

PRESCOTT CITY COUNCIL REGULAR VOTING MEETING AGENDA

**PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, AUGUST 9, 2011
3:00 PM**

**Prescott City Hall 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:** Reverend Julia McKenna-Johnson
- ◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Suttles
- ◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

| | |
|---------------------|----------------------|
| Mayor Kuykendall | |
| Councilman Blair | Councilwoman Lopas |
| Councilman Hanna | Councilman Scamardo |
| Councilman Lamerson | Councilwoman Suttles |

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

- I. **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 a professional services agreement with AMEC Earth & Environmental, Inc., for environmental engineering services to develop stormwater pollution prevention plans for City-owned industrial facilities in an amount not to exceed \\$19,950.00.](#)
- B. Approval of minutes of the Prescott City Council Special Meeting of July 19, 2011; the Special Meeting of July 21, 2011; the Regular Voting Meeting of July 26, 2011, and the Workshop of August 2, 2011.

II. REGULAR AGENDA

- A. Appointment of Member to the Fire Board of Appeals.
- B. Approval of purchase of downloadable media for the Prescott Public Library from OverDrive, Inc., in an amount not to exceed \$30,000.00. (Funded by the Yavapai County Library District)
- C. Approval of Spitfire Films' request to sublease a hangar located at 6575 Crystal Lane to Legend Aviation at the Prescott Municipal Airport, Ernest A. Love Field.
- D. 2011 Amendments to the Model City Tax Code:
 - 1. Adoption of Resolution No. 4094-1204 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, declaring as a Public Record that certain document filed with the City Clerk and entitled the “2010-2011 Amendments to the Model City Tax Code.”
 - 2. Adoption of Ordinance No. 4804-1204 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, relating to the privilege license tax; adopting “The 2010-2011 Amendments to the Model City Tax Code” by reference and providing for severability and providing penalties for violations.
- E. Approval of Revision of Plat, Lots 14 and 16, Block C Original Townsite of Prescott to create one additional lot (14R-B). Owner/Applicant: Don L. Karcie Trust, APN 113-15-021, File No. RP11-002.
- F. Adoption of Ordinance No. 4806-1206 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the purchase of real property from Reva K. Fredericksen for construction of the Zone 19 Pump Station, and authorizing the Mayor and staff to execute any and all documents to effectuate said purchase.
- G. Adoption of Ordinance No. 4805-1205 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, abandoning a sewer easement and accepting public utility easements for “The Bradshaws” and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment and acceptance of public utility easements.
- H. Discussion and action regarding City Manager search procedure.

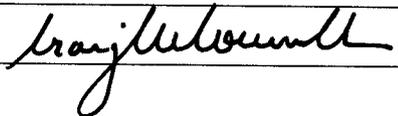
III. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

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

Elizabeth A. Burke, MMC, City Clerk

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| COUNCIL AGENDA MEMO – August 9, 2011 | |
| DEPARTMENT: | Public Works |
| AGENDA ITEM: Approval of a professional services agreement with AMEC Earth & Environmental, Inc., for environmental engineering services to develop stormwater pollution prevention plans for City owned industrial facilities in an amount not to exceed \$19,950.00. | |

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|--|--|---------------|
| Approved By: | | Date: |
| Department Head: Mark Nietupski | | July 29, 2011 |
| Finance Director: Mark Woodfill | | |
| City Manager: Craig McConnell |  | 8-1-11 |

Item Summary

This item is to approve a professional services agreement with AMEC Earth & Environmental, Inc., for environmental engineering services to develop stormwater pollution prevention plans for City owned industrial facilities. These facilities include both wastewater treatment plants, the fleet services building, and the transfer station. Each site will require a stormwater pollution prevention plan (SWPPP) per the Arizona Department of Environmental Quality (ADEQ) Multi-Sector General Permit (MSGP).

Background

The U.S. Environmental Protection Agency (EPA) requires that certain industrial and construction activities apply for National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharged to surface waters of the United States. In December 2010, ADEQ released the Arizona Pollutant Discharge Elimination System (AZPDES) for mining and non-mining facilities. These permits apply to 30 different sectors of industry. The City operates several facilities that conduct activities that require them to obtain permit coverage under the AZPDES Non-mining MSGP 2010. These facilities are as follows:

- Wastewater Treatment Facility (Sundog)
- Wastewater Treatment Facility (Airport)
- Fleet Services Facility
- Street Maintenance Facility (Transfer Station)

This professional services agreement will result in the production of a SWPPP that identifies the Best Management Practices (BMPs) for each site. Depending on the activity, this may result in BMPs that are site specific improvements and/or modification of operational procedures. The recommended site improvements will be implemented as a separate action in the future.

Agenda Item: Approval of a professional services agreement with AMEC Earth & Environmental, Inc., for environmental engineering services to develop stormwater pollution prevention plans for City owned industrial facilities in an amount not to exceed \$19,950.00.

Project Schedule

| | |
|--------------------|------------------|
| Commence | August 16, 2011 |
| Complete Submittal | October 14, 2011 |

Budget

FY 11 funding for this project will be paid from the following accounts:

| | |
|---------------------------------|---------|
| Wastewater Treatment Facilities | 2157810 |
| Fleet Services Facility | 2157810 |
| Streets Management Facility | 2156610 |

Attachments

- Scope of Services

Recommended Action: **MOVE** to approve a Professional Services Agreement with AMEC Earth & Environmental, Inc., for environmental engineering services to develop stormwater pollution prevention plans for City owned industrial facilities in an amount not to exceed \$19,950.00.



July 7, 2011
AMEC Proposal No. PW11-02-02, Ph 2, Rev. 1

City of Prescott
430 North Virginia Street
Prescott, Arizona 86301

Attn: Greg Toth, CFM
City Drainage Engineer

**Re: PROPOSAL
AZPDES MSGP 2010 Permitting Services**

AMEC Earth & Environmental, Inc. is pleased to submit this proposal to the City of Prescott for permitting services under the Arizona Pollutant Discharge Elimination System's Non-mining Multi-Sector General Permit (MSGP 2010) for industrial stormwater discharges. This proposal is for the development of several stormwater pollution prevention plans and corresponding notices of intent for City-owned industrial facilities needing MSGP 2010 permit coverage per the stormwater audit completed earlier this year.

Should you have any questions or need any additional information, please do not hesitate to contact me. We look forward to discussing further and successfully delivering this proposed scope of work.

Respectfully submitted,

AMEC Earth & Environmental, Inc.

A handwritten signature in black ink, appearing to read "Ed Latimer", with a long horizontal flourish extending to the right.

Ed Latimer, PhD, PE
Water Resources Manager

AMEC Earth & Environmental, Inc.
1405 West Auto Drive
Tempe, Arizona 85284-1016
Tel (480) 940-2320
Fax (480) 785-0970

www.amec.com

1.0 BRIEF REGULATORY OVERVIEW

The 1987 Water Quality Act, an amendment to the 1972 Clean Water Act, introduced regulation of stormwater discharges from industrial facilities. The U.S. Environmental Protection Agency (EPA) regulations in Title 40, Code of Federal Regulations Part 122 (40 CFR 122) require that certain industrial and construction activities apply for a National Pollutant Discharge Elimination System permit for stormwater discharged to surface waters of the United States. In 2008, the EPA released the latest Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activities. In December 2010, the Arizona Department of Environmental Quality (ADEQ) released the Arizona Pollutant Discharge Elimination System (AZPDES) MSGP for mining and non-mining facilities. These permits apply to 30 different sectors of industry. Associated with the permitting is the need to characterize storm drainage areas, monitor stormwater quality and implement best management practices to improve stormwater quality.

2.0 PROJECT SCOPE

The City of Prescott (City) operates several facilities that conduct activities that require them to obtain permit coverage under the AZPDES Non-mining MSGP 2010. The following City-owned industrial facilities are included in this proposal:

- ◆ Wastewater Treatment Facilities (2)
- ◆ Fleet Services Facility
- ◆ Streets Management Facility

Task 1 - Site Visit

For each facility identified below, AMEC will conduct a site visit of the facility to assess current conditions, operations, and general characteristics that may impact regulated stormwater discharges. The information gathered at the site visit will act as a basis for determining the relevant data necessary for development of the stormwater pollution prevention plan (SWPPP), including drainage details, locations of industrial material/activities, and other general facility characteristics. The site visit will be conducted with personnel from the City who have and adequate enough institutional knowledge of the facility to provide AMEC with a complete understanding of facility operations.

Task 1 Assumptions:

- AMEC will have access to all areas of the facility that are exposed to precipitation, or may otherwise impact the quality/quantity of stormwater discharges.
- Any information not obtained during the site visit will be transmitted to AMEC electronically upon request.

Task 2 - SWPPP Development

Following the site visit, AMEC will develop a SWPPP for the facility. The SWPPP will capture all relevant changes in the physical site characteristics, operational procedures, industrial

materials, and other relevant characteristics. In addition, the SWPPP will be revised to capture all regulatory requirements of the AZPDES Non-mining MSGP 2010. The draft SWPPP will be provided to the City for review and comment. Following review of the draft SWPPP by the City, AMEC will prepare a final version of the SWPPP for submittal to the City.

Specific elements of work and assumptions related to the target facility include:

Wastewater Treatment Facilities

- This involves the development of two separate SWPPPs.
- AMEC will be able to conduct site visits at both facilities on the same day.
- Chemical inventories for the facilities will be provided by the City.
- The City will be responsible for ensuring that the treatment process is accurately described in the SWPPPs.

Fleet Services Facility

- This involves the development of one combined SWPPP and SPCC plan. It will enable pollution prevention activities to be implemented at the facility and compliance with both the MSGP and 40 CFR 112 to be maintained with one plan. This plan will prevent the redundancy that may be involved in implementing separate pollution prevention plans.
- Chemical inventories for the facilities will be provided by the City.
- Construction/manufacture details of all aboveground storage tanks on the site will be provided by the City to be included in the plan.

Streets Management Facility

- This involves the development of one SWPPP.
- The City will provide a chemical inventory for all materials typically stored on site.
- Storage areas containing road debris, composting, paper recycling, and tire storage have been assumed to be located where stormwater does not discharge and therefore to have no impact on water quality. This assumption will be verified through existing contour data. These areas will not specifically be included in any detail in the SWPPP.
- The SWPPP will be developed for all relevant regulated industrial activities at the site. Where onsite operations are being conducted by other entities, the

Task 2 Assumptions

1. AMEC will provide electronic versions of the draft SWPPP for review.
2. Review of the draft SWPPP by the City will not result in major changes in form, structure, or overall presentation.
3. AMEC will provide two hard copies and two electronic copies (on CD) of the final SWPPP to the City.
4. This proposal does not include any efforts for monitoring, inspection, or training. However, AMEC may provide such services at the request of the City. These and any other services deemed out of the scope of this proposal shall be conducted as part of



- a mutually agreed-upon change order.
5. AMEC will be able to obtain relevant site maps for the facilities in a format compatible with computer-aided design and drafting (CADD). In the event that CADD files are not available, AMEC will develop all required site maps using ArcGIS.

Task 3 - Completion of Notices of Intent

The ADEQ Water Quality Division's rules on increased and new fees for water quality permitting services were approved by the Governor's Regulatory Review Council on April 5, 2011. The new fees took effect July 1, 2011. More information about the MSGP 2010 fees can be found at <http://www.azdeq.gov/environ/water/index.html>. Initial application fees and annual maintenance fees related to permit coverage under the AZPDES Non-mining MSGP 2010 are the responsibility of the City, and not included/considered in this proposal.

Upon completion and submittal of the final SWPPPs to the City, AMEC will coordinate with City staff to complete a notice of intent (NOI) for each facility to facilitate coverage under the AZPDES Non-mining MSGP 2010. The City will be responsible for obtaining the proper signatures and submitting to ADEQ, along with the appropriate fees, the NOIs to obtain permit coverage.

3.0 SCHEDULE AND COST ESTIMATE

AMEC will begin the professional services associated with the proposed scope of work upon receiving authorization to proceed from the City. Implementation of this scope of work shall commence within one week following the issuance of a work/purchase order from the City. AMEC proposes to complete the subject work for a lump sum cost of \$19,950. A breakdown cost for each facility is given below.

| City Facility | Proposed Cost |
|---------------------------------|-----------------|
| Wastewater Treatment Facilities | \$9,000 |
| Fleet Services Facility | \$6,500 |
| Streets Management Facility | \$4,450 |
| TOTAL | \$19,950 |

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| COUNCIL AGENDA MEMO – 08/09/2011 | |
| DEPARTMENT: | City Council |
| AGENDA ITEM: | Appointment of Member to the Fire Board of Appeals |

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| Approved By: | Date: |
| Council Appointment Committee: Councilwoman Suttles, Councilmen Blair and Hanna | 07/22/2011 |
| Finance Director: Mark Woodfill | |
| City Manager: Craig McConnell <i>Craig McConnell</i> | 7-22-11 |

BACKGROUND

On July 15, 2011, A. J. Vilardo submitted his resignation from the Fire Board of Appeals, effective immediately. Mike King had previously interviewed for this Board last year and has indicated a willingness to be appointed at this time. Members of the Council Appointment Committee are recommending his appointment to fill this vacancy, which term expires in March 2012.

