



PRESCOTT CITY COUNCIL VOTING MEETING AGENDA *A M E N D E D

**PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, JUNE 9, 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 Regular Voting Meeting 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:** Father John Peck, Prescott Orthodox Christian Church
- ◆ **PLEDGE OF ALLEGIANCE:** Mayor Wilson
- ◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

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

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

- I. **PUBLIC COMMENT**

- A. Anne Badger re Courthouse Plaza summer concert schedule.

- II. **PROCLAMATION**

- A. [June 16, 2009 as *It's in our Hands / United States Census 2010*](#)

- III. **PRESENTATIONS**

- A. [Presentation of 2009 Prescott Preservation Commission's *Preservation and Stewardship Awards* to Prescott historic property owners by Commission Chairman Doug Stroh.](#)

- B. [Tim Barnett, CEO of Yavapai Regional Medical Center, regarding the hospital's strategic planning process.](#)
- C. Presentation by Rob Vannett on “Bee Friendly” Proposal.

IV. CONSENT AGENDA

CONSENT ITEMS A THROUGH G LISTED BELOW MAY BE ENACTED BY ONE MOTION. ANY ITEM MAY BE REMOVED AND DISCUSSED IF A COUNCILMEMBER SO REQUESTS.

- A. Award 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. Approve completion of a grant application to the Governor's Office of Highway Safety seeking 402 Federal Grant Funds in the amount of \$40,505.00 to be used for officer overtime, employee related expenses and purchase of equipment necessary to support highway safety and education efforts.
- C. Approve completion of a grant application to the Governor's Office of Highway Safety seeking 410 Federal Grant Funds in the amount of \$60,000.00 to be used for continued operation of the Tri-City DUI Task Force during the period of October 2009 through September 2010.
- D. 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.
- E. Adopt 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.
- F. Adopt 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).
- G. Approve the Minutes of the Prescott City Council Workshop of May 12, 2009 (1:30 p.m.) and the Workshop of May 12, 2009 (2:00 p.m.).

V. REGULAR AGENDA

- A. Public Hearing 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.
- B. Public Hearing 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.
- C.* Public Hearing and consideration of a liquor license application submitted by Christopher Woods, Applicant for Mustang Café, for a Series 12, Restaurant, license for Mustang Café located at 2020 Clubhouse Drive.**
- GD*.** Adoption of Resolution No. 3966-0972 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott to submit an application to apply for Recovery Act (ARRA) – Energy Efficiency and conservation Formula Block Grant Funds and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- DE*.** Adoption of Ordinance No. 4703-0946 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, abandoning an existing sewer and pipeline easement located north of Whipple Street on Canterbury Lane and dedicating an easement for public utilities, ingress and egress and private parking for the benefit of Parcels 1 and 2 as shown on the attached record of survey and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment and dedication.
- EF*.** 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. (Pulled from Consent Agenda by Councilman Lamerson)
- FG*.** 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. (Pulled in conjunction with Item IV-E by Councilwoman Suttles)
- GH*.** 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) (Pulled from Consent Agenda by Councilwoman Suttles)

- HI*. 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. (Pulled from Consent Agenda by Councilwoman Suttles)

- IJ*. Discuss and consider adoption of Resolution No. 3967-0973 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona in support of the League of Arizona Cities and Towns resolution supporting the Honorable Governor Brewer’s budget proposal.

- JK*. Acceptance of a grant from the Department of Homeland Security Transportation Security Administration for a four-year Law Enforcement Officer Reimbursement Program Cooperative Agreement grant in the amount not to exceed \$467,784.00.

VI. 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, MMC, City Clerk

PROCLAMATION

“IT’S IN OUR HANDS / UNITED STATES CENSUS 2010”

June 16, 2009

WHEREAS, every 10 years, a Census of our population is conducted and the federal government uses population data to allocate funds in several areas such as grants for educational agencies, head start programs, public transportation, road rehabilitation and construction, programs for the elderly and food grants; and,

WHEREAS, the Census is also used for rural development, urban planning, planning health and education services for people with disabilities, developing assistance programs for low-income families, making business decisions, school projects, developing adult education programs, and attracting new businesses to state and local areas; and,

WHEREAS, the Census information is confidential, and federal law prohibits any public or private agency from gaining access to confidential Census data; and,

WHEREAS, there is a high level of commitment to a full and accurate Census count and our placing special emphasis on enumerating members of population groups traditionally undercounted; and,

WHEREAS, the success of the 2010 census is in our hands and connects all elements of the campaign nationally, regionally and locally; and,

NOW, THEREFORE I, Jack D. Wilson, by virtue of the authority vested in me as Mayor of the City of Prescott, Arizona, call upon all residents, community agencies, religious organizations, medical facilities and businesses to participate in our efforts to join hands and be counted in the 2010 United States Census, thereby strengthening the community in which we live, do hereby support:

“IT’S IN OUR HANDS / UNITED STATES CENSUS 2010”

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Prescott to be affixed this 16th day of June 2009.

JACK D. WILSON, MAYOR

City of Prescott

III-A

COUNCIL AGENDA MEMO – June 9, 2009

DEPARTMENT: Community Development

AGENDA ITEM: Preservation and Stewardship Awards presented to Prescott Historic Property Owners by the Prescott Preservation Commission Chairman, Doug Stroh.

Approved By:

Date:

Department Head: Tom Guice

City Manager: Steve Norwood



06/02/09

The City of Prescott Preservation Commission annually presents the Preservation and Stewardship awards. These awards recognize recent restoration efforts and stewardship through careful maintenance of Prescott's historic buildings and sites as part of our Historic Preservation Month celebration in May. The awards are presented to property owners to thank them for a "job well done" in restoring and rehabilitating their historic properties or in carefully maintaining their historic properties over a long period of time.

Properties in Prescott's historic districts were surveyed and recommended by Preservation Commissioner Russ Buchanan and City Historic Preservation Specialist Nancy Burgess in making the final selections for this year's ten (10) award winners.

Doug Stroh, Chairman of the City of Prescott's Preservation Commission, will present the awards at the Council Meeting. These awards consist of a plaque with a photograph of the property for each recipient. A PowerPoint presentation will showcase each property.

2009 AWARD RECIPIENTS

This year's ten (10) award recipients are:

* * *

RESTORATION AWARD

Greg & Roseanne Hague
216 East Goodwin Street

Originally, there were two historic houses on this property; however, the rear house, a Classical Bungalow built between 1910 and 1924, was in very bad condition and was demolished. Mr. and Mrs. Hague have restored the exterior of the front house, a Vernacular building with elements of the Bungalow style built about the same time as the rear house, and have subsequently sold the property to a new owner.

Eric and Kristin Ainley
309 East Goodwin Street

Known as the "Briggeman House", this downtown Classical Bungalow was remodeled and restored after a March 2007 fire which nearly destroyed the house. The house was moved from South Mt. Vernon Street to this location in 1947. The Ainley's and their contractor were very cooperative in retaining the historic integrity of the building in its restoration.

William and Mindy Sheble

311 East Goodwin Street

After many years in the same family, this downtown house recently changed hands and is being rehabilitated while retaining its Mid-Century Modern style.

