



PRESCOTT CITY COUNCIL REGULAR MEETING AGENDA

**PRESCOTT CITY COUNCIL
REGULAR MEETING
TUESDAY, MAY 24, 2011
3:00 PM**

**Prescott Council Chambers
201 South Cortez
Prescott, Arizona
(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:** Heights Church

◆ **PLEDGE OF ALLEGIANCE:** Mayor Kuykendall

◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

Mayor Kuykendall

Councilman Blair

Councilman Hanna

Councilman Lamerson

Councilwoman Linn

Councilwoman Lopas

Councilwoman Suttles

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

I. PRESENTATIONS

A. Presentation by Arizona State District 1 Delegation.

B. Presentation of Historic Preservation Stewardship Awards.

II. CONSENT AGENDA

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

- A. Approval of Final Plat of Mortimer Plaza, a subdivision of an approximate 2.54 acre parcel located at 3150 Willow Creek Road into two lots; Applicant: Jeff Kost, Glenwood Development; Owner: Gary Mortimer, APN 106-20-421, File FP11-001.
- B. Approval of the minutes of the Prescott City Council Workshop of May 3, 2011; and the Regular Meeting of May 10, 2011.

III. REGULAR AGENDA

- A. Public Hearing and consideration of a liquor license application from Adam Swartwout, applicant for Skyview Builders LLC for a Series 06, *All Spiritous Liquor Bar*, license for Gurley Street Sports Pub located at 801 East Gurley Street.
- B. Award of agreement with Roberts Tire Sales, Inc., in an amount not to exceed \$55,000.00, for 315/80R22.5 and 11R22.5 recapped tires.
- C. Adoption of Resolution No. 4078-1148 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement with Yavapai College to share public facilities and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- D. Approval of a grant application to the U.S. Department of Justice, Office of Community Oriented Policing Services, requesting funds for the hiring of three entry-level police officer positions through the FY2011 COPS Hiring Program.
- E. Adoption of Resolution No. 4076-1146 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the installation of a stop sign on Copper Basin Road at Highland Drive intersection and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- F. Adoption of Ordinance No. 4789-1140 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, accepting a sewer easement from First American Title Insurance Company, Trustee for Carrington Homes, Inc., to provide sewer service to the Prescott Highlands Subdivision.
- G. Award of bid and contract to AJP Electric, Inc., for electrical work to install a new emergency/back-up generator at the Sundog Wastewater Treatment Plant in the amount of \$174,889.00.

- H. Approval to perform night work along segments of Iron Springs Road, Willow Creek Road, Granite Street, and Goodwin Street associated with the FY 2012 Pavement Rehabilitation Project.
- I. Adoption of Resolution No. 4079-1149 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement with the State of Arizona, through its Department of Transportation (ADOT), and providing funding in FY12 for the SR89 widening and related street network and intersection configuration project assessment.
- J. Award of bid and contract for the FY 2011 Pavement Reconstruction Project to Asphalt Paving & Supply, Inc., in the amount of \$194,934.50.
- K.* Recess into Executive Session.**

IV.* EXECUTIVE SESSION

- A. Discussion or consultation for legal advice with the attorney or attorneys of the public body and discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to A.R.S. §§38-431.03(A)(3) and (4).**
 - 1. SR89 Agreements with Arizona Department of Transportation and Yavapai County.**

V.* POST EXECUTIVE SESSION

- KA.** Adoption of Resolution No. 4080-1150 approving an Intergovernmental Agreement with the Arizona Department of Transportation, and Resolution No. 4081-1151 approving an Intergovernmental Agreement with Yavapai County, pertaining to transfer of ownership and maintenance responsibility for two segments of State Route 89.
 - 1. Adoption of Resolution No. 4080-1150 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement with the Arizona Department of Transportation to transfer ownership of two segments of State Route 89 to the City of Prescott and for the significant expenditure anticipated for improvement of Fain Road and enhancement of the CYMPO Regional System and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

2. Adoption of Resolution No. 4081-1151 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement with Yavapai County pertaining to transfer of ownership and maintenance responsibility for two segments of State Route 89 and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

IVVI. ADJOURNMENT

COUNCIL AGENDA MEMO – May 24, 2011

DEPARTMENT: Community Development

AGENDA ITEM: Final Plat of Mortimer Plaza, a subdivision of an approximate 2.54 acre parcel located at 3150 Willow Creek Road into two lots. Applicant: Jeff Kost, Glenwood Development; Owner: Gary Mortimer, APN: 106-20-421, File No. FP11-001.

Approved By:

Date:

Department Head: Tom Guice

Finance Director: Mark Woodfill

City Manager: Craig McConnell



5-18-11

ITEM SUMMARY

This request for the Final Plat of Mortimer Plaza is to subdivide an existing 2.54 acre parcel into two lots. The property is located at 3150 Willow Creek Road and will take access off Willow Creek Road from the signalized intersection at Montana Drive. The proposed use for Lot 1 (1.55 acres) is a 9,100 sq. ft. Dollar General store; no use has been designated for Lot 2 (0.99 acre) at this time.

PLANNING COMMISSION RECOMMENDATION

The Planning and Zoning Commission reviewed all aspects of the proposed subdivision at their meeting of April 14, 2011; and voted unanimously at their April 28, 2011, meeting to recommend approval of the final plat.

BACKGROUND

The Final Plat has been reviewed by the Public Works and Community Development Departments, and determined to meet all applicable code provisions. The Final Plat is the last required procedural step for the project pertaining to land use, zoning, and property division. No written comments have been received from neighboring property owners.

At their May 10, 2011, meeting, the City Council unanimously approved a general plan minor map amendment, rezoning, and waiver of the requirement for a preliminary plat, facilitating the final platting of the property and subsequent development of the anticipated Dollar General store.

ATTACHMENT - Final Plat of Mortimer Plaza

RECOMMENDED ACTION: MOVE to approve FP11-001, the Final Plat of Mortimer Plaza.

COUNCIL AGENDA MEMO – 05/24/11
DEPARTMENT: City Clerk
AGENDA ITEM: Public Hearing and consideration of a liquor license application from Adam Swartwout, applicant for Skyview Builders LLC for a Series 06, All Spirituous Liquor Bar, license for Gurley Street Sports Pub located at 801 East Gurley Street.

Approved By:	Date:
Department Head: Elizabeth A. Burke	05/24/11
Finance Director: Mark Woodfill	05/24/11
Acting City Manager: Craig McConnell 	05/24/11

A Liquor License Application, City No. 11-180, State No. 06130069, has been received from Adam Swartwout, applicant for Skyview Builders LLC for a Series 06, All Spirituous Liquor Bar, license for **Gurley Street Sports Pub** located at 801 East Gurley Street.

The public hearing will be held at the Regular Council Meeting of Tuesday, May 24, 2011. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have.

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

<p>Recommended Action: (1) MOVE to close the Public Hearing; and (2) MOVE to approve/deny State Liquor License Application No.06130069, for a new Series 06, All Spirituous Liquor Bar, for Adam Swartwout applicant for Gurley Street Sports Pub located at 801 East Gurley Street.</p>

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

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

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

Historical Note

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

**ARIZONA STATE LIQUOR LICENSES
TYPES / PURPOSES
AS OF 09/10**

SERIES 01 -- In-State Producer's License

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

SERIES 02 -- Out-of-State Producer's License

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

SERIES 02L -- Limited Out-of-State Winery Application License

Allows an out-of-state winery to sell 50 cases of wine or less per calendar year and ship the wine into the state to an Arizona licensed wholesaler.

SERIES 02L -- Limited Out-of-State Domestic Farm Winery Application License

Allows an out-of-state domestic winery within or outside of the U.S. to produce less than 20,000 gallons of wine annually and ship the wine into the state to a licensed wholesaler.

SERIES 02L -- Limited Out-of-State Domestic Microbrewery Application License

Allows an out-of-state domestic microbrewery within or outside of the U.S. to ship beer into the state to a licensed Arizona wholesaler.

SERIES 03 -- Domestic Microbrewery License

Allows the licensee of a microbrewery to manufacture or produce at least 5,000 gallons but less than 310,000 gallons of beer annually.

SERIES 04 -- Wholesaler's License

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

SERIES 05 -- Government License

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

SERIES 06 -- Bar License – TRANSFERABLE

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

SERIES 07 -- Beer and Wine Bar License - TRANSFERABLE

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

SERIES 08 -- Conveyance License (Airplanes, Trains, and Boats)

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

SERIES 09 -- Liquor Store License (All spirituous liquors) - TRANSFERABLE

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

SERIES 09S -- Liquor Store (Sampling) License

Allows either a new liquor store applicant or one holding an existing liquor store license to apply for sampling privileges, with conditions.

SERIES 10 -- Beer and Wine Store License (Beer and wine only)

Allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

SERIES 11 -- Hotel/Motel License (with Restaurant)

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

SERIES 12 -- Restaurant License

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

SERIES 13 -- Domestic Farm Winery License

Allows a domestic farm winery licensee to manufacture or produce more than 200 gallons, but less than 40,000 gallons on wine annually.

SERIES 14 -- Club License

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

SERIES 15 -- Special Event License

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

SERIES 16 -- Wine Festival/Wine Fair License (Temporary)

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

SERIES 17 -- Direct Shipment License

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

COUNCIL AGENDA MEMO – May 24, 2011

III-B

DEPARTMENT: Field Operations

AGENDA ITEM: Bid Award: Recap Tires

Approved By:

Date:

Department Head: Chad McDowell		<i>May 17, 2011</i>
Finance Director: Mark Woodfill		
City Manager: Craig McConnell		<i>5-16-11</i>

Background:

Field Operations annually purchases retread (recapped) tires for use on garbage trucks and dump trucks. These two types of vehicles use the same size tires: 315/80R22.5 and 11R22.5. Since we spend up to \$55,000 per year on tires for both divisions, we have found it to be financially beneficial to merge the two divisions in requesting bids for recapped tires.

Sealed bids were opened on May 5, 2011. We received one response, from Roberts Tire Sales, as follows:

Tire Size	Recap with City Casing	Recap with Vendor Casing
(1) 315/80R22.5	\$135.00	\$165.00
(2) 11R22.5	\$116.00	\$146.00
		Unit Cost
	Spot Repair	\$12.00
	Section Repair	\$35.00
	Reinforcement	\$20.00

Roberts Tire Sales has been performing this service for us through FY 10 and has done a completely satisfactory job.

Financial:

Funds for tire purchase and repair are budgeted in both the Streets Division and the Solid Waste Division. We anticipate spending approximately \$55,000 through this contract with Roberts Tire Sales.

Recommended Action: MOVE to approve an agreement not-to-exceed \$55,000 with Roberts Tire Sales, Inc for 315/80R22.5 and 11R22.5 recapped tires.

COUNCIL AGENDA MEMO – May 24, 2011

DEPARTMENT: Parks & Recreation Department

AGENDA ITEM: Adoption of Resolution No. 4078-1148 approving a Joint Use Agreement with Yavapai College

Approved By:

Date:

Department Head:	Debbie Horton	
Finance Director:	Mark Woodfill	
Acting City Manager:	Craig McConnell <i>Craig McConnell</i>	5-16-11

BACKGROUND:

Since 2003, the City of Prescott (COP) and Yavapai College (YC) have operated under an intergovernmental agreement to utilize facilities under each other's jurisdiction for the benefit of both entities. A 2007 amendment provided necessary details for allowing YC's women's softball program to utilize the Bill Vallely Fields at Roughrider Park.

In 2010, due to changing conditions and needs, both entities began discussing a new agreement to better reflect and detail their individual requirements. More specifically, the COP has need of YC's Walraven Gym for its fall adult volleyball league, winter adult basketball league, and occasional summer weekend basketball and/or volleyball tournaments. YC requires COP's Ken Lindley Field for their successful men's collegiate soccer program and Bill Vallely fields at Roughrider Park for their successful women's collegiate softball program.

The new agreement specifies details for the above facilities to avoid scheduling conflicts for the different users and seasons of these sports facilities. The agreement further specifies maintenance and field preparation costs and responsibilities. Additionally, the agreement relieves the City of some maintenance responsibilities at Roughrider baseball field and softball practice preparations at the Bill Vallely fields.

This agreement is the result of successful dialogue extending over the last 15 months to arrive at a document that best accommodates the needs of both entities, and has been reviewed by the respective legal staff of each entity. It is a five-year agreement, with one optional five-year extension. The agreement was approved by the Yavapai Community College Board on May 10, 2011.

BUDGET IMPLICATIONS:

YC schedules approximately 131 softball practices per year. Previously, COP staff performed one-hour field preparations for each scheduled practice. The new IGA delegates that duty to YC which translates to an annual savings of \$1,572 for the City. The COP will continue to absorb all expenses for game preparations (staff time, water, field lining materials, etc) and is compensated by annual payments from YC in the amount of \$2,000. This fee has been waived until 2013 in recognition of enhancements made to the ball field complex which totaled \$26,000 and included a new scoreboard and upgraded dugouts.

Agenda Item: Adoption of Resolution No. 4078-1148 approving a Joint Use Agreement with Yavapai College

Additional duties performed by the COP on behalf of YC include the lining of the soccer field at Ken Linley stadium a minimum of nine home games annually. Costs associated with this field prep is \$250 per game and the COP will henceforth be compensated the amount of \$2,250 annually.

Total cost savings for COP due to reassigned softball practice field prep duties - \$1,572

<u>Current Agreement – YC Payments to COP</u>		<u>Proposed Agreement – YC Payments to COP</u>	
Softball field preps	<u>\$2,000</u>	Softball game day field preps	\$2,000
		Soccer field preps	<u>\$2,250</u>
Total payments	\$2,000		\$4,250

- Attachments**
- Resolution No. 4078-1148
 - Joint use Agreement with Yavapai College

Recommended Action: MOVE to adopt Resolution No. 4078-1148.

RESOLUTION NO. 4078-1148

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH YAVAPAI COLLEGE TO SHARE PUBLIC FACILITIES AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, the City of Prescott and Yavapai College wish to enter into an Intergovernmental Agreement ("IGA") attached hereto as Exhibit "A," and made a part hereof, to utilize facilities under each other's jurisdiction for the benefit of both entities; and

WHEREAS, ARS §§11-951 AND 11-952 authorize "public agencies" such as City of Prescott and Yavapai College to enter into intergovernmental agreements to contract for services and facilities.

ENACTMENTS:

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

SECTION 1. THAT the City of Prescott hereby approves the attached Intergovernmental Agreement between the City of Prescott and Yavapai College attached hereto as Exhibit "A," and made a part hereof.

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

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 24th day of May, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

**JOINT USE AGREEMENT – INTERGOVERNMENTAL AGREEMENT
BETWEEN
YAVAPAI COMMUNITY COLLEGE DISTRICT
AND THE CITY OF PRESCOTT
TO SHARE PUBLIC FACILITIES**

The following Parties: the Governing Board of Yavapai County Community College District, doing business as Yavapai College, a community college district of the State of Arizona (hereinafter the "College"), Prescott campus, a comprehensive community college with a wide range of academic, vocational and community service programs and the City Council of the City of Prescott, a municipal corporation of the State of Arizona for and on behalf of the City Parks, Recreation and Library Department (hereinafter the "City"), which offers leisure services for the community, enter into a cooperative venture to share public facilities. The Parties agree that this cooperative venture is in the best interest of the College, the City and surrounding community.

This agreement becomes effective upon the final approval dates by the Yavapai Community College District Governing Board and the City Council of Prescott. The duration of this agreement shall be in effect for a minimum period of five (5) years with one opportunity for renewal for an additional five (5) years unless earlier terminated as provided for in Section 8 below.