The Fire Board of Appeals was established by Ordinance No. 1650 in December 1983, as required under Section 2.302 of the Uniform Fire Code, and amended by Ordinance No. 4740-1037 in April 2010, in order to pass upon matters pertaining to the Fire Code to determine the suitability of alternate materials or methods of fire protection and to provide for reasonable interpretations of the provisions of the Fire Code. Members serve two-year terms and the Council selects the Chairman and Vice Chairman.

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| <p>Recommended Action: MOVE to accept the Council Appointment Committee's recommendation to appoint Mike King to the Fire Board of Appeals, term to expire March 2012.</p> |
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COUNCIL AGENDA MEMO – August 9, 2011

DEPARTMENT: Parks, Recreation & Library

AGENDA ITEM: Purchase of downloadable media for the Prescott Public Library from OverDrive, Inc., in an amount not to exceed \$30,000.00 (Yavapai County library district funding)

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| Approved By: | Date: |
| Department Head: Debbie Horton | |
| Finance Director: Mark Woodfill | |
| City Manager: Craig McConnell <i>Craig McConnell</i> | 7-28-11 |

Background

The Yavapai Library Network subscribes to OverDrive, Inc., a digital distributor of downloadable content. Consortium members purchase audio books and eBooks from OverDrive, simplifying checkout and downloading of these materials.

The library has purchased audio books from OverDrive since 2007. Since the recent addition of eBooks (October 2010), demand for both downloadable formats has grown rapidly. 13,469 items were downloaded by Prescott Public Library patrons in FY2011, up from 5,829 downloads in FY2010. Library patrons check these items out from home or on the go; the volume is equivalent to as many as 10,000 library visits.

The Yavapai Library Network’s shared collection of 3,732 downloadable items includes only 1,393 eBooks. This small collection is already insufficient to meet current patron demand, which is expected to further surge later this year when Amazon releases a reading app enabling Kindle owners to borrow library eBooks.

In FY2012 the Prescott Public Library proposes to purchase up to \$30,000.00 of downloadable media. OverDrive is the only vendor of downloadable content able to make it available via the library circulation model. This level of content acquisition will double the amount of downloadable eBooks available to library patrons.

Budget

The Library’s FY2012 book budget (1004207-8245) includes funding for this purchase in an amount not to exceed \$30,000.00, fully supported by the Yavapai County Free Library District property tax levy.

Recommended Action: **MOVE** to approve the purchase of downloadable media from OverDrive, Inc., in an amount not to exceed \$30,000.00.

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| COUNCIL AGENDA MEMO – August 9, 2011 |
| DEPARTMENT: AIRPORT |
| AGENDA ITEM: Approval of Spitfire Films' request to sublease a hangar located at 6575 Crystal Lane to Legend Aviation at the Prescott Municipal Airport, Ernest A. Love Field. |

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| Approved By: | Date: |
| Department Head: Benjamin Vardiman, ACE, Airport Manager | July 27, 2011 |
| Finance Director: Mark Woodfill | |
| City Manager: Craig McConnell  | 7-29-11 |

SUMMARY

This is a recommendation to authorize Spitfire Films to sublease their hangar to Legend Aviation.

BACKGROUND

In February 2005, Spitfire Films, owned by Mr. Chris Woods, acquired the lease to an aircraft hangar located at 6575 Crystal Lane at the Prescott Airport. It is the request of Mr. Woods to sublease this hangar to Legend Aviation, owned by Chris and Leslie Woods, for the purpose of providing overnight aircraft storage for transient aircraft.

Article 5 of the lease agreement requires Council approval of the sublease and reads in part as follows:

“... The Lessee may sublet the leased premises with the prior written approval of the Airport Manager, which approval shall not be unreasonably withheld. A sublease or assignment or other transfer is invalid unless approved by the City Council of the City of Prescott...”

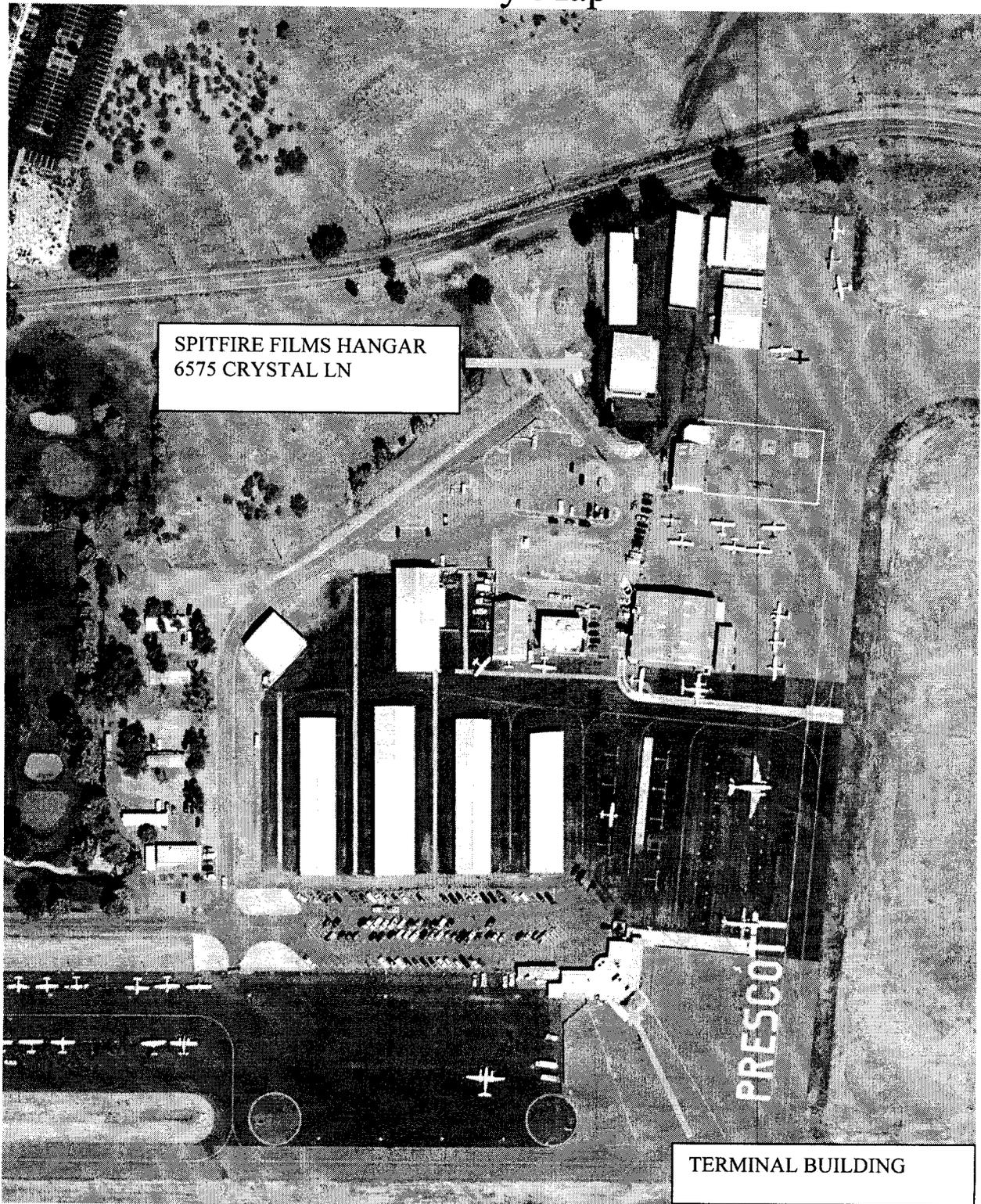
FINANCIAL

None

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| Recommended Action: MOVE to approve Spitfire Films' request to sublease a hangar located at 6575 Crystal Lane to Legend Aviation at the Prescott Municipal Airport, Ernest A. Love Field and further authorizing the Mayor and staff to take any and all necessary actions to accomplish the above. |
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Agenda Item: Approval of Spitfire Films' request to sublease a hangar located at 6575 Crystal Ln to Legend Aviation at the Prescott Municipal Airport, Ernest A. Love Field.

Vicinity Map



Agenda Item:

Approval of Spitfire Films' request to sublease a hangar located at 6575 Crystal Ln to Legend Aviation at the Prescott Municipal Airport, Ernest A. Love Field.

NOTICE OF REQUEST TO SUBLEASE

Date: July 12, 2011

To: City of Prescott, Airport Manager

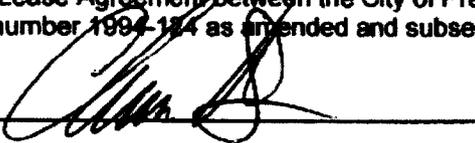
Owner: Spitfire Films, Inc. Christopher Woods, President

Proposed Qualified Subtenant: Legend Aviation, LLC

Principals of Proposed Qualified Subtenant (If not a natural person): Christopher Woods, Leslie Woods

Space to be subleased: Hangar and adjacent property located at 6575 Crystal Lane as described in the Lease Agreement

This shall serve as Notice to the City of Prescott of Spitfire Films, Inc. request to lease to the above described Proposed Qualified Subtenant, the space identified above at the Prescott Airport. This notice is given pursuant to the Lease Agreement between the City of Prescott & Spitfire Films, Inc.; also known as City contract number 1994-124 as amended and subsequently assigned to Spitfire Films Inc. on February 25, 2005.

Principal Signature 

Date: 7-27-11

CITY CONSENT

The City of Prescott, with the approval of the City Council by and through the Prescott Airport Manager and, hereby consents to the sublease of the above referenced hangar space located within the premises defined in City of Prescott Contract Number City contract number 1994-124 as amended and subsequently assigned on February 25, 2005 (hereinafter referred to as the "Lease"), to the above referenced "Proposed Qualified Subtenant" (hereinafter referred to as "Subtenant"), upon the following terms and conditions:

1. That this consent shall not be deemed a waiver or relinquishment in the future of the covenant against assignment, sale or subletting without first obtaining the consent of the City of Prescott.
2. That in the event of any conflict between the terms and conditions of the Lease and the hangar sublease agreement, the terms and conditions of the Lease shall prevail.
3. That the Subtenant shall agree to accept and abide by any and all provisions in the Lease, and to faithfully perform any and all covenants, stipulations, agreements and obligations under the Lease.

CITY OF PRESCOTT

By: Marlin Kuykendall, Mayor Date: _____

THIS FORM MAY BE AMENDED FROM TIME TO TIME BY THE CITY AND SHALL CONSTITUTE INFORMATION REQUIRED BY THE TRANSPORTATION SECURITY ADMINISTRATION OR OTHER GOVERNMENTAL AGENCIES FOR THE PURPOSES OF BACKGROUND SECURITY CHECKS THAT MAY, FROM TIME TO TIME, BE REQUIRED ON AIRPORT TENANTS.

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| COUNCIL AGENDA MEMO – August 9, 2011 | |
| DEPARTMENT: | Finance/Tax and Licensing |
| AGENDA ITEM: | Adoption of 2011 Amendments to the Model City Tax Code |

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| Approved By: | | Date: |
| Department Head: | | |
| Finance Director: | Mark Woodfill | |
| City Manager: | Craig McConnell <i>Craig McConnell</i> | 7-22-11 |

Item Summary

In 1987 the City of Prescott adopted the Model City Tax Code (MCTC) which regulates the levying of privilege tax for all cities in Arizona. In Calendar Year 2010 various changes were proposed, reviewed by the Unified Audit Committee (UAC), Arizona Tax Research Association (ATRA), and League of Arizona Cities and Towns, and subsequently approved by the Municipal Tax Code Commission (MTCC). This item is to enact the changes.

The Model City Tax Code

The Model City Tax Code (MCTC) was created to maintain local control over the locally levied increments of transaction privilege tax. This approach enables each community to tax business activity in a uniform manner while maintaining flexibility through local options. To assure consistency, proposed tax code changes go through a review and approval process. In summary, this process provides for review by the Uniform Audit Committee (UAC) comprised of municipal and Arizona Department of Revenue representatives, and transmittal to the Arizona Tax Research Association (ATRA) for business community review and comment. Final review and approval is accomplished by the Municipal Tax Code Commission (MTCC). The MTCC consists of members of municipal governing bodies, two members appointed by the Speaker of the House, two appointed by the Senate President, five appointed by the Governor, and the director of the Department of Revenue as a non-voting member. Once a change to the Code has been approved by the MTCC, it is adopted by all cities.

In recent years several prominent issues pertaining to the levying of transaction privilege tax, and in turn the MCTC, have been discussed, including taxation of rental properties owned and occupied by related LLCs, and food. In their most recent session the Arizona Legislature took up the LLC rental tax issue, but did not resolve it. No changes were made regarding food.

Summary of 2011 Model City Tax Code Changes

The following is a noninclusive list of changes approved by the MTCC which are ready to be adopted by the City for implementation.