Sheldon Street Properties

Michael Lahaie

125 West Carleton Street

This 1890s Queen Anne Victorian was used for many years as an apartment building. The current owners structurally rehabilitated the building, restored or replicated many of the original architectural features, and chose a great Victorian color scheme while converting the building to office use.

Reva McGillivrae

214 Apache Drive

Located in the Pine Crest historic District, this is another Classical Bungalow which was in the ownership of one family for many years. Current owner Reva McGillivray has restored not only the house, but the landscaping of the "Grace Foudy House".

Alarcon Investments

Don Biele and Donovan Myers

105 South Alarcon Street (Gage/Murphy House)

Listed in the National Register of Historic Places in 1978 as an important example of Territorial Architecture, the house was built in 1895 by Ephilet B. Gage, a wealthy miner. With Classical Revival influences, the house was an elegant and well-appointed mansion of its day. Although it was converted to apartments many years ago, the current owners have improved the appearance, stabilized the building, torn down an unsightly storage building in the side yard and given the Gage/Murphy house a facelift and a colorful paint scheme.

TIS Holding Company, LLC

105 South Cortez Street (Knights of Pythias Building)

Known as the Knights Of Pythias Building, this was the tallest building in Prescott when it was built in 1892. Listed in the National Register of Historic Places in 1978 as an important example of Territorial Architecture, it is a survivor of the Fire of 1900. The building has traditionally housed retail on the ground floor, offices on the second floor and meeting space on the third floor. After a lengthy stabilization, ADA retrofit and a complete and very extensive and accurate restoration under the guidance of Otwell Associates, Architects, the Knights of Pythias Building is again a jewel of Prescott's Historic Downtown.

* * *

STEWARDSHIP AWARD

Thomas Atkins

309 South Washington Avenue

Owned by the grandchildren of the long-time owners, this Bungalow has been well maintained by Thomas Atkins, who grew up across the street.

Agenda Item: Historic Preservation and Stewardship Awards

Edward and Betty Newell

944 & 944-1/2 Apache Drive

As long time owners the Newells have taken great care of this historic Bungalow in the Pine Crest neighborhood for many years.

Lawrence and Nancy Shader

227 North Pleasant Street

Built by the Zunick family in 1938 from mostly recycled materials, the Shaders--long time owners--have maintained and enhanced the historic integrity of this Vernacular house with elements of the Bungalow style.

Yavapai Regional Medical Center is requesting to meet with the Prescott City Council. We have scheduled about 15 outreach meetings with community groups throughout our region. The purpose of these meetings is to help gain input into our Strategic Planning Process over the next three years. We have a Board committee conducting the strategic planning and this information will be shared with them. We recognize that the hospital resources are limited, just as the City resources are as well. We would like to ask the Council two questions:

1. In the eyes of the community, what does YRMC do especially well?
2. If you could change one thing, just one thing, about YRMC, what would it be?

We anticipate spending our time listening to the City Council and their responses. In attendance for this meeting will be myself and another Board member, which I believe will be Joe Jackson, although that has not been confirmed at this time. We plan on this taking no longer than 15-20 minutes. Should the Council Chair wish to curtail the conversation, we fully understand there are many items on your agenda that need to be addressed that afternoon as well. We would welcome any follow up comments to our questions via e-mail after the meeting.

We also would like to keep this from a 30,000 foot level on community needs as we are unable to discuss specific patient concerns or treatments in keeping with our policies and procedures on patient confidentiality.

We look forward to joining you on June 9th at 3:00pm. Thank you again for your assistance in helping us schedule this time with your Council. Please feel free to contact me at the number below if you have any questions or concerns.

Respectfully,

Tim

Tim Barnett, President & CEO
Yavapai Regional Medical Center
1003 Willow Creek Road
Prescott, AZ 86301
tel: (928) 771-5676
fax: (928) 771-5509

V-C*

COUNCIL AGENDA MEMO – (June 2/June 9.2009)

DEPARTMENT: City Clerk

AGENDA ITEM: Public Hearing and consideration of a liquor license application from Christopher Woods Applicant for Mustang Cafe for a Series 12, Restaurant, license for Mustang Cafe located at 2020 Clubhouse Drive.

Approved By:

Date:

Department Head: Elizabeth A. Burke *EAB*

6/9/2009

Finance Director: Mark Woodfill

City Manager: Steve Norwood *SN*

A Liquor License Application, City No. 09-143, State No. 12133445, has been received from Christopher Woods, Applicant for Prescott Aviation Services, LLC, for a Series 12, Restaurant, License for **Mustang Cafe** located at 2020 Clubhouse Drive.

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 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. (2) **MOVE** to approve/deny State Liquor License Application No. 12133445, from Christopher Woods, Applicant for Prescott Aviation Services, LLC, for a Series 12, Restaurant, License for Mustang Cafe located at 2020 Clubhouse Drive.

V-C

COUNCIL AGENDA MEMO – June 09, 2009

DEPARTMENT: City Manager, Grants

AGENDA ITEM: Energy Efficiency Conservation Block Grant (EECBG) \$197,100.

Approved By:

Date:

Department Head: Linda Hartmann	June 04, 2009
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>SNorwood</i>	<i>06/05/09</i>

Background: The American Recovery and Reinvestment Act of 2009, Public Law 111-5, appropriates funding for the Department of Energy (DOE) to issue/award formula based grants to states, U.S. territories, units of local government and Indian tribes under the Energy Efficiency and Conservation Block Grant (EECBG) Program.

The purpose of the EECBG Program is to assist eligible entities in creating and implementing strategies to:

- *reduce fossil fuel emissions in a manner that is environmentally sustainable and, to the maximum extent practicable, maximize benefits for local and regional communities;
- *reduce the total energy use of the eligible entities; and
- *improve energy efficiency in the building sector, the transportation sector; and other appropriate sectors.

These stated purposes describe the overall intent of the Program. Entities may develop various initiatives and projects that address one or more of the purposes and each activity an entity undertakes is not required to meet all of the stated purposes.

Staff has determined this funding would be best used for Energy Efficiency Retrofits to existing city facilities including: Golf Course Maintenance Shop; Airport Terminal, City Hall; P & R Administration and Waste Water Collections. Upgrades range from energy efficient HVAC units, exterior wall cavity fill insulation to insulated glass upgrades. See attached list.

The period of performance for this grant is 36 months. In keeping with the Recovery Act intent and supporting the goal of immediate investment in the economy we are required to obligate/commit all funds within 18 months of the effective date of the award.

Financial: \$197,100 is the amount of the allocation. There is no requirement for matching funds.

As an entitlement community we are slated to receive this formula grant upon approval of our application. It is a non competitive grant. As a matter of information, COP is the smallest entitlement community in the state and the formulas are based on population.

The purpose of a resolution authorizing this application provides proof that we indeed want to receive entitlement funds from this particular agency. Entitlement communities may refuse an allocation. (We were required to follow the same procedure when we became HUD Entitled.

A resolution authorizing submittal of this grant application to the Department of Energy will serve in the best interest of the City of Prescott.

Recommended Action: MOVE to adopt Resolution No. 3966-0972.