The Parties agree to the following facilities joint use and maintenance requirements:

1. Roughrider Park Baseball Field

The College will schedule usage of the Roughrider Park Baseball Field (hereinafter the "Baseball Field") year-round. The City shall use the Baseball Field for programs and tournaments subject to availability and scheduling through the College.

The College will be responsible for all utility bills (including water), irrigation and mowing, locking/unlocking gates, scoreboard, and maintenance storage buildings.

Each entity will be responsible for general maintenance, such as trash removal, restroom cleaning or rental, field preparation, etc., limited to general maintenance incurred or necessitated by each Party's respective use of the Baseball Field during the period of time of their respective use.

2. **Ken Lindley Field**

The City will schedule the usage of Ken Lindley Field_(hereinafter "Soccer Field") from August 1 through November 15 in accordance with the following conditions:

- a. The College will receive top priority in scheduling except when the City needs the softball facility to finish summer season and/or host national softball tournaments, which will require a typical softball set to remain in place (using portable fence after 1 August) or to be set up prior to the tournament and removed after the tournament, whichever best accommodates the needs of the parties. The City shall provide one year advance notice to the College when the City needs the Soccer Field to host national softball tournaments.
- b. The College shall be entitled to a minimum of 100 hours of soccer team practice on the field, as determined by mutual agreement between the Parties.
- c. The College shall be entitled to field usage for a cumulative total of 50 hours for game days after Labor Day weekend, during the period September through November. These 50 hours are in addition to the 100 hours of soccer team practice referenced in 2.b. above.
- d. The College shall be entitled to field usage February 1 to May 1 for soccer practices and camps as scheduled through the Recreation Programming Office (Parks and Recreation of the City of Prescott).
- e. The College shall be entitled to use of the scoreboard at the Soccer Field.
- f. The College will have exclusive locker room access and storage throughout the year; provided, however, that the City shall not incur any liability for any items which are stolen or damaged.
- g. The College may store soccer goals at the field at an approved location during season; provided, however, that the City shall not incur any liability for any items which are stolen or damaged.
- h. Weekly striping of Soccer Field will be performed by the City providing appropriate City staffing is available, including practices starting 1 August. If appropriate City staffing is not available, the College may stripe the Soccer Field with an adjusted (lowered) preparation fee that is negotiated between the Parties.
- i. Regular cutting of turf area will be performed by the City prior to College use.

- j. The City reserves the right to restrict use of the field (excluding regularly scheduled college games) due to weather and turf conditions as agreed by both parties to avoid turf damage, and shall assist with finding alternative practice locations the morning of the relocation if necessary. In any case, the College's responsibility for repairing turf damage will be limited to any damage caused by the College's use.
- k. The College shall oversee all locking and unlocking of Soccer Field gates during soccer practice and games.
- l. The College shall have permission to display Roughrider Club signs at the field on game days.
- m. The College shall be entitled to use stadium parking.
- n. The College is responsible to pay for any damage that may occur to City property from its use by the College pursuant to this Agreement.
- o. The College shall pay the City \$250 per game for soccer preparations to Ken Lindley Field, unless other arrangements have been negotiated under h. above.

The City retains the use and 100% of the revenue from the food and beverage concession stand at the field. The College agrees to work with the City to resolve any scheduling conflicts that may come up between August 1 and September 30; provided, however, that in the event of a conflict between a City event and a College event, the City event shall take precedence.

3. Walraven Gym

The City will be allowed use of Walraven Gym (hereinafter "The Gym") two nights per week for fall volleyball leagues (i.e., late September to mid-November), and two nights per week for winter basketball leagues (i.e., early January to mid-April) with the following conditions:

- a. The College will set up volleyball for the above City leagues **OR** will provide City staff with access to volleyball standards and nets, and necessary training in setting up.
- b. The College will permit use of scoreboard by the City.
- c. The College will be responsible for all maintenance and utilities of The Gym.
- d. In the event of an ACCAC (Arizona Community College Athletic Conference) Volleyball and/or Basketball schedule change due to weather, catastrophic conditions

(as defined in paragraph 10.p), or play-offs, the College Volleyball team(s) will receive priority scheduling.

- e. The College shall allow the City use of The Gym for one weekend in August for a basketball and/or volleyball tournament that doesn't conflict with the college's team use. This arrangement should be scheduled between the Parties no later than April 1 of the calendar year.

4. **Bill Valley Fields**

The City will schedule the usage of Bill Valley Fields (hereinafter "Valley") by the College Softball Team between August 15 through November 15 and January 1 through May 15 of each year in coordination with the Little League Schedule for that year, in accordance with the following conditions:

- a. The College will share usage with City programs with the City reserving the right to schedule alternative site for the College softball program (practice or games) due to field conditions and/or schedule conflicts.
- b. During the months of March, April, and May (i.e., Little League season) on days when Prescott Little League Inc. will be using fields, all College practices shall vacate upper field by 3:30pm (4:00pm for lower field practices and game days) in order for Little League field preparations and warmups to occur.
- c. The College shall be entitled to use Bill Valley Lower Field between Noon and 3:30 p.m. per day softball team practice on fields scheduled by the City during fall and spring season.
- d. The College shall be entitled to Valley for a cumulative total of seventy-five (75) hours for game days between January 15 through May 15 on fields scheduled by the City. The College will make their best effort to start games at Noon to minimize possible schedule conflicts with other users who may be scheduled by the City.
- e. The College shall lock gates to the lower field after each usage, provided there are no other scheduled users.
- f. The City reserves the right to adjust practice locations on a specific field in order to preserve turf, and /or restrict use of the Valley due to weather and turf conditions.
- g. The College will pay the City for field preparations for game days only, for fall and spring games, in the sum of \$2,000 through an invoice issued by the City to the College at the conclusion of the season no later than June 30th of each calendar year (i.e., beginning in 2013 due to previously agreed-upon improvements). The fee may be adjusted or waived by the City in consideration of improvements made to the facility by the College that has been agreed to by the Parties prior to installation.

- h. The College shall be entitled to use of the announcer's booth and scoreboards on the fields used by the College.
- i. The College will be allowed to construct/install an equipment storage facility at a location to be determined by mutual agreement between Parties.
- j. City crews will perform all field preparation and maintenance on game days, including field marking supplies and bases. The College shall perform all field preparation and maintenance on practice days. The College shall use City's utility vehicle, drags, hoses, and tools, with regular inspections by City staff to ensure damage is not occurring beyond normal wear. The College shall reimburse the City to damage to above if it is determined the College is responsible. The College will not be responsible for maintenance or repairs needed for normal wear and tear.
- k. The College shall have permission to display Roughrider Club signs at the field on game days.
- l. The College is responsible to pay for all officials including public address announcers.

5. **Yavapai Performance Hall**

The College will allow the City to use Hall facilities a minimum of two times a year, at the same use rate as paid by college activities.

6. **Grace Sparkes Activity Center**

Subject to availability, the City will allow the use of gymnasium and meeting space by College at the normal rental rate.

7. **Termination of agreement**

This agreement is subject to termination upon mutual agreement of both Parties upon 180 days written notice. In the event that termination occurs during the middle of a season, the current season if any will allowed to be completed.

8. **Renewal of Agreement**

This agreement is renewable for one (1) additional five (5) year term if agreed upon in writing by both Parties. The College shall provide a written notice of its intention to renew ninety (90) days prior to the termination of the original term.

9. **Miscellaneous provisions**

- a. The uses granted herein shall apply only to the Parties herein, and are not assignable.
- b. The College shall accept the properties referred to in this agreement in their existing condition. No representations, statements or warranties, express or implied, have been made by or on behalf of Prescott as to the condition thereof.
In no event shall Prescott be liable for any defect in such property or for any limitation on its use.

- c. The City shall accept the properties referred to in this agreement in their existing condition. No representations, statements or warranties, express or implied, have been made by or on behalf of the College as to the condition thereof. In no event shall the College be liable for any defect in such property or for any limitation on its use.
- d. The College shall, at the College's expense, comply with all applicable statutes, ordinances, rules, regulations, orders, and requirements in effect during the term or any part of the term hereof regulating the use by College of the City facilities which are the subject of this agreement.
- e. The City shall, at the City's expense, comply with all applicable statutes, ordinances, rules, regulations, orders, and requirements in effect during the term or any part of the term hereof regulating the use by City of the College facilities which are the subject of this agreement.
- f. Upon the termination of each use allowed pursuant to this Agreement, each Party will quit and surrender the premises, in as good order and condition as when the use first started, reasonable wear and tear excepted.
- g. The College may not perform any act or carry on any practice which may damage, mar or deface the City facility being utilized or any structures thereon. The City must provide written notification within seven (7) calendar days of any damage that it believes is the responsibility of the College.
- h. The City may not perform any act or carry on any practice which may damage, mar or deface the College facility being utilized or any structures thereon. The College must provide written notification within seven (7) calendar days of any damage that it believes is the responsibility of the city.
- i. The College may not install, operate or maintain on the City facility being utilized any electrical equipment which will overload the electrical system therein or any part thereof, beyond its reasonable capacity for proper and safe operation as determined by City.
- j. The City may not install, operate or maintain on the College facility being utilized any electrical equipment which will overload the electrical system therein or any part thereof, beyond its reasonable capacity for proper and safe operation as determined by College.
- k. Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, agents, employees, or volunteers.

- l. Alterations and additions may not be made to any City facility. Any alteration or addition of the premises, excepting movable fixtures, made with the consent the City shall become part of the realty and shall belong to the City upon termination of that particular use.
- m. Alterations and additions may not be made to any College facility. Any alteration or addition of the premises, excepting movable fixtures, made with the consent the College shall become part of the realty and shall belong to the College upon termination of that particular use.
- n. Upon termination of this Agreement all property belonging to each Party shall be returned to that Party in as good as a condition as received by the other Party, reasonable wear and tear accepted.
- o. The Parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the Parties hereto waives any right to a trial by jury. In the event of litigation, the Parties hereby agree to submit to a trial before the Court. Both Parties hereby irrevocably submit to the personal jurisdiction of the United States District Court for the District of Arizona or the Court of Yavapai County, Arizona in any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably agree that all claims in respect to any such action or proceeding may be heard or determined in either such court. The Parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither Party shall be entitled to an award of attorneys fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.
- p. Force majeure: Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term 'force majeure' means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions—intervention—acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
- q. This Intergovernmental Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and it may only be amended, modified or waived by a written instrument signed by the authorized agents of the Parties hereto.
- r. Notices relating to this Intergovernmental Agreement shall be deemed to have been duly delivered upon personal delivery, or as of the second business day after mailing by United States mail, postage prepaid, addressed as follows:

City of Prescott
c/o Director
Parks, Recreation, and Library Department
P. O. Box 2059
Prescott, AZ 86302

Yavapai College
c/o President
1100 E Sheldon Street
Prescott, AZ 86301

With a copy to:

Yavapai College
c/o Director of Athletics
1100 E Sheldon Street
Prescott, AZ 86301

With a copy to:

Yavapai College
Director of Purchasing and Contracting
1100 E. Sheldon Street
Prescott, AZ 86301

These addresses may be changed by either Party by giving notice in writing. Such changes shall be deemed to have been effectively noticed five (5) calendar days after being mailed to each Party by the Party changing the address.

- s. Pursuant to ARS §38-511, either Party public agency hereto may cancel this Intergovernmental Agreement without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of said Party is, at any time in which the Agreement or any extension thereof is in effect, an employee or agent of any other Party to the Agreement in any capacity or a consultant to any other Party to the Agreement with respect to the subject matter of the Agreement.

MARLIN KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE
City Clerk

GARY D. KIDD
City Attorney

PASSED, APPROVED AND ADOPTED by the Yavapai Community College District Board


Chairman of the Board

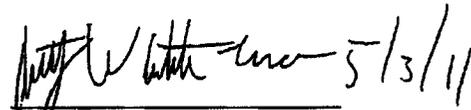
ATTEST:

Secretary of the Board

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

GARY KIDD
City Attorney

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



Attorney

MARLIN KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE
City Clerk

GARY D. KIDD
City Attorney

PASSED, APPROVED AND ADOPTED by the Yavapai Community College District Board


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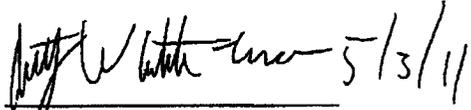
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Attorney

COUNCIL AGENDA MEMO – May 24, 2011
DEPARTMENT: Police
AGENDA ITEM: Approval of a grant application requesting funds for the hiring of three (3) entry-level police officer positions through the FY 2011 COPS Hiring Program.

Approved By:	Date:
Department Head: Michael Kabbel	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	<i>5-16-11</i>

Summary:

The Prescott Police Department requests approval to apply for grant funding from the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS). Requested funding, offered through the FY 2011 COPS Hiring Program (CHP), will facilitate hiring of three entry-level sworn law enforcement officers. Application deadline is May 25, 2011.

Background:

On May 2, 2011, the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS), began solicitation for applications regarding funding awards available through the FY 2011 COPS Hiring Program. The purpose of these grant awards is to assist law enforcement agencies by facilitating hiring of career law enforcement officers in a effort to increase community policing capabilities and crime prevention.

Per COPS guidelines, agency requests are capped at no more than five percent of a department's sworn force strength. Accordingly, the Police Department proposes to request three sworn officer positions from this program. If awarded, grant funds will cover 100 percent of the approved entry-level salary and fringe benefits for each hired officer over a three-year period, resulting in a total award of \$677,304. Upon completion of the initial three-year period, the City would be required to continue funding the three positions for an additional 12 months.

Financial Impact:

During the initial three-year period, the City would only be responsible for any additional costs incurred by hiring individuals above entry-level. Anticipated total salary and fringe benefit costs for the three positions during the fourth year would be \$225,768. Prior to acceptance of this grant, if awarded, an analysis will be presented to Council regarding the financial impact including anticipated offsets due to planned retirements.

<p>Recommended Action: MOVE to approve completion of a grant application to the U.S. Department of Justice, Office of Community Oriented Policing Services, requesting funds to hire three entry-level police officer positions through the FY 2011 COPS Hiring Program.</p>

COUNCIL AGENDA MEMO – May 24, 2011
DEPARTMENT: Public Works
AGENDA ITEM: Resolution authorizing installation of STOP signs on Copper Basin Road at Highland Drive

Approved By:	Date:
Department Head: Mark Nietupski, Public Works Director	May 13, 2011
Finance Director: Mark Woodfill	
City Manager: Craig McConnell 	5-16-11

Item Summary

This item is for Council’s consideration of the installation of STOP control on Copper Basin Road.

Background

On April 19, 2011, a public workshop was held at which the City Traffic Engineer presented findings from recent and prior engineering studies performed to evaluate traffic operations at the Highland Drive and Hassayampa Village Lane intersections on Copper Basin Road, for the purpose of determining if conditions at these locations would meet “warrants” for the installation of STOP control. A summary of the recent findings and discussion is attached. As indicated at that meeting neither location met any “warrant” that would lead to an engineering recommendation for installation of STOP control on Copper Basin Road at the subject intersections.

However, at the Highland Drive intersection the analysis did identify that while minimum sight distance exists per MUTCD Standards for the West Pine Knoll Drive approach, due to the specific intersection configuration, terrain and prevailing speeds on Copper Basin Road, an argument can be made justifying STOP control. Due to this circumstance, if Council determines the public health and safety would be enhanced by the installation of STOP control on Copper Basin Road at Highland Drive, Council could adopt a resolution authorizing said installation.

Given the different and more favorable physical circumstances at the Hassayampa Lane intersection including visibility, no STOP control treatment there is indicated.

Budget

The cost of STOP signs and striping at a single intersection would not exceed \$2,000.00, which is available from the One Cent Sales Tax for Streets and Open Space.