AGENDA ITEM: Adoption of 2011 Amendments to the Model City Tax Code

- ▶ The definitions of “Food” and “Prosthetic” are both modified to clarify and keep consistent with state statute the taxability of medical marijuana.
- ▶ The definition of “Medical Marijuana” is added in order to mirror Arizona Revised Statutes (A.R.S).
- ▶ The definition of “Speculative Builder” is modified to update subsections from uppercase to lowercase.
- ▶ Construction, Owner Builder, and Speculative Builder tax classifications are updated to correct A.R.S. citations.
- ▶ A change is made under Construction, Owner Builder, and Speculative Builder tax classifications extending the exemption period of solar energy device projects from January 1, 2012 to January 1, 2017.
- ▶ An exemption is changed under Rental, leasing, and licensing for use of real property in relation to commercial lease agreements of affiliated corporations (*note: but not yet LLCs*).
- ▶ An addition is made under collection of taxes when there is a succession in and/or cessation of business that clarifies procedure when a foreclosure of real property occurs.
- ▶ A new exemption is added under the Use tax classification for school districts and charter schools.

Due to the length of the changes, the 2011 Amendments to the City Tax Code will be adopted as a Public Record through Resolution No. 4094-1204. Ordinance No. 4804-1204 will then adopt this Public Record by reference.

Financial Impact

The financial implications to the City are nominal. The changes involving medical marijuana were brought about by the industry which has been requesting consistency in order to help align the taxability at both the state and city levels, and depending upon pending legal issues the additional taxable sales may increase revenues. The solar device exemption extension is intended to continue encouraging the use of solar products in Arizona, and will not affect current revenues. The rental exemption, to eliminate tax derived from affiliated corporation transactions which are uncommon, will only nominally impact revenues. The clarification of tax collection with foreclosures should assist in reducing confusion and increasing collection when foreclosures of real property occur. The use tax exemption will eliminate collection of use tax that was previously considered taxable, resulting in a very small reduction to use tax receipts.

Recommended Actions:

- (1) MOVE** to adopt Resolution No. 4094-1204
and **(2) MOVE** to adopt Ordinance No. 4804-1204.

RESOLUTION NO. 4094-1204

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED THE "2010-2011 AMENDMENTS TO THE MODEL CITY TAX CODE"

RECITALS:

WHEREAS, that certain document entitled the "*2010-2011 Amendments to the Model City Tax Code*," three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the city clerk.

ENACTMENTS:

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

Section 1. THAT certain document entitled the "*2010-2011 Amendments to the Model City Tax Code*," is hereby declared to be a public record.

Section 2. THAT the City Clerk is hereby directed to maintain three (3) copies of the above referenced public documents on file at all times for inspection by the public.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 9th day of August, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

EXHIBIT 'A'

**2010-2011 AMENDMENTS TO THE
TAX CODE OF THE CITY OF PRESCOTT**

Section 1. Section 4-1-100 of the Tax Code of the City of Prescott is amended to read:

Sec. 4-1-100. General definitions.

For the purposes of this Chapter, the following definitions apply:

"Assembler" means a person who unites or combines products, wares, or articles of manufacture so as to produce a change in form or substance of such items without changing or altering component parts.

"Broker" means any person engaged or continuing in business who acts for another for a consideration in the conduct of a business activity taxable under this Chapter, and who receives for his principal all or part of the gross income from the taxable activity.

"Business" means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit, or advantage, either direct or indirect, but not casual activities or sales.

"Business Day" means any day of the week when the Tax Collector's office is open for the public to conduct the Tax Collector's business.

"Casual Activity or Sale" means a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business subject to a tax imposed by this Chapter. However, no sale, rental, license for use, or lease transaction concerning real property nor any activity entered into by a business taxable by this Chapter shall be treated, or be exempt, as casual. This definition shall include sales of used capital assets, provided that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.

"Combined Taxes" means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross income by this County as authorized by Article III, Chapter 6, Title 42, Arizona Revised Statutes; and all applicable taxes imposed by this Chapter.

"Commercial Property" is any real property, or portion of such property, used for any purpose other than lodging or lodging space, including structures built for lodging but used otherwise, such as model homes, apartments used as offices, etc.

"Communications Channel" means any line, wire, cable, microwave, radio signal, light beam, telephone, telegraph, or any other electromagnetic means of moving a message.

"Construction Contracting" refers to the activity of a construction contractor.

"Construction Contractor" means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project except for remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.

"Delivery (of Notice) by the Tax Collector" means "receipt (of notice) by the taxpayer".

"Delivery, Installation, or Other Direct Customer Services" means services or labor, excluding repair labor, provided by a taxpayer to or for his customer at the time of transfer of tangible personal property; provided further that the charge for such labor or service is separately billed to the customer and maintained separately in the taxpayer's books and records.

"Engaging", when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

"Equivalent Excise Tax" means either:

- (1) a Privilege or Use Tax levied by another Arizona municipality upon the transaction in question, and paid either to such Arizona municipality directly or to the vendor; or
- (2) an excise tax levied by a political subdivision of a state other than Arizona upon the transaction in question, and paid either to such jurisdiction directly or to the vendor; or
- (3) an excise tax levied by a Native American Government organized under the laws of the federal government upon the transaction in question, and paid either to such jurisdiction directly or to the vendor.

"Federal Government" means the United States Government, its departments and agencies; but not including national banks or federally chartered or insured banks, savings and loan institutions, or credit unions.

"Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section 42-5106. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. UNDER NO CIRCUMSTANCES SHALL "FOOD" INCLUDE AN EDIBLE PRODUCT, BEVERAGE, OR INGREDIENT INFUSED, MIXED, OR IN ANY WAY COMBINED WITH MEDICAL MARIJUANA OR AN ACTIVE INGREDIENT OF MEDICAL MARIJUANA.

"Hotel" means any public or private hotel, inn, hostelry, tourist home, house, motel, rooming house, apartment house, trailer, or other lodging place within the City offering lodging, wherein the owner thereof, for compensation, furnishes lodging to any transient, except foster homes, rest homes, sheltered care homes, nursing homes, or primary health care facilities.

"Jet Fuel" means jet fuel as defined in A.R.S. Section 42-5351.

"Job Printing" means the activity of copying or reproducing an article by any means, process, or method. "Job printing" includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

"Lessee" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Lessor" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Licensing (for Use)" means any agreement between the user ("licensee") and the owner or the owner's agent ("licensor") for the use of the licensor's property whereby the licensor receives consideration, where such agreement does not qualify as a "sale" or "lease" or "rental" agreement.

"Lodging (Lodging Space)" means any room or apartment in a hotel or any other provider of rooms, trailer spaces, or other residential dwelling spaces; or the furnishings or services and accommodations accompanying the use and possession of said dwelling space, including storage or parking space for the property of said tenant.

"Manufactured Buildings" means a manufactured home, mobile home or factory built building, as defined in A.R.S. Section 41-2142.

"Manufacturer" means a person engaged or continuing in the business of fabricating, producing, or manufacturing products, wares, or articles for use from other forms of tangible personal property, imparting to such new forms, qualities, properties, and combinations.

"MEDICAL MARIJUANA" MEANS "MARIJUANA" USED FOR A "MEDICAL USE" AS THOSE TERMS ARE DEFINED IN A.R.S. SECTION 36-2801.

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 4-1-432 for such use. This definition shall not include:

- (1) janitorial equipment and supplies.
- (2) office equipment, office furniture, and office supplies.
- (3) motor vehicles licensed for use upon the highways of the State.

"Modifier" means a person who reworks, changes, or adds to products, wares, or articles of manufacture.

"Nonprofit Entity" means any entity organized and operated exclusively for charitable purposes, or operated by the Federal Government, the State, or any political subdivision of the State.

"Occupancy (of Real Property)" means any occupancy or use, or any right to occupy or use, real property including any improvements, rights, or interests in such property.

"Out-of-City Sale" means the sale of tangible personal property and job printing if all of the following occur:

- (1) transference of title and possession occur without the City; and
- (2) the stock from which such personal property was taken was not within the corporate limits of the City; and
- (3) the order is received at a permanent business location of the seller located outside the City; which location is used for the substantial and regular conduct of such business sales activity. In no event shall the place of business of the buyer be determinative of the situs of the receipt of the order.

For the purpose of this definition it does not matter that all other indicia of business occur within the City, including, but not limited to, accounting, invoicing, payments, centralized purchasing, and supply to out-of-City storehouses and out-of-City retail branch outlets from a primary storehouse within the City.

"Out-of-State Sale" means the sale of tangible personal property and job printing if all of the following occur:

- (1) The order is placed from without the State of Arizona; and

- (2) the property is delivered to the buyer at a location outside the State; and
- (3) the property is purchased for use outside the State.

"Owner-Builder" means an owner or lessor of real property who, by himself or by or through others, constructs or has constructed or reconstructs or has reconstructed any improvement to real property.

"Person" means an individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the Federal Government, this State, or any political subdivision or agency of this State. For the purposes of this Chapter, a person shall be considered a distinct and separate person from any general or limited partnership or joint venture or other association with which such person is affiliated. A subsidiary corporation shall be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

"Prosthetic" means any of the following tangible personal property if such items are prescribed or recommended by a licensed podiatrist, chiropractor, dentist, physician or surgeon, naturopath, optometrist, osteopathic physician or surgeon, psychologist, hearing aid dispenser, physician assistant, nurse practitioner or veterinarian:

- (1) any man-made device for support or replacement of a part of the body, or to increase acuity of one of the senses. Such items include: prescription eyeglasses; contact lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.
- (2) insulin, insulin syringes, and glucose test strips sold with or without a prescription.
- (3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.
- (4) drugs or medicine, including oxygen.
- (5) equipment used to generate, monitor, or provide health support systems, such as respiratory equipment, oxygen concentrator, dialysis machine.
- (6) durable medical equipment which has a federal health care financing administration common procedure code, is designated reimbursable by Medicare, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.
- (7) **UNDER NO CIRCUMSTANCES SHALL "PROSTHETIC" INCLUDE MEDICAL MARIJUANA REGARDLESS OF WHETHER IT IS SOLD OR DISPENSED**

PURSUANT TO A PRESCRIPTION, RECOMMENDATION, OR WRITTEN CERTIFICATION BY ANY AUTHORIZED PERSON.

"Qualifying Community Health Center"

- (1) means an entity that is recognized as nonprofit under 501(c)(3) of the United States Internal Revenue Code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:
 - (a) the sole provider of primary care in the community.
 - (b) a nonhospital affiliated clinic that is located in a federally designated medically underserved area in this State.
- (2) includes clinics that are being constructed as qualifying community health centers.

"Qualifying Health Care Organization" means an entity that is recognized as nonprofit under Section 501(c) of the United States Internal Revenue Code and that uses, saves or invests at least eighty percent (80%) of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the Arizona Department of Revenue. Monies that are used, saved or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty percent (80%) requirement.

"Qualifying Hospital" means any of the following:

- (1) a licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (2) a licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.
- (3) a hospital, nursing care institution or residential care institution which is operated by the federal government, this State or a political subdivision of this State.
- (4) a facility that is under construction and that on completion will be a facility under subdivision (1), (2) or (3) of this paragraph.

"Receipt (of Notice) by the Taxpayer" means the earlier of actual receipt or the first attempted delivery by certified United States mail to the taxpayer's address of record with the Tax Collector.

"Remediation" means those actions that are reasonable, necessary, cost-effective and technically feasible in the event of the release or threat of release of hazardous substances into the environment such that the waters of the State are or may be affected, such actions as may be necessary to monitor, assess and evaluate such release or threat of release, actions of remediation, removal or disposal of hazardous substances or taking such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare or to the waters of the State which may otherwise result from a release or threat of release of a hazardous substance that will or may affect the waters of the State. Remediation activities include the use of biostimulation with indigenous microbes and bioaugmentation using microbes that are nonpathogenic, nonopportunistic and that are naturally occurring. Remediation activities may include community information and participation costs and providing an alternative drinking water supply.

"Rental Equipment" means tangible personal property sold, rented, leased, or licensed to customers to the extent that the item is actually used by the customer for rental, lease, or license to others; provided that:

- (1) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and
- (2) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Rental Supply" means an expendable or nonexpendable repair or replacement part sold to become part of "rental equipment", provided that:

- (1) the documentation relating to each purchased item so claimed specifically itemizes to the vendor the actual item of "rental equipment" to which the purchased item is intended to be attached as a repair or replacement part; and
- (2) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and
- (3) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Repairer" means a person who restores or renews products, wares, or articles of manufacture.

"Resides within the City" means in cases other than individuals, whose legal addresses are determinative of residence, the engaging, continuing, or conducting of regular business activity within the City.

"Restaurant" means any business activity where articles of food, drink, or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this Chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports or similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant", and not a "retailer".

"Retail Sale (Sale at Retail)" means the sale of tangible personal property, except the sale of tangible personal property to a person regularly engaged in the business of selling such property.

"Retailer" means any person engaged or continuing in the business of sales of tangible personal property at retail.

"Sale" means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, including consignment transactions and auctions, of property for a consideration. "Sale" includes any transaction whereby the possession of such property is transferred but the seller retains the title as security for the payment of the price. "Sale" also includes the fabrication of tangible personal property for consumers who, in whole or in part, furnish either directly or indirectly the materials used in such fabrication work.

"Solar Daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

"Solar Energy Device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely as a part of a normal structure, such as a window.

