

# PRESCOTT CITY COUNCIL REGULAR VOTING MEETING A G E N D A

**PRESCOTT CITY COUNCIL  
REGULAR VOTING MEETING  
TUESDAY, May 25, 2010  
3:00 P.M.**

**Council Chambers  
201 South Cortez Street  
Prescott, Arizona 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:** Pastor Wil Ryland, Church of Nazarene
- ◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Suttles
- ◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

Mayor Kuykendall	
Councilman Blair	Councilwoman Linn
Councilman Hanna	Councilwoman Lopas
Councilman Lamerson	Councilwoman Suttles

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

**I. PRESENTATIONS**

- A. Introduction of new businesses.
- B. Presentation of Stewardship Awards by the Prescott Preservation Commission.
- C. Presentation of Certificates of Appreciation for outgoing Board/Commission/Committee Members.
- D. Presentation by Yavapai Center for Constitutional Principles.
- E. Presentation by Miss Poppy Nicolle Johnson re poppy sales by the American Legion Auxiliary.

- F. Presentation by Councilwoman Tammy Linn re Volunteers in Prescott (VIP) and Town Square Ambassadors.

## II. CONSENT AGENDA

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

- A. Adoption of Resolution No. 4022-1052 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into a Grant-in-Aid Financial Agreement on behalf of the Arizona Wildfire and Incident Management Academy with the Gila River Indian Community and acceptance of a \$75,000 grant from it, if awarded, for general operating expenses for the Arizona Wildfire Academy at ERAU and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- B. Adoption of Resolution No. 4023-1053 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the Prescott Police Department to enter into a Memorandum of Understanding with Arizona State University to establish the basis for the Police Department to share with ASU police report information on incidents leading to violent deaths, as contribution to the Arizona Violent Death Reporting System.
- C. Adoption of Resolution No. 4024-1054 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the Prescott Police Department to accept grant funding in the amount of \$42,000.00 from the Governor's Office of Highway Safety.
- D. Approval of completion of a grant application to the U.S. Department of Justice, Bureau of Justice Assistance (BJA), for grant funds in the amount of \$17,749.00; funds to be used to purchase supplies and equipment necessary to improve and enhance law enforcement programs.
- E. Approval of the Minutes of the Workshop of the Prescott City Council held on May 11, 2010 (10:00 a.m.); the Workshop held on May 11, 2010 (2:00 p.m.); and the Regular Voting Meeting held on May 11, 2010.

## III. REGULAR AGENDA

- A. Approval of purchase of insurance policies for FY11: (1) Excess Public Entity Liability form Traveler's - \$394,140.00; (2) Property Coverage from the Traveler's Indemnity Co. - \$113,000.00; and (3) Excess Worker's Compensation from Safety National - \$43,407.00; for a total of \$550,547.00.

- B. Adoption of Ordinance No. 4744-1041 – An ordinance of the mayor and Council of the City of Prescott, Yavapai County, Arizona, acquiring and dedicating for additional Estrella Drive public right-of-way a triangular shaped parcel of private property and authorizing the Mayor and City staff to take an necessary steps to effectuate such acquisition and dedication.
- C. Adoption of Ordinance No. 4745-1042 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, declaring that it is necessary to acquire portions of Yavapai County Assessor's Parcel Numbers 115-01-055, 115-01-056, 115-01-061A, 115-01-065 and 115-01-001F under the power of eminent domain for an authorized public use and need and authorizing and directing the City Attorney to condemn and acquire such property as necessary and declaring an emergency.
- D. Approval of resolutions to be submitted to the League of Arizona Cities and Towns for the 2011 Legislative Session.
- E. Continuation from the May 24, 2010 Budget Workshop of FY 2011 Budget discussions (if necessary).

**IV. 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

<b>COUNCIL AGENDA MEMO – May 25, 2010</b>
<b>DEPARTMENT:</b> Fire
<b>AGENDA ITEM:</b> Approval to submit a request for Grant-in-Aid between the Gila River Indian Community and the City of Prescott on behalf of the Arizona Wildfire and Incident Management Academy

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head: Bruce Martinez</b>	<b>5/8/10</b>
<b>Finance Director: Mark Woodfill</b>	
<b>City Manager: Steve Norwood</b> <i>A Hadley</i>	

**Background**

For the past seven years Prescott has hosted the Arizona Wildfire Academy at ERAU. This annual event attracts over 1,000 firefighters from throughout the nation for one week to Prescott and has become the premier wildland firefighting and incident management training event in the nation. Two years ago, the Arizona Wildfire Academy and the City of Prescott established a financial arrangement that allows for finances to be passed through the City into a cost recovery account.

**Status**

The Arizona Wildfire Academy has applied for, and been awarded, a \$75,000 grant from the Gila River Indian Community for general operating expenses for the academy. This grant opportunity will expire on June 10, 2010. One of the stipulations on the grant is for the City of Prescott to act as the fiscal agent for the grant from the Gila River Indian Community to the Arizona Wildfire Academy. The accounting mechanism is already in place and the Arizona Wildfire Academy will abide by all City of Prescott financial and purchasing procedures. The grant will allow for the continued operation of this vital training event in Prescott.

**Financial**

Once the resolution is adopted, the Gila River Indian community will distribute the funds to the City of Prescott. The City Finance Department has already established a project account for this funding to ensure all fiscal requirements will be followed.

<b>Recommended Action:</b> MOVE to adopt Resolution No. 4022-1052.
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## RESOLUTION NO. 4022-1052

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO A GRANT-IN-AID FINANCIAL AGREEMENT ON BEHALF OF THE ARIZONA WILDFIRE AND INCIDENT MANAGEMENT ACADEMY WITH THE GILA RIVER INDIAN COMMUNITY AND ACCEPTANCE OF A \$75,000 GRANT, IF AWARDED, FROM IT FOR GENERAL OPERATING EXPENSES FOR THE ARIZONA WILDFIRE ACADEMY AT ERAU AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE**

### **RECITALS:**

WHEREAS, for the past seven years, Prescott has hosted the Arizona Wildfire Academy at Embry Riddle Aeronautical University (ERAU). This annual event attracts over 1,000 firefighters from throughout the nation for one week to Prescott and has become the premier wildland firefighting and incident management training event in the nation; and

WHEREAS, the Arizona Wildfire Academy is applying for a \$75,000 grant from the Gila River Indian Community for general operating expenses for the academy with the stipulation that the City of Prescott is to act as the fiscal agent for the grant from the Gila River Indian Community; and

WHEREAS, the City of Prescott, on behalf of the Arizona Wildfire and Incident Management Academy, wishes to enter into a Grant-in-Aid Fiscal Agent Agreement and accept such grant funding, if awarded, in the amount of \$75,000; and

WHEREAS, the accounting mechanism is already in place and the Arizona Wildfire Academy has agreed to abide by all City of Prescott financial and purchasing procedures.

### **ENACTMENTS:**

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

Section 1. THAT the City of Prescott, on behalf of Arizona Wildfire and Incident Management Academy, hereby approves a Grant-in-Aid Financial Agreement between the City of Prescott and the Gila River Indian Community and agrees to accept such grant funds, if awarded, in the amount of \$75,000.

Section 2. THAT the Mayor and staff are hereby authorized to execute the Grant-in-Aid Financial Agreement, if such grant funding is awarded, and to take any and all steps deemed necessary to accomplish the above.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 25<sup>th</sup> day of May, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

**COUNCIL AGENDA MEMO – 05/25/2010**

**DEPARTMENT: POLICE**

**AGENDA ITEM: Recommendation for Council to adopt a resolution approving a Memorandum of Understanding between Arizona State University and the Prescott Police Department.**

<b>Approved By:</b>		<b>Date:</b>
<b>Department Head:</b> Michael Kabbel		
<b>Finance Director:</b> Mark Woodfill		
<b>City Manager:</b> Steve Norwood <i>R Hadley</i>		<i>5 18 10</i>

**Summary:**

The Prescott Police Department requests approval of a Memorandum of Understanding (MOU) between Arizona State University (ASU) and the Prescott Police Department. The purpose of this MOU is to establish the basis for the Police Department to share with ASU police report information on incidents leading to violent deaths. This data collection will be used for contribution to the Arizona Violent Death Reporting System (AVDRS)

**Background:**

Pursuant to this MOU, ASU's Center for Violence Prevention and Community Safety will collect violent death information for inclusion in the AVDRS. Objectives of this system include providing comprehensive snapshots of violent incidents to further understand such events, while also informing communities, policy planers, and decision makers on violent deaths so that preventive programs can be enacted. Data collected for the project will be sponsored by the Centers for Disease Control.

Additionally, ASU agrees to carefully restrict use and access of information to those designated by the Center for Violence Prevention and Community Safety. Data provided by the Police Department will be for the use of the AVDRS only and no copies may be made of such records to provide to other individuals or entities for other purposes.

Either party may terminate this Agreement upon thirty days written notice to the other party.

**Financial Impact:**

There will be no financial impact to the City as result of this agreement.