Agenda Item: Resolution authorizing installation of STOP signs on Copper Basin Road at Highland Drive

Attachments

- April 19, 2011, Public Workshop Meeting Summary
- Resolution No. 4076-1146

Recommended Action: Upon a Council finding that the public health and safety would be benefited, **MOVE** to adopt Resolution No 4076-1146.

Copper Basin Road - Public Workshop - April 19, 2011

SUMMARY

- Multi-way stops are being considered by Council at two locations, Highland Avenue and Hassayampa Village Lane.
- Copper Basin Road is free flow from White Spar Road to Sheriff's Posse, with all eleven (11) side streets required to stop.
- The posted speed on Copper Basin Road is 25 MPH east of Hassayampa Village Lane and 30 MPH west.
- Design speed is 30 MPH throughout.
- 85th% speeds range from 33.9 to 38 MPH EB and 32.7 to 35.1 MPH WB.
- The roadway is classified as a major collector and carries a traffic volume varying from 3,700 to 4,400 vehicles per day.

WARRANT RESULTS

- Each intersection location has had warrant studies conducted three (3) times, once by Kimley Horn & Associates and twice by City staff, with the most recent in April, 2011.

WARRANT RESULTS

- The multi-way stop installation is useful as a safety measure at locations where the volume of traffic on the intersecting roads is approximately equal, there is a collision problem, limited sight distance or at locations where the installation would improve traffic operations.

- The side streets (minor leg(s) of each intersection) do not have sufficient volume to warrant stop control on Copper Basin Road.
 - **Warrant:** > 200 vehicles per hour average for any 8 hour period
 - **Highland:** 65 per hour average
 - **Hassayampa:** 95 per hour average

- No collision problem exists at any one of the two intersection locations.

- Sight distance is adequate at both locations.

- The installation of any unwarranted multi-way stop would negatively impact the overall Level of Service (LOS) on Copper Basin Road by increasing overall delay.

- Both locations failed to meet any warrants.

RESOLUTION NO. 4076-1146

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE INSTALLATION OF A STOP SIGN ON COPPER BASIN ROAD AT HIGHLAND DRIVE INTERSECTION AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, on April 19, 2011, a public workshop was held at which the City Traffic Engineer presented findings from recent and historic engineering studies performed to evaluate traffic operations at Highland Drive and Hassayampa Village Lane intersections to determine if conditions at these locations would meet "warrants" for the installation of STOP control on Copper Basin Road at the Highland Drive intersection from West Pine Knoll Drive. The analysis demonstrated that minimum sight distance exists per MUTCD standards; and

WHEREAS, upon hearing all facts presented at the public hearings, the Council has determined that the public health and safety of the residents of the City of Prescott would be enhanced and public safety better served by the installation of STOP control on Copper Basin Road at the Highland Drive intersection.

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 installation of a STOP sign on Copper Basin Road at the Highland Drive intersection.

Section 2. THAT the Mayor and staff are hereby authorized to execute any and all documents to effectuate the foregoing 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 24th day of May, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

COUNCIL AGENDA MEMO – MAY 24, 2011

III-F

DEPARTMENT: Public Works

AGENDA ITEM: Adoption of Ordinance No. 4789-1140 to accept a Sewer Easement from First American Title Insurance Company, Trustee for Carrington Homes, Inc., through the unrecorded Sterling Ridge Subdivision

Approved By:

Date:

Department Head: Mark Nietupski, Public Works Director	5/16/2011
Finance Director: Mark Woodfill	
City Manager: Craig McConnell 	5-16-11

Item Summary

Approval of this item will result in City acceptance of a Sewer Easement, 20 feet in width, from First American Title Insurance Company, Trustee for Carrington Homes, Inc., through the unrecorded Sterling Ridge Subdivision to provide sewer service for 12 lots in Prescott Highlands Estates.

Background

Prescott Highlands Estates Subdivision (37 lots) was approved by Council on May 23, 2006, and recorded on August 21, 2006, Book 58 of Maps and Plats, Page 3. There are 12 lots in the subdivision that are pending development due to the lack sewer service through lands to the north and east (Sterling Ridge and Watson property), which would allow a gravity sewer system connecting into Prescott Lakes.

The Sterling Ridge Subdivision, also owned by Carrington Homes, was approved by Council on September 25, 2007. Due to the downturn in the economy the plat was never recorded and the planned infrastructure never constructed. The Watson property is currently unsubdivided, however, a sewer easement 20 feet in width was recorded (Book 4430 Page 414) through the property in 2009.

Construction plans for the sewer main line extension have been reviewed and approved by Public Works/Engineering and the Arizona Department of Environmental Quality (ADEQ) for the Approval to Construct. The sewer main extension will provide sewer for the 12 lots in Prescott Highlands Estates, a majority of the lots in Sterling Ridge, and a portion of the Watson property as shown on the attached plan.

There is no cost to the City for the easement.

Agenda Item: Adoption of Ordinance No. 4789-1140 to accept a Sewer Easement from First American Title Insurance Company, Trustee for Carrington Homes, Inc., through the unrecorded Sterling Ridge Subdivision

- Attachments**
- Area Plan
 - Sewer Overview Map
 - Easement
 - Exhibit "A" Legal Description of Easement
 - Exhibit "B" Map of Easement
 - Exhibit "C" General Requirements and Restrictions
 - Ordinance

Recommended Action: MOVE to adopt Ordinance No. 4789-1140.

ORDINANCE NO. 4789-1140

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ACCEPTING A SEWER EASEMENT FROM FIRST AMERICAN TITLE INSURANCE COMPANY, TRUSTEE FOR CARRINGTON HOMES, INC., TO PROVIDE SEWER SERVICE TO THE PRESCOTT HIGHLANDS SUBDIVISION

RECITALS:

WHEREAS the City Council of the City of Prescott has determined that the accepting a sewer easement from First American Title Insurance Company, Trustee for Carrington Homes, Inc., more particularly described and shown in the attached Exhibits "A" and "B" would benefit the public health, safety and welfare of the citizens of the City of Prescott; and,

WHEREAS the City of Prescott wishes to place certain General Requirements and Restrictions on the sewer easement as described in Exhibit "C".

ENACTMENTS:

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

SECTION 1. THAT the City of Prescott accepts a sewer easement from First American Title Insurance Company, Trustee for Carrington Homes Inc. as described and shown in Exhibits "A" and "B" with certain General Requirements and Restrictions as described in Exhibit "C", said exhibits attached hereto and made a part hereof.

SECTION 2. THAT the attached easement, (Exhibits "A" and "B") and General Requirements and Restrictions, (Exhibit "C") are hereby ordered to be recorded in the Office of the Yavapai County Recorder, Arizona.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 24th day of May, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

When recorded, mail to:

CITY OF PRESCOTT
CITY CLERK
Interoffice Mail
Prescott, AZ 86302

SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, First American Title Insurance Company, Trustee for Carrington Homes, Inc., hereinafter called "Grantor", hereby grants unto the City of Prescott, a municipal corporation of the State of Arizona, hereinafter referred to as the "Grantee", its successors or assigns, the right of ingress and egress over and through the following described property, for public sewer purposes and, to use and construct same, together with the right to construct, maintain and place any sewer utilities therein, said property more particularly described and shown on the attached Exhibits "A" and "B" and Exhibit "C" attached hereto and made a part of the easement, describes the General Requirements and Restrictions placed on the easement by the Grantee.

This easement shall run with the land, and shall be perpetual unless earlier abandoned or vacated by the Grantee.

Grantor covenants and agrees not to construct any buildings upon said easement.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand this ____ day of _____, 2011.

ACCEPTED AND APPROVED by the Mayor and Council of the City of Prescott this ____ day of _____, 2011

City of Prescott

By _____
MARLIN D. KUYKENDALL, Mayor

EXHIBIT "A"

Sewer Easement

A 20 foot wide Sewer Easement lying within Assessors Parcel Number 105-03-017, as described in Book 4571 Official Records, Page 421, Yavapai County Records Office. Located in the Southeast Quarter of Section 22, Township 14 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows,

(Basis of Bearings for this description is South 87°57'00" East, along the east-west center section line, as measured from a capped rebar #35138 at the Center corner of said Section 22; to a capped pipe #12005 at the East Quarter corner of said Section 22. Basis of Bearings is based upon City of Prescott datum.)

COMMENCING at a capped rebar #35138 at the Center corner of said Section 22,

Thence, South 01°29'01" East, along the north-south center section line of said Section 22, also being the west line of said APN 105-03-017, a distance of 497.52 feet to the TRUE POINT OF BEGINNING;

Thence along a non-tangent curve, concave to the southeast, having a radius of 725.00 feet, a central angle of 01°35'46", an arc length of 20.20 feet, a chord bearing of North 80°32'41" East and a chord length of 20.20 feet;

Thence, South 01°29'01" East, lying 20.00 feet east of and parallel to said north-south center section line, a distance of 230.72 feet;

Thence, South 88°46'24" East, a distance of 378.57 feet;

Thence, North 01°23'53" West, a distance of 107.40 feet;

Thence, North 50°30'34" East, a distance of 87.52 feet;

Thence, South 71°26'02" East, a distance of 62.16 feet;

Thence, North 60°40'34" East, a distance of 60.80 feet;

Thence, North 01°30'03" West, a distance of 30.00 feet;

Thence, North 88°29'57" East, a distance of 20.00 feet to a point on the east line of said APN 105-03-017;

Thence, South 01°30'03" East, along said east line, a distance of 37.55 feet;

Thence, South 40°55'05" West, a distance of 11.80 feet;

Thence, South 60°40'34" West, a distance of 72.74 feet;

Thence, North 71°26'02" West, a distance of 59.94 feet;

Thence, South 50°30'34" West, a distance of 66.69 feet;

Thence, South 01°23'53" East, a distance of 118.61 feet;

Thence, North 88°46'24" West, a distance of 398.56 feet;

Thence, South 01°29'01" East, lying 20.00 feet east of and parallel to said north-south center section line, a distance of 201.96 feet;

Thence, North 89°07'56" West, a distance of 20.02 feet to a point on said north-south center section line;

Thence, North 01°29'01" West, along said north-south center section line, a distance of 449.08 feet to the TRUE POINT OF BEGINNING;

Containing 23,941.24 square feet, more or less.

01/12/11

LE #492-01

492-01 Sew Esmt.doc

SCOTT A. LYON, R.L.S.



EXPIRES 6/30/13

EXHIBIT "B"

MAP TO ACCOMPANY LEGAL DESCRIPTION

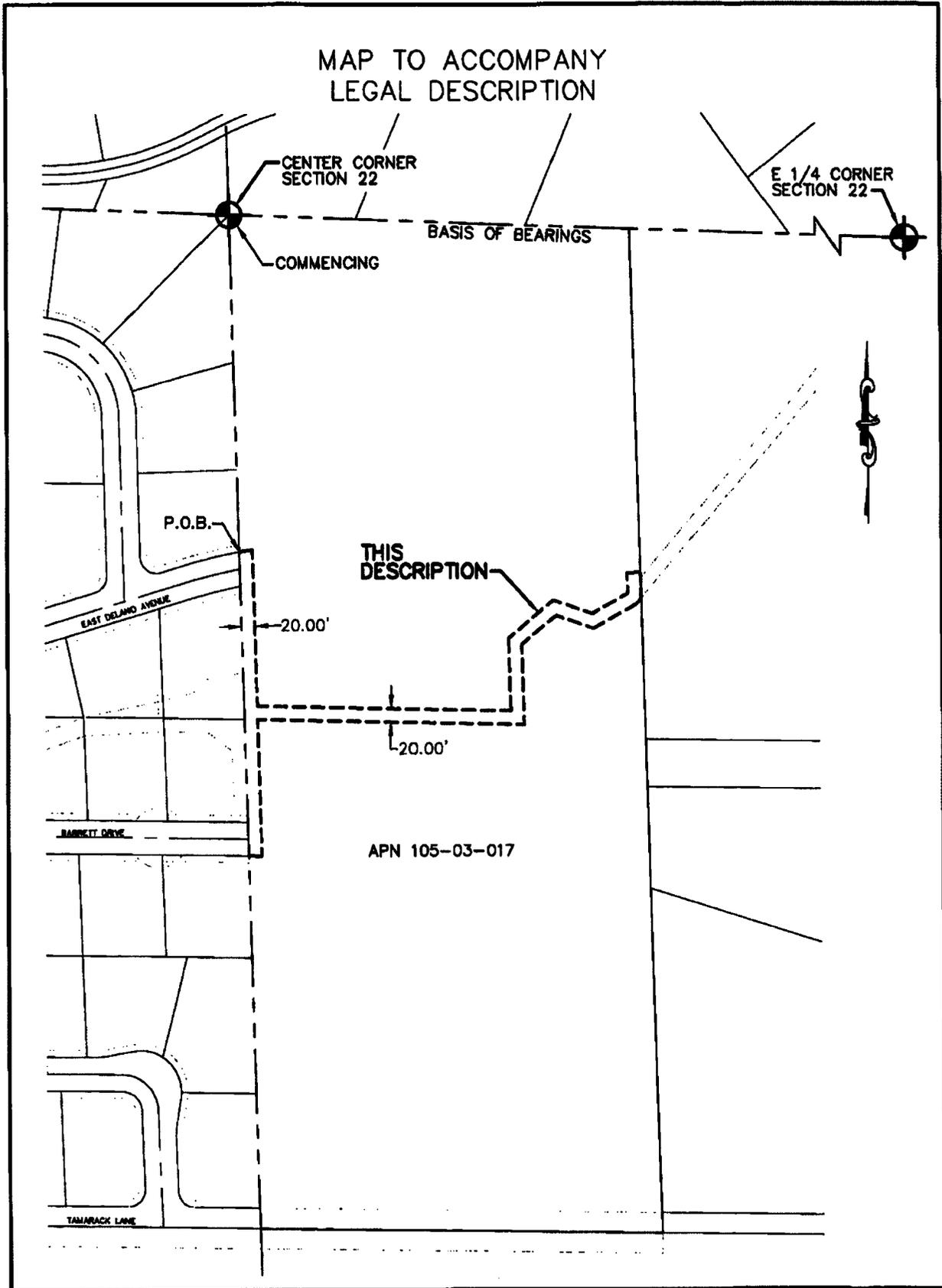


Exhibit 'C'

Sewer Easement Requirements and Restrictions

General Requirements

The following general requirements are for the sewer easement as described and depicted in Exhibits "A" and "B". These requirements are a part of the sewer easement, are applicable to the current property owner, successors, heirs and assigns, and shall run with the land. Contractors shall be required to meet these provisions. Any construction shall require an encroachment agreement with the City of Prescott.

1. This sewer easement restricts the placement of a pipeline, conduit, structure, including walls/fencing, buildings, major landscape components, and any part of a structure or material storage, within the easement both above and below ground.
2. City of Prescott (hereinafter referred to as "CITY") will be given at least 48 hours advance notice before any work will be performed on or across the sewer easement in order to allow for a CITY representative to be on site during such work if the CITY so desires. Any construction shall require an encroachment agreement with the City of Prescott.
3. The sewer easement shall serve as an ingress egress for all sewer maintenance activities on a regular basis and will include a 12' wide road with base material to allow for all weather access to the sewer facilities.
4. CITY shall return the easement area including grading, landscape gravel and landscape fabric to a condition as close as possible to that which existed before any installations, inspections/surveys, or maintenance or repairs are made by CITY. Prohibited items within the easement will not be replaced if damaged from any installations, inspections/surveys, or maintenance or repairs are made by CITY.
5. Under no circumstances shall CITY be responsible for the replacement or reimbursement for trees and vegetation disturbed, damaged, or destroyed within the sewer easement. Any prohibited trees or large shrubs per the Landscaping section below within the sewer easement are subject to removal by the CITY at any time.