"Speculative Builder" means either:

- (1) an owner-builder who sells or contracts to sell, at any_time, improved real property (as provided in Section 4-1-416) consisting of:

- A)(a) custom, model, or inventory homes, regardless of the stage of completion of such homes; or
 - B)(b) improved residential or commercial lots without a structure; or
- (2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:
- A)(a) prior to completion; or
 - B)(b) before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

"Substantially Complete" means the construction contracting or reconstruction contracting:

- (1) has passed final inspection or its equivalent; or
- (2) certificate of occupancy or its equivalent has been issued; or
- (3) is ready for immediate occupancy or use.

"Supplier" means any person who rents, leases, licenses, or makes sales of tangible personal property within the City, either directly to the consumer or customer or to wholesalers, jobbers, fabricators, manufacturers, modifiers, assemblers, repairers, or those engaged in the business of providing services which involve the use, sale, rental, lease, or license of tangible personal property.

"Tax Collector" means the finance director or his designee or agent for all purposes under this Chapter.

"Taxpayer" means any person liable for any tax under this Chapter.

"Taxpayer Problem Resolution Officer" means the individual designated by the City to perform the duties identified in Sections 4-1-515 and 4-1-516. In cities with a population of 50,000 or more, the Taxpayer Problem Resolution Officer shall be an employee of the City. In cities with a population of less than 50,000, the Taxpayer Problem Resolution Officer need not be an employee of the City. Regardless of whether the Taxpayer Problem Resolution Officer is or is not an employee of the City, the Taxpayer Problem Resolution Officer shall have substantive knowledge of taxation. The identity of and telephone number for the Taxpayer Problem Resolution Officer can be obtained from the Tax Collector.

"Telecommunication Service" means any service or activity connected with the transmission or relay of sound, visual image, data, information, images, or material over a communications channel or any combination of communications channels.

"Transient" means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty (30) consecutive days.

"Utility Service" means the producing, providing, or furnishing of electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers

Section 2. Section 4-1-415 of the Tax Code of the City of Prescott is amended to read:

Sec. 4-1-415. Construction contracting: construction contractors.

- (a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.
- (1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
 - (2) (Reserved)
 - (3) gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 4-1-427.
 - (4) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this Section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (b) Deductions and exemptions.
- (1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.
 - (2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).
 - (3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

- (A) Section 4-1-465, subsections (g) and (p)
- (B) Section 4-1-660, subsections (g) and (p)

shall be exempt or deductible, respectively, from the tax imposed by this Section.

- (4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 4-1-110, that is deducted from the retail classification pursuant to Section 4-1-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
 - (A) to be incorporated into real property.
 - (B) to become so affixed to real property that it becomes part of the real property.
 - (C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 4-1-465, subsection (g) shall be exempt from the tax imposed under this Section.

- (7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (8) The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this section.
- (9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. § 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the City:
 - (A) The certificate of qualification of the lake facility development issued by the City pursuant to A.R.S. § 9-499.08, subsection D.
 - (B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.
 - (C) Any other information considered to be necessary.
- (10) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:
 - (A) the attributable amount shall not exceed the value of the development fees actually imposed.
 - (B) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public

services necessary to the development. The real property must be the subject of the development fees.

- (C) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.
- (11) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.
- (c) "Subcontractor" means a construction contractor performing work for either:
- (1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his City Privilege License number.
 - (2) an owner-builder who has provided the subcontractor with a written declaration that:
 - (A) the owner-builder is improving the property for sale; and
 - (B) the owner-builder is liable for the tax for such construction contracting activity; and
 - (C) the owner-builder has provided the contractor his City Privilege License number.
 - (3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his City Privilege License number.

Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.

Section 3. Section 4-1-416 of the Tax Code of the City of Prescott is amended to read:

Sec. 4-1-416. Construction contracting: speculative builders.

- (a) The tax shall be equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City.
- (1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.
 - (2) "Improved Real Property" means any real property:
 - (A) upon which a structure has been constructed; or
 - (B) where improvements have been made to land containing no structure (such as paving or landscaping); or
 - (C) which has been reconstructed as provided by Regulation; or
 - (D) where water, power, and streets have been constructed to the property line.
 - (3) "Sale of Improved Real Property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.
 - (4) "Partially Improved Residential Real Property", as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.
- (b) Exclusions.
- (1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.

- (2) Fair market value of land. Gross income from the sale of improved real property shall not include the "fair market value" of the land which is included in the real property sold, when a charge for such land is included in the total selling price of the real property sold.
 - (A) Except as provided in subsection (b)(2)(B) below, the taxpayer must document such "fair market value" to the satisfaction of the Tax Collector, and maintain and provide such documentation upon demand in addition to and in like manner to the books and records required in Article III.
 - (B) In lieu of the documented fair market value of land allowed in subsection (b)(2)(A) above, an amount equal to twenty percent (20%) of the total selling price may be used to estimate the "fair market value" of land.
- (3) (Reserved)
- (4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:
 - (A) The speculative builder purchasing the partially improved residential real property has a valid City privilege license for construction contracting as a speculative builder; and
 - (B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the City at the time of sale of the partially improved residential real property; and
 - (C) The seller also:
 - (i) maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and
 - (ii) retains a copy of the written declaration provided by the buyer for the transaction; and
 - (iii) is properly licensed with the City as a speculative builder and provides the City with the written declaration attached to the City privilege tax return where he claims the exclusion.

- (5) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (c) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to exemptions, deductions and tax credits:
- (1) Exemptions.
- (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
- (i) Section 4-1-465, subsections (g) and (p)
- (ii) Section 4-1-660, subsections (g) and (p)
- shall be exempt or deductible, respectively, from the tax imposed by this Section.
- (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 4-1-465, subsection (g) shall be exempt from the tax imposed under this section.
- (D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from

any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(E) any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:

(i) the attributable amount shall not exceed the value of the development fees actually imposed.

(ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 4-1-110, that is deducted from the retail classification pursuant to Section 4-1-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section.

If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

- (i) to be incorporated into real property.
 - (ii) to become so affixed to real property that it becomes part of the real property.
 - (iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(3) Tax credits.

The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

- (A) A tax credit equal to the amount of city privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
- (B) A tax credit equal to the amount of privilege taxes paid to this City, or charged separately to the speculative builder, by a construction

contractor, on the gross income derived by said person from the construction of any improvement to the real property.

- (C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported

Section 4. Section 4-1-417 of the Tax Code of the City of Prescott is amended to read:

Sec. 4-1-417. Construction contracting: owner-builders who are not speculative builders.

- (a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to two percent (2%) of:
- (1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in subsection 4-1-415(c)(2); and
 - (2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.
- (b) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (c) The tax liability of this Section is subject to the following provisions, relating to exemptions, deductions and tax credits:
- (1) Exemptions.
 - (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - (i) Section 4-1-465, subsections (g) and (p)
 - (ii) Section 4-1-660, subsections (g) and (p)

shall be exempt or deductible, respectively, from the tax imposed by this Section.

- (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 4-1-465, subsection (g) shall be exempt from the tax imposed under this Section.
- (D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:
 - (i) the attributable amount shall not exceed the value of the development fees actually imposed.
 - (ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services

necessary to the development. The real property must be the subject of the development fees.

- (iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

- (A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).
- (B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 4-1-110, that is deducted from the retail classification pursuant to Section 4-1-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
 - (i) to be incorporated into real property.
 - (ii) to become so affixed to real property that it becomes part of the real property.
 - (iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or

gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(3) Tax credits.

The following tax credits are available to owner-builders and speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

- (A) A tax credit equal to the amount of city privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
 - (B) A tax credit equal to the amount of privilege taxes paid to this City, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
 - (C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.
- (d) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 4-1-540, will be based on reportable date.
- (e) (Reserved)

Section 5. Section 4-1-445 of the Tax Code of the City of Prescott is amended to read:

Sec. 4-1-445. Rental, leasing, and licensing for use of real property.

- (a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the City for a

consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the City for a consideration including any improvements, rights, or interest in such property; provided further that:

- (1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.
 - (2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.
 - (3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 4-1-470.
- (b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.
 - (c) Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.
 - (d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this Section.
 - (e) (Reserved)
 - (f) (Reserved)
 - (g) (Reserved)
 - (h) (Reserved)
 - (i) (Reserved)
 - (j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 4-1-444 of this code.
 - (k) (Reserved)

- (l) (Reserved)
- (m) (Reserved)
- (n) Notwithstanding the provisions of Section 4-1-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.
- (o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this Section.
- (p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.
- (q) Charges to patients receiving "personal care" or "directed care", by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.
- (r) Income received from the rental of any "low-income unit" as established under Section 42 of the Internal Revenue Code, including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the "gross rent" defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to income received from the rental of individual rental units subject to statutory or regulatory "low-income unit" rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the "gross rent" limitation for the unit and the rent received from that unit.
- (S) THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A COMMERCIAL LEASE IN WHICH A RECIPROCAL INSURER OR A CORPORATION LEASES REAL PROPERTY TO AN AFFILIATED CORPORATION. FOR THE PURPOSES OF THIS PARAGRAPH:**

- (1) "AFFILIATED CORPORATION" MEANS A CORPORATION THAT MEETS ONE OF THE FOLLOWING CONDITIONS:
- (A) THE CORPORATION OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.
- (B) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY THE LESSOR.
- (C) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT ALSO OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.
- (D) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A RECIPROCAL INSURER.
- (2) FOR THE PURPOSES OF SUBSECTION (1), OWNERSHIP AND CONTROL ARE DETERMINED BY REFERENCE TO THE VOTING SHARES OF A CORPORATION.
- (3) "RECIPROCAL INSURER" HAS THE SAME MEANING AS PRESCRIBED IN A.R.S. SECTION 20-762.

Section 6. Section 4-1-595 of the Tax Code of the City of Prescott is amended to read:

Sec. 4-1-595. Collection of taxes when there is succession in and/or cessation of business.

- (a) In addition to any remedy provided elsewhere in this City Code that may apply, the Tax Collector may apply the provisions of subsections (b) through (d) below concerning the collection of taxes when there is succession in and/or cessation of business.
- (b) The taxes imposed by this Chapter are a lien on the property of any person subject to this Chapter who sells his business or stock of goods, or quits his business, if the person fails to make a final return and payment of the tax within fifteen (15) days after selling or quitting his business.
- (c) Any person who purchases, or who acquires by foreclosure, by sale under trust deed or warranty deed in lieu of foreclosure, or by any other method, improved real property or a portion of improved real property for which the Privilege Tax

imposed by this Chapter has not been paid shall be responsible for payment of such tax as a speculative builder or owner builder, as provided in Sections 4-1-416 and 4-1-417.

- (1) ANY PERSON WHO IS A CREDITOR OR AN AFFILIATE OF CREDITOR, WHO ACQUIRES IMPROVED REAL PROPERTY DIRECTLY OR INDIRECTLY FROM THE CREDITOR'S DEBTOR BY ANY MEANS SET FORTH IN THIS SUBSECTION, SHALL PAY THE TAX BASED ON THE AMOUNT RECEIVED BY THE CREDITOR OR ITS AFFILIATE IN A SUBSEQUENT SALE OF SUCH IMPROVED REAL PROPERTY TO A PARTY UNRELATED TO THE CREDITOR, REGARDLESS OF WHEN SUCH SUBSEQUENT SALE TAKES PLACE. SUCH TAX SHALL BE DUE IN THE MONTH FOLLOWING THE MONTH IN WHICH THE SALE OF THE IMPROVED REAL PROPERTY BY THE CREDITOR OR ITS AFFILIATE OCCURS. NOTWITHSTANDING THE FOREGOING, IF THE REAL PROPERTY MEETS THE DEFINITION OF PARTIALLY IMPROVED RESIDENTIAL REAL PROPERTY IN SECTION 4-1-416(A)(4) AND ALL OF THE REQUIREMENTS OF SECTION 4-1-416(B)(4) ARE MET BY THE PARTIES TO THE SUBSEQUENT SALE TRANSACTION, THEN THE TAX SHALL NOT APPLY TO THE SUBSEQUENT SALE.
- (2) IN THE EVENT A CREDITOR OR ITS AFFILIATE USES THE ACQUIRED IMPROVED REAL PROPERTY FOR ANY BUSINESS PURPOSE, OTHER THAN OPERATING THE PROPERTY IN THE MANNER IN WHICH IT WAS OPERATED, OR WAS INTENDED TO BE OPERATED, BEFORE THE ACQUISITION OR IN ANY OTHER MANNER UNRELATED TO SELLING THE PROPERTY, THE TAX SHALL BE DUE. THE GROSS INCOME UPON WHICH THE TAX SHALL BE DETERMINED PURSUANT TO SECTIONS 4-1-416 AND 4-1-417 SHALL BE THE FAIR MARKET VALUE OF THE IMPROVED REAL PROPERTY AS OF THE DATE OF ACQUISITION. THE TAX SHALL BE DUE IN THE MONTH FOLLOWING THE MONTH IN WHICH SUCH FIRST BUSINESS USE OCCURS. WHEN APPLICABLE, THE CREDIT BID SHALL BE DEEMED TO BE THE FAIR MARKET VALUE OF THE PROPERTY AS OF THE DATE OF ACQUISITION.
- (3) ONCE THE SUBSEQUENT SALE BY THE CREDITOR OR ITS AFFILIATE HAS OCCURRED AND THE CREDITOR OR ITS AFFILIATE HAS PAID THE TAX DUE FROM IT PURSUANT TO THIS SUBSECTION, NEITHER THE CREDITOR NOR ITS AFFILIATE, NOR ANY FUTURE OWNER, SHALL BE LIABLE FOR ANY OUTSTANDING TAX, PENALTIES OR INTEREST THAT MAY CONTINUE TO BE DUE FROM THE DEBTOR BASED ON THE TRANSFER FROM THE DEBTOR TO THE CREDITOR OR ITS AFFILIATE.

