



PRESCOTT CITY COUNCIL REGULAR VOTING MEETING AGENDA

**PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, SEPTEMBER 13, 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:** The Heights Church
- ◆ **PLEDGE OF ALLEGIANCE:** Councilman Hanna
- ◆ **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 - D LISTED BELOW MAY BE ENACTED BY ONE MOTION. ANY ITEM MAY BE REMOVED AND DISCUSSED IF A COUNCILMEMBER SO REQUESTS.

- A. [Approval of payment to Yavapai County in the amount of \\$47,250.85 for Primary Election services.](#)
- B. [Approval of Employment Agreement with Craig McConnell as City Manager.](#)

- C. Approval of funding distributions from the Acker Trust for FY2012.
- D. Approval of minutes of the Prescott City Council Regular Voting Meeting of August 23, 2011, and the Special Meeting of August 30, 2011.

II. REGULAR AGENDA

- A. Approval of the Official Canvass of the City of Prescott Primary Election held August 30, 2011.
- B. Public Hearing and consideration of a liquor license application from John J. Nielsen, applicant for Prescott Brewing Company, for a new Series 03, *Domestic Microbrewery*, located at 6396 Lear Lane.
- C. Public Hearing and consideration of a liquor license application from Gregory John Swigut, applicant for Papa's Italian Restaurant, for an Agent Change, located at 1124 White Spar Road.
- D. Approval to purchase an Airport Premises Liability Insurance Policy for a term of October 1, 2011, through September 30, 2012, from Ace Property and Casualty Insurance Company at a premium cost of \$14,750.00.
- E. Approval to pay the Arizona Department of Water Resources FY2011-2012 Municipality Fee in the amount of \$49,637.15.
- F. Adoption of Resolution No. 4095-1205 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement with the Arizona State Library, accepting funding of a Job Help Hub at the Prescott Public Library, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- G. Award of bid and contract for the Meadowbrook Road Water Main Replacement Project to Action Direct, LLC, dba Redpoint Contracting, in the amount of \$238,325.00.
- H. Award of bid and contract for the Chino Valley Arsenic Treatment Site Improvements Project to RK Sanders, Inc., in the amount of \$155,777.00.
- I. Adoption of Ordinance No. 4808-1208 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Ordinance No. 4789-1140 and accepting a Corrective Sewer Easement from First American Title Insurance Company, Trustee for Carrington Homes, Inc., to provide sewer service to the Prescott Highlands Subdivision.

- J. Acceptance of a proposal by the Ft. McDowell Indian Community to dismiss its appeal with prejudice re the City of Prescott's Decision of Assured Water Supply and authorization of legal counsel to take any steps necessary to effectuate the dismissal.

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

COUNCIL AGENDA MEMO – September 13, 2011
DEPARTMENT: City Clerk
AGENDA ITEM: Approval of payment to Yavapai County in the amount of \$47,250.85 for Primary Election services

Approved By:	Date:
Department Head: Elizabeth A. Burke, City Clerk	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	9-1-11

Background

The City of Prescott contracts with Yavapai County Elections Department for assistance with its elections. Regularly-scheduled elections of the City are held in August and November of odd-numbered years. Additionally, special elections may be called by the City for other issues and pursuant to State Statutes may be held during March, May, August and November.

Since 2001 the City of Prescott has held Vote-by-Mail elections; however, when a special election is held when the County is conducting polling place elections for statewide issues, the City must also hold their elections at the polls in conjunction with the County.

The City entered into an Agreement with the County in 2009 for election services which remains in effect until terminated by either party. The only change to this Agreement is each year the County Board of Supervisors adopts new fees for services.

Financial

The County currently charges \$2.10 per registered voter for Vote-by-Mail elections. However, the Agreement allows for this amount to be reduced to \$1.85 per registered voter for those jurisdictions that provide help and/or no charge polling sites for County-wide elections.

With 25,541 registered voters in the Primary Election, the expense is \$47,250.85, as reflected in the attached invoice.

Recommended Action: MOVE to approve payment in the amount of \$47,250.85 to Yavapai County Elections for their services in the August 30, 2011, Primary Election.
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YAVAPAI COUNTY ELECTIONS DEPT.

1015 Fair Street, Room 228
Prescott, AZ 86305
Phone: 928-771-3250
Fax: 928-771-3446
web.elections@co.yavapai.az.us

Lynn Constabile
Elections Director

INVOICE

JURISDICTION

ELECTION DATE

City of Prescott
Attn: Elizabeth Burke, City Clerk
PO Box 2059
Prescott, AZ 86302

August 30, 2011

DESCRIPTION

Cost per Registered Voter: \$ 1.85

Total Registered Voters: 25,541

Amount Due: \$ 47,250.85

Fee reflects total charges from Yavapai County Voter Registration and Elections Departments.