Excavation

1. Plans for any excavation or filling in the sewer easement must be reviewed and approved by the Grantee/City prior to commencing any work. Excavating closer than 2 feet to the pipeline shall be done by hand until the pipe is exposed and shall be done only under the observation of an authorized CITY representative.

Exhibit 'C' continued

2. Any plowing or ripping of soil within the sewer easement, including agricultural, at depths greater than 1 foot will require specific authorization from the CITY.

Streets, Roads, and Driveways

1. Notice to CITY is required before any construction of a driveway or parking lot within the sewer easement is undertaken. The Grantor and its successors shall provide the Grantee/City the opportunity to complete a pipe inspection prior to the start of any construction activity. A set of construction plans reviewed and approved by the CITY is required.
2. Temporary easement crossings may be approved with notice and approved by the CITY.

Fences

1. No walls, fences, posts, or footings are allowed to encroach into or across the sewer easement. No temporary obstructions or decorative screen materials shall be placed in the sewer easement that could inhibit vehicular access. Any wall or fence within the sewer easement is subject to removal and/or demolition by the CITY at any time. Under no circumstances shall the Grantee/CITY be responsible for the replacement or reimbursement for damage to walls, fences, or screening devices within the sewer easement.

Landscaping

1. Placement of decorative landscape rock over the road base material is an acceptable use. Trees, large shrubs, and boulders are not a permitted use within the sewer easement, and must be located outside the easement so as to not adversely restrict Grantee's use of the easement area. Maintenance may require total clearing of the perpetual utility easement. CITY shall replace in kind disturbed landscaped gravel and landscape fabric as a result of inspections/surveys, maintenance, repair or other damage. Under no circumstances shall CITY be responsible for the replacement or reimbursement for irrigation lines or appurtenances, trees and vegetation disturbed, damaged, or destroyed within the sewer easement. No new foreign appurtenances (meters, poles, or drop boxes, etc.) shall be located within the perpetual sewer easement without first providing notice to, and obtaining written permission from the CITY.

Open Waterways

1. Any open waterways, ditches, canals, drainage catchments, ponds, pools, etc., within 15 feet of the pipeline center line shall require review and approval by the CITY.

Exhibit 'C' continued

- 2. Anyone altering (clearing, re-grading, or changing alignment) a waterway within the sewer easement must obtain approval from the CITY prior to making changes, and obtaining an encroachment agreement.**

Penalties for Failure to Abide by Restrictions

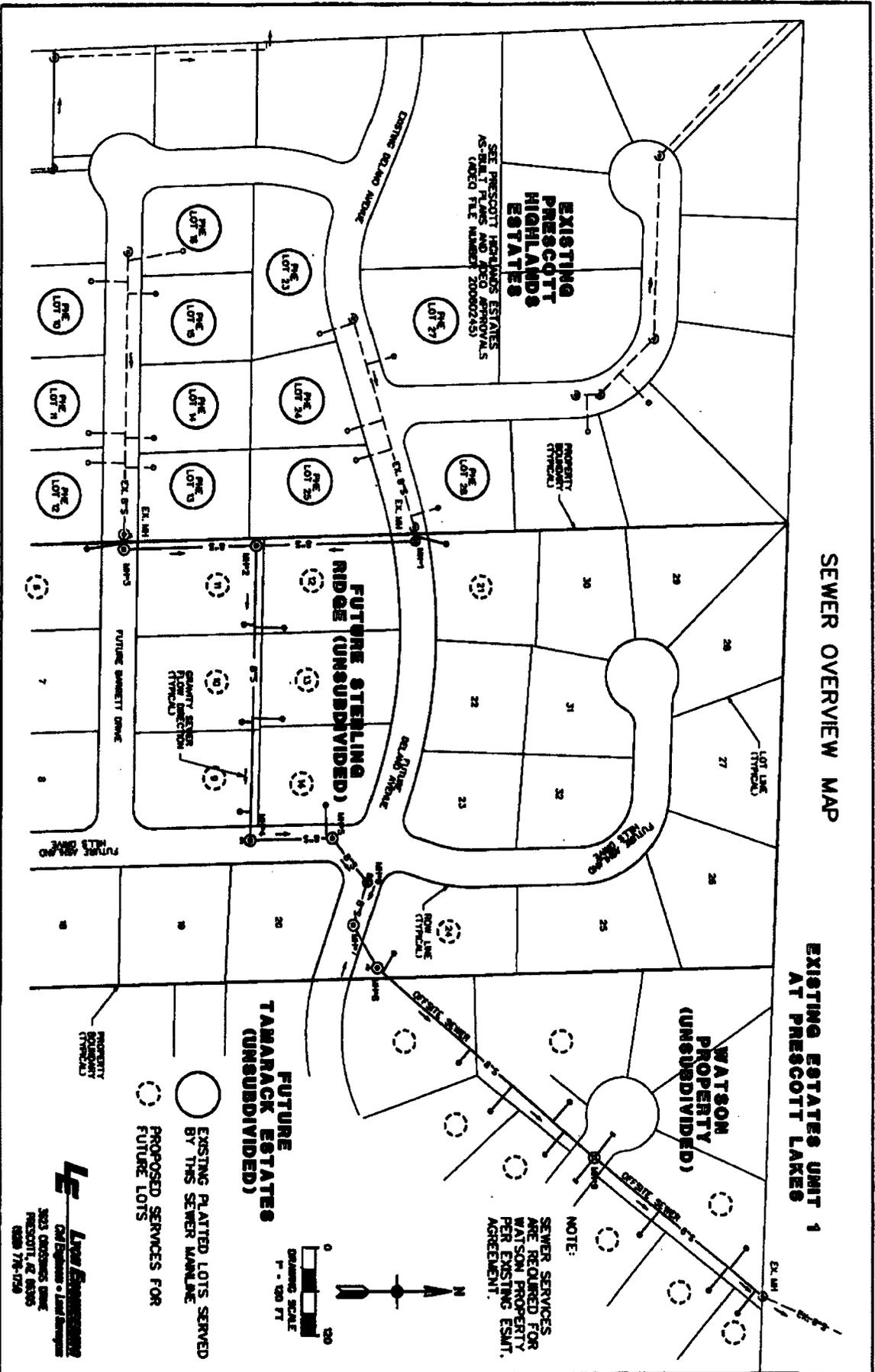
- 1. Failure to follow or abide by these Easement Restrictions may be punishable per any federal, state or local statues, codes, ordinances, rules or regulations.**
- 2. Owners shall be liable to the City for any damage to City property within the Easement area caused by the property owners' negligence in failing to abide by or follow the Easement Restrictions.**

Contact Information

The CITY can/shall be contacted at Prescott Department of Public Works, telephone 928-777-1130. No construction or changes to the sewer easement area shall be made by Grantor or Grantee without notice to the other party.

SEWER OVERVIEW MAP

EXISTING ESTATES UNIT 1
AT PRESCOTT LAKES



EXISTING
PRESCOTT
HIGHLANDS
ESTATES
SEE PRESCOTT HIGHLANDS ESTATES
AS-BUILT PLANS AND GEO. APPROVALS
(AECID FILE NUMBER 20080245)

FUTURE STERLING
RIDGE (UNSUBDIVIDED)

FUTURE
TAMARACK
ESTATES
(UNSUBDIVIDED)

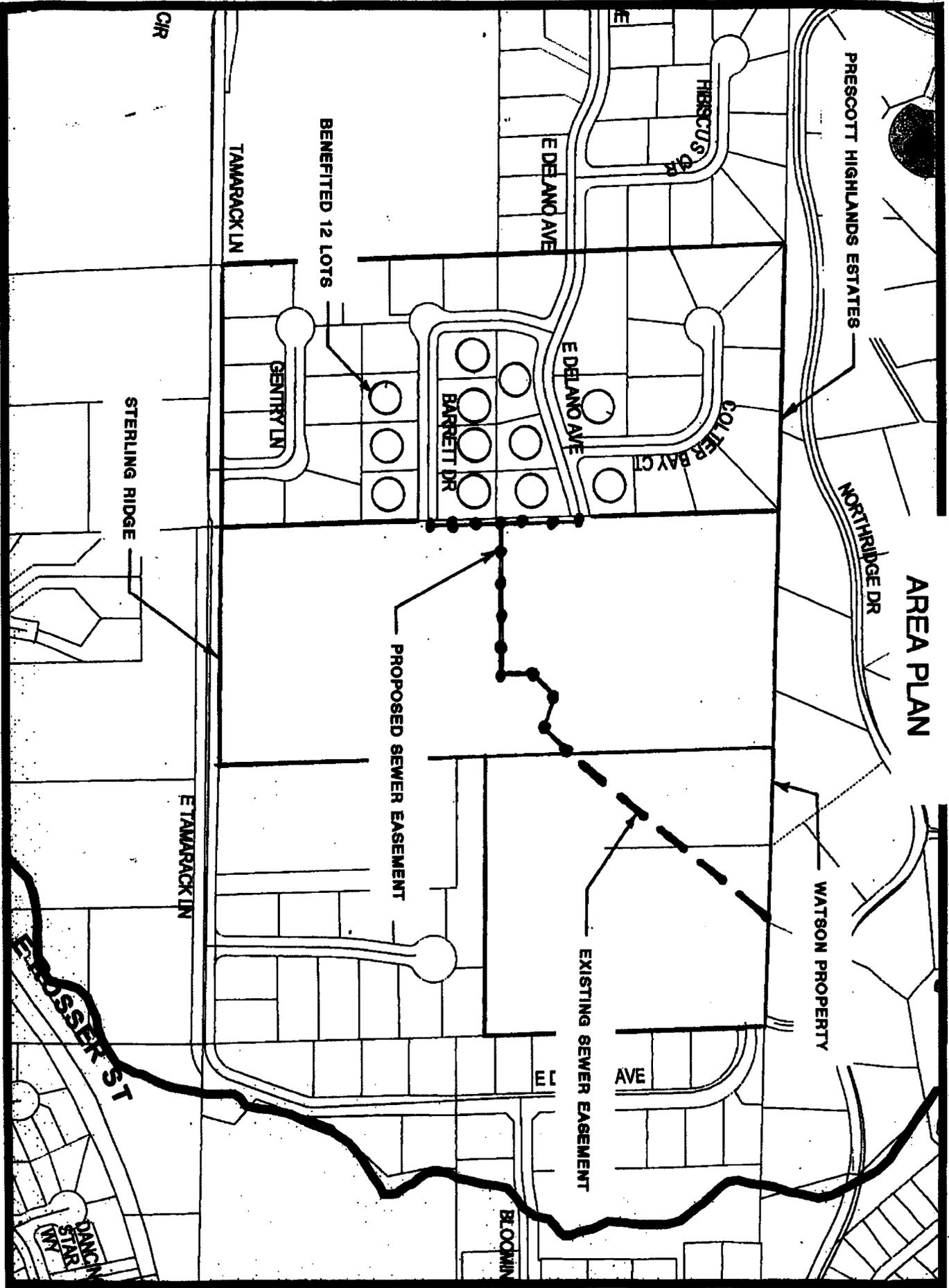
WATSON
PROPERTY
(UNSUBDIVIDED)

NOTE:
SEWER SERVICES
ARE REQUIRED FOR
WATSON PROPERTY
PER EXISTING
ESMAT
AGREEMENT.

○ EXISTING PLATTED LOTS SERVED
BY THIS SEWER MAINLINE
○ PROPOSED SERVICES FOR
FUTURE LOTS

LE **Land Engineering**
Civil Engineers • Land Surveyors
3025 CROSSINGS DRIVE
PRESCOTT, AZ 85306
(602) 774-1759

AREA PLAN



PRESCOTT HIGHLANDS ESTATES

NORTH RIDGE DR

WATSON PROPERTY

HERCULEUS DR

E DELANO AVE

E DELANO AVE

BARRETT DR

GENTRY LN

TAMARACK LN

STERLING RIDGE

E TAMARACK LN

EXISTING SEWER EASEMENT

PROPOSED SEWER EASEMENT

BENEFITED 12 LOTS

C/R

DANCIN STAK UNIT

COUNCIL AGENDA MEMO – May 24, 2011

III-G

DEPARTMENT: Public Works

AGENDA ITEM: Award of bid and contract to AJP Electric, Inc., for electrical work to install a new emergency/back-up generator at the Sundog Wastewater Treatment Plant in the amount of \$174,889.00

Approved By:

Date:

Department Head: Mark Nietupski, Public Works Director	5/16/2011
Finance Director: Mark Woodfill	
City Manager: Craig McConnell 	5-16-11

Item Summary

Approval of this item will award a contract for electrical services necessary to complete the installation of a new emergency/back-up generator at the Sundog Wastewater Treatment Plant.

Background

The City of Prescott's wastewater treatment facilities are required to have alternate, stand-by power production available in the event of prolonged outages by the primary electric provider, APS. On January 12, 2010, Council approved the purchase of a new 1000 KW standby generator set and automatic transfer switch for the Sundog WWTP. The existing generator, related wiring, and switchgear at the Sundog facility have been in place for 32 years. Since the original installation, electrical power demands have increased significantly, through plant expansion, process changes, and community growth. The new generator has been installed in its new location and once the electrical work has been completed, the generator will be put into service, thereby providing back-up power when necessary for the continued functioning of the plant.

Bid Results

The project was advertised on April 3, 2011, and a mandatory pre-bid meeting was held on April 13, 2011. Bids were opened on April 28, 2011, and (2) two bids were received, the results of which follow.

The bid documents included a bid alternate for conduit installation in lieu of a busbar to provide access for inspection and maintenance. However, after reviewing the bid details with the project engineers, staff is recommending award of the base bid. The extended benefit of accessibility to the circuits in future years outweighs the minimal difference in costs by installing conduit. Conduits would not yield the operational and maintenance benefits that are anticipated with the installation of a busbar.

AGENDA ITEM: Award of bid and contract to AJP Electric, Inc., for electrical work to install a new emergency/back-up generator at the Sundog Wastewater Treatment Plant in the amount of \$174,889.00

Bidder	Location	Base Bid	Alternate
AJP Electric, Inc.	Gilbert, AZ	\$174,899.00	\$159,899.00
Ludvik Electric, Co.	Phoenix, AZ	\$177,800.00	\$158,800.00

**Written confirmation of bid has been received from lowest responsive bidder AJP Electric, Inc. Verification of the company's license, bonding, references, and successful performance of similar projects in the past has been completed.

