of \$1,111,000.00.

<b>Recommended Action: MOVE to approve Resolution No. 3965-0971.</b>
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**RESOLUTION NO. 3965-0971**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, REPEALING RESOLUTION NO. 3941-0947 AND ADOPTING A NEW RESOLUTION TO AUTHORIZE THE APPLICATION FOR A CLEAN WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)**

**RECITALS:**

WHEREAS, the City of Prescott of Yavapai County has identified a need for a wastewater capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its wastewater system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, on March 10, 2009, Resolution No. 3941-0947 was adopted to authorize application for financial assistance from WIFA of an amount not to exceed \$1,027,345.00, and whereas such amount has been found to not include all costs; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for financial assistance from WIFA of an amount not to exceed \$1,111,000.00 for the Airport Centrifuge Project; and

WHEREAS, the City of Prescott population at the time of this request is 43,329, which meets the requirement under A.R.S. 9-571.

**ENACTMENTS:**

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

SECTION 1. THAT, Resolution No. 3941-0947 is hereby repealed.

SECTION 2. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Clean Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 3. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$1,111,000.00 payable from revenues for the wastewater system.

SECTION 4. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 9th day of June, 2009.

\_\_\_\_\_  
JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
ELIZABETH A. BURKE, City Clerk

\_\_\_\_\_  
GARY D. KIDD, City Attorney

**COUNCIL AGENDA MEMO – (June 2 & June 9, 2009)**

**DEPARTMENT:** City Clerk

**AGENDA ITEM:** Public Hearing and consideration of a liquor license application from Michael Angel Bonilla, Applicant for The BDPC, LLC, for a Series 12, Restaurant, License for Chi-Town Pizza, located at 1385 Iron Springs Road.

**Approved By:**

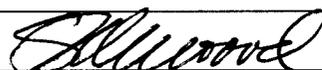
**Date:**

**Department Head:** Elizabeth A. Burke

5/14/09

**Finance Director:** Mark Woodfill

**City Manager:** Steve Norwood



05/29/09

**Background**

A Liquor License Application, City No. 09-142, State No. 12133444, has been received from Michael Angel Bonilla, applicant for The BDPC, LLC, for a Series 12, Restaurant, License for the **Chi-Town Pizza** located at 1385 Iron Springs Rd.

The public hearing will be held at the Regular Council Meeting of Tuesday, June 9, 2009. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have.

This application is for a new Series 12, Restaurant, License due to new ownership. According to State Statute they need to apply for a new license.

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

**Recommended Action:** (1) **MOVE** to close the Public Hearing; and (2) **MOVE** to approve/deny State Liquor License Application No. 12133444 for a new Series 12, Restaurant, Liquor License for Michael Angel Bonilla, Applicant for The BDPC, LLC, for Chi-Town Pizza located at 1385 Iron Springs 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.

<b>COUNCIL AGENDA MEMO – (June 2/June 9.2009)</b>
<b>DEPARTMENT:</b> City Clerk
<b>AGENDA ITEM:</b> Public Hearing and consideration of a liquor license application from Elizabeth Ann McIntire Applicant for Prescott Inn & Suites, for a Series 11, Hotel/Motel, license for Prescott Inn & Suites located at 4499 Highway 69.

Approved By:	Date:
<b>Department Head:</b> Elizabeth A. Burke	6/9/2009
<b>Finance Director:</b> Mark Woodfill	
<b>City Manager:</b> Steve Norwood <i>[Signature]</i>	05/29/09

A Liquor License Application, City No. 09-141, State No. 11133024, has been received from Elizabeth Ann McIntire, Applicant for Prescott Inn & Suites, for a Series 11, Hotel/Motel, License for **Prescott Inn & Suites** located at 4499 Highway 69.

The public hearing will be held at the Regular Council Meeting of Tuesday, June 9, 2009. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have.

This license application is due to a new Series 11 Hotel/Motel license. A copy of the application is available for Council's review in the City Clerk's Office.

<p><b>Recommended Action:</b> (1) <b>MOVE</b> to close the Public Hearing. (2) <b>MOVE</b> to approve/deny State Liquor License Application No. 11133024, for a new Series 11, Hotel/Motel for Prescott Inn &amp; Suites, Applicant for Prescott Hotel, LLC for Prescott Inn &amp; Suites at 4499 Highway 69.</p>
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