Proposed Energy Upgrades
Submitted by Administrative Services

Antelope Hills Golf Course Maintenance Shop

The City of Prescott will experience a 38 % annual energy savings with the installation of a 13 seer 5 ton coil and condenser 125,000 BTU 80% AFUE furnace. Replacing a 13 year old 10 seer unit

Airport Terminal

We should see a minimum annual energy savings of 38% with the installation of one 5 ton 13 seer 80% AFUE gas package unit in the main waiting area and up to 50% annual energy savings with the installation of two 17 seer Figitzu Ductless Split Systems in the Check in / Baggage Area.

Replacing existing glass with insulated low E glass will increase the R - Value by 60 %.

The installation of R-19 insulation and drywall in the ceiling of the Terminal building will create a tight building envelope contributing to increased energy efficiency.

City Hall

Replace all exterior glass with insulated low-E glass and aluminum framing utilizing the thermal break method to eliminate thermal transfer and increase R-Value by 60%.

Parks and Rec. Admin. Office

Replace existing 20 year old split system with a 2 ton 80% AFUE furnace with a 13 seer coil and condenser. This will create a 38% annual energy savings.

Replace 9 existing windows with insulated low-E glass
This will increase the R- Value by 60%.

Waste Water Collections

Fill existing cavity of three exterior walls with blown Cellulose.
This will increase the R- Value of the exterior wall by 100% and generate a substantial annual energy savings.

Total estimated cost **\$75,690.74**
\$11,353.61 15 % contingency
\$87,044.35

City Hall HVAC

Abandon existing Boiler / Chiller HVAC System.

Install roof mount 13 seer or better gas package units.

We have determined the need for 8 zones totaling about 30 tons of cooling/heating.

A good portion of existing duct work could be utilized.

This approach will increase user comfort substantially, therefore increasing efficiency and create energy savings.

A roof penetration will be necessary for each new unit installed.

225 Amps of electric power will become available once the existing Chiller is removed from service and will off set power needs of new units.

New Natural Gas supply lines will be required for each unit.

The rule of thumb is about \$1500. per ton for equipment.

Install thermostat per zone.

Estimated cost \$95,700.57

\$14,355.08 15 % contingency

\$110,055.65*

*Estimated costs and contingency may not completely cover the costs of such things as structural reinforcement to accommodate the new units, additional electrical and ductwork, removing the old chiller, new roofing to the penetrations and asbestos abatement. The boiler, chiller, and fan coils not used in the new installation may be sold at auction. The City has approximately \$275,000 carryover from fiscal 2009 to cover these costs.

Once the stimulus money is confirmed and approved by Council, staff will begin to ascertain the full estimates for this work via public bid process.

RESOLUTION NO. 3966-0972

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO SUBMIT AN APPLICATION TO APPLY FOR RECOVERY ACT (ARRA) – ENERGY EFFICIENCY AND CONSERVATION FORMULA BLOCK GRANT FUNDS AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, the City wishes to apply for a formula block grant allotment from the Department of Energy pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, under the Energy Efficiency and Conservation Block Grant Program in the amount of \$191,100; and

WHEREAS, the purpose of the EECBG Program is to assist eligible entities in creating and implementing strategies to reduce fossil fuel emissions in a manner that is environmentally sustainable and to the maximum extent practicable, maximize benefits for local and regional communities; reduce the total energy use of the eligible entities; and improve energy efficiency in the building sector, the transportation sector; and other appropriate sectors. Entities may develop various initiatives and projects that address one or more of the purposes and each activity an entity undertakes is not required to meet all of the stated purposes.

WHEREAS, the City staff has determined this funding would be best used for energy efficiency retrofits to existing City facilities including the Golf Course maintenance shop; Airport terminal, City Hall; P & R Administration and Waste Water collections. Upgrades range from energy efficient HVAC units, exterior wall cavity fill insulation to insulated glass upgrades.

ENACTMENTS:

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

Section 1. THAT the City of Prescott hereby authorizes the submittal of a grant funding application for a grant allotment from the Department of Energy pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, under the Energy Efficiency and Conservation Block Grant Program (EECBG Program) in the amount of \$191,100.

Section 2. THAT the Mayor and Staff are hereby authorized to execute and submit the grant funding application for the American Recovery and Reinvestment Act of 2009 EECBG program.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott 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 9, 2009
DEPARTMENT: Public Works
AGENDA ITEM: Abandon an existing sewer and pipeline easement, the dedication of a new easement for public utilities and provide for ingress and egress for the proposed private parking for the benefit of Parcels 1 and 2 for "The Boulders at Prescott".

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood 	

Item Summary

This item is for "The Boulders at Prescott". A request to 1) abandon an existing sewer and pipeline easement; and 2) accept the dedication of a new easement for public utilities and provide for ingress and egress for the proposed private parking for the benefit of Parcels 1 and 2.

Background

This request was initiated by the owner, Arcadia Housing LLC, aka William Spring, developer of "The Boulders at Prescott" and owner of APN(s) 116-19-021B, 116-19-017A, 116-19-017B, 116-19-017, and 116-19-022.

The applicant applied for and received an Administrative Re-plat in 2008 to combine the five (5) parcels noted above into two (2) separate parcels. The two (2) separate parcels for this development are a requirement of the HUD financing. At this time HUD is also requiring the abandonment of the existing sewer and pipeline easement and the dedication of the new easement be completed prior to the project being awarded funding. We did not want to hold up the developer another two plus weeks to have this on the next round of packets since HUD is withholding their funding.

The abandonment and subsequent dedication of the new easement will facilitate the construction of water line, sewer line and dry utilities for the proposed 132 unit assisted and independent senior living project located on Canterbury Lane.

The proposed abandonment and dedication of easements will not impact adjacent property owners and there is no cost to the City for the abandonment of the new easement.

Architectural and Civil plans for this project are currently under review with the City and the owner intends to break ground on this project in early August 2009. Timely action on this item is requested as the HUD financing can not occur without the easements being abandoned and the generation of the new easements.

- Attachments**
- Ordinance No. 4703-0946
 - Exhibit "A" Map and Legal Description of the Abandoned Easement
 - Exhibit "B" Record of Survey
 - Exhibit "C" Area Map

Recommended Action: MOVE to adopt Ordinance No. 4703-0946.

ORDINANCE NO. 4703-0946

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ABANDONING AN EXISTING SEWER AND PIPELINE EASEMENT LOCATED NORTH OF WHIPPLE STREET ON CANTERBURY LANE AND DEDICATING AN EASEMENT FOR PUBLIC UTILITIES, INGRESS AND EGRESS AND PRIVATE PARKING FOR THE BENEFIT OF PARCELS 1 AND 2 AS SHOWN ON THE ATTACHED RECORD OF SURVEY AND AUTHORIZING THE MAYOR AND CITY STAFF TO TAKE ALL NECESSARY STEPS TO EFFECTUATE SUCH ABANDONMENT AND DEDICATION

RECITALS:

WHEREAS, on July 25, 1975 Marvin and Bessie Kelsey, husband and wife recorded an easement for sewer and pipe line with the right of ingress and egress under and through the property as recorded in Book 1026, Pages 243-244 office of the Yavapai County Recorder; and

WHEREAS, the current property owner, Arcadia Housing LLC wishes to abandon the easement as described in Book 1026, Pages 243-244 office of the Yavapai County Recorder; and

WHEREAS, the current property owner wishes to dedicated a new easement for public utilities, ingress and egress, and private parking for the benefit of Parcels 1 and 2 as shown on the attached Record of Survey in order to facilitate water line, sewer line, dry utilities, ingress and egress and parking for "The Boulders at Prescott"; and

WHEREAS this abandonment is in compliance with ARS Section 9-240 et seq.