Schedule

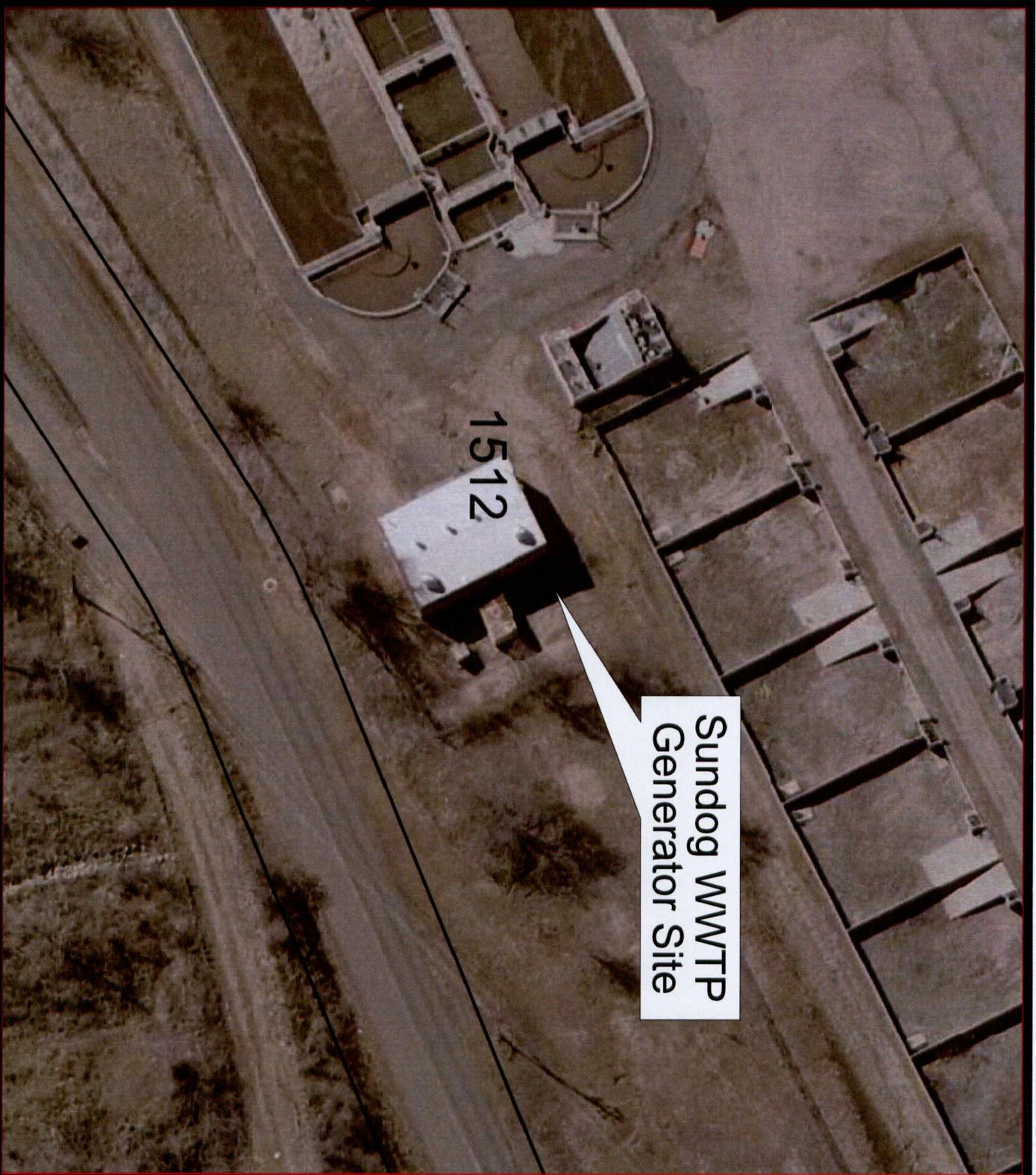
Pending award of a contract work will commence in June and be completed in July 2011.

Budget

FY 2011 funding for this project is available from the Sewer Fund. (Account No. 7205855-8910)

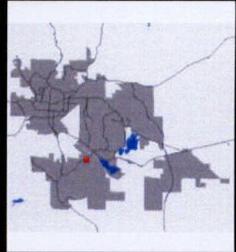
Attachment - Location Map

Recommended Action: **MOVE** to award the bid and contract to AJP Electric, Inc., for electrical work to install a new emergency/back-up generator at the Sundog Wastewater Treatment Plant, in an amount not to exceed \$174,899.00.



Sundog WWTP
Generator Site

1512



Sundog WWTP

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



COUNCIL AGENDA MEMO – May 24, 2011

III-H

DEPARTMENT: Public Works

AGENDA ITEM: Approval to perform night work along segments of Iron Springs Road, Willow Creek Road, Granite Street, and Goodwin Street associated with the FY 2012 Pavement Rehabilitation Project

Approved By:

Date:

Department Head: Mark Nietupski, Public Works Director

5/16/2011

Finance Director: Mark Woodfill

City Manager: Craig McConnell



5-16-11

Item Summary

Approval of this item will authorize the performance of night work for asphalt milling and overlay construction associated with the FY 2012 Pavement Rehabilitation Project including: Iron Springs Road (Gail Gardner Way to Whipple Street), Willow Creek Road (Whipple Street to Green Lane), Granite Street (Gurley Street to Willis Street), and Goodwin Street (Montezuma Street to Marina Street). The purpose of night work is to significantly reduce traffic interruption.

Background

Construction plans are complete for the FY 2012 Pavement Rehabilitation Project, which is scheduled for bidding this month. The project generally consists of removing, by milling, the upper two to three inches of existing asphalt pavement and repaving with new hot mix asphalt. The project also includes resurfacing of designated streets with Asphalt Concrete Friction Course – Asphalt Rubber (ACFC-AR). Performing the mill and paving of the above named streets at night will minimize the project impact on businesses and traffic on these busy streets. Night work will also minimize the impact on Miller Valley Elementary School, City Hall, and Yavapai Regional Medical Center.

The work involves the use of various pieces of heavy equipment, often working in a train type operation where driveway access will be temporarily disrupted. Working at night will reduce the impact of this type of operation.

It must be noted ACFC-AR paving is temperature sensitive and must be performed during the day. However, this activity typically moves fairly rapidly and is less disruptive to traffic and access.

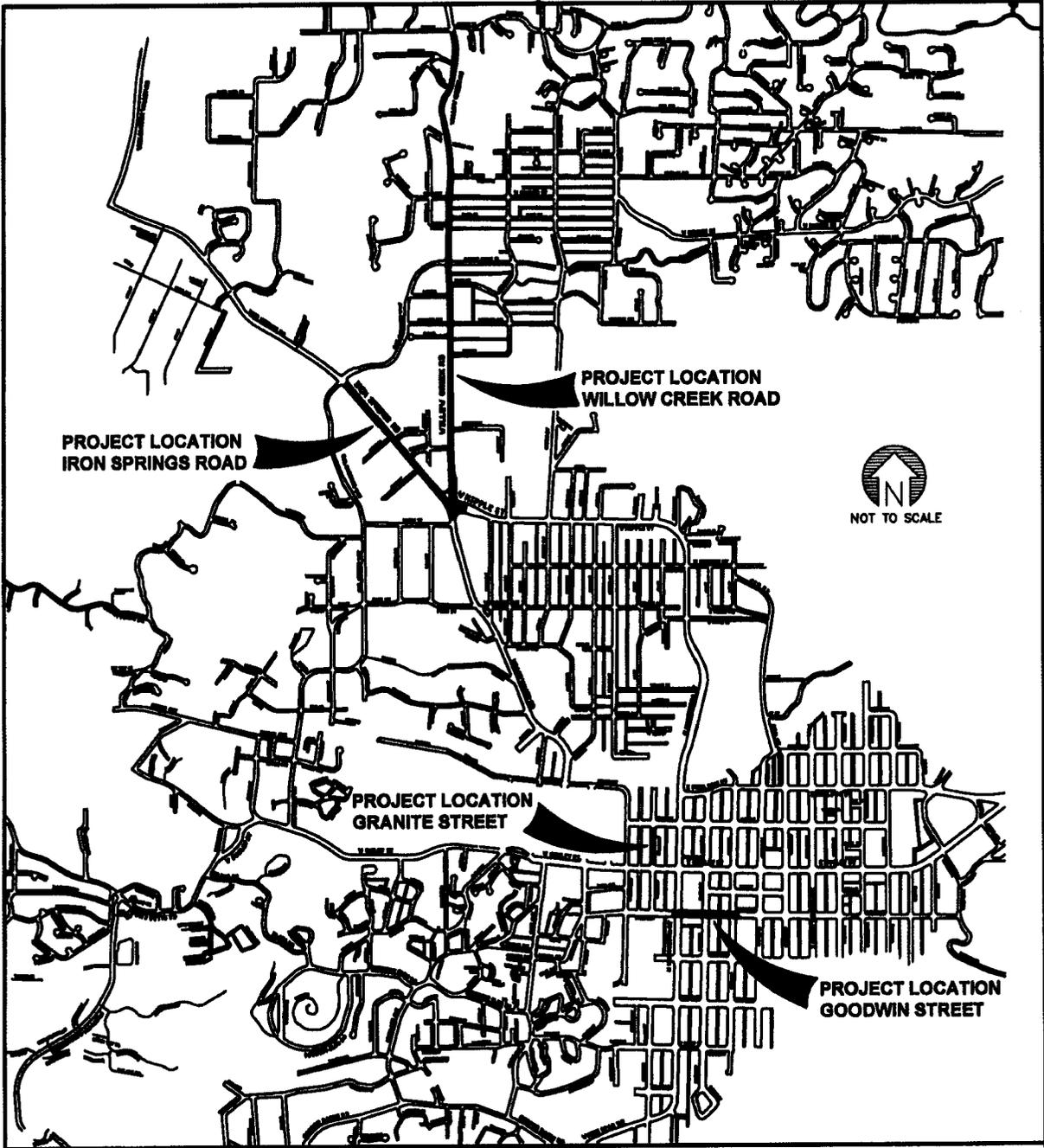
City Code Title 5-4-2 requires City Council approval for any night work after 8:00 PM. Pending Council approval of this request the bid documents will include the requirement for work at night.

In anticipation of award of a contract and FY 2012 budget approval, the project will commence in July 2011 and be completed in September 2011.

Agenda Item: Approval to perform night work along segments of Iron Springs Road, Willow Creek Road, Granite Street, and Goodwin Street associated with the FY 2012 Pavement Rehabilitation Project

Attachment - Location Map

Recommended Action: MOVE to approve night work along segments of Iron Springs Road, Willow Creek Road, Granite Street, and Goodwin Street associated with the FY2012 Pavement Rehabilitation Project.



**PROJECT VICINITY MAP
FY 2012 PAVEMENT RECONSTRUCTION
PROJECT - NIGHT WORK LOCATIONS**

CITY OF PRESCOTT PUBLIC WORKS DEPARTMENT

COUNCIL AGENDA MEMO – May 24, 2011

III-I

DEPARTMENT: Public Works

AGENDA ITEM: Adoption of Resolution No. 4079-1149 approving an Intergovernmental Agreement with the State of Arizona through its Department of Transportation, providing \$50,000 in City cooperative funding to incorporate detailed analysis of the future street network and intersection configurations within the ADOT SR89 widening project in the Airport area.

Approved By:

Date:

Department Head: Mark Nietupski, Public Works Director	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell 	5-16-11

Item Summary

Approval of this item will authorize an Intergovernmental Agreement with the State of Arizona through its Department of Transportation (ADOT) for City participation and funding in the amount of \$50,000 for the SR89 Widening and Related Street Network and Intersection Configuration Project Assessment. This joint project will focus on State Route 89, MacCurdy Drive, Ruger Road and Perkins Drive near the Airport.

Background

ADOT recently selected an engineering firm for design services for widening of State Route 89 from the Chino Valley limits to State Route 89A. City of Prescott participation in the early project design will provide for an expansion of intersection analyses and planning of proposed roadway conceptual alignments considering rights-of-way and intersection lane configurations in the airport area in relation to the ADOT SR 89 design.

Further, City involvement will allow for improved coordination of SR 89 design with the related Planning Assistance for Rural Areas (PARA) study for the Willow Creek Road re-alignment being concurrently administered and funded by ADOT for the City. This study will provide recommendations for re-alignment of Willow Creek Road to intersect with SR 89 north of relocated Ruger Road in the future and the impact of future restrictions at the current connection with MacCurdy Drive.

Through these two studies all critical roadway alignments, connections and intersection configurations in the airport area will be evaluated to maximize operational efficiency and capacity when the SR 89 improvements are constructed.

Agenda Item: Adoption of Resolution No. 4079-1149 approving an Intergovernmental Agreement with the State of Arizona through its Department of Transportation, providing \$50,000 in City cooperative funding to incorporate detailed analysis of the future street network and intersection configurations within the ADOT SR89 widening project in the Airport area

Specific to this ADOT-City partnership the proposed roadways to be analyzed (see attached key map) for conceptual alignment include the following:

- A. Realigned Ruger Road
- B. Perkins Extension
- C. Realigned Ruger/Willow Creek Road connection

Additionally each of the following existing and proposed intersection locations along SR89 will be addressed for both interim and ultimate configurations:

- D. Realigned Ruger Road @ SR89
- E. Existing Ruger Road @ SR89
- F. MacCurdy Drive @ SR89
- G. Perkins Drive @ SR89

The recommendations from this analysis will be incorporated by ADOT in the design and construction of the SR89 widening project. The work will further clarify traffic access and circulation as the Airport area develops in the future.

Attachments

- ADOT Correspondence
- Intergovernmental Agreement
- Resolution No. 4079-1149
- Exhibit 1 (location map)

Recommended Action: MOVE to adopt Resolution No. 4079-1149.

RESOLUTION NO. 4079-1149

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA, THROUGH ITS DEPARTMENT OF TRANSPORTATION (ADOT), AND PROVIDING FUNDING IN FY12 FOR THE SR89 WIDENING AND RELATED STREET NETWORK AND INTERSECTION CONFIGURATION PROJECT ASSESSMENT

RECITALS:

WHEREAS, the City and Arizona Department of Transportation wish to enter into a certain Intergovernmental Agreement for the City to provide funds to ADOT in FY11 for a jointly accomplished study of the related street network and intersection configurations, incident to the State's design effort for its widening project on SR89 from south Chino Valley limits to SR89A; and,

WHEREAS, the previous transportation studies conducted in the surrounding areas have provided valuable planning information and traffic data but do not provide recommendations suitable for roadway project development; and,

WHEREAS, the Arizona Department of Transportation recognizes the importance of this study in determining the configuration and location of key intersections along their State Route 89 near the airport and as such will consider the study recommendations in their SR89 widening project; and,

WHEREAS, the benefits of having recommended roadway alignments, right-of-way, cross sections and intersection configurations will allow the City and ADOT to coordinate future design efforts and provide an efficient transportation network in this vital transportation and growth corridor; and,

WHEREAS, the City of Prescott and the Arizona Department of Transportation have the authority to enter into the foregoing Agreement pursuant to ARS Sections 11-952 and 9-240, et seq.

ENACTMENTS:

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

Section 1. THAT the City of Prescott hereby approves the attached Intergovernmental Agreement with the State of Arizona for the City to provide funds to ADOT in FY11 for a SR89 Widening and Related Street Network and Intersection Configuration Project Assessment, as set forth in Exhibit "A" which is attached and made a part hereof.

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

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 24th day of May, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney



Arizona Department of Transportation
Intermodal Transportation Division
205 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janice K. Brewer
Governor

April 19, 2011

Floyd Roehrich Jr.
State Engineer

John S. Halikowski
Director

City of Prescott
Attn: Ian Mattingly, City Engineer
430 N. Virginia Street
Prescott, Arizona 86302

RE: ADOT File No.: IGA/JPA 10-027-I
AG Contract No.: P001 2010 003475
Project: SR89 Widening and Related
Street Network and Intersection
Configurations Project Assessment
Section: SR 89 MP 319 - 325
TRACS No.: H8039 01D
Budget Source Item No.: City funding

Dear Mr. Mattingly:

Enclosed are two (2) original sets of Agreements and related Attorney Approval forms for signature regarding the above subject Agreement, which defines the responsibilities of the *City of Prescott* and the Arizona Department of Transportation.

Please obtain the appropriate official signatures and return the signed Agreements, Attorney Approval Forms and any Resolution Letter or Meeting Minutes necessary to enter into this Agreement. Please return the signed original package (both sets) to my attention to the **Arizona Department of Transportation, Joint Project Administration, 205 S. 17th Avenue, Mail Drop 637E, Phoenix, AZ 85007.**

Please make no other entries on the originals other than signatures, and do not date or staple the first page or make other entries other than signature. A scanned copy of the executed Agreement will be emailed to you, in addition to an originally-signed set being returned upon final execution. Should you have further questions, please do not hesitate to call me at (602) 712-xxxx.