(4) IF THE TAX LIABILITY IMPOSED BY EITHER SECTION 4-1-416 OR SECTION 4-1-417 ON THE TRANSFER OF THE IMPROVED REAL PROPERTY TO THE CREDITOR OR ITS AFFILIATE, OR ANY PART THEREOF, IS PAID TO THE TAX COLLECTOR BY THE DEBTOR SUBSEQUENT TO PAYMENT OF THE TAX BY THE CREDITOR OR ITS AFFILIATE, THE AMOUNT SO PAID MAY CONSTITUTE A CREDIT, AS EQUITABLY DETERMINED BY THE TAX COLLECTOR IN GOOD FAITH, AGAINST THE TAX IMPOSED ON THE CREDITOR OR ITS AFFILIATE BY EITHER PARAGRAPH 1 OR PARAGRAPH 2 OF THIS SUBSECTION.

(5) NOTWITHSTANDING ANYTHING IN THIS CHAPTER TO THE CONTRARY, IF A CREDITOR OR ITS AFFILIATE IS SUBJECT TO TAX AS DESCRIBED IN PARAGRAPH 1 OR PARAGRAPH 2 OF THIS SUBSECTION AND SUCH CREDITOR OR AFFILIATE HAS NOT PREVIOUSLY BEEN REQUIRED TO BE LICENSED, SUCH CREDITOR OR AFFILIATE SHALL BECOME LICENSED NO LATER THAN THE DATE ON WHICH THE TAX IS DUE.

- (d) A person's successors or assignees shall withhold from the purchase money an amount sufficient to cover the taxes required to be paid, and interest or penalties due and payable, until the former owner produces a receipt from the Tax Collector showing that all City tax has been paid or a certificate stating that no amount is due as then shown by the records of the Tax Collector. The Tax Collector shall respond to a request from the seller for a certificate within fifteen (15) days by either providing the certificate or a written notice stating why the certificate cannot be issued.
- (1) If a subsequent audit shows a deficiency arising before the sale of the business, the deficiency is an obligation of the seller and does not constitute a liability against a buyer who has received a certificate from the Tax Collector.
 - (2) If the purchaser of a business or stock of goods fails to obtain a certificate as provided by this Section, he is personally liable for payment of the amount of taxes required to be paid by the former owner on account of the business so purchased, with interest and penalties accrued by the former owner or assignees.

Section 6. Section 4-1-660 of the Tax Code of the City of Prescott is amended to read:

Sec. 4-1-660. Use tax: exemptions.

The storage or use in this City of the following tangible personal property is exempt from the Use Tax imposed by this Article:

- (a) tangible personal property brought into the City by an individual who was not a resident of the City at the time the property was acquired for his own use, if the first actual use of such property was outside the City, unless such property is used in conducting a business in this City.
- (b) tangible personal property, the value of which does not exceed the amount of one thousand dollars (\$1,000) per item, acquired by an individual outside the limits of the City for his personal use and enjoyment.
- (c) charges for delivery, installation, or other customer services, as prescribed by Regulation.
- (d) charges for repair services, as prescribed by Regulation.
- (e) separately itemized charges for warranty, maintenance, and service contracts.
- (f) prosthetics.
- (g) income-producing capital equipment.
- (h) rental equipment and rental supplies.
- (i) mining and metallurgical supplies.
- (j) motor vehicle fuel and use fuel which are used upon the highways of this State and upon which a tax has been imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes.
- (k) tangible personal property purchased by a construction contractor, but not an owner-builder, when such person holds a valid Privilege License for engaging or continuing in the business of construction contracting, and where the property acquired is incorporated into any structure or improvement to real property in fulfillment of a construction contract.
- (l) sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this State.

- (m) tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.
- (n) rental, leasing, or licensing for use of film, tape, or slides by a theater or other person taxed under Section 4-1-410, or by a radio station, television station, or subscription television system.
- (o) food served to patrons for a consideration by any person engaged in a business properly licensed and taxed under Section 4-1-455, but not food consumed by owners, agents, or employees of such business.
- (p) tangible personal property acquired by a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property is in fact used in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
- (q) food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 United States Code Section 1786).
- (r) (Reserved)
 - (1) (Reserved)
 - (2) (Reserved)
 - (3) (Reserved)
- (s) groundwater measuring devices required by A.R.S. Section 45-604.
- (t) paintings, sculptures, or similar works of fine art, provided that such works of fine art are purchased from the original artist; and provided further that "art creations", such as jewelry, macramé, glasswork, pottery, woodwork, metalwork, furniture, and clothing, when such "art creations" have a dual purpose, both aesthetic and utilitarian, are not exempt, whether purchased from the artist or from another.
- (u) aircraft acquired for use outside the State, as prescribed by Regulation.

- (v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.
- (w) (Reserved)
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)
- (aa) tangible personal property used in remediation contracting as defined in Section 4-1-100 and Regulation 4-1-100.5.
- (bb) materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:
 - (1) printed or photographic materials.
 - (2) electronic or digital media materials.
- (cc) food, beverages, condiments and accessories used for serving food and beverages by a commercial airline, as defined in A.R.S. Section 42-5061(A)(49), that serves the food and beverages to its passengers, without additional charge, for consumption in flight. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (dd) wireless telecommunication equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 4-1-470.
- (ee) (Reserved)
- (ff) alternative fuel as defined in A.R.S. Section 1-215, by a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. Section 49-426 or Section 49-480.
- (gg) food, beverages, condiments and accessories purchased by or for a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic

eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

- (hh) personal hygiene items purchased by a person engaged in the business of and subject to tax under Section 4-1-444 of this code if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.
- (ii) the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.
- (jj) food, beverages, condiments and accessories purchased by or for a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (kk) sales of motor vehicles that use alternative fuel if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

(ll) THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY IN THE CITY OR TOWN BY A SCHOOL DISTRICT OR CHARTER SCHOOL.

ORDINANCE NO. 4804-1204

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING "THE 2010-2011 AMENDMENTS TO THE MODEL CITY TAX CODE" BY REFERENCE AND PROVIDING FOR SEVERABILITY AND PROVIDING PENALTIES FOR VIOLATIONS

ENACTMENTS:

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

Section 1. That certain document known as "THE 2010-2011 AMENDMENTS TO THE MODEL CITY TAX CODE," three copies of which are on file in the office of the city clerk of the City of Prescott, Arizona, which document was made a public record by Resolution No. 4094-1204 of the City of Prescott, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. Any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the tax code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, on this 9th day of August, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

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| COUNCIL AGENDA MEMO – 8/9/11 |
| DEPARTMENT: COMMUNITY DEVELOPMENT |
| AGENDA ITEM: Revision of Plat, Portions of Lots 14 and 16, Block C Original Townsite of Prescott to create one additional lot (14R-B). Owner/Applicant: Don L. Karcie Trust, APN 113-15-021, File No. RP11-002 |

| | |
|--|--------------|
| Approved By: | Date: |
| Department Head: Tom Guice | |
| Acting City Manager: Craig McConnell <i>Craig McConnell</i> | 8-3-11 |

REQUEST

A Revision of Plat to create one additional lot within Block C of the Original Townsite of Prescott (121 N. McCormick Street). Lots 14 and 16 are proposed to be effectively combined and then split into three lots (see attached maps).

STAFF ANALYSIS

In accordance with Section 9.10.5.C.1.a of the Land Development Code, the City Council is required to approve “any division of a lot or lots in a recorded subdivision resulting in an increase in the total lots in that subdivision.”

The project area is located within the McCormick Arts District. Presently there are two existing commercial buildings on Lot 14 and one existing commercial building on Lot 16. The splitting of these 2 lots into 3 will allow the applicant to locate each of the three buildings on its own separate lot.

Land Development Code (LDC) Requirements

The proposed new lots will meet the LDC requirements for commercial buildings within the Downtown Business (DTB) Zoning District. No setbacks, minimum lot size, or parking is required for tourist oriented land uses within the DTB. No Water Agreement is needed for commercial uses using less than 5 acre-feet per year.

STAFF RECOMMENDATION

Staff recommends approval of this request.

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|--|
| Recommended Action: MOVE to approve Revision of Plat No.11-002. |
|--|

LOTS 14 AND 16, BLOCK "C", ORIGINAL TOWNSITE OF PRESCOTT
 LOCATED IN A PORTION OF SECTION 30, TOWNSHIP 14 NORTH, RANGE 2 WEST, GLA AND
 SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA.

ORIGINALLY RECORDED IN BOOK 4 OF MAPS AND PLATS, PAGE 22, ON FILE IN THE OFFICE OF THE YAVAPAI COUNTY RECORDER

DECLARATION

KNOW ALL MEN BY THESE PRESENTS, THAT DON L. KARGE, TRUSTEES OF THE DON L. KARGE TRUST, DATED FEBRUARY 16, 2001, AMENDED IN ITS ENTIRETY AND RESTATED FEBRUARY 9, 2008, AS OWNER OF LOTS 14 AND 16, BLOCK "C", ORIGINAL TOWNSITE OF PRESCOTT, AS RECORDED IN BOOK 4 OF MAPS AND PLATS, SECTION 30, TOWNSHIP 14 NORTH, RANGE 2 WEST, GLA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA, HAS REPRATISED UNDER THE NAME OF "A" REPEAT OF LOTS 14 AND 16, BLOCK "C", ORIGINAL TOWNSITE OF PRESCOTT, AS RECORDED IN BOOK 4 OF MAPS AND PLATS AND FOR "B" REPEAT OF LOTS 14 AND 16, BLOCK "C", ORIGINAL TOWNSITE OF PRESCOTT, AND HEREBY DECLARE THAT:

1. THE PURPOSE OF THIS REPEAT IS TO VACATE THE PROPERTY LINES COMMON TO LOTS 14 AND 16 AND ESTABLISH THE REVISED LOTS AS SHOWN HEREON.
2. THE REVISED LOTS SHALL BE KNOWN NOW AND HEREAFTER AS LOT 14-R-A, 14-R-B AND LOT 16-R.
3. THE REVISED LOTS SHALL BE KNOWN NOW AND HEREAFTER AS LOT 14-R-A, 14-R-B AND LOT 16-R.
4. EASEMENTS ARE HEREBY CREATED OVER THE REVISED LOTS, AS SHOWN HEREON, FOR THE PURPOSES STATED.
5. IN WITNESS WHEREOF, DON L. KARGE, AS TRUSTEE OF THE DON L. KARGE TRUST, DATED FEBRUARY 16, 2001, AMENDED IN ITS ENTIRETY AND RESTATED FEBRUARY 9, 2008, AS OWNER OF LOTS 14 AND 16, BLOCK "C", ORIGINAL TOWNSITE OF PRESCOTT, HAS HEREIN SET MY HAND AND OFFICIAL SEAL FOR PURPOSES HEREIN CONTAINED, BEING DULY AUTHORIZED TO DO SO, ON THIS _____ DAY OF FEBRUARY, 2011.

THE DON L. KARGE TRUST, DATED FEBRUARY 16, 2001, AMENDED IN ITS ENTIRETY AND RESTATED FEBRUARY 9, 2008

ATTEST: _____
 DON L. KARGE, TRUSTEE

ACKNOWLEDGMENT

STATE OF _____
 COUNTY OF _____
 ON THIS _____ DAY OF _____, 2011, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, DID PERSONALLY APPEAR DON L. KARGE, WHO ACKNOWLEDGED HIMSELF AS TRUSTEE OF THE DON L. KARGE TRUST, DATED FEBRUARY 16, 2001, AMENDED IN ITS ENTIRETY AND RESTATED FEBRUARY 9, 2008, WHO EXECUTED THE FOREGOING INSTRUMENT, FOR THE PURPOSES HEREIN CONTAINED, BEING DULY AUTHORIZED TO DO SO.

IN WITNESS WHEREOF, I HEREBY SET MY HAND AND OFFICIAL SEAL.

NOTARY PUBLIC
 MY COMMISSION EXPIRES: _____

APPROVALS

APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT ON THIS _____ DAY OF _____, 2011.

COMMUNITY SERVICES DIRECTOR _____

APPROVED BY THE PUBLIC WORKS DIRECTOR OF THE CITY OF PRESCOTT ON THIS _____ DAY OF _____, 2011.

PUBLIC WORKS DIRECTOR _____

APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT ON THIS _____ DAY OF _____, 2011.

MAYOR _____

CITY CLERK _____

COMPLIANCE

THIS REPEAT IS IN COMPLIANCE WITH CURRENT SUBDIVISION REGULATIONS AND CODES ESTABLISHED AND ADOPTED BY THE CITY OF PRESCOTT.

NOTES

THIS REPEAT IS LOCATED WITHIN THE WATER SERVICE AREA OF THE CITY OF PRESCOTT, ARIZONA, WHICH IS AN AREA INCORPORATED INTO THE CITY'S WATER SUPPLY UNDER RULES IN FORCE AT THE TIME OF RECORDING OF THE ORIGINAL PLAT.