**Recommended Action: MOVE to adopt Resolution No. 4023-1053**

**RESOLUTION NO. 4023-1053**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT POLICE DEPARTMENT TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE ARIZONA STATE UNIVERSITY ("ASU") ESTABLISHING THE BASIS FOR THE POLICE DEPARTMENT TO SHARE POLICE REPORT INFORMATION WITH ASU ON INCIDENTS LEADING TO VIOLENT DEATHS AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE**

**RECITALS:**

WHEREAS, the Prescott Police Department and Arizona State University ("ASU") wish to enter into a Memorandum of Understanding ("MOU") establishing the basis for the Police Department to share police report information with ASU on incidents leading to violent deaths; and

WHEREAS, pursuant to this MOU, ASU's Center for Violence Prevention and Community Safety will collect violent death information for inclusion in the Arizona Violent Death Reporting System (AVDRS); and

WHEREAS, ASU agrees to carefully restrict use and access of information to those designated by the Center for Violence Prevention and Community Safety. Data provided by the Police Department will be for the use of AVDRS only and no copies may be made of such records to provide to other individuals or entities for other purposes; and

WHEREAS, either party may terminate this Agreement upon thirty days written notice to the other party; and

WHEREAS, the City of Prescott and ASU have the authority to enter into the foregoing agreement pursuant to ARS Section 11-952; and

WHEREAS, the MOU affords no significant financial impact to the City Police Department.

**ENACTMENTS:**

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

SECTION 1. THAT the City of Prescott hereby approves the attached Memorandum of Understanding between the City of Prescott and the Arizona State University, attached hereto as Exhibit "A," and made a part hereof.

SECTION 2. THAT the Mayor and staff are hereby authorized to execute the attached Memorandum of Understanding and to take any and all steps deemed necessary to accomplish the foregoing.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 25<sup>th</sup> day of May, 2010.

\_\_\_\_\_  
MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

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

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

**Data Sharing Agreement  
Between  
the City of Prescott ("City") for the Prescott Police Department  
and the Arizona Board of Regents for and on behalf of  
Arizona State University ("ASU")**

**1. TERM OF THE AGREEMENT:**

The term of this Agreement shall become effective upon signature and shall remain in effect unless terminated, canceled or extended as otherwise provided herein.

**2. TERMINATION OR AMENDMENT:**

Each party shall have the right to terminate this Agreement by mailing the other party written notice of termination by certified mail, return receipt requested, at least thirty (30) days prior to the termination date. This Agreement may be modified at any time by mutual written Amendment in order to accommodate unforeseen circumstances by the authorized representative of the respective parties.

**4. CONFIDENTIALITY:**

- A. Any information that may be exchanged through this Agreement shall not be used for purposes other than those covered in the scope of work without prior approval of all parties to this Agreement.
- B. Neither confidential medical information nor personally identifying information that may be exchanged through this Agreement shall be made available for any political or commercial purpose, nor shall such information be used as basis for determining eligibility for care or source of payment for care to any individual.

**5. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE:**

- A. All parties agree to adhere to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules as defined in 45 CFR Parts 160, and 164 and under the HIS Circular No. 2003-02 for policy and procedures.
- B. Parties warrant that they will cooperate with the State in the course of performance of the Agreement so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. Parties will participate in any training that shall be required or shall sign any documents that are reasonably necessary to keep both parties in compliance with HIPAA, including but not limited to business associate agreements, pledge of confidentiality, HIPAA training certification or other HIPAA related compliance documents.

## **6. APPLICABLE LAW:**

Arizona Law. Applicable law of Arizona applies to this Agreement including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.

## **7. CONFLICT OF INTEREST:**

Pursuant to A.R.S. §38-511, either ASU or the City may 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 ASU 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. ASU 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 ASU from any other party to the Agreement, arising as a result of this Agreement.

## **8. ARBITRATION:**

Pursuant to A.R.S. § 12-1518, disputes under this Agreement shall be resolved through the use of arbitration as follows:

- A. Cases under the Jurisdictional Limit. In all cases filed in superior court in which the court finds or the parties agree that the amount in controversy does not exceed the jurisdictional limit, arbitration shall be used, unless all parties file a written stipulation waiving the arbitration requirement, and the court waives the arbitration requirement on a showing of good cause.

## **9. FUNDING:**

This Agreement is not an obligation of or a commitment of funds, or a basis for a transfer of funds, but rather a statement of understanding between the Parties concerning the sharing and use of confidential information related to the purposes of this Agreement. Expenditures by each party are subject to that party's budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies of the respective parties.

## **10.INSURANCE/LIABILITY**

The City and ASU are self-insured for liability per A.R.S. 41-621. ASU's self-insurance program provides ASU with adequate insurance coverage as necessary and reasonable to insure itself and its personnel in connection with the performance of this Agreement. Each party shall be responsible for the actions and omissions of its own officers, employees, agents and assigns, including any negligent acts and negligent omissions.

## **11. BACKGROUND**

The Prescott Police Department ("PPD"), by collaborating with ASU's Center for Violence Prevention and Community Safety (the Center), is proposing to the Centers for Disease Control the establishment of the Arizona Violent Death Reporting System (AVDRS). To date, 17 states across the country have established such systems that compile statewide, comprehensive data on violent deaths by collecting information from death certificates, medical examiner reports, police departments, and other appropriate local agencies. Objectives of these statewide surveillance systems include providing comprehensive snapshots of violent incidents to further understand such events and informing communities, policy makers, planners, and decision makers on violent deaths so that preventive programs can be enacted. Establishment of the AVDRS will enable increased scientific understanding of violent injury through research, translation of research findings into prevention strategies, and the dissemination of knowledge

of violent injury and prevention to professionals and the public. Data collection for the project will be sponsored by the Centers for Disease Control.

## 12. PURPOSE

This Memorandum of Agreement establishes the basis for the PPD to share with ASU police report information on incidents leading to violent deaths occurring in Arizona. This data will be used for the purpose of contributing to the AVDRS by providing accurate, comprehensive, and objective information regarding violent deaths.

The sharing of police report data will be in accordance with the terms and conditions stated in this agreement and predicated on the mutual assurance that all unique identifiers in these data will be protected and kept strictly confidential.

The terms and conditions of this Agreement shall be binding upon ASU, its successors, heirs and assigns.

## 13. SCOPE OF WORK

- I. City agrees to provide or continue to provide ASU with the following:
  - a. Confidential police report data related to incident narrative, person type (victim/suspect), name address, age, sex, race, ethnicity, when and where (injury/death), additional person descriptors, wounds, associated circumstances, victim suspect relationship, history of victim abuse, suspect was victim caretaker, firearm descriptors, poison details, weapon used by/on person, person purchasing firearm, and any other available person descriptors for individuals residing within or events occurring within Arizona.
    - i. The above noted data will be made available to ASU from January 1, 2008 and forward.
    - ii. The above noted data will be made available to ASU on a monthly basis.
  - b. Confidential supplemental homicide report data related to person type (victim/suspect), name address, age, sex, race, ethnicity, additional person descriptors, associated circumstances, weapon used by/on person, and any other available person descriptors for individuals residing within or events occurring within Arizona.
    - i. The above noted data will be made available to ASU from January 1, 2008 and forward.
    - ii. The above noted data will be made available to ASU on a monthly basis.
  - c. Within this Agreement it is understood that at least 99% of police reports (and associated data) are available within 90 days of death and are then ready to be shared with ASU.
  - d. The name or names of City employees that will provide the information designated under Section I. Immediate notification will occur when there are any changes in this list of employees.
- II. ASU agrees to provide or continue to provide the City with:
  - a. A description of the security measures that are in place to maintain the confidentiality of the data being received. These measures at a minimum should follow the recommendations for the "Security Considerations for Applicants" prepared by the Human Subjects Review Board of the ADHS.
  - b. Analytical support for matters related to data collected as part of the Arizona Violent Death Reporting System. The scope, nature, and frequency of the support will be mutually agreed upon by both parties in writing after funding has been secured.

III. Confidential Information:

- a. The parties agree to provide information following a mutually agreeable format and that the information shall be marked confidential if disclosed in written or other tangible form, or if disclosed orally or visually, identified as confidential at the time of disclosure and reduced to writing and marked confidential and transmitted to the receiving party within thirty (30) days of the initial disclosure.
- b. ASU will not use, or disclose to any third party, INFORMATION of the City in any manner whatsoever except for the PURPOSE, and will require that its employees and agents who have access to such information maintain the same in strict confidence subject to the same for three (3) years after the termination of this Agreement; provided that the Center's obligations hereunder shall not apply to information that was already known to the receiving party prior to the time of first disclosure, as demonstrated by contemporaneous, written documentation; or
  - i. At the time of disclosure is in the public domain, or after the date of the disclosure, lawfully becomes a part of the public domain other than through breach of this Agreement by the receiving party; or
  - ii. Is received without any obligation of confidentiality from a third party having a legal right to disclose the same; or
  - iii. Is independently developed by the receiving party by individuals without access to such information, as demonstrated by contemporaneous, written documentation; or
  - iv. Is required to be disclosed by the receiving party pursuant to a legally enforceable order, subpoena, or other regulation ("ORDER"), provided, however, that the receiving party promptly notifies the disclosing party in advance of such disclosure and discloses only that INFORMATION necessary to comply with said ORDER.