ENACTMENTS:

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

SECTION 1. THAT certain easement as set forth in Exhibit "A", which constitutes a sewer and pipeline easement located north of Whipple Street on Canterbury Lane, recorded at Book 1026, Page 243-2446, records of the Yavapai County Recorder, is no longer necessary for public use and the same is hereby vacated and abandoned.

SECTION 2. THAT certain easement as set forth in Exhibit "B", which constitutes an easement for public utilities, ingress and egress, and private parking for the benefit of Parcels 1 and 2 is hereby dedicated to the City of Prescott as a part of this action; and

SECTION 3. THAT upon approval by the City Council, the Mayor and staff are hereby authorized to record the Record of Survey and any other instruments in order to carry out the conveyances as set forth herein.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott 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

EXHIBIT A

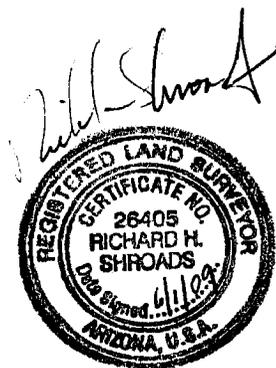
**Land Description
June 1, 2009
Sewer Easement Abandonment**

That portion of Section 28, Township 14 North, Range 2 West, Gila and Salt River Base and Meridian, in the City of Prescott, Yavapai County, State of Arizona, more particularly described as follows....

Beginning at a point which is North 78°39' West 1663.5 feet and North 62°02' East 313.73 feet from the closing corners of Sections 28 and 33, of said Township 14 North, Range 2 West of the Gila and Salt River Base & Meridian and Westerly boundary of the Fort Whipple Military Reservation; Thence

North 3°44' East a distance of 205 feet.

Also as being described in Book 1026, Page 243-244 of Official Records of said County.



EXPIRES 9-30-2010

Exhibit B

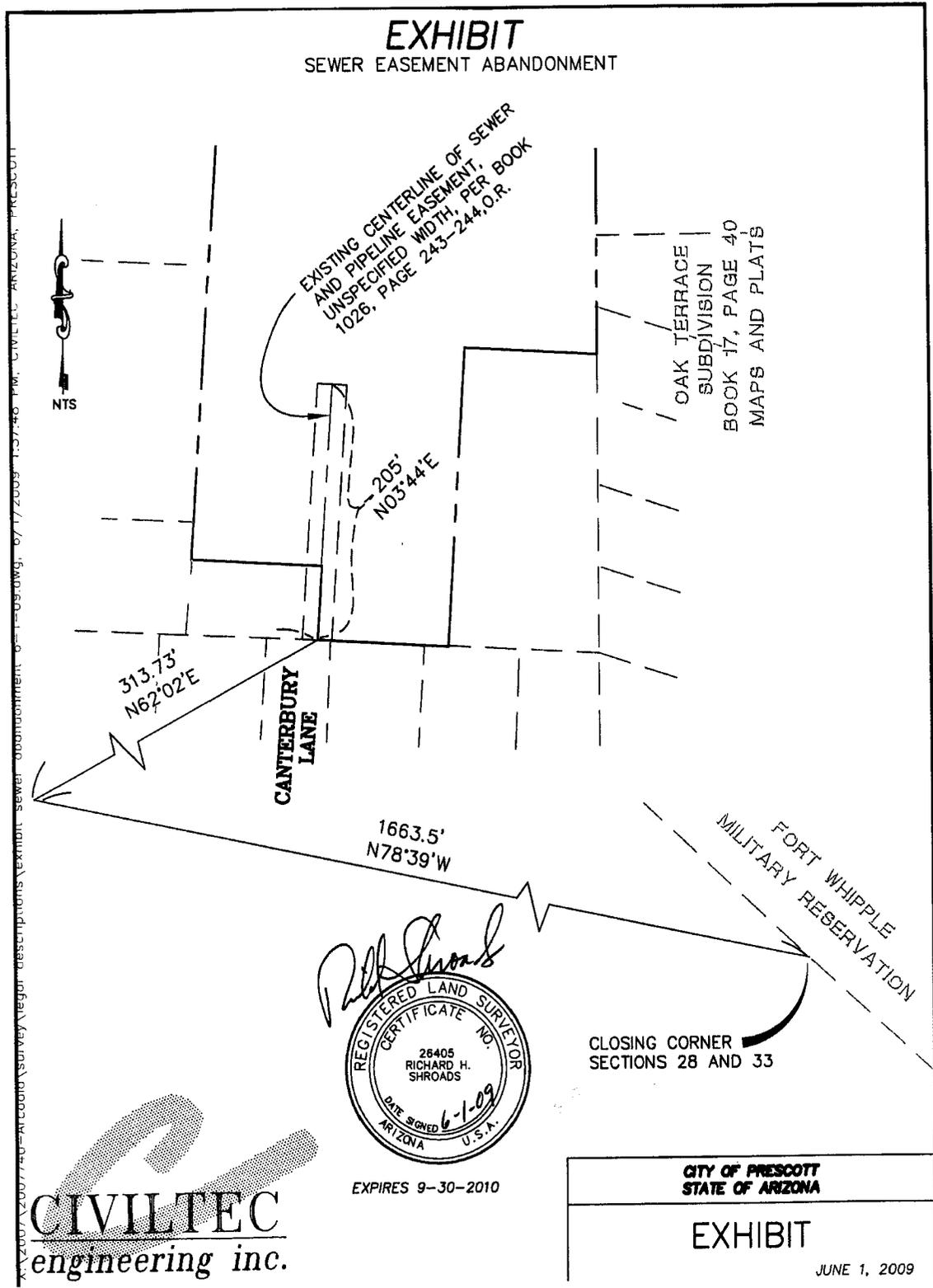
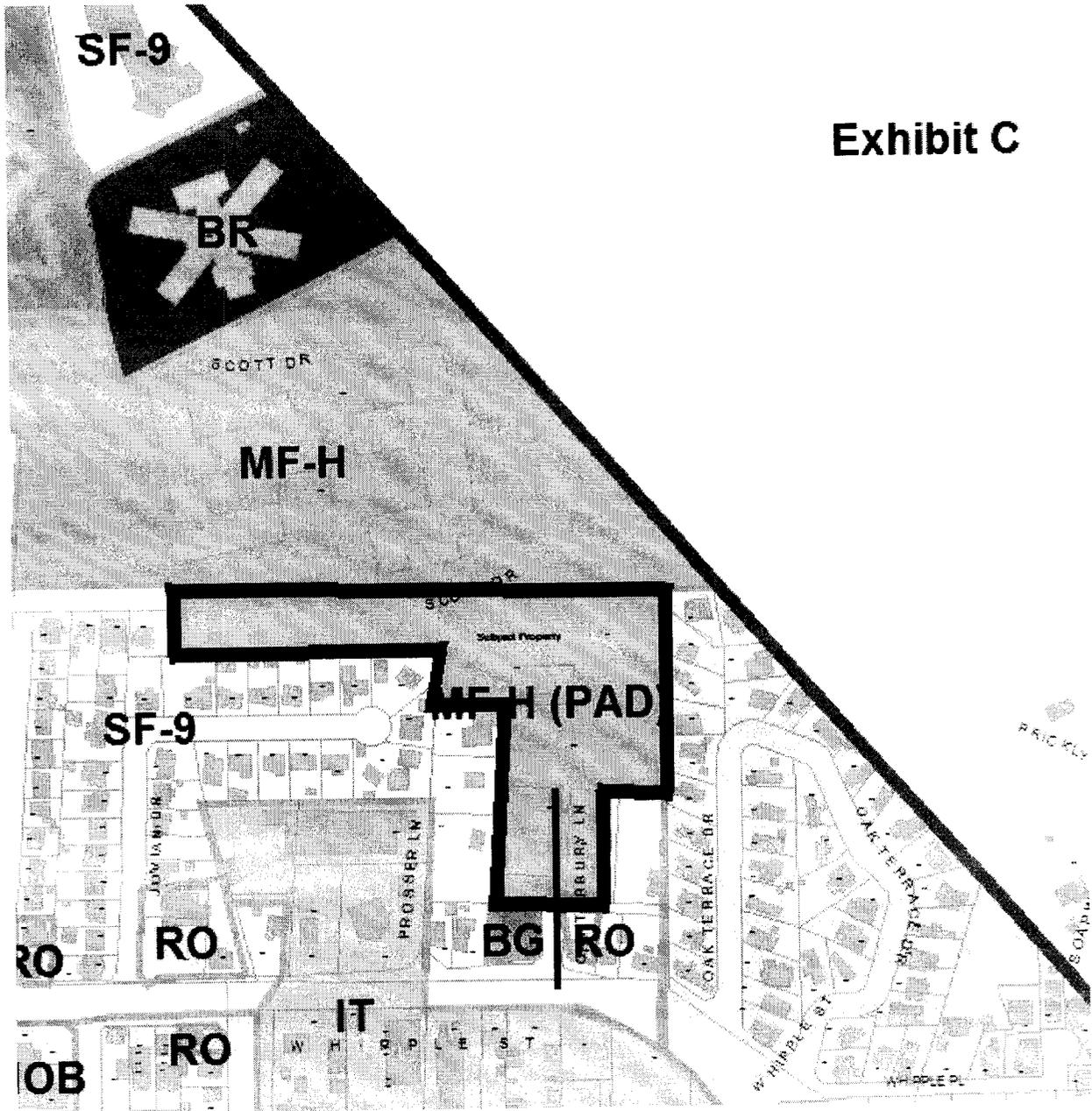