Sincerely,

Cindy Childers

Cindy Childers
Joint Project Administration
Manager

ADOT File No.: IGA/JPA 10-027-I
AG Contract No.: P001 2010 003475
Project: SR89 Widening and Related
Street Network and Intersection
Configurations Project Assessment
Section: SR 89 MP 319 - 325
TRACS No.: H8039 01D
Budget Source Item No.: City funding

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
CITY OF PRESCOTT**

THIS AGREEMENT is entered into this date _____, 2011, pursuant to the Arizona Revised Statutes § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State" or "ADOT") and the CITY OF PRESCOTT, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement on behalf of the City.

3. Incident to the State's design effort for its widening project on SR 89 from South Chino Valley Limits to SR 89A, the State and City agree to jointly develop a project assessment ("PA") to realign Ruger Road ("Ruger Road") north of its current location and realign Willow Creek Rd to connect to SR 89 at the existing Perkins Dr location ("Perkins Extension"). The State will administer the PA at the City's expense, currently estimated at \$50,000.00, while proceeding with its widening project design efforts at the State's expense. The ADOT project on SR 89 will be from MP 319.04 to MP 325.00.

4. The Parties hereby agree to and acknowledge the following conditions: a) the estimated monetary amounts referenced in this Agreement are subject to change and can change significantly before completion of the PA; b) the Parties shall perform their responsibilities consistent with this Agreement; and c) any change or modification to the PA will only occur with the mutual written consent of both Parties, with an amendment to this Agreement required for efforts exceeding fifteen (15%) percent of the current estimate.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Upon execution of this Agreement, agree to be the authorized agent for and on behalf of City to administer the PA with the State's design consultant.

b. Upon execution of this Agreement, invoice the City for its share of the PA, currently estimated at \$50,000.00. Upon completion of the PA and final reconciliation of PA costs, invoice or reimburse the City for the difference between the estimated and actual costs.

c. Develop a PA for the proposed roadway alignments for Ruger Road and Perkins Extension.

d. Coordinate with the City to develop a scope of work for the project assessment.

e. Develop updated traffic counts and turn movement projections for use in the project assessment in section c., and other SR89 intersection locations determined by the State, using the CYMPO 2030 model as the base, with the updated figures modified to reflect growth rate changes.

f. Incorporate recommendations from the PA while designing and constructing the SR 89 widening project.

g. Not be obligated to incur any expenditure for the PA, should some unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this Agreement. Notify the City should costs approach the current estimate to discuss any cost increase.

h. Prepare design plans and construct SR 89 to four lanes from MP 319.04 to MP 325.00.

2. The City will:

a. Upon execution of this Agreement, agree the State will be the authorized agent for and on behalf of the City to administer the PA with the State's design consultant.

b. Upon execution of this Agreement, and within thirty (30) days of receipt of invoice from the State, remit the City's share of the PA to the State, currently estimated at \$50,000.00. Remit payment to the State for any mutually-agreed cost increases within thirty (30) days of receipt of invoice. Upon completion of the PA and final reconciliation of PA costs, remit any excess payment to the State upon receipt of invoice.

c. Be responsible for any consultant claims for additional compensation caused by or attributable to the City, and remit payment to the State for any said costs within thirty (30) days of receipt of invoice.

d. Provide any comments to the State as appropriate regarding the PA or DCR development.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall remain in full force and affect until completion of the work contemplated herein and all reimbursements. This Agreement may be cancelled by either Party upon 30-days written notice to the other Party, prior to starting the Study. It is understood and agreed if the City terminates this Agreement or withdraws its share of the PA costs, the City shall be responsible for all PA costs incurred by the State up to the time of termination. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to complete the PA.

2. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs or other expenses (including, but not limited to, reasonable attorneys' fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death), property damage and any other claims (including, but not limited to, claims of derivative or vicarious liability), which are caused by the act, omission, negligence, misconduct or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

3. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

4. The cost of the Project under this Agreement includes applicable indirect costs approved by the Federal Highway Administration (FHWA).

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

6. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes § 35-214 and § 35-215 shall apply to this Agreement.

7. In the event of any controversy which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

City of Prescott
Attn: City Engineer
430 N. Virginia Street
Prescott, Arizona 86302
(928) 777-1140
(928) 771-5943 Fax

City of Prescott Finance
Attn: Finance Director
201 S. Cortez Street
(928) 777-1215
(928) 777-1255 Fax

9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

10. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

11. Compliance requirements for Arizona Revised Statutes § 41-4401—immigration laws and E-Verify requirement:

- a. The City warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Arizona Revised Statutes § 23-214, Subsection A.
- b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract, and the City may be subject to penalties up to and including termination of the Agreement.
- c. The State retains the legal right to inspect the papers of any employee who works on the PA effort to ensure that the City or subcontractor is complying with the warranty under paragraph (a).

12. Pursuant to Arizona Revised Statutes § 35-391.06 and § 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in Arizona Revised Statutes § 35-391 and/or § 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.

13. The City and the State (Arizona Department of Transportation) (ADOT) warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the City will provide information that is requested by the State (ADOT) to enable the State (ADOT) to comply with the requirements of the Act, as may be applicable.

14. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF PRESCOTT

STATE OF ARIZONA

Department of Transportation

By _____
MARLIN KUYKENDALL
Mayor

By _____
DALLAS HAMMIT, P.E.
Deputy State Engineer, Operations

ATTEST:

By _____
LIZ BURKE
City Clerk

Initial Draft 5/7/10 ghc
Revised Draft with City and District Comments 6/23/10
AG approved 10/7/10
Draft 2 City/ADOT District/ghc 3/8/11

IGA/JPA 10-027-I

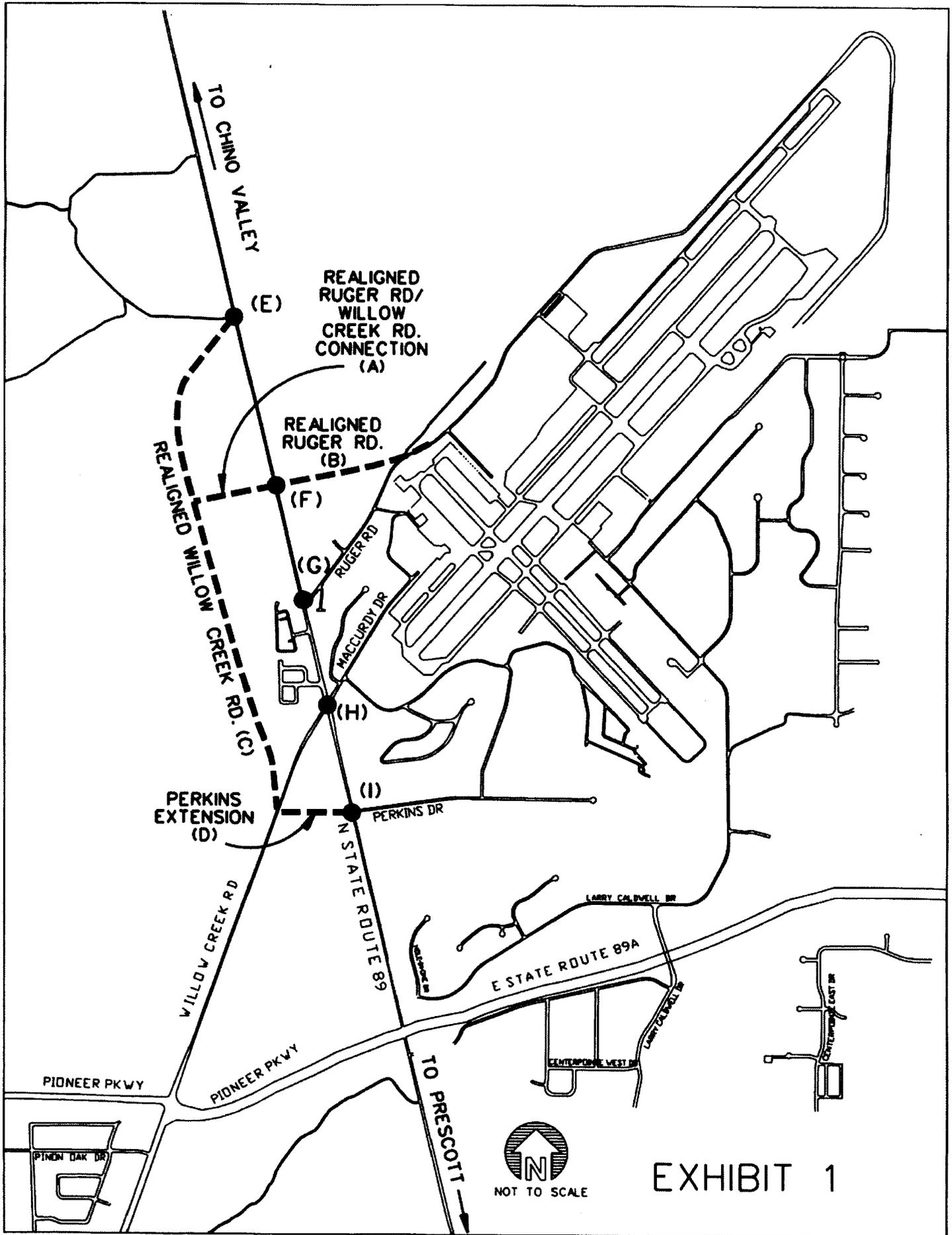
ATTORNEY APPROVAL FORM FOR THE CITY OF PRESCOTT

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF PRESCOTT, an Agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this _____ day of _____, 2011.

City Attorney



COUNCIL AGENDA MEMO – May 24, 2011
DEPARTMENT: Public Works
AGENDA ITEM: Award of bid and contract for the FY 2011 Pavement Reconstruction Project, to Asphalt Paving & Supply, Inc., in the amount of \$194,934.50.

Approved By:	Date:
Department Head: Mark Nietupski, Public Works Director	May 13, 2011
Finance Director: Mark Woodfill	
City Manager: Craig McConnell 	5-16-11

Item Summary

This item is to award a bid and contract for pavement reconstruction on Cedarwood Drive, and select pavement repairs on Indian Meadows Drive, Smoketree Lane, and Sheldon Street near the entrance to Yavapai Community College.

Background

As part of the City's ongoing Pavement Management Program, the Public Works Department maintains a data base of street conditions. This information is utilized to target specific needs and develop projects for pavement preservation, rehabilitation, and reconstruction.

This project was made possible due to other Pavement Preservation/Rehabilitation contracts in FY 2011 being completed for less than estimated and budgeted, which contracts consisted of chip seals, asphalt concrete friction courses, pavement resurfacing by mill/overlay, and other pavement repairs citywide. The favorable bids received over the last year have resulted in benefit to the City allowing more work to be accomplished making taxpayer dollars go farther.

Bid Results

A mandatory pre-bid meeting was held April 28, 2011. Four bids were received on May 5, 2011, as follows:

<u>Bidder</u>	<u>Location</u>	<u>Total Bid</u>
Asphalt Paving & Supply, Inc.	Prescott Valley, AZ	\$194,934.50
Fann Contracting, Inc.	Prescott, AZ	\$213,630.50
Combs Construction Company, Inc.	Glendale, AZ	\$226,429.00
Canyon Sunrise Development. LLC	Phoenix, AZ	\$239,310.94*
Engineer's Estimate		\$215,550.00

*corrected for minor mathematical error.

Agenda Item: Award of bid and contract for the FY 2011 Pavement Reconstruction Project, to Asphalt Paving & Supply, Inc., in the amount of \$194,934.50.

Written confirmation of their bid has been received from the low responsive bidder, Asphalt Paving & Supply, Inc. Verification of the company's license, bonding, references, and past performance of similar projects has been completed.

Schedule

The bid allows thirty (30) calendar days for completion of the work. Project milestones are listed below:

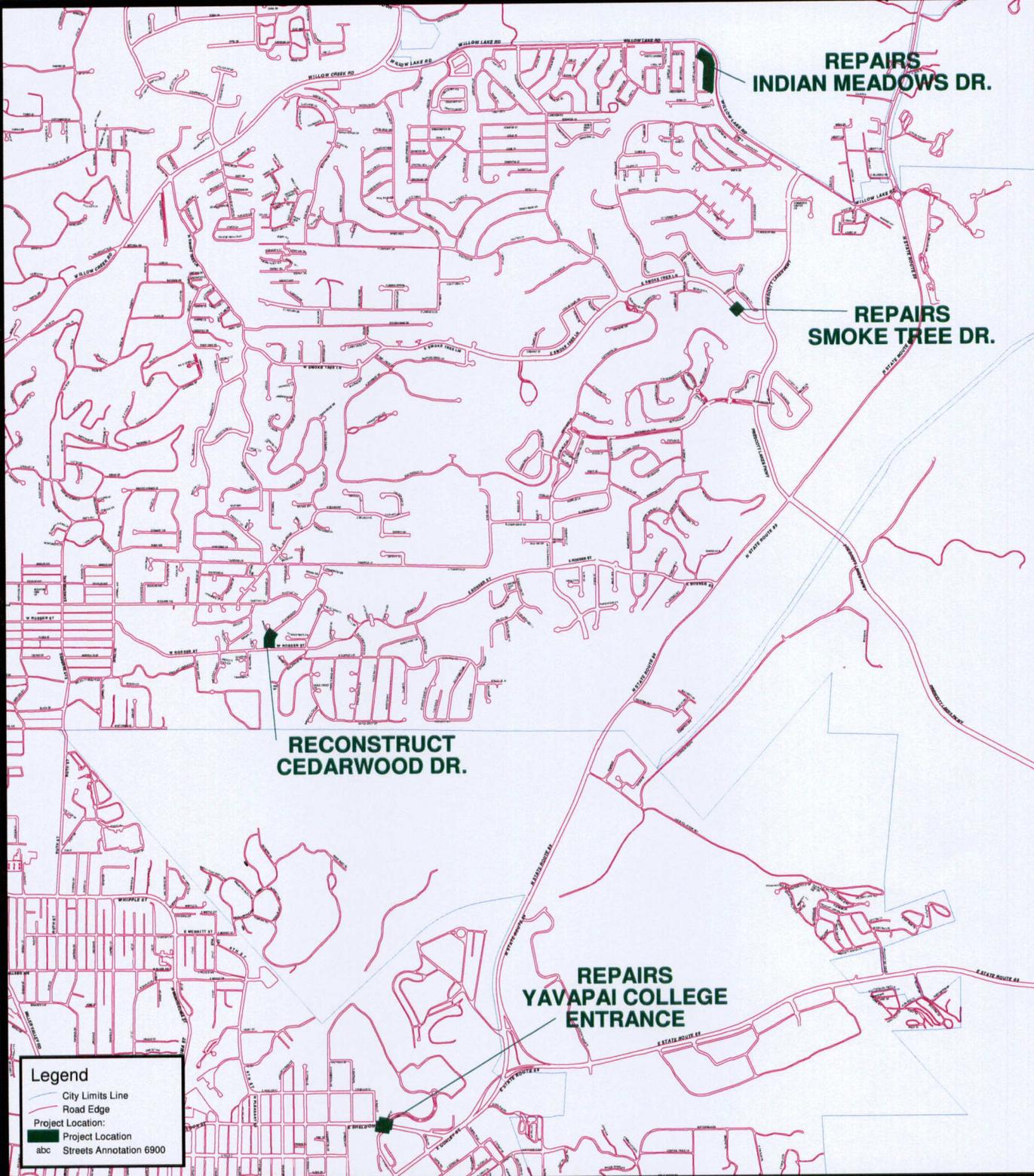
Award of Contract	May 24, 2011
Pre-Construction Meeting	May 30, 2011
Notice to Proceed (NTP)	June 6, 2011
Substantial Project Completion	July 5, 2011

Budget

FY 2011/2012 funding for this project is from the One Cent Sales Tax for Streets and Open Space; Account No. 215-7810-90036.