IV. The parties agree to

- a. Carefully restrict use and access of information to those designated by the Center. Data provided by the City are for the use of the AVDRS only and no copies may be made of such records to provide to other individuals or entities for other purposes.
- b. Prohibit identifying information about a person that was supplied under the terms of this agreement from being released to anyone not working on AVDRS data collection, or the development of the AVDRS.
- c. Require all officers, agents and employees to keep all such shared information strictly confidential. To communicate the requirements for this section to all officers, agents and employees, to discipline all persons who may violate the requirements of this section and to notify the originating party in writing within forty-eight (48) hours of any violation and corrective actions to be taken.

**14. NOTICES, CORRESPONDANCE, AND REPORTS**

Notices, correspondence, and reports from the City to ASU shall be sent to:

Office for Research &  
Sponsored Projects Admin.  
Arizona State University  
P.O. Box 873503  
Tempe, Arizona 85287-3503  
Phone: 480-965-0273

Attn: Dudley Sharp  
E-mail: dudley.sharp@asu.edu  
cc: Charles.Katz@asu.edu  
Dept. Center for Violence Prevention  
Fax: 480-965-0649

**15. SIGNATURE APPROVALS:**

FOR THE ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF  
ARIZONA STATE UNIVERSITY



Date: 5/17/10  
Dudley Q. Sharp  
Assistant Director, Research Administration  
Office for Research & Sponsored Projects Admin.

FOR THE CITY OF PRESCOTT / PRESCOTT POLICE DEPARTMENT

\_\_\_\_\_  
Date: \_\_\_\_\_

**COUNCIL AGENDA MEMO – 05/25/2010**

**DEPARTMENT: POLICE**

**AGENDA ITEM: Recommendation for Council to adopt a resolution allowing acceptance of \$42,000 provided by the Governor's Office of Highway Safety. Awarded funds will be used to purchase an unmarked enforcement vehicle equipped with emergency equipment.**

Approved By:	Date:
Department Head: Michael Kabbel	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>Hadley</i>	5/28/10

**Summary:**

The Prescott Police Department requests approval to accept \$42,000 in grant funding provided by the Governor's Office of Highway Safety. Awarded funds will be used to purchase an unmarked enforcement vehicle equipped with emergency lighting and equipment, speed detection system, and a mobile data computer.

**Background:**

In March 2010, Council approved submission of a grant application to the Governor's Office of Highway Safety (GOHS) seeking grant funds for FY2011.

Recently, the Prescott Police Department received notification that such funding would not be available during FY2011; however, GOHS funds remained for FY2010, and that \$42,000 would be awarded to our Department pending formal acceptance. Awarded funds will allow the purchase of an unmarked enforcement vehicle equipped with a speed detection system, emergency lighting and equipment, and a mobile data computer. Usage of this vehicle will include detection of impaired and aggressive drivers throughout the year, as well as supporting enforcement efforts associated with the Tri-City DUI Taskforce and Holiday DUI enforcement campaign.

**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 adopt Resolution No.4024-1054.**

**RESOLUTION NO. 4024-1054**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT,  
YAVAPAI COUNTY, ARIZONA, ACCEPTING A GRANT FROM THE GOVERNOR'S  
OFFICE OF HIGHWAY SAFETY TO PURCHASE AN UNMARKED ENFORCEMENT  
VEHICLE EQUIPPED WITH EMERGENCY EQUIPMENT**

**RECITALS:**

WHEREAS, the City Council authorized submission of a grant application to the Governor's Office of Highway Safety (GOHS) seeking grant funds for FY2011 for the purchase of an unmarked enforcement vehicle equipped with emergency equipment; and

WHEREAS, the Police Department was notified that such funding would not be available during FY2011; however, GOHS funds remained for FY2010, and that \$42,000 would be awarded to the Prescott Police Department pending formal acceptance; and

WHEREAS, there are no requirements for local matching funds associated with this grant award, consequently there would be no financial impact to the City.

**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 acceptance of grant funding from the Governor's Office of Highway Safety in the amount of \$42,000.00.

SECTION 2. THAT the Mayor and staff are hereby authorized to execute any and all documents to effectuate the foregoing and all previous documents executed by them as necessary to accept the grant funding.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 25<sup>th</sup> day of May, 2010.

\_\_\_\_\_  
MARLIN D. KUYKENDALL, Mayor

APPROVED AS TO FORM:

ATTEST:

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

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

**COUNCIL AGENDA MEMO – 05/25/2010**

**DEPARTMENT: POLICE**

**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 \$17,749 for the purchase of law enforcement program equipment and supplies.**

**Approved By:**

**Date:**

**Department Head: Michael Kabbel**

05/12/2010

**Finance Director: Mark Woodfill**

**City Manager: Steve Norwood**



**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 \$17,749.

**Background:**

On April 26, 2010, 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 \$17,749 to the Prescott Police Department. The application deadline for this grant is June 30, 2010.

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 years from award date.

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 application is submitted.

**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 U.S. Department of Justice, Bureau of Justice Assistance (BJA), for grant funds in the amount of \$17,749; funds to be used to purchase supplies and equipment necessary to improve and enhance law enforcement programs.

<b>COUNCIL AGENDA MEMO – (May 25, 2010)</b>
<b>DEPARTMENT:</b> City Manager's Office/Risk Division
<b>AGENDA ITEM:</b> Renewal of insurance policies for FY11

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head:</b> Sheri Swain	
<b>Finance Director:</b> Mark Woodfill	
<b>City Manager:</b> Steve Norwood <i>J Hadley</i>	

**Item Summary**

This is the annual renewal of three (3) City insurance policies for FY11 that are due to be renewed on July 1, 2010. These policies cover our public entity liability, property, auto, and worker's compensation.

**Background:**

Willis of Arizona, the City's insurance broker, has recently completed its solicitations of competitive premium quotes for insurance that the City typically purchases annually. We directed our broker to subject all qualified insurance companies to obtain the best competitive pricing, enhance coverages and claims handling. Staff has reviewed the proposals and we have included the most favorable and recommended options. These policies are due to be renewed July 1. There are three (3) policies:

1. **Public Entity Liability** – Last year, Traveler's provided coverage with a premium of \$391,214 that included a self-insured retention of \$250,000, claims handling, and cyber risk liability. An SIR means we are responsible for the initial \$250,000. This policy covers our general municipal liability, errors and omissions, auto liability, law enforcement, and employment practices.
  - Option (a) Traveler's, proposed a premium of \$394,140 that includes an SIR of \$250,000, claims handling, and cyber risk. This is a slight increase of \$2,926 over last year.
  - Option (b) Houston Casualty proposed an entire package policy that includes a premium of \$549,944. This includes public entity liability, property and worker's compensation.

This does not include cyber-risk coverage and only one of two Flood zones is afforded coverage. It is quoted as a deductible plan not an SIR. Houston Casualty does not offer an SIR only a deductible.

Also, Houston Casualty is not able to write the entire policy limits requested. This would require them to go to an underlying carrier to obtain the excess amount required for an additional premium.

**Agenda Item: Renewal of insurance policies for FY11**

- ✓ Option (a) is recommended by Willis and Staff to renew with Traveler's at a premium of \$394,140 an SIR \$250,000, cyber risk coverage, and claims handling.

2. **Property** - Last year (FY10), the Traveler's Indemnity Co. provided coverage with a premium of \$117,753 for property with our then total insured value (TIV) of \$139,484,665. This year, the Traveler's Indemnity Co. has proposed a premium of \$113,000 with a TIV of \$143,604,294 which is a savings of \$4,753. Willis approached other carriers to quote. One other carrier, Houston Casualty quoted which is included in the package policy price described above as \$549,944.

The property premium includes coverage for: boiler and machinery breakdown, business income, equipment floater (equipment that is not licensed for public roads), auto physical damage, and property damage to City property.

- ✓ Willis and Staff recommend the City renew with Traveler's with the proposed premium if \$113,000. Note: Traveler's has enhanced coverage by including \$1,000,000 per occurrence sub limit for underground tanks and piping.

3. **Worker's Compensation** – Safety National provided coverage in FY10 with a premium of \$44,307 and an SIR of \$500,000 for employees who sustain an on the job injury and whose claim costs exceed \$500,000 in workers compensation benefits. SIR or self-insured retention means we are responsible for the initial \$500,000.

Option (a) Safety National has proposed a premium of \$43,407 with an SIR of \$500,000. This is a savings of \$900 over last year.

Option (b) Midwest Employer's has proposed a premium of \$109,253 with an SIR of \$550,000.

- ✓ Option (a) is recommended by Willis and Staff due to the premium savings.

4. **Additional Information: The following policy will be renewed at a later date and will be presented separately to Council:**

**Airport Premises Liability** – This is a specialty policy which covers airport liability. Our current policy is due for renewal in October 2010.

**Recommended Action: MOVE** to authorize the purchase of the following insurance policies for FY11: (1) Excess Public Entity Liability from Traveler's - \$394,140.00; (2) Property Coverage from the Traveler's Indemnity Co. - \$113,000.00; and (3) Excess Worker's Compensation from Safety National - \$43,407.00; for a **total of \$550,547.00**. (This is an overall savings of \$2,727 over last year.)

<b>COUNCIL AGENDA MEMO – May 25, 2010</b>
<b>DEPARTMENT:</b> Public Works
<b>AGENDA ITEM:</b> Adoption of Ordinance No. 4744-1041 to acquire additional right-of-way for Estrella Drive.