Exhibit C



V-G

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 9th 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 intend to divide and develop the property into 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

EXHIBIT 'A'
THE BRADSHAW'S

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 13 NORTH, RANGE 2 WEST AND THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER MERIDIAN, YAVAPAI COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 3, TOWNSHIP 13 NORTH, RANGE 2 WEST, THENCE ALONG THE NORTH LINE OF SAID SECTION 3, N.89°34'00"E., A DISTANCE OF 401.90 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY OF STETSON ROAD AND THE EXTENSION OF THE SOUTH LINE OF LOT 8 OF BLOCK "I" OF GREEN MANOR HEIGHTS AS DEPICTED IN BOOK 161 OF LAND SURVEYS, PAGE 100 OF OFFICIAL RECORDS, YAVAPAI COUNTY, ARIZONA, MARKED BY A ½" REBAR & CAP RLS 13941, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE ALONG THE SOUTHEASTERLY RIGHT OF WAY OF STETSON DRIVE N.32°11'25"E., A DISTANCE OF 41.08 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 20°32'55";

THENCE NORTHEASTERLY ALONG THE ARC OF SAID RIGHT OF WAY, A DISTANCE OF 26.90 FEET;

THENCE LEAVING SAID RIGHT OF WAY AND ALONG THE WESTERLY LINE OF LOT 8, BLOCK I OF GREEN MANOR HEIGHTS, S.36°35'25"E., A DISTANCE OF 67.11 FEET TO A POINT ON THE SOUTH LINE OF SECTION 34 AND TO THE SOUTHWEST CORNER OF LOT 8 BLOCK I GREEN MANOR HEIGHTS;

THENCE ALONG THE SOUTH LINE OF LOT 8, BLOCK I GREEN MANOR HEIGHTS LINE, N.89°33'23"E., A DISTANCE OF 71.79 FEET TO A 3/8" REBAR & TAG RLS 23383 MARKING THE SOUTHEAST CORNER OF SAID LOT 8, BLOCK "I" OF SAID GREEN MANOR HEIGHTS;

THENCE ALONG THE SOUTH LINE OF LOT 7 BLOCK "I", N.89°36'50"E., A DISTANCE OF 59.96 FEET TO A ½" REBAR MARKING THE CORNER COMMON TO LOT 6 AND 7;

THENCE ALONG THE SOUTH LINE OF LOT 6 BLOCK "I", N.89°40'10"E., A DISTANCE OF 59.79 FEET TO A ½" REBAR MARKING THE CORNER COMMON TO LOT 5 AND 6;

THENCE ALONG THE SOUTH LINE OF LOT 5 BLOCK "I", N.89°55'17"E., A DISTANCE OF 44.81 FEET TO A ½" REBAR MARKING THE NORTHWEST CORNER OF LOT 11 OF THE PARK EAST SUBDIVISION AS DEPICTED IN BOOK 10 OF MAPS AND PLATS, PAGE 32, SAID POINT MARKED BY A ½" REBAR & CAP, RLS 23383;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARK EAST SUBDIVISION, S.41°59'27"E., A DISTANCE OF 398.20 FEET TO A ½" REBAR MARKING THE CORNER COMMON TO LOT 9 AND 10 OF SAID PARK EAST SUBDIVISION;

THENCE ALONG THE SOUTH LINE OF LOT 9, S.42°07'48"E., A DISTANCE OF 99.04 FEET TO A ½" REBAR & CAP, RLS 23383 MARKING THE CORNER COMMON TO LOT 8 AND 9 OF SAID PARK EAST SUBDIVISION;

THENCE CONTINUE ALONG THE SOUTHWESTERLY LINE OF SAID PARK EAST SUBDIVISION, S.42°00'17"E., A DISTANCE OF 355.69 FEET TO A ½" REBAR & CAP, RLS 23383 MARKING THE SOUTHERN MOST CORNER OF SAID PARK EAST SUBDIVISION AND THE NORTHEASTERLY CORNER OF THE PERIDOT AS DESCRIBED IN BOOK 3942, PAGE 978 OF OFFICIAL RECORDS;

THENCE CONTINUE ALONG THE NORTHERLY BOUNDARY LINE OF THE PERIDOT AS DESCRIBED IN BOOK 3942, PAGE 978 OF OFFICIAL RECORDS THE FOLLOWING SIX (6) COURSES:

THENCE N.64°33'37"W., A DISTANCE OF 373.51 FEET;

THENCE S.72°07'33"W., A DISTANCE OF 194.97 FEET;

THENCE S.34°33'45"W., A DISTANCE OF 169.83 FEET;

THENCE N.89°42'27"W., A DISTANCE OF 125.75 FEET;

THENCE S.72°07'33"W., A DISTANCE OF 232.08 FEET TO A ½" REBAR & CAP, RLS 13941;

THENCE S.36°45'40"W., A DISTANCE OF 159.98 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY OF BRADSHAW DRIVE AS DEPICTED IN BOOK 12 OF MAPS AND PLATS, PAGE 72-76 OF OFFICIAL RECORDS;

THENCE ALONG THE EASTERLY RIGHT OF WAY OF SAID BRADSHAW DRIVE, N.21°03'48"W., A DISTANCE OF 155.76 FEET;

THENCE CONTINUE ALONG SAID EASTERLY RIGHT OF WAY, N.02°54'06"E.,
A DISTANCE OF 495.58 FEET TO A ½" REBAR & CAP RLS 13941;

THENCE CONTINUE ALONG SAID EASTERLY RIGHT OF WAY, N.21°38'15"W.,
A DISTANCE OF 11.63 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY
OF STETSON ROAD AS DEPICTED IN THE CITY OF PRESCOTT ARCHIVE FILE
#D-11-1003;

THENCE ALONG SAID RIGHT OF WAY OF STETSON ROAD, N.67°15'10"E., A
DISTANCE OF 9.33 FEET;

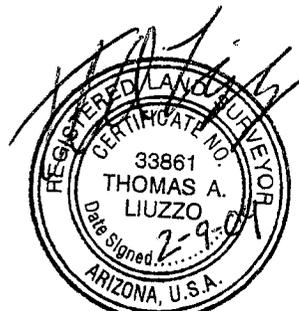
THENCE CONTINUE ALONG SAID RIGHT OF WAY OF STETSON ROAD,
N.22°44'50"W., A DISTANCE OF 15.00 FEET;

THENCE CONTINUE ALONG SAID RIGHT OF WAY OF STETSON ROAD,
N.67°15'10"E., A DISTANCE OF 31.19 FEET TO A POINT OF CURVE TO THE
LEFT HAVING A RADIUS OF 275.00 FEET AND A CENTRAL ANGLE OF
35°09'31";

THENCE NORTHEASTERLY ALONG THE ARC OF SAID RIGHT OF WAY, A
DISTANCE OF 168.75 FEET;

THENCE CONTINUE ALONG SAID RIGHT OF WAY OF STETSON ROAD,
N.32°11'25"E., A DISTANCE OF 96.46 FEET TO THE TRUE POINT OF
BEGINNING.

CONTAINING 481,600.35 SQUARE FEET OR 11.11 ACRES, MORE OR LESS.



EXP: 6-30-11

COUNCIL AGENDA MEMO – June 9, 2009

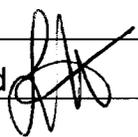
DEPARTMENT: Mayor

AGENDA ITEM: Approval of a resolution supporting Governor Brewer's FY 2010 state budget proposal

Approved By:

Date:

City Manager: Steve Norwood



Background

On June 3rd, the Executive Committee of the Arizona League of Cities and Towns passed a resolution supporting Governor Brewer's budget proposal for FY2010. The League is in support of the Governor's budget, viewing it as the only proposal that does not shift responsibility for balancing the state's budget to cities and towns. The League is asking all cities and towns in the state to adopt similar resolutions of support.

On June 4th, the Senate passed its budget proposal which includes a provision to require cities to distribute to local school districts \$42 million of Vehicle License Tax (VLT) revenue cities receive from the state, and places a three-year moratorium on the collection of impact fees, implementing new building codes or increasing the construction sales tax rate. The Senate budget also allows the use of impact fee revenue already collected to be used for general fund purposes. According to legal opinions obtained by the League, the use of impact fees for general fund purposes would be illegal, and approval of the VLT provision unconstitutional. Unfortunately, the House of Representatives also passed their budget on June 4th with provisions mirroring those in the Senate version.

The impact to Prescott from these provisions would be a \$500,000 loss in VLT revenue and an estimated \$1.78 million loss in water and sewer impact fees for projects currently in plan review. Because the moratorium would be for three years, the amount of revenue lost would depend upon actual development during that period. The average amount of all impact fees collected during each of the past four years is \$3,962,139; in 2008, the City collected \$2,626,207. At the 2008 level of fees collected, the City of Prescott stands to lose \$7.8 million in impact fee revenue over three years.

In contrast to the Senate and House proposals, the Governor's budget does not include the shift of VLT revenue from cities to school districts, or the moratorium on impact fees collection and building code implementation. Other favorable provisions of the budget include preserving the statutory cap on HURF funds for state uses and the restoration of state funding for the DPS crime lab. The Governor's budget does include a temporary sales tax increase and would require the approval of voters to enact the tax. Cities and towns would not receive a percentage of this temporary tax revenue as they do with other sales tax revenue, but the League Executive Committee stated that agreeing to this concession shows the commitment of cities and towns to be good faith partners in government.

Agenda Item: Approval of a resolution supporting Governor Brewer's FY 2010 state budget proposal

A letter from the President of the League to the Governor is attached, along with the League's resolution of support for the Governor's budget.

Attachments - League resolution and transmittal letter
- Resolution No. 3967-0973.

Recommended Action: MOVE to adopt Resolution No. 3967-0973.

RESOLUTION NO. 3967-0973

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT,
YAVAPAI COUNTY, ARIZONA SUPPORTING GOVERNOR JAN BREWER'S
FY2009-2010 BUDGET PROPOSAL**

RECITALS:

WHEREAS, the State of Arizona is experiencing severe economic conditions resulting in hardships on our citizens as well as major reductions to state and local government revenues, making our state's economy one of the most troubled in the nation; and

WHEREAS, cities and towns in Arizona provide essential services that no other level of government or private organization provides, such as police and fire services, street maintenance, water and wastewater treatment, parks and other amenities that make Arizona communities a great place to live and do business; and

WHEREAS, since the beginning of the economic downturn nearly two years ago cities and towns across the state have reacted responsibly to decreased revenues by reducing or eliminating programs, improving efficiency, reducing operating hours, and furloughing or laying off employees; and

WHEREAS, various proposed legislative budget solutions that have emerged heretofore have shifted the responsibility for a balanced state budget onto cities and towns by proposing to utilize local impact fee revenue, eliminate impact fee collections for three years, and re-direct municipal VLT funds, resulting in either further budget shortfalls locally or the necessity to raise local taxes; and

WHEREAS, Governor Brewer's budget proposal does not contain any of those detrimental provisions; and

WHEREAS, in these extraordinary times, we as city and town officials recognize in this specific instance that we will not receive our share of the new additional temporary state sales (TPT) tax revenue should the voters approve the proposed one-cent increase, in order to have certainty regarding existing revenue sharing distribution formulas, support for local decision making authority and to show good faith partnership with the state government; now therefore,

ENACTMENTS:

BE IT RESOLVED that the Council of the City of Prescott, Yavapai County, Arizona stands in support of Governor Jan Brewer's budget proposal as a fiscally-

responsible, sustainable and realistic plan that does not do significant harm to the local governments in our state.