Attachment - Location Map

Recommended Action: **MOVE** to award the bid and contract for the FY 2011 Pavement Reconstruction Project to Asphalt Paving & Supply, Inc., in the amount of \$194,934.50.



Legend

- City Limits Line
- Road Edge
- Project Location:
 - Project Location
 - abc Streets Annotation 6900



**FY 11 PAVEMENT
RECONSTRUCTION
& REPAIRS
LOCATION MAP**

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

III-K

COUNCIL AGENDA MEMO – May 24, 2011

DEPARTMENT: City Manager

AGENDA ITEM: Adoption of Resolution No. 4080-1150 approving an intergovernmental agreement with the Arizona Department of Transportation, and Resolution No. 4081-1151 approving an intergovernmental agreement with Yavapai County, pertaining to transfer of ownership and maintenance responsibility for two segments of State Route 89

Approved By:

Date:

Finance Director: Mark Woodfill

City Manager: Craig McConnell



5-19-11

Summary

The Arizona Department of Transportation (ADOT) and Yavapai County recently approved an intergovernmental agreement (IGA) providing for the transfer of ownership from the County to ADOT, and subsequent improvement by ADOT of Fain Road from SR 69 to the SR 89A Spur as a state access-controlled highway. In conjunction with that transaction, the County agreed to assume maintenance of two segments of SR 89 shown on the attached map. Segment 1 is located within the Yavapai-Prescott Indian Tribe (YPIT) Reservation. Segment 2 extends from north of the Willow Lake Road roundabout to SR 89A.

ADOT desires to transfer ownership of these two segments to local jurisdictions as consideration for assuming ownership of Fain Road and enhancement of our regional system. Future completion of Fain Road as a state highway would benefit the City by providing improved access to the Airport area via SR 89A.

Given the City of Prescott's prior strip annexation of SR 89 extending to the Airport, ADOT has determined that the transfer of ownership for both Segments 1 and 2 must be to the City. Adoption of Resolution No. 4080-1150 will accomplish this first transfer.

Since the City has no apparent interest in highway right-of-way within the YPIT Reservation, following transfer from ADOT, the City and County propose to enter into an IGA providing for transfer of Segment 1 in turn from the City to the County, and maintenance by the County. The City does have an interest in Segment 2 due to the existence of City utilities infrastructure, frontage as a property owner through acquisition of open space, and potential annexations of adjoining lands in the future.

The City has two major utilities transmission pipelines within Segment 2. The first is the recently reconstructed wastewater trunk main conveying untreated flows from the Willow Lake area to the Airport Water Reclamation Facility; the second is the 18" main effluent line from the Sundog Wastewater Treatment Plant to the Airport Recharge Facility. Additionally, depending upon the outcome of an analysis now in progress, it is possible that in the future flows now treated at the Sundog facility could be piped to the Airport plant for treatment. Judging from experience with the aforementioned, recently reconstructed wastewater trunk main, installation of any new major City utilities

Agenda Item: Adoption of Resolution No. 4080-1150 approving an intergovernmental agreement with the Arizona Department of Transportation, and Resolution No. 4081-1151 approving an intergovernmental agreement with Yavapai County, pertaining to transfer of ownership and maintenance responsibility for two segments of SR 89

infrastructure within the SR 89 corridor would be greatly simplified if the City owned the right-of-way.

As mentioned at the May 17th Budget Workshop, design of the roundabout on SR 89 at the future Side Road Connector intersection (near the Phippen museum) is planned to commence in FY 12. Having this segment of SR 89 under City ownership would likewise greatly simplify design and eventual construction of the intersection.

Yavapai County will maintain Segment 2 until any such future annexation occurs, for a period of not less than five (5) years from initiating that maintenance. Adoption of Resolution No. 4081-1151 will effect this second arrangement pertaining to maintenance of SR 89.

Abandonment of State Highways and Final ADOT IGA

Attached for reference are two statutes applicable to abandonment of state highways. The proposed agreement between ADOT and the City is appended to Resolution No. 4080-1150 and marked as a draft. It is anticipated that the final version will be available for consideration by the Council on May 24th.

Budget

The City will incur no initial financial impact from either of these two intergovernmental agreements. As explained above, the City will be obligated to maintain Segment 2 in the event of an adjoining annexation, but not earlier than five (5) years from the effective date of the IGA with Yavapai County, increasing the 577 lane-miles presently in the City's paved inventory by about 1% (5.75 lane-miles). Given the annual budget for routine maintenance of \$3.2 million (\$5,500 per lane-mile), the associated annual cost impact would be about \$32,000. The draft budget for the HURF, Streets & Open Space includes \$14 million in projected revenue for FY 12. The difference between this figure and \$3.2 million is available for debt service, open space acquisition, and street projects, including major maintenance and pavement rehabilitation. Using this source, like other major City streets, Segment 2 would be anticipated to require milling/overlay at an interval of 12-15 years.

Attachments - Abandonment of State Highways - Applicable Statutes
- Resolution No. 4080-1150 and IGA with ADOT
- Resolution No. 4081-1151 and IGA with Yavapai County

Recommended Action:

- (1) MOVE** to adopt Resolution No. 4080-1150; and
- (2) MOVE** to adopt Resolution No. 4081-1151.

Abandonment of State Highways - Applicable Statutes

28-7207. State roadway abandoned

If a roadway is a state roadway, the governing body may resolve that this state's interest in the roadway or portion of the roadway be abandoned. On abandonment:

1. This state's interest in the part of the roadway that is located outside the boundaries of incorporated cities or towns vests in the county where the roadway is located.
2. This state's interest in the part of the roadway that is located within the boundaries of an incorporated city or town vests in that city or town.
3. The director shall promptly notify the city, town or county affected by the abandonment, and that county, city or town may maintain the roadway as other county, city or town roadways are maintained or dispose of it as provided in this article.

28-7209. Vacated or abandoned highway; affected jurisdiction; procedure

A. If the board vacates or abandons a portion of a state route or state highway pursuant to section 28-304, the board shall:

1. Vacate or abandon the portion of the route or highway in cooperation with an affected jurisdiction and in full recognition of the financial and administrative impacts of the changes on the affected jurisdiction.
2. Provide four years' advance notice to the affected jurisdiction, except as provided in paragraph 3 and except that, by mutual agreement, the board and the affected jurisdiction may waive this requirement for notification.
3. Provide at least one hundred twenty days' advance notice to the affected jurisdiction for the abandonment of new street improvements such as cul-de-sacs and reconnections of existing streets resulting from highway projects.

B. Before a paved highway is vacated or abandoned, the pavement before the vacating or abandonment shall be in such a condition that additional surface treatment and major maintenance of the highway are not required for at least five years, unless the board and the affected jurisdiction agree to waive the requirement of this subsection.

RESOLUTION NO. 4080-1150

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION TO TRANSFER OWNERSHIP OF TWO SEGMENTS OF STATE ROUTE 89 TO THE CITY OF PRESCOTT AND FOR THE SIGNIFICANT EXPENDITURE ANTICIPATED FOR IMPROVEMENT OF FAIN ROAD AND ENHANCEMENT OF THE CYMPO REGIONAL SYSTEM AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, the City of Prescott ("City") and Arizona Department of Transportation ("ADOT") wish to enter into an Intergovernmental Agreement ("IGA") attached hereto as Exhibit "A," and made a part hereof, for ADOT to transfer ownership of two segments of State Route 89 to the City of Prescott; and

WHEREAS, ADOT desires to transfer ownership of the two segments to local jurisdictions as consideration for the significant expenditure anticipated for the improvement of Fain Road and enhancement of the CYMPO regional system; and

WHEREAS, ARS §§11-951 AND 11-952 authorize "public agencies" such as City of Prescott and ADOT to enter into intergovernmental agreements to contract for services and facilities.

ENACTMENTS:

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

SECTION 1. THAT the City of Prescott hereby approves the attached Intergovernmental Agreement between the City of Prescott and the Arizona Department of Transportation attached hereto as Exhibit "A," and made a part hereof.

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

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 24th day of May, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

DRAFT AGREEMENT
Final version will be provided for
the May 24th Council meeting.

ADOT File No.: IGA/JPA 10-225-I
AG Contract No.: P001 2011 00xxxx
Project: Roadway improvements and
ownership transfer of right-of-way
Section: Fain Rd from SR 69 to SR 89A
Spur and Segments 1 & 2 of SR 89
Project No.:
TRACS No.: H8160 01C
TIP/STIP No.: xxxx
Budget Source Item No.: xxxx

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF PRESCOTT

THIS AGREEMENT is entered into this date, _____, 2011, pursuant to Arizona Revised Statutes § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF PRESCOTT, acting by and through its Mayor and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties". Yavapai County (the "County") is included herein by reference but is not a party to this Agreement.

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 11-251 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement on behalf of the City.

3. The State desires to improve Fain Road as a State access controlled highway from State Route (SR) 69 to SR 89A Spur (hereinafter referred to as "the Project"). Fain Road is a controlled access highway under the jurisdiction of Yavapai County.

4. In conjunction with the Project, the State and County desire that the State abandon and the City accept the following segments of State Route 89 for continued operation as a State Highway, and that operation and maintenance of such segments be assured via an agreement between the County and the City setting forth their respective responsibilities for such purposes:

a. State Route 89 – Segment 1 (approximately four hundred (400) feet north of the Veterans Administration entrance road, (Sta. 1685+90; MP 312.95), to the southern leg of the Sundog Ranch Road (Sta. 1633+10; MP 313.95) intersection– This portion of State Route 89 is a four-lane highway (two-lanes in each direction) (see attached Exhibit A).

b. State Route 89 – Segment 2 (Hillsdale Road (Sta. 1510+32; MP 316.27) to approximately nine hundred (900) feet south (Sta. 2352+50; MP 319) of the intersection of the State Route 89A traffic interchange's eastbound ramp) – This portion of State Route 89 is a two-lane highway (one-lane in each direction) (see attached Exhibit A).

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Upon final acceptance by the State and approval of a Resolution of Establishment by the State Transportation Board, accept ownership from the County, jurisdiction and maintenance responsibilities of Fain Road, including the Project as described and depicted in Article I, Paragraph 3 of this Agreement and Exhibit A.

b. Concurrent with the Resolution of Establishment for the Fain Road segment, transfer ownership, jurisdiction and maintenance responsibilities of Segment 1 and Segment 2 identified in Exhibit A to the City by Resolution of Abandonment approved by the State Transportation Board.

c. Not object to the City and County agreeing, by separate agreement, to transfer ownership, jurisdiction, and maintenance responsibility for Segment 1 as identified by Exhibit A to the County.

d. Upon the transfer of Fain Road section into the State Highway System, be responsible for the advertisement, award and construction of the widening of Fain Road to a four-lane divided highway. The State shall be responsible for the construction and expenses of said project, upon acceptance into the State's Transportation Improvement Plan.

e. Use the Arizona Department of Transportation Pavement Management System to evaluate and implement the recommended treatment sufficient to ensure only normal pavement maintenance effort will be required by the County for Segment 1 and the City for Segment 2 for a period of five (5) years following transfer of said rights-of-way as provided herein.

2. The City will:

a. Provide a four year notice of waiver per Arizona Revised Statutes § 28-7209 prior to submission of the request to the Transportation Board and accept ownership, jurisdiction and maintenance responsibilities of Segment 1 and Segment 2 of State Route 89 as defined in Article I Paragraphs 4.a & 4.b of this Agreement concurrent with the State's acceptance of Fain Road for ownership and maintenance.

b. Adopt an ordinance accepting ownership of Segment 1 and Segment 2.

c. Adopt an ordinance transferring any and all interest in Segment 1 to the County, which shall be responsible for ownership, jurisdiction, and maintenance.

d. Own, operate, and maintain or otherwise cause to be maintained Segment 2.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall remain in full force and effect upon approval of both resolutions by the State Transportation Board for roadway areas depicted on Exhibit A and until completion of said Project, plus any obligations under this Agreement of the Parties; however, that any provisions in this Agreement for indemnification and maintenance shall be perpetual for each Party.

2. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs or other expenses (including, but not limited to, reasonable attorneys' fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death), property damage and any other claims (including, but not

limited to, claims of derivative or vicarious liability), which are caused by the act, omission, negligence, misconduct or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

3. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes § 35-214 and § 35-215 shall apply to this Agreement.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 2009-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. **Non-Availability of Funds:** Every obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

8. In the event of any controversy which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation

Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

City of Prescott Public Works

Attn: Mark Nietupski
Public Works Director
433 N. Virginia Street
Prescott, AZ 86301
928-777-1130
928-771-5929 Fax

10. Pursuant to Arizona Revised Statutes § 35-391.06 and § 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in Arizona Revised Statutes § 35-391 and/or § 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.

11. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF PRESCOTT

STATE OF ARIZONA

Department of Transportation

By _____
MARLIN D. KUYKENDALL
Mayor of Prescott

By _____
DALLAS HAMMITT, P.E.
Deputy State Engineer, Operations

ATTEST:

By _____
ELIZABETH A. BURKE
Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF PRESCOTT

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF PRESCOTT, an Agreement between public agencies which has been reviewed pursuant to Arizona Revised Statutes § 11-951 through § 11-954, and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this _____ day of _____, 2011.

GARY D. KIDD, City Attorney

Preliminary
Draft

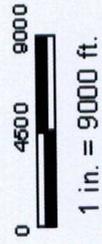
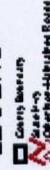


Fain Road Widening/SR89 Ownership Transfer Intergovernmental Agreement

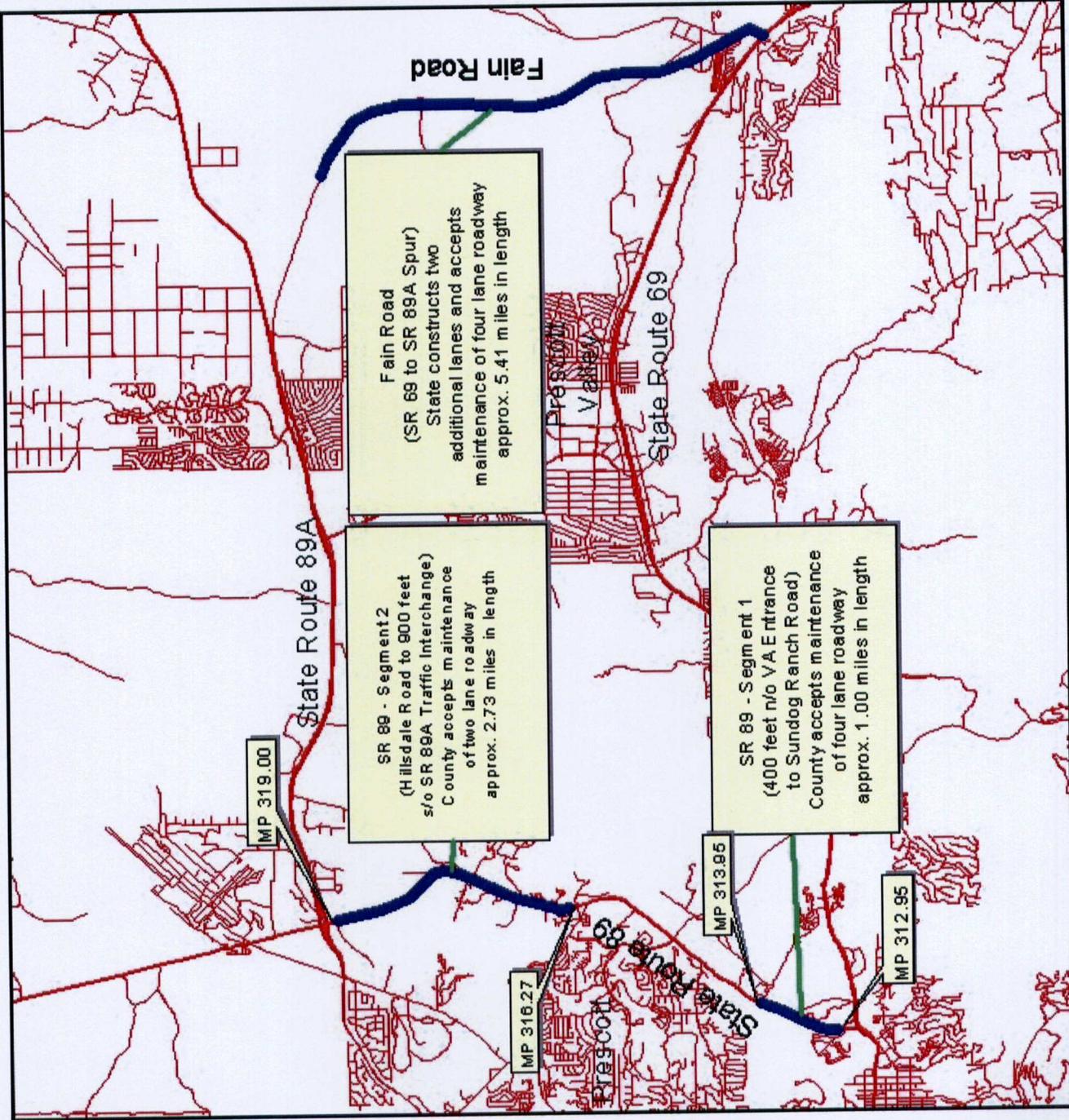
Exhibit A

(IGA/JPA 10-225-I)

LEGEND



January 27, 2011



Yavapai County assumes no responsibility for errors, omissions, and/or inaccuracies in this mapping product.