<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>R. Hadley</i>	

**Item Summary**

This item is to acquire approximately 325.2 SF of real property for additional right-of-way for Estrella Drive.

**Background**

This request was initiated by the Public Works Department to resolve an encroachment issue at 1933 Estrella Drive, APN 116-05-018A (see attached map). Several months ago, as a result of maintenance activities by Field Operations, it was determined a portion of Estrella Drive pavement was located on property owed by Mr. Gordon Bean. The City surveyed the property and drafted the necessary legal description to resolve the encroachment by purchase of 325.2 SF of additional right-of-way for Estrella Drive.

The purchase price of the property is based on the Yavapai County Assessor value of \$3.40/SF (\$69,600 land value/20,473 SF lot area). Compensation also includes \$150.00 for a 24" box tree to replace a tree that was removed to improve sight visibility at this location. Total cost of the Estrella Drive Right-of-Way acquisition is \$1,255.68 (\$3.40/SF X 325.2 SF = \$1,105.68 + \$150.00).

Cost for the acquisition charged to Account No. 2105410-8925, Right-of-way Acquisition.

- Attachments**
- Location Map
  - Map and Legal for acquisition and dedication
  - Ordinance
  - Quit Claim Deed

**Recommended Action:** MOVE to adopt Ordinance No. 4744-1041.

**ORDINANCE NO. 4744-1041**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ACQUIRING AND DEDICATING FOR ADDITIONAL ESTRELLA DRIVE PUBLIC RIGHT-OF-WAY A TRIANGULAR SHAPED PARCEL OF PRIVATE PROPERTY AND AUTHORIZING THE MAYOR AND CITY STAFF TO TAKE ALL NECESSARY STEPS TO EFFECTUATE SUCH ACQUISITION AND DEDICATION**

**RECITALS:**

WHEREAS, the City Council of the City of Prescott has determined that acquiring and dedicating a 325.2 SF parcel of private property for additional Estrella Drive Public Right-of-Way as described on Exhibit "A" is in the public interest; and

WHEREAS, the City Council of the City of Prescott wishes to acquire the private parcel owned by Gordon D. Bean to resolve an encroachment issue; and

WHEREAS, the value of the private parcel of property was determined by Yavapai County Assessors land value of \$3.40/SF. The City of Prescott will pay the owner of the parcel, Gordon Bean, the sum of \$1,105.68 (325.2 SF X \$3.40/SF) for the property plus an additional \$150.00 for a replacement tree for a total cost of \$1,255.68.

**ENACTMENTS:**

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

SECTION 1. THAT a certain parcel of private property as described on Exhibit "A" will be acquired by the City of Prescott and dedicated as additional Public Right-of-Way for Estrella Drive.

SECTION 2. THAT City of Prescott will pay Gordon Bean, the owner of the property as described in Exhibit "A", \$1,105.68 for the property plus an additional \$150.00 for a replacement tree for a total cost of \$1,255.68.

SECTION 3. THAT upon payment of the foregoing sum, Gordon D. Bean shall Quit Claim to the City of Prescott all right, title and interest of the property as described in Exhibit "A".

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 25th day of May, 2010.

---

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

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ELIZABETH A. BURKE, City Clerk

---

GARY D. KIDD, City Attorney

**EXHIBIT 'A'**  
**RIGHT OF WAY ACQUISITION**  
**116-05-018A**

All that portion of the Northeast quarter of the Southwest quarter of section 20, Township 14 North, Range 02 West, of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

Beginning at the Northwest corner of that certain parcel described in Book 4459, Page 55, on file in the Office of the Yavapai County Recorders, Yavapai County, Arizona,

Thence S 89°03'48" E (Recorded as S 89°04' E), 16.70 feet, along the North line of said parcel;

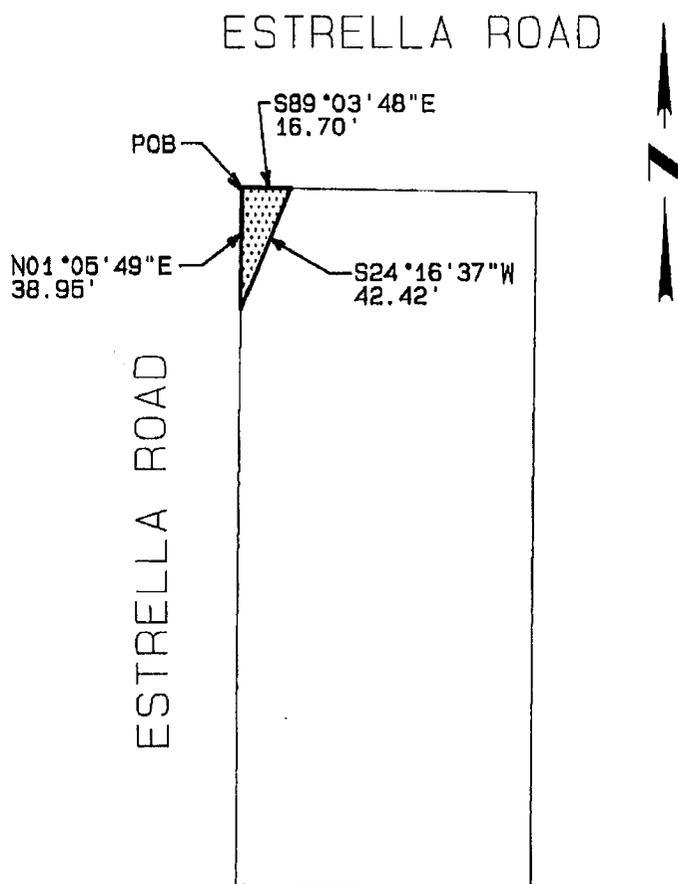
Thence S 24°16'37" W, 42.42 feet to the intersection of the West line of said parcel;

Thence N 01°05'49" E, 38.95 feet, along the West line of said parcel to the Point of Beginning.

Containing 325.2 square feet more or less.



RIGHT OF WAY ACQUISITION  
116-05-018A



Area = 325.2 sq. ft.



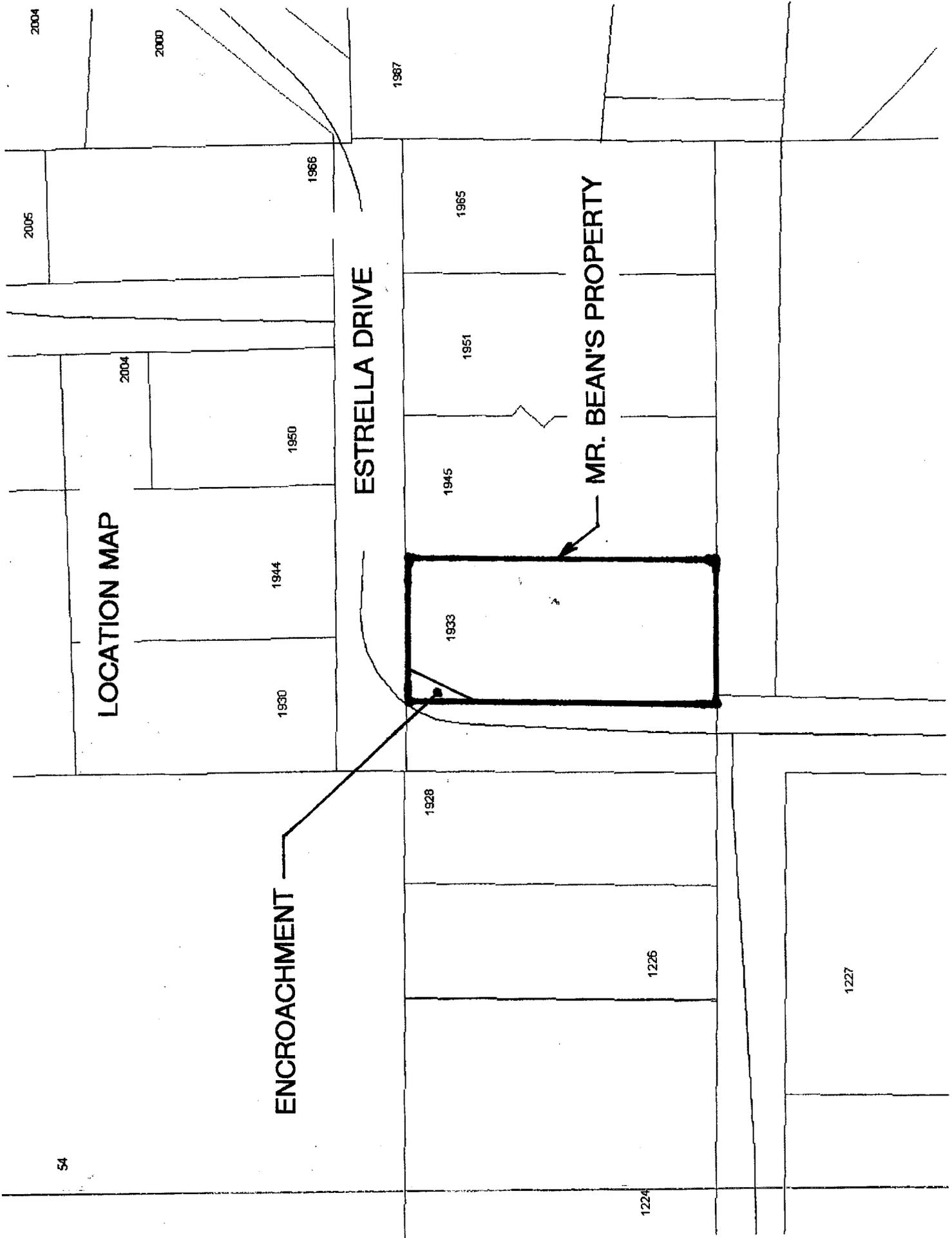
EXPIRES  
3/31/2011

LOCATION MAP

ENCROACHMENT

ESTRELLA DRIVE

MR. BEAN'S PROPERTY



When recorded, mail to:

CITY OF PRESCOTT  
LEGAL DEPARTMENT  
P. O. Box 2059  
Prescott, AZ 86302

QUIT CLAIM DEED

FOR THE CONSIDERATION of Twelve-Hundred-Fifty-Five Dollars and Sixty-Eight Cents (\$1,255.68) and other valuable consideration, the receipt of which is hereby acknowledged, Gordon D. Bean, Grantor, hereby quitclaims to the City of Prescott all right, title or interest in the real property as described in Exhibit "A". The deeded property is situated in Yavapai County, Arizona and is fully described in Exhibit "A", attached hereto and made a part hereof.