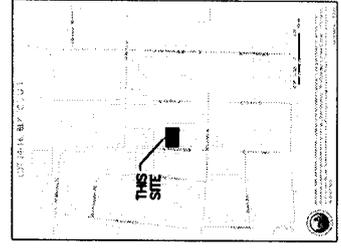
THIS REPEAT IS IN COMPLIANCE WITH ORDINANCE ESTABLISHED BY STATE STANDARD SUBDIVISION REGULATIONS AND CODES ESTABLISHED AND ADOPTED BY THE CITY OF PRESCOTT, ARIZONA, AND THE DEPARTMENT OF WATER RESOURCES (ADWR).

CERTIFICATION

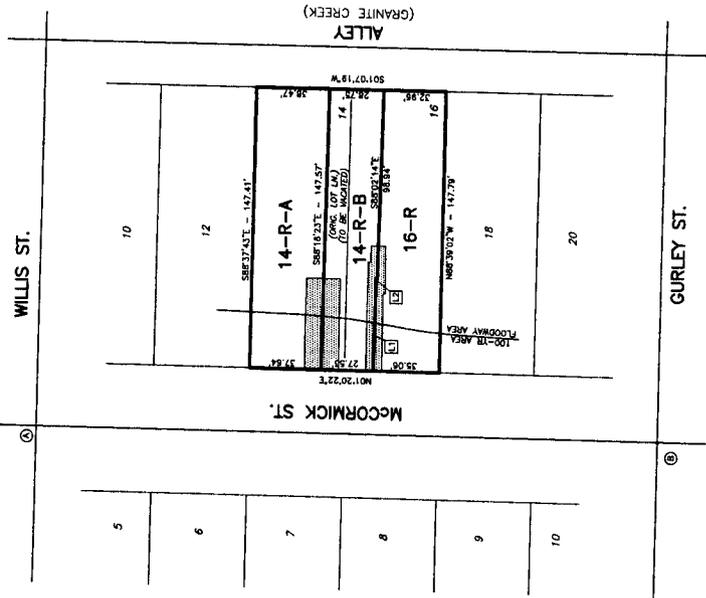
I, C. MICHAEL HAYWOOD, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA, LICENSE NO. 10000, AND THAT I HAVE PERSONALLY EXAMINED THE SURVEY AND BELIEVE AND AM CONVINCED THAT THE SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT ALL MONUMENTS SHOWN EXIST AS OF THE DATE HEREOF AND ARE SUFFICIENT TO DEFINE THE BOUNDARIES OF THE SUBJECT.



C. MICHAEL HAYWOOD - AZ R.L.S. No. 10841



VICINITY MAP



CITY OF PRESCOTT HZ. DATUM

① - N : 580278.4722 E : 822148.5471
 ② - N : 580227.1890 E : 822133.1550

LINE TABLE

① - 5802714'E - 46.73'
 ② - N61°47'59"E - 0.52'

THESE LOTS ARE LOCATED WITHIN A FEMA FLOOD-HAZARD AREA AS SHOWN ON FEMA PANEL 04025C0810C, DATED SEPTEMBER 3, 2010. COMMERCIAL USES ARE THE ONLY PRIMARY USES ALLOWED IN THIS AREA. RESIDENTIAL USES ARE NOT ALLOWED. THESE LOTS ARE TOO SMALL FOR RESIDENTIAL USES AS A PRIMARY USE. THE SUBDIVISION LINES MAY BE ALLOWED ONLY AS AN ACCESSORY USE TO THE PRIMARY USE.

UTILITY EASEMENT PER DECLARATION ITEM 4

Filed and recorded at the request of
 THE CITY OF PRESCOTT

A.D. 20 11

Book _____ of Book _____
 Page _____ of Page _____

Records of Yavapai County, Arizona
 A.M. WYMAN-TRULLALD
 County Recorder

C. MICHAEL HAYWOOD
 Registered Land Surveyor
 212 S. MARIONA STREET
 PRESCOTT, AZ 86303
 License No. 10000

DATE: 7-8-11
 CHECKED: DMH
 SCALE: 1" = 40'

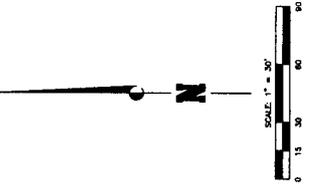
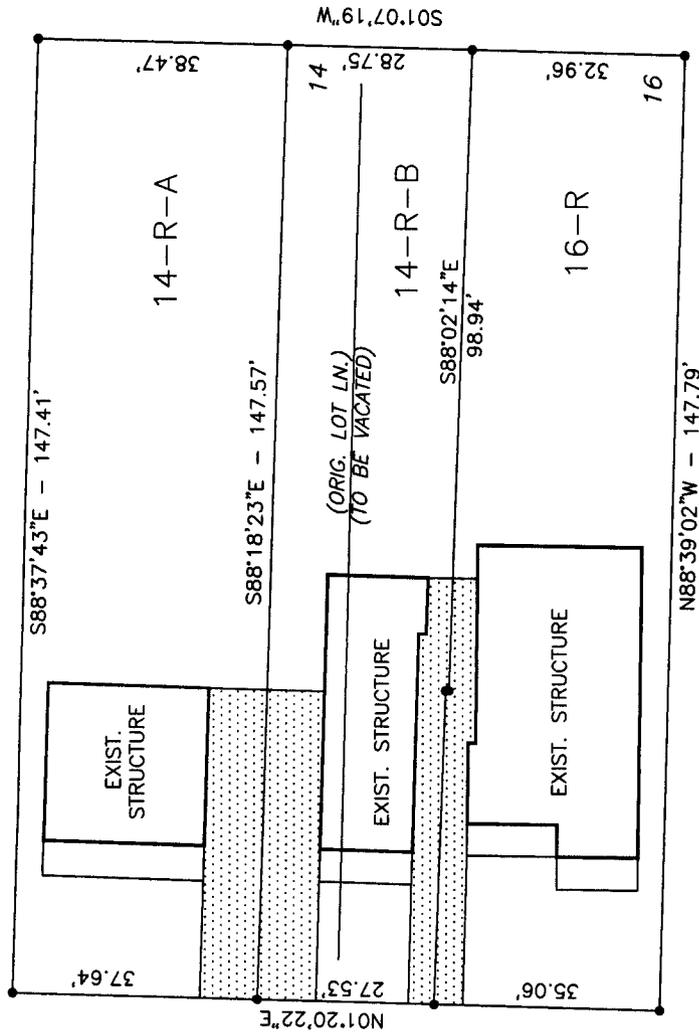


EXHIBIT TO ACCOMPANY
 REVISION OF PLAT OF
 LOTS 14 & 16, BLOCK "C",
 ORIGINAL TOWNSITE

DON L. KARCIE PROJECT



| | |
|---|---------------|
| G. MICHAEL HAYWOOD REGISTERED LAND SURVEYOR 212 S. MARINA STREET PRESCOTT, AZ. 86303 (928) 778-5101 | |
| JOB NO: KAR.COG | DRAWN: GMH |
| CREW: RR/ML | DATE: 7-21-11 |
| CLIENT: DON KARCIE | CHECKED: GMH |
| SCALE: 1" = 30' | DATE: 7-21-11 |

| |
|--|
| COUNCIL AGENDA MEMO – August 9, 2011 |
| DEPARTMENT: Public Works |
| AGENDA ITEM: Adoption of Ordinance No. 4806-1206 authorizing the purchase and acceptance of real property for the new Sierra Vista Pump Station associated with the Zone 19 Water Utility Improvement Project |

| | |
|---|----------------------|
| Approved By: | Date: |
| Department Head: Mark Nietupski | July 29, 2011 |
| Finance Director: Mark Woodfill | |
| City Manager: Craig McConnell <i>Craig McConnell</i> | <i>8-1-11</i> |

Item Summary

Approval of this item will acquire real property necessary for the new Sierra Vista Pump Station to be located at the southeast corner of Copper Basin Road and Sierra Vista Drive intersection and constructed under the Zone 19 Water Utility Improvement Project. The purchase price is in the amount of \$6000.00.

Background

The Zone 19 Water Utility Improvements were identified by the City Water Model and through Utility Operations experience. The acquisition area is 1,725 SF from Assessors Parcel No. 107-05-55B. The property owner is Reva Fredericksen. The agreement amount is based on an appraisal provided by Bergthold Ag Services (BAS), State Certified Appraiser, the appraisal firm retained by the City for this project. A copy of the actual agreement is available in the City Clerk's Office.

This project will provide needed water system improvements in southwest Prescott by replacing aged and deficient equipment, increasing storage and pumping capacity, including decommissioning and removing the existing Sierra Vista Pump Station, the Village Pump Station, and Reservoir, the Tank Road Reservoir and Hassayampa Tank. The Sierra Vista system was constructed in 1959, and the Village system 1977.

Budget

FY 11 funding for this real property acquisition is available from the Water Fund in Account No. 7007810-11024. The total amount required for this acquisition is \$6,000.00 plus closing costs estimated between \$200 and \$1000.00. The actual closing costs will determine the final amount of the transaction.

- Attachments**
- Site Plan
 - Project Map
 - Ordinance No. 4806-1206

| |
|---|
| Recommended Action: Move to adopt Ordinance No. 4806-1206. |
|---|

ORDINANCE NO. 4806-1206

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE PURCHASE OF REAL PROPERTY FROM REVA K. FREDERICKSEN FOR CONSTRUCTION OF THE ZONE 19 PUMP STATION, AND AUTHORIZING THE MAYOR AND STAFF TO EXECUTE ANY AND ALL DOCUMENTS TO EFFECTUATE SAID PURCHASE

RECITALS:

WHEREAS, the City Council has determined that certain real property is needed by the City for construction of the Zone 19 Pump Station; and

WHEREAS, the real property is unique in nature; and

WHEREAS the proposed purchase price of the following described property is deemed to be fair and equitable and will benefit the City of Prescott.

ENACTMENTS:

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

SECTION 1. THAT the City Council hereby accepts the offer to purchase that real property more particularly identified in the attached Exhibit "A" (a portion of Lot 4 Hassayampa Hills) from Reva K. Fredericksen for the purchase price of \$6,000, plus closing costs.

SECTION 2. THAT the Mayor and staff are hereby authorized and directed to execute any and all documents in order to effectuate the foregoing purchase.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, on this 9th day of August, 2011.

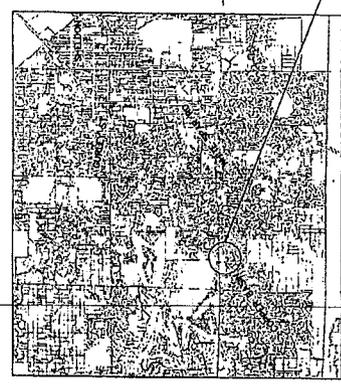
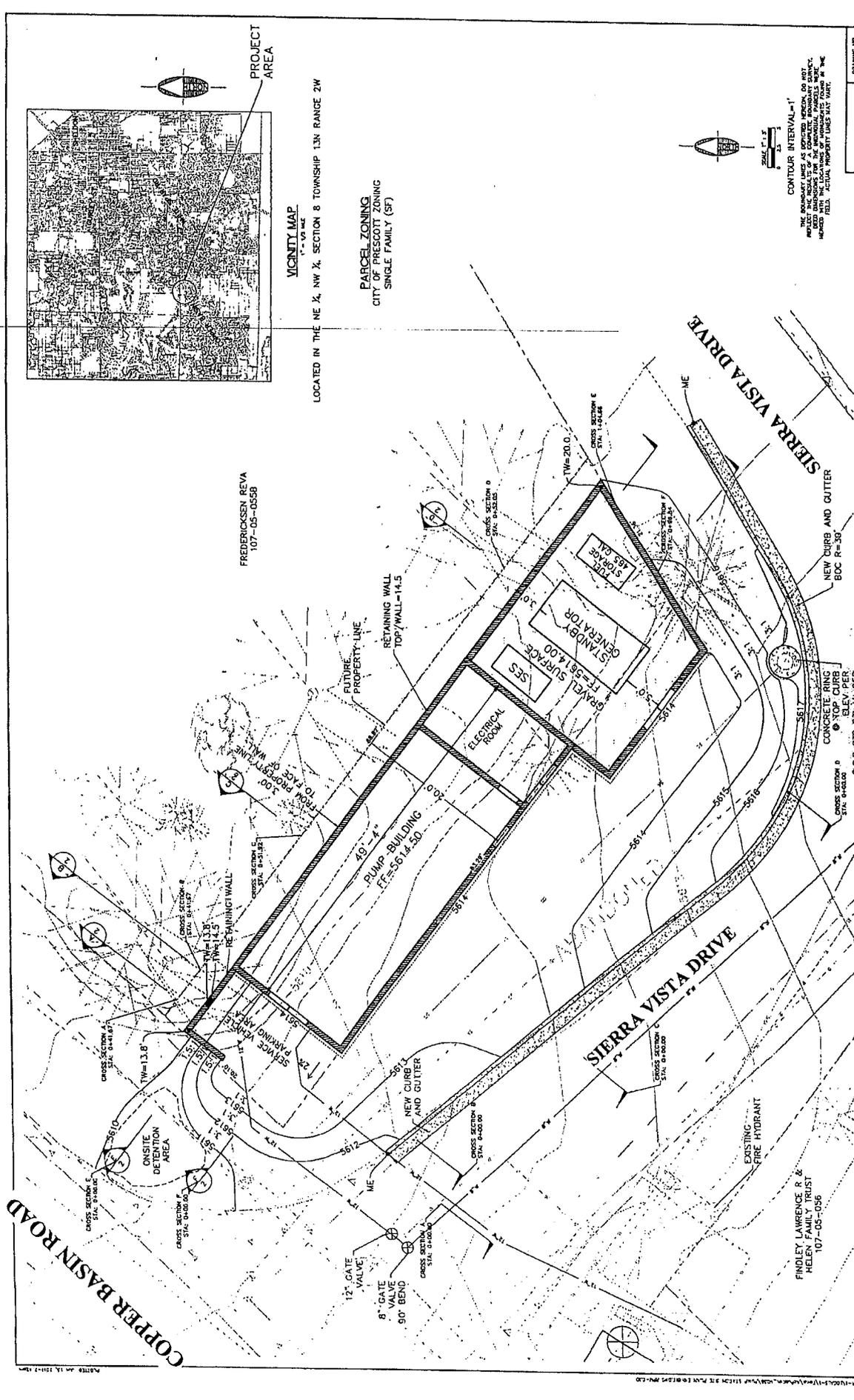
MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney



VICINITY MAP
 1" = 100' MAX.
 LOCATED IN THE NE ¼, NW ¼, SECTION 8 TOWNSHIP 13N RANGE 21W
 PARCEL ZONING
 CITY OF PRESCOTT ZONING
 SINGLE FAMILY (SF)

FREDERICKSEN REVA
 107-05-0558

CONTOUR INTERVAL=1'
 THIS PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION. THE CITY OF PRESCOTT IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE USER OF THIS PLAN SHALL BE RESPONSIBLE FOR VERIFYING ALL INFORMATION AND DATA. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE FIELD. ACTUAL PROPERTY LINES MAY VARY.

| | |
|--|----------------|
| PRELIMINARY EXH-1 | DRAWING NO. |
| NOT FOR CONSTRUCTION, RECORDING OR RECORDING | SHEET NO. OF 2 |

| | |
|---|---------------------|
| CITY OF PRESCOTT PUBLIC WORKS DEPARTMENT | PRESCOTT ARIZONA |
| DATE: MARCH 2011 | SCALE: 1" = 30' |
| DRAWN: JES | CHECKED: JES |
| DESIGNED: JES | CONTRACT NO. |

PUMP STATION
 SITE PLAN

SWI
 SHEPHERD WESNITZER, INC

CITY OF PRESCOTT
 PUBLIC WORKS DEPARTMENT

1-800-STAKE-IT

| | |
|---|--|
| COUNCIL AGENDA MEMO – August 9, 2011 | |
| DEPARTMENT: Public Works | |
| AGENDA ITEM: Adoption of Ordinance No. 4805-1205 to abandon a sewer easement and accept Public Utility Easements from "The Bradshaws" residential community located at Stetson Road and Rush Street. | |

| | | |
|---|--|---------------|
| Approved By: | | Date: |
| Department Head: Mark Nietupski | | July 29, 2011 |
| Finance Director: Mark Woodfill | | |
| City Manager: Craig McConnell <i>Craig McConnell</i> | | 8-1-11 |

Item Summary

This item is to abandon a sewer easement and accept the dedication of Public Utility Easements (PUE) from "The Bradshaws" for public water and sewer mains extending through the development.

Background

The Bradshaws is a low income affordable housing residential apartment community that includes both senior and family units. The first phase of the senior units was completed last year and the first phase of the family units was completed in May of this year.

The sewer easement to be abandoned does not have a sewer main within the easement. All new sewer mains to serve the development are within the PUE to be dedicated and accepted under this Ordinance.

All water and sewer mains that serve the development have been constructed, inspected, and accepted by Public Works.

The attached Record of Survey for Easement Abandonment and Easement Dedication, "The Bradshaws", depicts the location of the sewer easement abandonment and the PUE for the water and sewer mains extending through the development. The Record of Survey also depicts Drainage Easements for the underground storm drain facilities and the Detention Areas, which are to be maintained by the owners of "The Bradshaws".

There is no cost to the City for the easements except recording fees.

- Attachments**
- Record of Survey for Easement Abandonment and Easement Dedication, "The Bradshaws"
 - Ordinance No. 4805-1205

| |
|---|
| Recommended Action: MOVE to adopt Ordinance No. 4805-1205. |
|---|

ORDINANCE NO. 4805-1205

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ABANDONING A SEWER EASEMENT AND ACCEPTING PUBLIC UTILITY EASEMENTS FOR "THE BRADSHAW" AND AUTHORIZING THE MAYOR AND CITY STAFF TO TAKE ALL NECESSARY STEPS TO EFFECTUATE SUCH ABANDONMENT AND ACCEPTANCE OF PUBLIC UTILITY EASEMENTS

RECITALS:

WHEREAS, the City Council of the City of Prescott has determined that abandoning a sewer easement no longer required and accepting Public Utility Easements for "The Bradshaws", more particularly described and shown on the attached Record of Survey for Easement Abandonment and Easement Dedication, "The Bradshaws" hereto and made a part hereof, would benefit the citizens of Prescott, and

WHEREAS, this dedication is in compliance with ARS Section 28-7201 et seq.

ENACTMENTS:

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

SECTION 1. THAT abandoning a sewer easement and accepting Public Utility Easements for "The Bradshaws" more particularly described and shown on the attached Record of Survey for Easement Abandonment and Easement Dedication is hereby accepted and dedicated to the public.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 9th day of August, 2011.

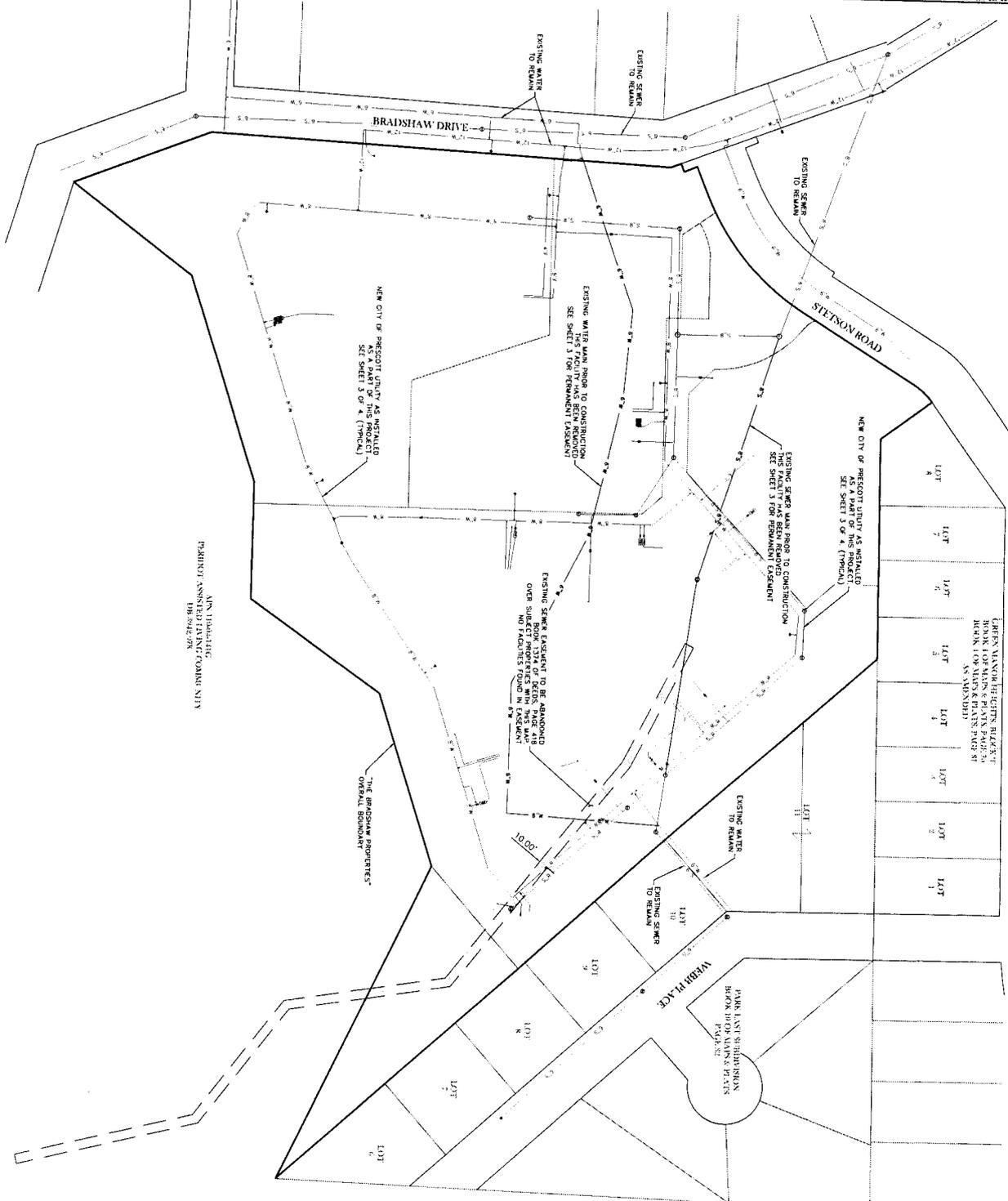
MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

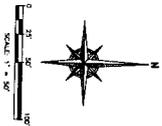
ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney



MIN. THICKNESS
 PERMITS ASSISTED PLANNING BOARD CITY
 DR. 04/2/08

**EASEMENT
 ABANDONMENT PLAN**



FILED AND RECORDED AT REQUEST OF
 GRANITE BASIN ENGINEERING, INC.
 BY _____
 AT _____
 COUNTY OF MARICOPA, ARIZONA
 PUBLIC RECORDS OF MARICOPA COUNTY, ARIZONA

| | |
|----------|----------|
| JOB: | 07064 |
| DATE: | APR 2011 |
| SCALE: | 1" = 20' |
| FIELD: | MM |
| DRAWN: | BS |
| CHECKED: | FL |



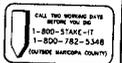
BRADSHAW CROSSING APARTMENTS
 4742 N. 26th STREET, SUITE 110
 PHOENIX, ARIZONA 85014

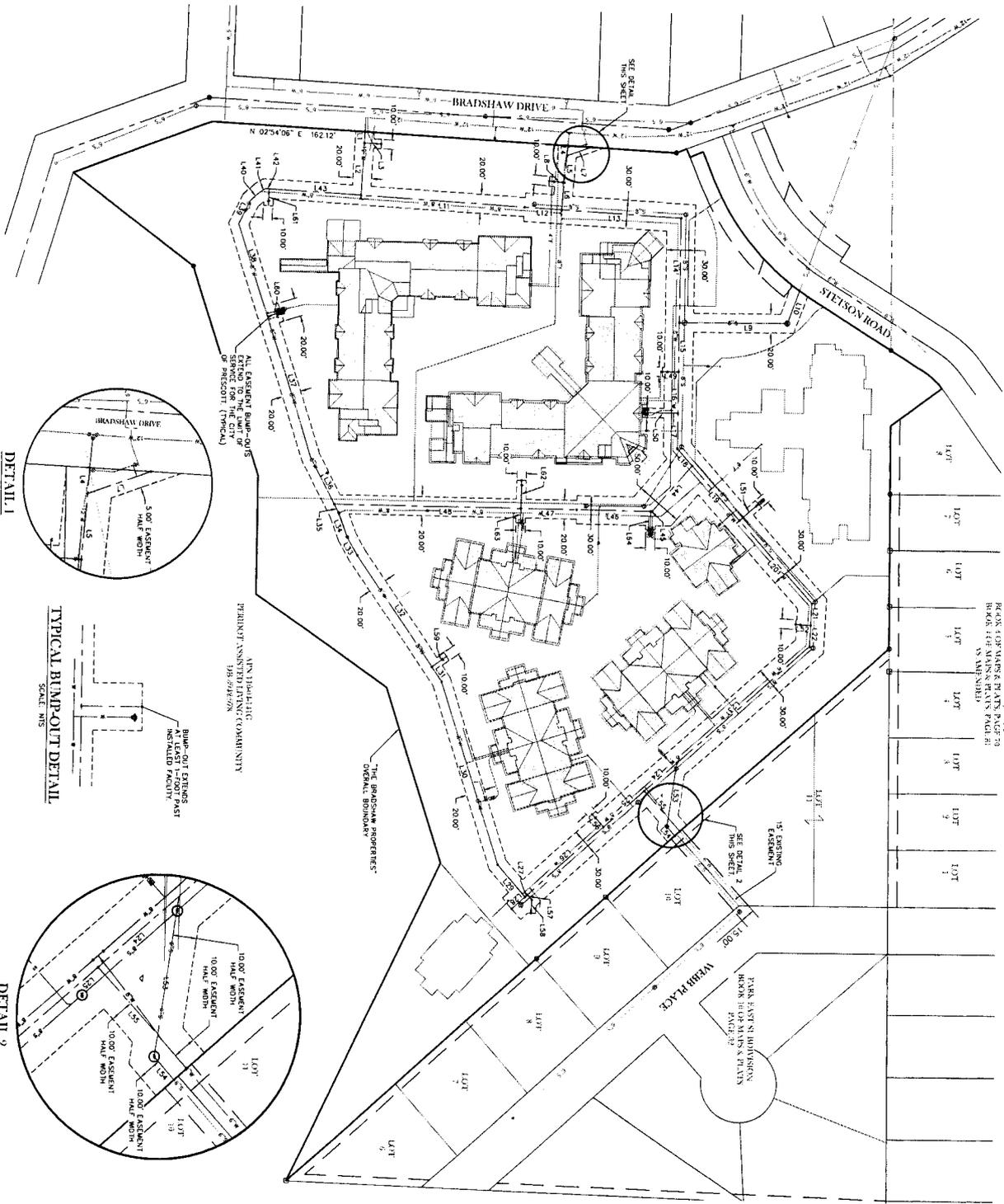
THE BRADSHAW'S
 EASEMENT ABANDONMENT AND DEDICATION
 EASEMENT ABANDONMENT PLAN



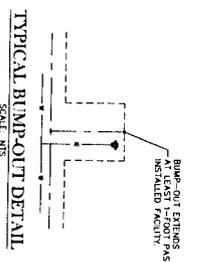
- FOR REVIEW ONLY
- FOR BID ONLY
- FOR APPROVAL ONLY
- FOR RECORDING ONLY
- FOR CONSTRUCTION ONLY
- FOR AS-BUILT ONLY