RESOLUTION NO. 4081-1151

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH YAVAPAI COUNTY PERTAINING TO TRANSFER OF OWNERSHIP AND MAINTENANCE RESPONSIBILITY FOR TWO SEGMENTS OF STATE ROUTE 89 AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, the City of Prescott and Yavapai County wish to enter into an Intergovernmental Agreement ("IGA") attached hereto as Exhibit "A," and made a part hereof, for City of Prescott to transfer ownership and maintenance responsibility of only Segment 1 of SR 89, located within the Yavapai-Prescott Indian Tribe Reservation, to Yavapai County, and transferring (only) the highway maintenance responsibility of Segment 2 to Yavapai County until future annexation occurs to Fain Road from SR 69 to the SR 89A spur; and

WHEREAS, the City of Prescott desires to transfer ownership and maintenance responsibilities of Segment 1 of SR 89 to Yavapai County and Yavapai County agrees; and

WHEREAS, Yavapai County agrees to accept the maintenance responsibility of Segment 2, located north of the Willow Lake Road round-a-bout to SR 89A, until any such future annexation occurs, for a period of not less than five (5) years from initiating that maintenance; and

WHEREAS, the City will incur no initial financial impact for this IGA. The funding sources for such maintenance will be the Highway Users Revenue Fund and/or Streets Sales Tax Fund; and

WHEREAS, ARS §§11-951 AND 11-952 authorize "public agencies" such as City of Prescott and Yavapai County to enter into intergovernmental agreements to contract for services and facilities.

ENACTMENTS:

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

SECTION 1. THAT the City of Prescott hereby approves the attached Intergovernmental Agreement between the City of Prescott and Yavapai County attached hereto as Exhibit "A," and made a part hereof.

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

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 24th day of May, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF PRESCOTT AND YAVAPAI COUNTY FOR
THE TRANSFER OF OWNERSHIP AND/OR MAINTENANCE OF TWO (2)
SEGMENTS OF STATE ROUTE 89**

THIS AGREEMENT, entered into this ____ day of _____, 2011, by and between the CITY OF PRESCOTT, a municipal corporation of Arizona (hereafter "City"), and YAVAPAI COUNTY, a political subdivision of the State of Arizona (hereafter the "County"); and

WHEREAS, the City and the County are collectively referred to as "Parties" in this agreement, and the State of Arizona (the "State") is included herein by reference but is not one of the Parties to this Agreement; and

WHEREAS, the State desires to improve Fain Road as a State access controlled highway from State Route (SR) 69 to SR 89A Spur. Fain Road is a controlled access highway under the jurisdiction of the County, 5.41 miles in length, which connects SR 69 to the SR 89A Spur, (see Exhibit "A"); and

WHEREAS, in conjunction with the planned improvement of Fain Road, the State desires to abandon ownership, jurisdiction, and maintenance responsibility for two segments of SR 89 as depicted on Exhibit "A"; and

WHEREAS, in consideration for the State improving Fain Road as a State access controlled highway the County is willing to accept for maintenance said two segments of SR 89 from the State depicted on Exhibit "A"; and

WHEREAS, since the rights of way for said two segments of SR 89 have been previously annexed into the City, in the event of abandonment of jurisdiction the State is required to transfer the segments of SR89 to the City; and

WHEREAS, the City and State are agreeable to the State abandoning and City accepting and assuming the ownership interest of the State in each of said two segments; and

WHEREAS, the City and the County are agreeable to entering into this Agreement specifying providing for the subsequent ownership and maintenance of each of said two segments; and

WHEREAS, the parties further acknowledge the public necessity of assuring maintenance of said two segments which would benefit residents of both the County and the City; and

WHEREAS, the parties have cooperated in the past in matters of mutual interest affecting both City and County residents; and

WHEREAS, ARS §§ 11-951 and 11-952 authorize “public agencies” such as Prescott and the County to enter into such intergovernmental agreements; and

NOW, THEREFORE, in consideration of the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follow.

SECTION 1: SR 89 – SEGMENT 1. The City shall upon transfer from the State to the City, in turn transfer any and all ownership interest, jurisdiction, and maintenance responsibility for Segment 1 of SR 89 to the County which shall accept such transfer of Segment 1 of the property interests conveyed to the City by the State under assignment or similar transfer under the same title documents and conditions under which the property was transferred from the State to the City of Prescott. Segment 1 limits are approximately four hundred (400) feet north of the Veterans Administration entrance road, (Sta. 1685+90; MP 312.95), to the southern leg of the Sundog Ranch Road intersection (Sta. 1633+10; MP 313.95). This Segment 1 of SR 89 is a four-lane highway (two-lanes in each direction) (see Exhibit “A”).

SECTION 2: SR 89 – SEGMENT 2. The City of Prescott shall accept the transfer of ownership and jurisdiction of Segment 2 of SR 89 from the State. Upon acceptance by the City, the County agrees to fund and accomplish maintenance to County standards of Segment 2 of SR 89, the limits of which are from Hillsdale Road (Sta. 1510+32; MP 316.27) to approximately nine hundred (900) feet south of the intersection of the SR 89A traffic interchange’s eastbound ramp (Sta. 2352+50; MP 319.00) and are in the County limits. This Segment 2 of SR 89 is a two-lane highway (one-lane in each direction) (see Exhibit “A”). The City of Prescott further agrees to accept for maintenance the entirety of said Segment 2 upon future annexation by the city of any adjacent property along this corridor described in Exhibit “A,” but not sooner than five (5) years from the date of approval of this agreement by the Prescott City Council and Yavapai County Board of Supervisors.

SECTION 3: NOTICES. Notices relating to this Intergovernmental Agreement shall be deemed to have been duly delivered upon personal delivery, or as of the second business day after mailing by United States mail, postage prepaid, addressed as follows:

Prescott: City of Prescott
c/o City Manager
201 S. Cortez Street
Prescott, Arizona 86303

Yavapai County: Yavapai County
c/o County Administrator
1015 Fair Street
Prescott, Arizona 86301

SECTION 4: CONFLICT OF INTEREST. Pursuant to A.R.S. Section 38-511, either party 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 the City is, at any time while the Agreement or an extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement. In the event of the foregoing, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City of Prescott from any other party to the Agreement arising as a result of this Agreement.

SECTION 5: INDEMNIFY AND HOLD HARMLESS. Yavapai County hereby agrees to indemnify and hold harmless the City, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits as a result of Yavapai County's participation pursuant to this Agreement, whether said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the undersigned or its agents. Yavapai County further releases and discharges the City, its departments and divisions, its agents and employees, and any and all persons legally responsible for the acts or omissions of the City, from any and all claims which Yavapai County has or may have against the City, its agents or employees, arising out of or in any way connected with Yavapai County's activities as set forth in this Agreement.

The City of Prescott (hereinafter "City") hereby agrees to indemnify and hold harmless Yavapai County, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits as a result of City's participation pursuant to this Agreement, whether said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the undersigned or its agents. City further releases and discharges Yavapai County, its departments and divisions, its agents and employees, and any and all persons legally responsible for the acts or omissions of Yavapai County, from any and all claims which City has or may have against Yavapai County, its agents or employees, arising out of or in any way connected with City's activities as set forth in this Agreement.

SECTION 6: WAIVER. No oral order, objection, claim, or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver, or modifications shall be introduced in any proceeding.

SECTION 7: WAIVER OF JURY TRIAL AND ATTORNEYS' FEES. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The parties hereto further expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorney's fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute, or state or federal court rule, or state or federal common law.

SECTION 8: RESULT OF NEGOTIATIONS. This Agreement is the result of negotiations by and between the parties. Although it has been drafted by Yavapai County Attorney and by the Prescott City Attorney, it is the result of negotiations between the parties. Therefore, any ambiguity in this agreement is not to be construed against either party.

SECTION 9: INSURANCE.

A. Yavapai County shall carry sufficient insurance to cover the activities outlined in this Agreement, and shall hold the City harmless and indemnify the City from any and all liability which may result from the acts or omissions of Yavapai County's employees or agents.

B. The City shall carry sufficient insurance to cover the activities outlined in this Agreement, and shall hold Yavapai County harmless and indemnify Yavapai County from any and all liability which may result from the acts or omissions of the City's employees or agents.

SECTION 10: DESIGNATED REPRESENTATIVES. Both parties hereto agree that they will designate at all times at least one staff member to be a liaison of that agency in carrying out the provisions of this agreement, for purposes of notice, scheduling, etc. Initially, the designated staff persons are:

For the City:

Mark Nietupski
Public Works Director
Public Works Department
433 N. Virginia Street, Prescott, AZ 86301
Phone: (928) 777-1130

For the County:

Phil Bourdon P.E.
County Engineer
1100 Commerce Drive
Prescott, AZ 86305
(928) 771-3183

SECTION 11: PROPERTY DAMAGE. Whenever one party to this Agreement damages property which is the subject of this Agreement, that party will be solely responsible for repairs and replacement.

SECTION 12: TERM OF AGREEMENT. This Agreement shall remain in full force and effect for a term of five (5) years and shall be automatically renewed for successive one (1) year periods thereafter unless written notice of termination pursuant to Council or Board action is delivered to the other party no later than first day of May of the year preceding the desired termination of this Agreement.

SECTION 13: ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties with respect to the subject matters hereof, and it may be amended, modified, or waived only by an instrument in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials on the aforementioned date.

CITY OF PRESCOTT

YAVAPAI COUNTY

Marlin D. Kuykendall
Mayor

Carol Springer Chairman, Yavapai County Board
of Supervisors

ATTEST:

ATTEST:

Elizabeth A. Burke
City Clerk

Clerk, Yavapai County Board
of Supervisors

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

Gary D. Kidd, City Attorney

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

David Hunt
Deputy County Attorney



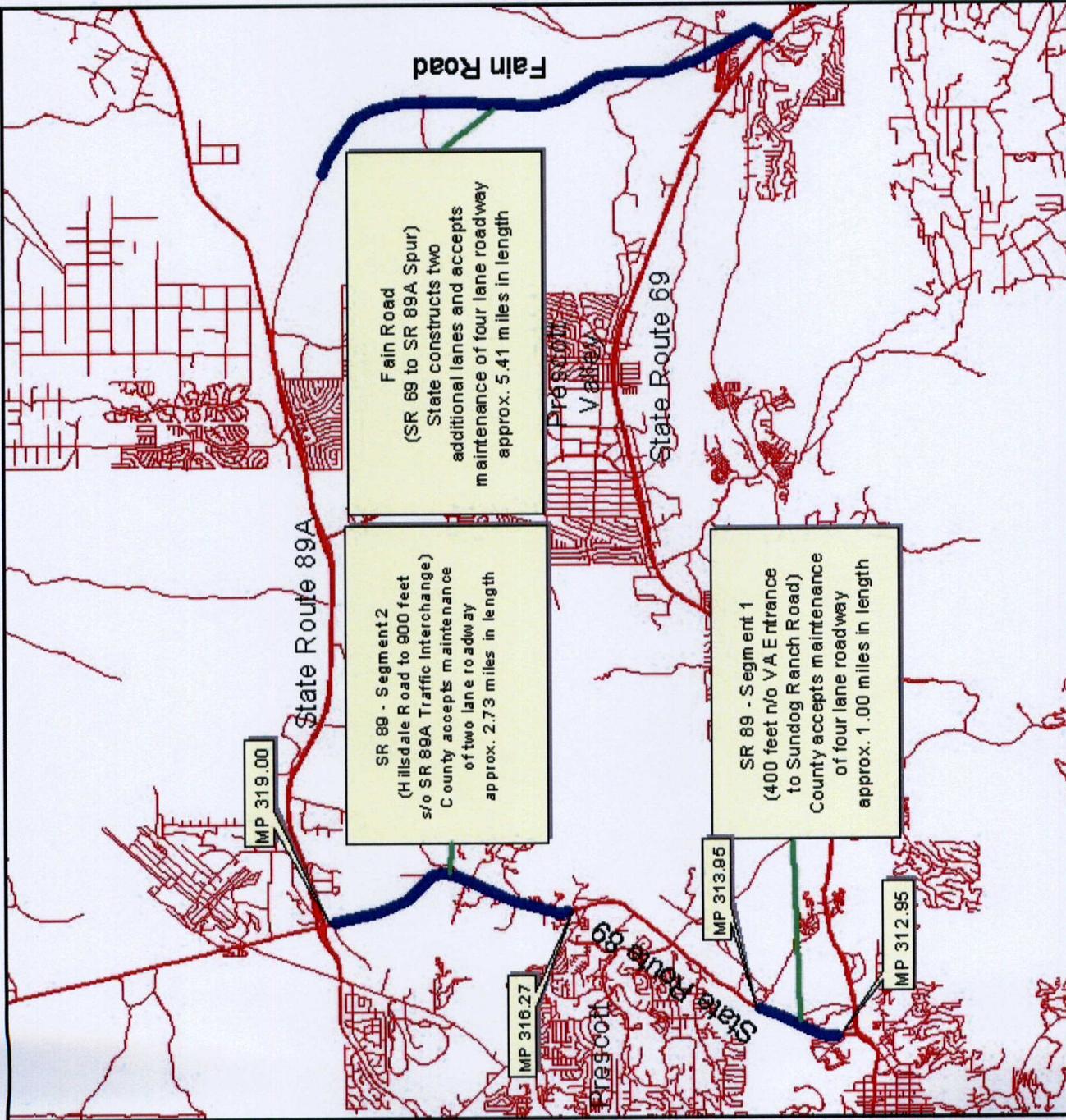
**Fain Road
Widening/SR89
Ownership Transfer
Intergovernmental
Agreement
Exhibit A
(IGA/JPA 10-225-I)**

LEGEND
 County Boundary
 Road Right-of-Way
 Water Feature



0 4500 9000
 1 in. = 9000 ft.

January 27, 2011



Yavapai County assumes no responsibility for errors, omissions, and/or inaccuracies in this mapping product.