In accordance with A.R.S. 11-1134 A(3), this transfer of Title by Gordon D. Bean, the named grantor, is exempt from real estate transfer affidavit and fees.

APPROVED BY THE MAYOR AND COUNCIL

DATED this \_\_\_\_ day of \_\_\_\_\_, 2010.

CITY OF PRESCOTT

By: \_\_\_\_\_  
MARLIN D. KUYKENDALL, MAYOR

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by Marlin D. Kuykendall, 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.

\_\_\_\_\_  
[Seal]

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



<b>COUNCIL AGENDA MEMO – May 25, 2010</b>
<b>DEPARTMENT:</b> Public Works
<b>AGENDA ITEM:</b> Adoption of Ordinance No. 4745-1042 to condemn portions of real property necessary for the Williamson Valley Road Reconstruction Project, Sidewinder Road to Shadow Valley Ranch Road

<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>J Hadley</i>	<i>5-18-10</i>

**Item Summary**

Under the power of Eminent Domain, adoption of this ordinance will authorize and direct the City Attorney to condemn and acquire real property necessary for public purposes and construction of improvements to Williamson Valley Road.

**Background**

The process of acquiring right-of-way for the purposes of widening and constructing the improvements to Williamson Valley Road between Sidewinder Road and Shadow Valley Ranch Road has been ongoing. After extensive efforts and negotiation, it has been determined that there are a number of property owners who have not yet reached agreement with the City's acquisition agent regarding the value and sale or dedication of a portion of their properties for the project. In order for the project to proceed, all real property acquisitions must be completed before bids can be solicited.

At this time, portions of the following parcels have been identified for condemnation. The owners or record are identified in brackets.

1. 115-01-055 & 115-01-056 (Albert Long)
2. 115-01-061A (Vasfaret)
3. 115-01-065 (Dillahunty – Right-of-way & dedication)
4. 115-01-001F (McFarland/Old World Bank)

This ordinance is written with the emergency clause and authorizes the Mayor and staff to take all necessary actions to acquire the required properties.

**Budget**

Funding for Williamson Valley Road right-of-way is from the One Cent Sales Tax for Streets and Open Space.

- Attachments**
- Location map
  - Ordinance with Exhibits 1 – 6

<b>Recommended Action: MOVE to adopt Ordinance No. 4745-1042.</b>
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## **ORDINANCE NO. 4745-1042**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, DECLARING THAT IT IS NECESSARY TO ACQUIRE PORTIONS OF YAVAPAI COUNTY ASSESSOR'S PARCEL NUMBERS 115-01-055; 115-01-056, 115-01-061A, 115-01-065 AND 115-01-001F UNDER THE POWER OF EMINENT DOMAIN FOR AN AUTHORIZED PUBLIC USE AND NEED AND AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO CONDEMN AND ACQUIRE SUCH PROPERTY AND DECLARING AN EMERGENCY**

### **RECITALS:**

WHEREAS, the City of Prescott is presently seeking to construct improvements and public roadway facilities on and adjacent to Williamson Valley Road located in the City of Prescott, Yavapai County, for use as a public roadway; and

WHEREAS, the City of Prescott needs and desires to acquire property adjacent to Williamson Valley Road for the purposes of constructing improvements and public roadway facilities for public purposes; and

WHEREAS, the Mayor and Council of the City of Prescott have determined that it is necessary for the public use and necessity to acquire portions of Yavapai County Assessor's Parcel Numbers 115-01-055;115-01-056, 115-01-061A, 115-01-065, AND 115-01-001F for the purposes of constructing improvements and public roadway facilities on and adjacent to Williamson Valley Road.

### **ENACTMENTS:**

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

SECTION 1. THAT, for the public use, purpose, benefit and welfare, the Prescott City Council finds and declares that it is necessary to construct roadway improvements and facilities upon or adjacent to those portions of the following Yavapai County Assessor's Parcel Numbers (APN):

1. 115-01-055 (Albert Long , 17' Dedication, Exhibit "1" hereto);
2. 115-01-056 (Albert Long, 17' Dedication, Exhibit "2" hereto);
3. 115-01-061A (Vasfaret, 17' Dedication, Exhibit "3" hereto);
4. 115-01-065 (Dillahunty, 17' Dedication, Exhibit "4" hereto);
5. 115-01-065 (Dillahunty, Right of Way, Exhibit "5" hereto);
6. 115-01-001F (McFarland/Old World Bank, Right of Way, Exhibit "6" hereto),

All the above as described in Exhibits "1," through "6" attached hereto and made a part hereof.

SECTION 2. THAT, the portions of the foregoing parcels numbers, as described in Exhibits "1" through "6", are presently necessary for the public use to improve the roadway for travel along Williamson Valley Road, to reduce traffic congestion, and improve safety on such road.

SECTION 3. THAT, the City of Prescott, a municipal corporation of the State of Arizona, has the authority to acquire property for public use as a roadway pursuant to the reserved and delegated powers under the Constitution of the State of Arizona, Prescott City Charter, Title 9 of the Arizona Revised Statutes, and A.R.S. Sections 11-932 and 12-1111 et seq.

SECTION 4. THAT, the City Attorney, or his lawful designee, is authorized and directed to acquire and condemn the real properties described in Exhibits "1" through "6" and to initiate and consummate the acquisition of such property under the power of eminent domain or any other legal action and to do all things necessary to accomplish this purpose.

SECTION 5. THAT, by this action the City does not waive any right to claim that the 17 foot dedication in the plat for Shadow Valley Estates, recorded in Book 29 of Maps and Plats page 62, and identified as "17' to be dedicated upon request of the City of Prescott Engineer. Dept." was statutory or common-law dedications for a public use.

SECTION 6. THAT, the City Clerk of the City of Prescott is directed to record this Ordinance with the Yavapai County Recorder's Office forthwith.

SECTION 7. THAT, the immediate operation of the provisions of this ordinance is necessary for the immediate preservation of the public peace, health or safety, and that an EMERGENCY is declared to exist; and THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, ADOPTION AND APPROVAL BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, on this 25th day of May, 2010.

\_\_\_\_\_  
MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

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

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

**EXHIBIT '1'**  
**115-01-055**  
**RIGHT OF WAY DEDICATION**

A portion of Lot 13, of SHADOW VALLEY ESTATES, according to the plat of record found in Book 29 of Maps and Plats, Page 62, in the office of the Yavapai County Recorder's Office, Yavapai County, Arizona, more particularly described as follows:

The Easterly 17.00 feet of said Lot 13, as noted by said plat, with following note "17' TO BE DEDICATED UPON REQUEST OF THE CITY OF PRESCOTT ENGINEER DEPT."

**EXHIBIT '2'**  
**115-01-056**  
**RIGHT OF WAY DEDICATION**

A portion of Lot 14, of SHADOW VALLEY ESTATES, according to the plat of record found in Book 29 of Maps and Plats, Page 62, in the office of the Yavapai County Recorder's Office, Yavapai County, Arizona, more particularly described as follows:

The Easterly 17.00 feet of said Lot 14, as noted by said plat, with following note "17' TO BE DEDICATED UPON REQUEST OF THE CITY OF PRESCOTT ENGINEER DEPT."

**EXHIBIT '3'**  
**115-01-061A**  
**RIGHT OF WAY DEDICATION**

A portion of Lot 19 and Lot 20, of SHADOW VALLEY ESTATES, according to the plat of record found in Book 62 of Maps and Plats, Page 20, in the office of the Yavapai County Recorder's Office, Yavapai County, Arizona, more particularly described as follows:

The Easterly 17.00 feet of said Lot 19 and Lot 20, as noted by said plat, with following note "17' TO BE DEDICATED UPON REQUEST OF THE CITY OF PRESCOTT ENGINEER DEPT."