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



1820 W. Washington • Phoenix, AZ 85007 • Phone: (602) 258-5786 • Fax: (602) 253-3874
Email: league@azleague.org • Web site: www.azleague.org

June 3, 2009

The Honorable Jan Brewer
Governor of Arizona
1700 West Washington Street
Phoenix, AZ 85007

Dear Governor Brewer:

I am pleased to transmit to you a Resolution in support of your FY 2009-10 budget proposal as outlined to us earlier this week. In an unprecedented action and after much discussion of this difficult issue, the League's Executive Committee unanimously adopted the resolution this morning.

The committee appreciates your background and experience in local government and is taking this action because of the fact that your budget proposal protects our existing shared revenues and does not include detrimental sections that restrict or eliminate local development impact fees.

There was significant discussion about the proposed sales tax increase and the fact that the temporary increase does not include local government revenue sharing. We believe this major concession illustrates our commitment to be good faith partners in government and to preserve our existing revenue sharing systems in the future. We also believe the state's voters should have the final say about the proposed temporary tax increase.

We are also suggesting that each city and town in the state consider passing a similar resolution and asking that Mayors and council members take their own individual action in support of your budget proposal.

Governor, we appreciate the excellent working relationship we have with you and your staff and we wish you and members of the legislature great success in reaching a final budget agreement. Thank you again for your strong support of local governments in this state.

Sincerely,

A handwritten signature in black ink, appearing to read "Boyd W. Dunn".

Boyd W. Dunn, President
Mayor, City of Chandler

Enclosure

LEAGUE OF ARIZONA CITIES AND TOWNS

A RESOLUTION IN SUPPORT OF GOVERNOR JAN BREWER'S FY 2009-10 BUDGET PROPOSAL

Whereas, the State of Arizona is experiencing severe economic conditions resulting in hardships on our citizens as well as major reductions to state and local government revenues, making our state's economy one of the most troubled in the nation; and

Whereas, cities and towns in Arizona provide essential services that no other level of government or private organization provides, such as police and fire services, street maintenance, water and wastewater treatment, parks and other amenities that make Arizona communities a great place to live and do business; and

Whereas, since the beginning of the economic downturn nearly two years ago cities and towns across the state have reacted responsibly to decreased revenues by reducing or eliminating programs, improving efficiency, reducing operating hours, and furloughing or laying off employees; and

Whereas, various proposed legislative budget solutions that have emerged heretofore have shifted the responsibility for a balanced state budget onto cities and towns by proposing to utilize local impact fee revenue, eliminate impact fee collections for three years, and re-direct municipal VLT funds, resulting in either further budget shortfalls locally or the necessity to raise local taxes; and

Whereas, Governor Brewer's budget proposal does not contain any of those detrimental provisions; and

Whereas, in these extraordinary times, we as city and town officials recognize in this specific instance that we will not receive our share of the new additional temporary state sales (TPT) tax revenue should the voters approve the proposed one-cent increase, in order to have certainty regarding existing revenue sharing distribution formulas, support for local decision making authority and to show good faith partnership with the state government; now therefore,

Be it resolved that the League of Arizona Cities and Towns stands in support of Governor Jan Brewer's budget proposal as a fiscally responsible, sustainable and realistic plan that does not do significant harm to the local governments in our state; and

Be it further resolved that the League calls on Mayors and Council Members in all 90 cities and towns to show their support to Governor Brewer for a budget proposal that protects local control and shared revenue.

Adopted by action of the League Executive Committee this 3rd day of June, 2009.

V-J

COUNCIL AGENDA MEMO – JUNE 9, 2009

DEPARTMENT: Airport

AGENDA ITEM: Acceptance of a grant from the Department of Homeland Security Transportation Security Administration for a four year Law Enforcement Officer (LEO) Reimbursement Program Cooperative Agreement (CA) grant in the amount not to exceed \$467,784.00 (no City share) to provide a Law Enforcement presence at the Airline Terminal to comply with Federal security requirements.

Approved By:	Date:
Department Head: Benjamin Vardiman, Airport Manager	06-03-09
Finance Director:	
City Manager: 	06/05/09

Item Summary

This item is a request to a grant from the Department of Homeland Security Transportation Security Administration for a four year Law Enforcement Officer (LEO) Reimbursement Program Cooperative Agreement (CA) grant in the amount not to exceed \$467,784.00 (\$116,946.00 per year) to provide a Law Enforcement presence at the Airline Terminal during scheduled airline activities to comply with Federal security requirements. The period of this agreement is from October 01, 2008 through September 30, 2012.

Background

The events of September 11, 2001 resulted in a significant impact in the commercial airline industry. This impact has had far reaching consequences to all aspects of aviation from the Airline, to the Federal Government, to passengers and to those who own and operate commercial airports such as the City of Prescott. Neither the Airport budget nor the Police department budget allow for the dedicated police officer presence at the airport.

As of May 17, 2009, there are 33 flights per week which depart from Prescott Airport starting at 6:45 a.m. and with the last departure scheduled at 9:25 p.m. Each flight requires a minimum of two hours of presence in the terminal. The City of Prescott will be reimbursed for the time of the LEO starting 1 hour prior to the scheduled departure time and ending 1 hour after the scheduled departure time or until the aircraft has departed, whichever occurs later. The reimbursement will be up to a maximum amount of \$116,946.00 per year. All officers assigned to the airport security detail will be provided the appropriate training by the Airport in cooperation with the TSA.

The City Council authorized application for this program in December of 2008. The grant award was made to the City of Prescott on June 3, 2009 and must be accepted and returned by June 19, 2009.

Agenda Item: Acceptance of grant from the Department of Homeland Security for LEOs at the Airport

Recommended Action: **MOVE** to accept a grant from the Department of Homeland Security Transportation Security Administration for a four year Law Enforcement Officer Reimbursement Program Cooperative Agreement grant in the amount not to exceed \$467,784.00 and further authorize the Mayor and staff to take any and all steps necessary to accomplish the above.

**TRANSPORTATION SECURITY ADMINISTRATION
AIRPORT LAW ENFORCEMENT PERSONNEL PROGRAM
ATTACHMENT 1
STATEMENT OF JOINT OBJECTIVES (SOJO)
Program Narrative Statement**

This document defines the responsibilities and conditions that the City of Prescott (hereinafter referred to as the "Participant") acting by and through its Airport Manager, agrees to as part of Transportation Security Administration (TSA) Airport Law Enforcement Personnel Program, hereafter referred to as the "Program." This document also defines responsibilities and participation of the TSA.

The authority to enter into this Cooperative Agreement (Agreement) is granted by 49 U.S.C. §§ 106(m) and 114(m). TSA has programmatic authority for the activities undertaken in this Agreement pursuant to 49 U.S.C. §§ 114(g), 44901(g), 44903(e) and 44922(f). The effective date of the Agreement will be the date of the signature by the TSA Grant Officer, with a pre-agreement date based upon the date of the last signature on this Statement of Joint Objectives.