| REVISIONS | | DATE | BY |
|-----------|-------------|------|----|
| NO. | DESCRIPTION | | |
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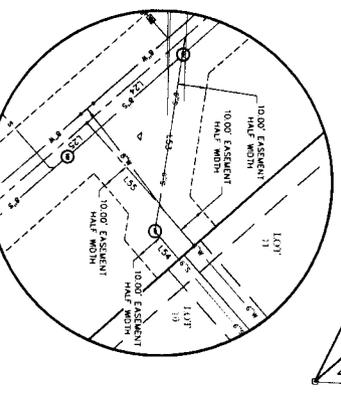




DETAIL 1
SCALE: 1" = 20'



DETAIL 2
SCALE: 1" = 20'



BUILDING FOOTPRINT
 PAVED ACCESS AND DRIVE AREAS

| NUMBER | DIRECTION | DISTANCE |
|--------|---------------|----------|
| 1 | S 87°24'41" E | 12.00' |
| 2 | S 87°24'41" E | 54.84' |
| 3 | S 87°24'41" E | 10.86' |
| 4 | S 87°24'41" E | 10.86' |
| 5 | S 87°24'41" E | 28.19' |
| 6 | S 87°24'41" E | 28.19' |
| 7 | S 87°24'41" E | 28.19' |
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| 98 | S 87°24'41" E | 16.27' |
| 99 | S 87°24'41" E | 16.27' |
| 100 | S 87°24'41" E | 16.27' |

PUBLIC UTILITY EASEMENT DEDICATION PLAN

NORTH
 SCALE: 1" = 20'
 0' 20' 40'

THIS PLAN AND RECORDS ARE SUBJECT TO THE GENERAL RECORDING ACT, ARIZONA, AND THE RECORDS ACT, ARIZONA. THE RECORDS ACT, ARIZONA, PROVIDES THAT RECORDS OF VARIOUS COUNTY AGENCIES ARE PUBLIC RECORDS.

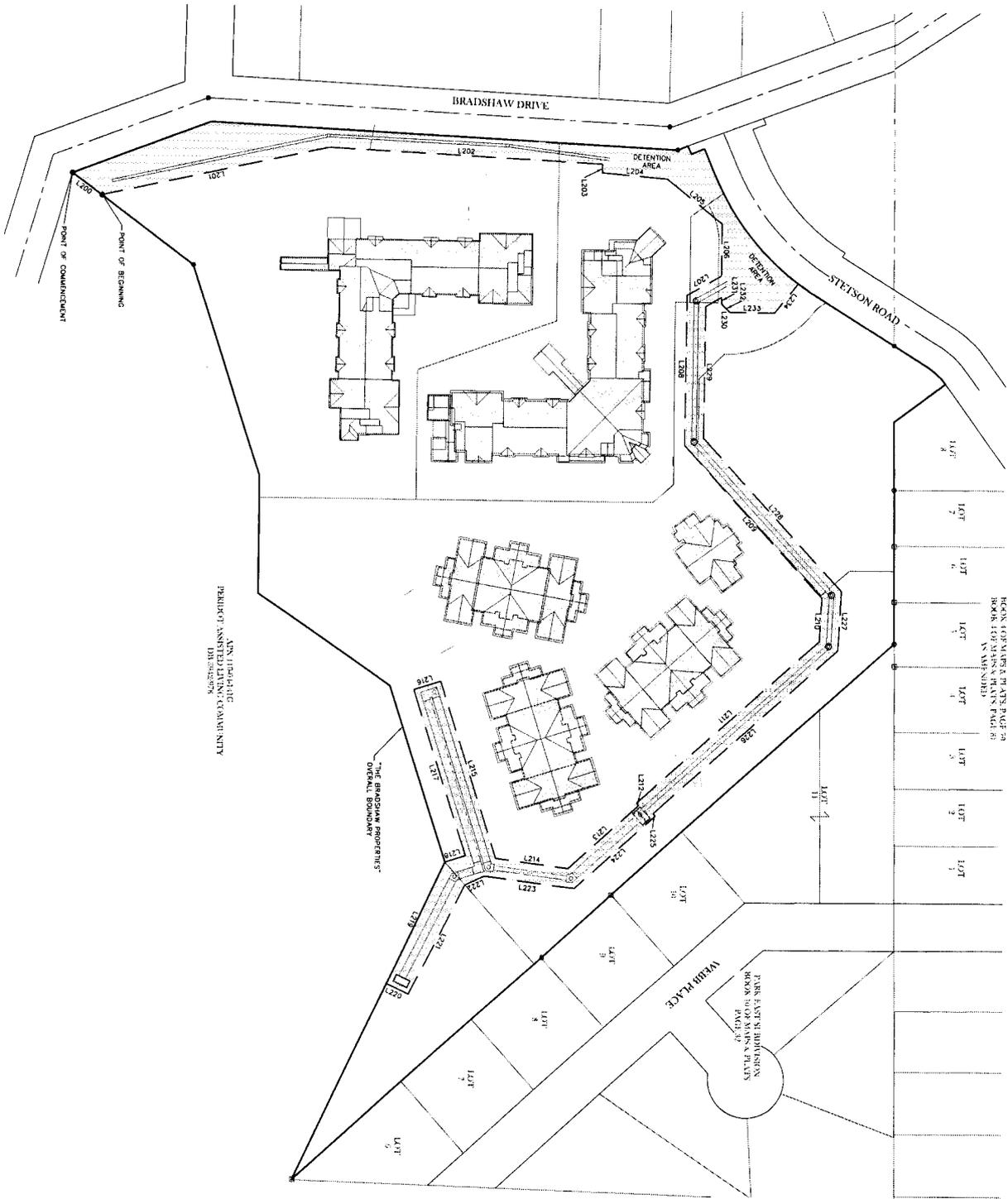
| REVISIONS | DATE | BY |
|--|------|----|
| <input type="checkbox"/> FOR REVIEW ONLY | | |
| <input type="checkbox"/> FOR BID ONLY | | |
| <input type="checkbox"/> FOR APPROVAL ONLY | | |
| <input type="checkbox"/> FOR RECORDING ONLY | | |
| <input type="checkbox"/> FOR CONSTRUCTION ONLY | | |
| <input type="checkbox"/> FOR AS-BUILT ONLY | | |

BRADSHAW CROSSING APARTMENTS
 1735 N 78th STREET, N 112 110
 PHOENIX, ARIZONA 85011

THE BRADSHAW'S
 EASEMENT ABANDONMENT AND DEDICATION
 PUBLIC UTILITY EASEMENT DEDICATION PLAN



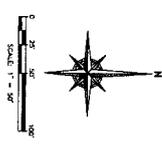
JOB: 07064
 DATE: JUNE 2011
 SCALE: 1" = 50'
 FIELD: NN
 DRAWN: BS
 CHECKED: TL



GREEN ANCHOR HIGHWAY BLOCK 2
 BLOCK 1000 PARCELS PAGES 24
 25000 1000000000 1000000
 1000000000 1000000000

FILED AND RECORDED AT REQUEST OF
 GRANITE BASIN ENGINEERING, INC.
 DATE: APR 06, 2011
 TIME: 2:23 PM
 OFFICE: M.
 RECORDS OF YAVAPAI COUNTY ARIZONA
 COUNTY RECORDS DIVISION
 1000 W. WASHINGTON
 PHOENIX, ARIZONA 85003

**DRAINAGE FACILITIES EASEMENT
 DEDICATION PLAN**



| NUMBER | DIRECTION | DISTANCE |
|--------|---------------|----------|
| 1200 | N 36.45140° E | 18.56 |
| 1201 | N 12.01101° W | 244.17 |
| 1202 | N 88.00251° E | 5.417 |
| 1203 | N 88.00251° E | 5.417 |
| 1204 | N 0.51310° E | 59.29 |
| 1205 | N 88.00251° E | 5.417 |
| 1206 | N 88.00251° E | 5.417 |
| 1207 | N 29.50212° E | 41.89 |
| 1208 | S 88.00251° E | 157.70 |
| 1209 | N 88.00251° E | 5.417 |
| 1210 | S 88.00251° E | 46.52 |
| 1211 | S 88.00251° E | 5.417 |
| 1212 | S 88.00251° E | 5.417 |
| 1213 | S 88.00251° E | 5.417 |
| 1214 | S 88.00251° E | 5.417 |
| 1215 | S 88.00251° E | 5.417 |
| 1216 | S 88.00251° E | 5.417 |
| 1217 | S 88.00251° E | 5.417 |
| 1218 | S 88.00251° E | 5.417 |
| 1219 | S 88.00251° E | 5.417 |
| 1220 | S 88.00251° E | 5.417 |
| 1221 | N 88.00251° E | 5.417 |
| 1222 | N 88.00251° E | 5.417 |
| 1223 | N 88.00251° E | 5.417 |
| 1224 | N 88.00251° E | 5.417 |
| 1225 | N 88.00251° E | 5.417 |
| 1226 | N 88.00251° E | 5.417 |
| 1227 | N 88.00251° E | 5.417 |
| 1228 | N 88.00251° E | 5.417 |
| 1229 | N 88.00251° E | 5.417 |
| 1230 | N 88.00251° E | 5.417 |
| 1231 | N 88.00251° E | 5.417 |
| 1232 | N 88.00251° E | 5.417 |
| 1233 | N 88.00251° E | 5.417 |
| 1234 | N 88.00251° E | 5.417 |

- BUILDING FOOTPRINT
- PAVED ACCESS AND DRIVE AREAS
- DRAINAGE FACILITIES EASEMENT

JOB: 07004
 DATE: APR 06, 2011
 SCALE: 1" = 50'
 FIELD: NW
 DRAWING: 85
 CHECKED: X



BRADSHAW CROSSING APARTMENTS
 1745 N. 78th STREET, SUITE 110
 PHOENIX, ARIZONA 85011

**THE BRADSHAW'S
 EASEMENT ABANDONMENT AND DEDICATION
 DRAINAGE FACILITIES EASEMENT DEDICATION PLAN**



- FOR REVIEW ONLY
- FOR BID ONLY
- FOR APPROVAL ONLY
- FOR RECORDING ONLY
- FOR CONSTRUCTION ONLY
- FOR AS-BUILT ONLY

| NO. | DESCRIPTION | DATE | BY |
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CALL THE RECORDS DIVISION
 BEFORE THE 10:00 AM
 1-800-STAKE-IT
 1-800-782-6348
 (OUTSIDE MARICOPA COUNTY)

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| COUNCIL AGENDA MEMO – August 9, 2011 |
| DEPARTMENT: Human Resources |
| AGENDA ITEM: Action regarding the City Manager position |

| Approved By: | | Date: |
|----------------------------------|--|---------------|
| Human Resources Director: | Mary Jacobsen | |
| Finance Director: | Mark Woodfill | |
| City Manager: | Craig McConnell <i>Craig McConnell</i> | <i>8-1-11</i> |

Item Summary

This item is being placed on the agenda at Council request for additional discussion, and to provide the opportunity for any associated action deemed appropriate.

Background

During the Council workshop on April 5th, information was presented discussing the process, criteria, and timeline for recruiting and selecting a new City Manager. At the special meeting which followed on that date, Council appointed Craig McConnell as Acting City Manager for a period not to exceed six (6) months, replacing Laurie Hadley who had accepted another job. The employment agreement for said six (6) month period was approved on April 12, 2011; and subsequently extended until January 14, 2012, by the Council at their special meeting of June 17, 2011.

In accordance with Council guidance, respondents to a solicitation for executive search firm services were notified that the recruitment was being held in abeyance, which remains the current status. In the event Council wishes to resume the search, direction will be needed regarding the method and timeline.

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| <p>Recommended Action: MOVE to _____ (Council's pleasure as to action to be taken).</p> |
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