**EXHIBIT '4'**  
**115-01-065**  
**RIGHT OF WAY DEDICATION**

A portion of Lot 23, of SHADOW VALLEY ESTATES, according to the plat of record found in Book 29 of Maps and Plats, Page 62, in the office of the Yavapai County Recorder's Office, Yavapai County, Arizona, more particularly described as follows:

The Easterly 17.00 feet of said Lot 23, as noted by said plat, with following note "17' TO BE DEDICATED UPON REQUEST OF THE CITY OF PRESCOTT ENGINEER DEPT."

## **EXHIBIT '5'**

**115 01 065**

### **RIGHT-OF-WAY**

All that portion of Lot 23, of SHADOW VALLEY ESTATES, according to the plat of record in the Office of the Yavapai County Recorder, recorded in Book 29 of Maps and Plats Page 62, more particularly described as follows:

Commencing from the Northeast corner of said Lot 23, thence N 89°59'30" W, 21.16 feet along the North line of said Lot 23, also being the South right-of-way of Shadow Valley Ranch Road to the Point of Beginning;

Thence continuing N 89°59'30" W, 101.19 feet, along said North line of Lot 23;

Thence S 58°50'32" E, 65.55 feet;

Thence Southwesterly along a non-tangent curve to the left having a long chord bearing S 27°15'29" W, a chord length of 87.32 feet, a central angle of 07°48'05", and a radius of 641.81 feet;

Thence S 66°38'33" E, 18.85 feet;

Thence Northeasterly along a non-tangent curve to the right having a chord bearing of N 29°40'05" E, a chord length of 136.95 feet, a central angle of 12°37'17", and a radius of 622.96 feet, to the Point of Beginning.

Containing 3812.7 square feet more or less.

## **EXHIBIT '6'**

**115-01-001F**

### **RIGHT-OF-WAY**

All that portion of Section 19, Township 14 North, Range 02 West, of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

Commencing at the Northeast corner of said Section 19, being a found BLM brass cap;

Thence S 89°47'00" W, 14.75 feet, along the North line of Section 19;

Thence S 43°27'32" W, 5.02 feet, to the Point of Beginning;

Thence continuing S 43°27'32" W, 83.67 feet;

Thence Southwesterly on a non-tangent curve to the left having a chord bearing of S 37°57'31" W, a chord length of 97.37 feet, a central angle of 11°00'00", and a radius of 507.95 feet;

Thence S 57°32'29" E, 12.00 feet;

Thence Southwesterly on a non-tangent curve to the left having a chord bearing of S 23°45'43" W, a chord length of 149.98 feet, a central angle of 17°23'37", and a radius of 495.95;

Thence S 15°03'55" W, 379.55 feet;

Thence Southwesterly on a non-tangent curve to the left having a chord bearing of S 13°29'31" W, a chord length of 44.17 feet, a central angle of 03°08'48", and a radius of 804.36 feet, to the North line of that parcel described in Book 4107, Page 08, of the Official Records of the Yavapai County Recorder, Yavapai County, Arizona;

Thence N 64°21'48" W, 41.12 feet, along the North line of said parcel;

Thence Southwesterly on a non-tangent curve to the left having a chord bearing of S 04°18'30" W, a chord length of 272.52 feet, a central angle of 17°04'24", and a radius of 917.93 feet;

Thence S 04°13'00" E, 140.28 feet;

Thence Southeasterly on a non-tangent curve to the left having a chord bearing of S 04°39'05" E, a chord length of 16.83 feet, a central angle of 00°52'11", and a radius of 1108.92 feet;

Thence S 84°54'00" W, 4.00 feet, to the East right-of-way of Williamson Valley Road;

Thence Northwesterly along the East right-of-way of Williamson Valley Road on a non-tangent curve to the right having a chord bearing of N 04°39'05" W, a chord length of 16.89 feet, a central angle of 00°52'10", and a radius of 1112.92 feet;

Continued on next page.

115-01-001F

Thence N 04°13'00" W, 140.28 feet, along the East right-of-way of Williamson Valley Road;

Thence Northeasterly along the East right-of-way of Williamson Valley Road on curve to the right having a chord bearing of N 05°24'47" E, a chord length of 308.82 feet, a central angle of 19°20'00", and a radius of 921.93 feet;

Thence N 15°04'00" E, 380.80 feet, along the East right-of-way of Williamson Valley Road;

Thence Northeasterly along the East right-of-way of Williamson Valley Road on a non-tangent curve to the right having a chord bearing of N 28°04'15" E, a chord length of 242.79 feet, a central angle of 25°59'05", and a radius of 539.96 feet;

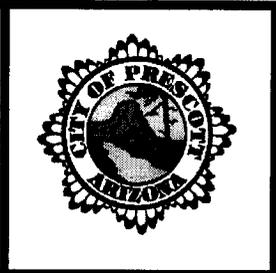
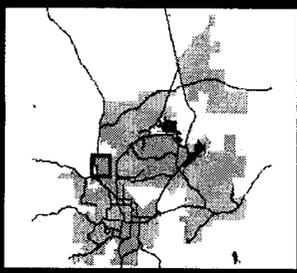
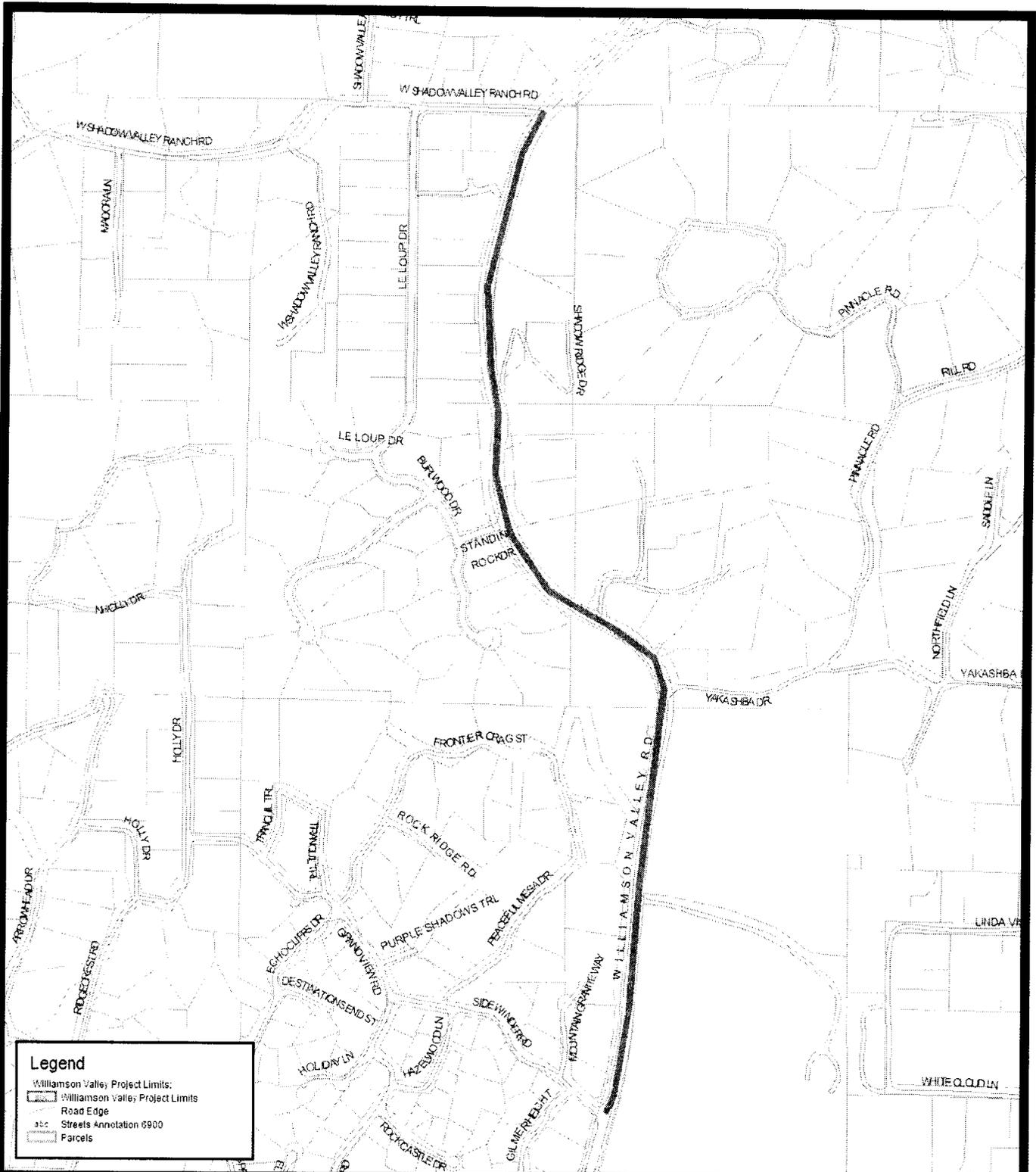
Thence S 48°57'11" E, 4.00 feet;

Thence Northeasterly on a non-tangent curve to the right having a chord bearing of N 43°40'54" E, a chord length of 49.27 feet, a central angle of 05°16'08", and a radius of 539.96 feet;

Thence N 46°19'00" E, 23.77 feet;

Thence Northeasterly on a non-tangent curve to the right having a chord bearing of N 46°12'44" E, a chord length of 8.64 feet, a central angle of 00°10'14", and a radius of 2901.79 feet;

Thence N 89°47'00" E, 35.39 feet, to the Point of Beginning.