The Participant agrees to provide qualified law enforcement services on-site at the Prescott Municipal Airport (PRC) during airport operating hours and to provide law enforcement response to the security passenger-screening checkpoints in keeping with requirements provided by TSA in accordance with the current Security Directive 1542-01-07 (series), regulations, and other authorities regarding law enforcement services.

Regardless of their position or title, any individual who provides law enforcement support as outlined in this Agreement must possess all of the qualifications of a Law Enforcement Officer (LEO) set forth at 49 C.F.R. § 1542.217, while on duty at the airport.

The TSA will provide partial reimbursement support for on-site response to airport security passenger-screening checkpoints supplied by the Prescott Police Department pursuant to the terms of this Agreement. Payment is subject to the availability of appropriated funds and compliance with the requirements of the applicable Security Directive(s), the Airport Security Plan, and other authorities regarding law enforcement services as noted in the paragraph above. Should the Participant fail to comply with the provisions outlined in this agreement, the Participant may face full or partial forfeiture of payment and/or sanctions up to removal from the Program.

TRANSPORTATION SECURITY ADMINISTRATION RESPONSIBILITIES

1. The TSA will provide partial reimbursement to Participant. TSA will provide funds as available to offset the cost to carry out Aviation Law Enforcement (LE) responsibilities in support of the passenger screening checkpoint at PRC.
 - o Actual/direct costs for fully burdened salary rate of a Police Patrol Officer up to the established ceilings listed below.

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File # 3500.8.5

PRC 04.22.09 MK

Fully Burdened rate includes:

- base salary for each locality
- social security
- 401(k)/403(b)/457 plans
- Disability Insurance
- Health care benefits
- Pension
- Life Insurance

- o Overhead/Administrative Costs are unallowable.

Established Not-to-Exceed Ceilings are as follows:

Category X: Limited to Police Patrol Officer/ Law Enforcement Personnel actual fully burdened salary hourly rate, **not-to-exceed \$29.96 per hour**

Category I: Limited to Police Patrol Officer/ Law Enforcement Personnel actual fully burdened salary hourly rate, **not-to-exceed \$29.39 per hour**

Category II: Limited to Police Patrol Officer/ Law Enforcement Personnel actual salary hourly rate, **not-to-exceed \$27.96 per hour**

Category III: Limited to Police Patrol Officer/ Law Enforcement Personnel actual fully burdened salary hourly rate, **not-to-exceed \$26.70 per hour**

Category IV: Limited to Police Patrol Officer/ Law Enforcement Personnel actual fully burdened salary hourly rate, **not-to-exceed \$25.94 per hour**

2. The TSA Federal Security Director (FSD), in consultation with the Participant and local law enforcement, may determine that flexible stationing is appropriate in certain circumstances, and that an armed LAW ENFORCEMENT OFFICER (LEO), may therefore not have to be posted at the airport screening location.

3. The TSA will process Participant monthly invoices promptly after obtaining FSD signature, certifying that work was performed in accordance with the Agreement.

4. The TSA will notify the Participant, immediately in writing, of any changes in the points of contact for invoicing or clarification of the intent of the Agreement.

5. The TSA will provide on an as needed basis, as determined by the FSD or other TSA representative, training/briefings on relevant security topics, to include *but not limited to*:

- Improvised Explosive Device recognition.
- Flying Armed Law Enforcement Officer regulation.

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File # 3500.8.5

PRC 04.22.09 MK

- Armed Law Enforcement Officer Federal Criminal statutes pertinent to Aviation Security.
- Armed Law Enforcement Officer No-Fly/selectee procedures/processes.
- Man-Portable Air Defense System.
- Screening Passengers by Observation Technique

PARTICIPANT RESPONSIBILITIES:

1. The Participant agrees to maintain a sufficient number of law enforcement personnel to satisfy the responsibilities as outlined in Paragraph 2 below. Funding is intended to support LAW ENFORCEMENT OFFICER (LEO) presence for flexible stationing or dedicated checkpoint support as determined by the FSD to be necessary, based on surges, security alerts, and other conditions.

2. Flight numbers and exact departure times may change, however the parties agree that a law enforcement officer will be on the premises of PRC and stationed at the checkpoint during the screening of passengers for all of these flights. Agreement funding is intended to support *dedicated checkpoint LEO support*. A change in alert level, intelligence, or security related events may require the FSD to reevaluate airport checkpoint support.

3. The Participant will provide monthly invoices in addition to the SF270 to the FSD and to the Contracting Officer's Representative in the format provided by TSA detailing the number of hours of LE services provided, the actual hourly rate, and the total amount requested for reimbursement. Monthly invoicing consists of services provided from the 1st day of the month to the last day of the month, submission of invoices to TSA not to exceed 30 days past the invoiced period of performance.

4. The Participant will notify the TSA, immediately in writing, of any changes to the points of contact for this Agreement or in the law enforcement agency providing the services.

5. The Participant will notify the TSA, immediately in writing, if for any reason the Participant desires to terminate participation in the Program. Resolution of specific details on outstanding issues will be accomplished on a case-by-case basis.

6. Neither the Participant nor the Law Enforcement provider will publicly disclose Sensitive Security Information (SSI) in any context, including litigation or pursuant to a state open records act request without the advance approval of TSA as provided in 49 CFR part 1520. A copy of any summons, complaint, subpoena, or other legal document served upon a State or local Law Enforcement Officer that is related to a legal proceeding that seeks records or testimony containing SSI shall be promptly forwarded to the FSD or the FSD's designee for forwarding to TSA Field Counsel.

7. The Participant will coordinate all media releases and other contact with or by media on the terms and conditions of this Agreement shall be coordinated with the FSD.

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8. As requested by the FSD or other TSA representative, the Participant will participate in security breach drill/exercises.

9. As requested by the FSD or other TSA representative, the Participant will participate in MAN-PORTABLE AIR DEFENSE SYSTEM (MANPADS) assessments and exercises.

10. As requested by the FSD or other TSA representative, the Participant will participate in new and emerging aviation security programs. (Ex. Aviation Direct Access Security Program (ADASP)).

11. As requested by the FSD or other TSA representative, the Participant will provide verification of LEO credentials as required by TSA.

12. The Participant will consult with Federal authorities to determine if a case involving an incident at the airport will be handled in Federal jurisdiction.

13. The Participant will provide support for VIP/executive protection operations.

14. The Participant will promptly furnish on request incident reports and other information dealing with Aviation Security and other criminal activities at the airport.

15. The Participant will fully cooperate with regulatory investigations.

ATTACHMENTS:

The TSA may provide administrative and informational updates to the attachments (i.e., updates to the HQ Program Staff listing) without re-issuance of this Agreement. Any new attachment(s) or significant changes to the current attachments will be accomplished through written modifications as provided in the Terms and Conditions of this Agreement.

PROTECTION OF INFORMATION

The parties agree that they shall take appropriate measures to protect proprietary, privileged, or otherwise confidential information that may come into their possession as a result of this Cooperative Agreement, including Security Sensitive Information (SSI) as explained in #6 above.