# WILLIAMSON VALLEY ROAD SIDEWINDER TO SHADOW VALLEY RANCH PROJECT LIMITS

This map is a product of the  
The City of Prescott GIS


<b>COUNCIL AGENDA MEMO – May 25, 2010</b>
<b>DEPARTMENT: City Manager</b>
<b>AGENDA ITEM: Approval of resolutions to be submitted to the League of Arizona Cities and Towns for the 2011 Legislative Session</b>

<b>Approved By:</b>	<b>Date:</b>
<b>Department Head:</b> <i>R. Hadley</i>	
<b>Finance Director:</b> Mark Woodfill	
<b>City Manager:</b> Steve Norwood	

**Summary**

This item is to review, discuss and determine which resolutions initiated by the City, or prepared by other municipalities for which co-sponsorship has been requested, should be submitted to the League of Arizona Cities and Towns (the League).

**Background**

Each year the League holds an annual meeting to review resolutions brought forward from its member cities and towns for the following legislative session. Each resolution submitted must be broadly applicable to cities and towns, and be co-sponsored by at least two cities or towns. Last year Prescott submitted five resolutions, two of which were subsequently approved by the League’s Resolution Committee for inclusion in the League’s Legislative Agenda. Neither of these resolutions was incorporated in bills introduced in either the Senate or House.

**Previous Prescott Resolutions**

Resolution #1 Urges the Legislature to modify the liquor laws to give greater consideration to municipalities' recommendations on proposed liquor licenses to significantly increase municipal input. This resolution was adopted by the League, but did not become legislation for the 2009 session.

Resolution #2 Urges the Legislature to modify state statutes to allows cities to request a price range for professional services in a Request for Proposals or Statement of Qualifications solicitation, as one of several criteria to be used in evaluating the submittal. This resolution was also adopted by the League, but did not become legislation.

Resolution #3 Urges the Legislature to amend Title 39 to allow municipalities to recover actual staff costs when responding to voluminous requests for public records. The resolution recommends adding a search fee and actual hourly costs of personnel needed to research vague or overly broad requests, such as "all e-mails" or, in

**Agenda Item: Approval of resolutions to be submitted to the League of Arizona Cities and Towns for the 2011 Legislative Session**

Prescott's case, "all Big Chino documents", which can literally comprise a truckload of paper. This resolution was adopted by the League, but did not become legislation.

Resolution #4 Urges the Legislature to amend election statutes to clarify the steps to be taken by the City Clerk's office when nomination petitions are submitted. The resolution proposes language that would allow City Clerks to remove signatures that were obtained prior to the date the candidate filed their Statement of Organization or \$500 Threshold Exemption Statement, those from a location outside of the city/town, and requires the Clerk to verify that the candidate is a registered voter of the City at the time that packets are picked up. (NOTE: This could also be done via Charter Amendment).

Resolution #5 Urges the Legislature to amend Titles 16 and 19 to provide for independent agency review of municipal candidate election issues. This resolution proposes an independent agency be authorized to investigate challenges to candidate election issues (residency, verification of signatures on the nominating petition, campaign finance questions, etc.) so municipalities can remain impartial and citizens do not have to file lawsuits in order to raise a candidate election issue.

**Other Resolutions for which Co-sponsorship has been Requested.**

City of Page One resolution: Amending statute that would allow a county, municipality or other political subdivision to adopt an ordinance that makes being found in an intoxicated condition in public as one of the elements of the offense giving rise to civil or criminal penalty or sanction.

- Attachments**
- City initiated Resolutions #1 through #5
  - Resolution from the City of Page for which co-sponsorship has been requested

**Recommended Action:**

a. **MOVE** to submit the following resolutions to the League of Arizona Cities and Towns:

- (1) Prescott Resolutions #1 and 2 (previously submitted/adopted by the League Resolutions Committee)
- (2) Prescott Resolutions #3, 4 and/or 5 (previously submitted however not adopted by the League Resolutions Committee)

b. **MOVE** to co-sponsor the resolution from the City of Page

# page

A R I Z O N A  
THE CENTER OF CANYON COUNTRY

May 6, 2010

The Honorable Mayor Kuykendall  
Prescott City Council Members  
P.O. Box 2059  
Prescott, AZ 86302

Re: Public Intoxication Statute

Dear Mayor Kuykendall and City Council:

The city of Winslow, like the city of Page, is a border community to a reservation. We know there are many challenges that are unique to this situation; such as public intoxication. The current Arizona statute regulating public intoxication is very restrictive and offers no assistance to any city wishing to address this area of concern.

I have included a copy of A.R.S. §36-2031, along with proposed changes. These proposed changes would allow all cities and towns the legal ability to address this unfortunate problem at the local level. I am looking for your support in presenting this issue to the League of Arizona Cities and Towns Resolution Committee and then, possibly, on to the Arizona State Legislature.

The Resolution Committee requires that at least two other cities or towns take supportive action of the proposed resolution. If you are in support of the proposed changes, I respectfully ask that you place this on your next City Council agenda for action. To meet the required deadline, the item must be acted upon by the end of May, 2010.

Supporting this issue will simply allow further conversation with the League of Arizona Cities and Towns Resolution Committee. Your support is greatly appreciated.

Please contact me with any questions at (928) 645-4220 or [mayor@cityofpage.org](mailto:mayor@cityofpage.org).

Thank you,



Lyle Dimbatt,  
Mayor

Cc: Steve Norwood, City Manager

City of Page  
P.O. Box 1180 • 697 Vista Avenue  
Page, Arizona 86040  
(928) 645-8861 • Fax (928) 645-4244

## A.R.S. §36-2031

### Existing Law

- A. No county, municipality or other political subdivision may adopt or enforce any local law, ordinance, resolution or rule having the force of law that includes being a common drunkard or being found in an intoxicated condition as one of the elements of the offense giving rise to criminal or civil penalty or sanctions, but nothing in this article shall affect any laws, ordinances, resolutions, or rules against drunken driving, driving under the influence of alcohol or other similar offenses involving the operation of vehicles, aircraft, boats, machinery or other equipment, or regarding the sale, purchase, dispensing, possessing or using of alcoholic beverages at stated times and places or by particular classes of persons.
- B. No county, municipality or other political subdivision may interpret or apply any law of general application to circumvent the provision of subsection A.

### Proposed Changes

*No* A county, municipality or other political subdivision may adopt or enforce any local law, ordinance, resolution or rule having the force of law that includes ~~being a common drunkard or~~ being found in an intoxicated condition as one of the elements of the offense giving rise to criminal or civil penalty or sanctions, *provided the law does not offend the United States or Arizona Constitutions*; but nothing in this article shall affect any laws, ordinances, resolutions or rules against drunken driving, driving under the influence of alcohol or other similar offenses involving the operation of vehicles, aircraft, boats, machinery or other equipment, or regarding the sale, purchase, dispensing, possessing or using of alcoholic beverages at stated times and places or by particular classes of persons.

## CITY OF PRESCOTT RESOLUTION #1

Urges the Legislature to modify state liquor laws to enhance the ability of municipalities to address community related problems associated with liquor establishments, such as requiring the Department of Liquor Licenses and Control and the State Liquor Board give greater consideration to city recommendations on proposed liquor licenses.

*Submitted by: City of Prescott*

### A. Purpose and Effect of Resolution

This resolution proposes to modify state liquor laws to improve the ability of municipalities to address public safety and quality of life concerns associated with problem liquor establishments, primarily through the State Liquor Department and Board. Some examples are as follows: 1) Allow cities to request a hearing of the State Liquor Board at the time of renewal for existing licenses when sufficient reason exists to request the Board to not renew the license; and/or 2) Create a 12-month provisional permit for licenses when a municipality recommends denial of a license but the Board grants approval; and/or 3) Modify the definition of licensed premises to include parking lots of bars and liquor stores; and/or 4) Hold license applicants accountable to commitments made during the application process. 5) Modify the membership of the State Liquor Board to include a municipal law enforcement representative. 6) Give careful consideration to a municipality's concerns regarding the owner/manager, particularly when factual research demonstrates poor past performance.

### B. Relevance to Municipal Policy

Poorly managed liquor establishments pose considerable problems for law enforcement and surrounding neighborhoods, such as crime, noise violations and parking issues. Reforms to liquor laws increasing the consideration of impacts to neighborhoods would greatly enhance the ability of municipalities to protect public safety and quality of life in these neighborhoods. Legislation addressing problem liquor establishments and changes to Arizona liquor laws have been an ongoing challenge for cities and towns. Cities and towns should have the ability to plan their communities as they believe best, including the location and operation of liquor establishments. The proposed provisions allow cities to have a greater role in the liquor licensing process for liquor establishments to ensure that are addressed.

Legislation addressing problem liquor establishments and changes to Arizona liquor laws have been an ongoing challenge for cities and towns. Cities and towns should have the ability to plan their communities as they believe best, including the location and operation of liquor establishments. The proposed provisions allow cities to have a greater role in the liquor licensing process for liquor establishments to ensure that are addressed.

C. Fiscal Impact to Cities and Towns

These provisions should result in fewer police calls for liquor establishment-related incidents, reducing the need for law enforcement resources and increased costs to cities and towns.

D. Fiscal Impact to the State

Anticipated costs to the State would be minimal, primarily one time administrative implementation costs by the State Liquor Department and Board.

E. Contact Information

**Prescott Resolution #1**

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## CITY OF PRESCOTT RESOLUTION #2

*Urges the Legislature to modify State Statutes to allow cities and towns to request a price range in a Request for Proposal or Statement of Qualification solicitation for Professional Services.*

*Submitted by: City of Prescott*

### A. Purpose and Effect of Resolution

This resolution proposes to modify State Statutes 34-103 and 34-603 to allow municipalities to request a price range for the fees associated with the services listed in a Request for Proposal/Statement of Qualifications (*RFP/SOQ*) solicitation. The price range will only be one of several criteria used to evaluate the proposals and would not be allowed to be weighted more than 10% of the total score.

### B. Relevance to Municipal Policy

34-103 does not allow a municipality to consider fees for services in the selection process for certain professional services. This has led to many instances where municipalities spend weeks in the selection process and find that the fees charged by the #1 rated firm far exceed the budgeted amount. The municipality is then required to restart the negotiation process with the #2 firm, and so on until a fee within the budgeted amount is agreed upon. In some cases, the municipality has to reissue the *RFP/SOQ* because they are unable to reach an agreement on fees, resulting in months of delay in starting a project and increasing the costs associated with the project.

The *RFP/SOQ* process is an important component of any municipality's Capital Improvement Program. Any delay to the process will ultimately result in increased costs to the citizens of the municipality. Having the ability to evaluate the fee structure range at the beginning of the process will enable a municipality to save time and start the project sooner.

### C. Fiscal Impact to Cities and Towns

This provision should allow municipalities more timely completion of their needed capital projects and other projects requiring professional services, as well as ultimately saving the taxpayers money.

### D. Fiscal Impact to the State

There should be no increased fiscal impact to the State.

E. Contact Information

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## CITY OF PRESCOTT RESOLUTION #3

*Amending Title 39-121.01(D) to allow additional fees for voluminous or substantial public records requests.*

*Submitted by: City of Prescott*

### A. Purpose and Effect of Resolution

Municipalities conduct hundreds of public records requests each year. While the majority of such requests are routine, and involve only minimal amounts of documents or a specific document, a small percentage of the records requests require intensive staff time to research and copy the requested records. At a time when municipal budgets are strained and staff increases are unlikely, these voluminous requests will have a significant impact on city staff. Amending Title 38 to provide for and cover the actual staff time and costs for these requests by allowing municipalities to assess a search fee and actual hourly fees to recoup the employee costs involved in fulfilling these voluminous requests will help prevent unduly burdensome and expensive requests, including frivolous type requests, from being foisted on the general public. Our proposal is that requests involving in excess of 100 pages of documents, or those which involve substantial amounts of research, location and assembly time by city staff, involving in excess of one hour of staff time (such as archival requests for voluminous documents, substantial historical and data base research, and many other such requests, which could also include requests such as all e-mails between two particular agencies or within a department, such as a police department, etc) be billed at the actual costs of the clerical and staff time for such personnel as are necessarily and actually involved in processing the request.

### B. Relevance to Municipal Policy

Transparency is essential to municipal government and processing public records requests is one component of that transparency. However, some requests are tendered, whether inadvertently or otherwise, entailing undue expense and cost to local government and of course, ultimately the taxpayers. The amount of resources required to respond to a small percentage of voluminous records requests, and these appear to be increasing exponentially, are not adequately covered within the statutory limitations for fees. Often, huge boxes of archival material, e-mails, and massive document searches cause hours of staff time and expense. Currently there is no incentive for requesting parties not to focus their inquiries to what they actually are seeking and some of the many requests appear to be excessive or actually designed or intended to be burdensome or oppressive. Establishing a reasonable, actual cost fee for these searches will encourage persons to be more specific and directed in their public records requests and will ensure that the extreme costs and time involved in huge requests will not be an additional burden on already strained municipal resources.

Again, by way of example, some requests are very vague and over-broad, i.e. "all e-mails" when a city receives tens of thousands of e-mails in a week, or "all documents related to Project X" where Project X is a multi-phase, multi-year project that involves a literal truckload of documents. These types of requests involve excessive staff time, ultimately costing our citizens. Our city and many others have received numerous such requests this past year. If the requestors had to pay for the actual costs associated with these requests, the requestors may be inspired and would have incentive to narrow the scope of the request and limit it to the documents they truly want. Currently, there is no such incentive and no method for the government to recover the excessive time and costs foisted upon the taxpayers and municipal departments.

C. Fiscal Impact to Cities and Towns

Cities would be able to recover the actual costs associated with complying with the public records requests, allowing strained staff and financial resources to be used for local services. Requestors desiring huge truckloads of documents should reasonably bear the actual staff time and costs for their voluminous requests.

D. Fiscal Impact to the State

The State would also be able to recover its actual costs as well when processing public records requests.

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## CITY OF PRESCOTT RESOLUTION # 4

*Amending Title 16, Chapter 3, Article 3, Signature Requirements, clarifying steps to be taken by the City Clerk's Office upon submission of nomination petitions by candidates.*

*Submitted by: City of Prescott*

### A. Purpose and Effect of Resolution

While the Arizona Revised Statutes provides specific steps to be taken by the secretary of state (city clerk) when initiative/referendum petitions are filed with their office, the Statutes are void of any such steps on the part of candidate nomination petitions, and the office(s) must rely on case law to determine what, if anything, is to be done when petitions have not be completed properly.

Understanding that the city clerk's office is to maintain neutrality in its duties, basic steps are included in this resolution to help alleviate many of the questions raised during the election process and eliminate the need for many of the challenges by electors, which can provide a personal hardship for them, while not impacting such neutrality.

The recommended steps would include the ability of the city clerk to (1) remove signatures that were obtained prior to the date the candidate filed their Statement of Organization or \$500 Threshold Exemption Statement; (2) remove signatures that are from a location outside of the city/town and (3) verify that candidates are qualified electors of the municipality at the time packets are pulled.

While there are other discrepancies for which challenges may be filed by an elector and determined by the courts, these three steps could be taken without the neutrality of the office being impacted.

### B. Relevance to Municipal Policy

The citizens of our municipalities expect basic steps to be taken on the part of the city clerk's office when candidates submit nomination petitions. Many citizens are under the impression that all signatures are verified on candidate petitions. While these proposed steps would not meet all of the expectations of the citizens with regard to petition verification, which would be cost prohibitive, they would provide an opportunity for obvious names to be stricken.

### C. Fiscal Impact to Cities and Towns

While it does place an added burden on the Clerk's Office during the election process, it could also eliminate much of the need for challenges to be filed, and these challenges have a fiscal impact on cities/towns as well. The exact impact

would be dependent upon the number of elections and candidates filing for those elections.

D. Fiscal Impact to the State

The secretary of state's office would also have the added burden during the election process, and the impact would again be dependent upon the number of elections and candidates filing for those elections.

E. Contact Information

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## CITY OF PRESCOTT RESOLUTION #5

*Urging the Legislature to amend Titles 16 and 19 to provide for independent agency review of municipal candidate election issues*

*Submitted by: City of Prescott*

### A. Purpose and Effect of Resolution

Municipalities conduct elections on a regular basis. While current election law allows a City Clerk to engage in ministerial duties in order to maintain the City's posture of fairness, impartiality and neutrality, at times the government is criticized for failing to engage in strict candidate qualification review. Municipalities are accused of bias if a non-ministerial review is conducted or if one is not. In most instances, under Titles 16 and 19, the onus to file an election challenge on non-ministerial matters falls on the electors, and the only avenue for such a challenge is to file a lawsuit. These citizens bear the expense and cost of such legal challenges. In order to provide for challenges that ensure compliance with applicable election laws and candidate qualification laws, and to ensure that the election processes are both fair and lawful, it is recommended that current statutes be amended to provide for independent agency review on candidate issues and challenges. The independent agency could be the County or the Attorney General's Office, or any similar agency not connected to the municipality. The effect of this resolution will be to provide a neutral avenue which allows review of candidate challenges by an agency not involved in the election process and which allows for an alternative to citizens having to file individual suits and incur out of pocket expenses in order to pursue legal challenges.

### B. Relevance to Municipal Policy

The public perception of neutrality and fairness is essential to the election process. When a candidate files a nomination paper, petitions, financial statements or other candidate documents, including a candidate or circulators affidavit, a local government is placed in a situation where its impartiality may be questioned, whether the municipality acts or whether it cannot act as a matter of law. If a municipality does not perform non-ministerial review, it can be accused of bias. Similarly, if it undertakes any non-ministerial review it can be accused of favoring a particular candidate or candidates. For this reason, having these types of issues subject to a complaint driven review process will serve the dual purpose of legal candidacy and ensuring the public perception of election fairness.

### C. Fiscal Impact to Cities and Towns

There would be a minimal fiscal impact, mostly associated with staff time and supply of necessary documents to an independent agency for review.

D. Fiscal Impact to the State

Fiscal impact to the State would include staff time for and expenses associated with any review of any candidate election complaints. Intergovernmental agreements providing for mutual election aid could be utilized to lessen or equalize any costs for the entities involved in the review processes.

E. Contact Information

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