Payment for all costs is due no later than 30 days following the date of the election. A late charge of 2% of the unpaid balance will be imposed for each 30-day period or portion thereof.

Please make checks payable to: Yavapai County Elections
Thank you.

COUNCIL AGENDA MEMO – September 13, 2011
DEPARTMENT: Human Resources
AGENDA ITEM: Agreement for employment of City Manager

Approved By:	Date:
Department Director: Mary Jacobsen	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	9-7-11

Item Summary

At their meeting of August 30, 2011, the Council appointed Craig McConnell as City Manager, with direction to bring an employment agreement back for approval. Subsequently Mayor Pro Tem Lamerson, Councilman Scamardo, and I met with Mr. McConnell to discuss terms, and arrived at a straightforward, mutually acceptable agreement. The City Attorney has reviewed the document and approved it as to form; a copy is on file in the office of the City Clerk.

This summer Human Resources compiled a survey of City Manager compensation for ten (10) Arizona municipalities: Casa Grande, Flagstaff, Goodyear, Kingman, Lake Havasu, Prescott Valley, Sedona, Sierra Vista, Tempe, and Prescott, which is a full-service city of arguably greater than average governmental scale and complexity considering its utilities and solid waste enterprises, water resource management, airport, recreational amenities, and tourism initiatives. The average base salary was \$155,958. The employment agreement for Mr. McConnell provides a base salary of \$145,600.00, which represents a 3.7% increase over current compensation which was set for the Acting City Manager position.

The agreement is structured with a three (3) year "rolling" term, renewed annually for a subsequent three (3) year period while the incumbent continues in the capacity of City Manager. There is no severance provision specifying a cash payment in the event of termination for convenience (not for cause). If so removed, Mr. McConnell will return to his previous job of Regional Programs Director, at the compensation level for that position which existed at the time of his appointment as Acting City Manager, and for a duration of not less than the remainder of the current three-year agreement.

Mr. McConnell has further committed to absorb the responsibilities of the Regional Programs Director position, which will not be filled during his tenure as City Manager. Comparing the total compensation of Mr. McConnell and his predecessor, including the savings from the previous position which will not be replaced, represents a difference (actual reduction in payroll expense) of \$178,410 annually.

Recommended Action: MOVE to approve the agreement for employment of Craig McConnell as City Manager.

I-C

COUNCIL AGENDA MEMO – September 13, 2011
DEPARTMENT: Parks, Recreation and Library
AGENDA ITEM: Recommendations of the Acker Trust Board for FY2012 distributions

Approved By:	Date:
Department Head: Debbie Horton	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	<i>8-26-11</i>

Background

The Acker Trust Board was established in 1959 as part of a court adjudication of J.S. Acker's will, which generously left the majority of his estate to the City of Prescott "to be used for parks and for promotion of music, particularly for children." The Trust Board members are appointed by and serve as advisors to the Mayor and Council for management of the Trust. There are currently five members on the Board. Expenditures from the Trust are used for either parks or the promotion of youth music as directed by the will.

The Board annually receives applications for funding. Each organization applying must be incorporated, provide a financial statement, and appear before the Board for a presentation. The Board, in determining allocations for the limited resources available, considers the financial need of the organizations, number of participants served by their programs, and the associated benefit to the City of Prescott.

The Acker Board received requests in the amount of \$19,253.00 for FY 2012. The Trust corpus is \$585,320.00, from which the Board is recommending granting a maximum of \$10,000 to recipients with the balance remaining in the Trust. At the January 26, 2011, meeting the Board reviewed the presentations of Odaiko Sonora, The Arizona City Centennial Committee, The Yavapai College Artists in Residence Program, and the Yavapai Symphony Guild. On February, 22, 2011, the Board met, reviewed the applications, and voted to recommend to the City Council that the following organizations receive funds in the amounts indicated:

- Yavapai College Artists in Residence Program \$5,000
- Yavapai Symphony Guild- Music Memory \$2,500
- Arizona City Centennial Committee \$2,000

TOTAL	\$9,500
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Recommended Action: MOVE to approve funding from the Acker Trust for FY2012 in the amounts of \$5,000 for the Yavapai College Artists in Residence Program; \$2,500 for the Yavapai Symphony Guild – Music Memory; and \$2,000 to the Arizona City Centennial Committee.

COUNCIL AGENDA MEMO – September 13, 2011	
DEPARTMENT:	City Clerk
AGENDA ITEM:	Consideration of Official Canvass of the Primary Election of the City of Prescott Held on August 30, 2011

Approved By:	Date:
Department Head: Elizabeth A. Burke, City Clerk	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	9-7-11

Item Summary

The attached document reflects the official results of the Primary Election of the City of Prescott held on August 30, 2011.

Background

The City of Prescott held its Vote-By-Mail Primary Election on August 30, 2011. The ballot included the Mayor seat and three Council seats, with 12,397 voting for a 48.54% voter turnout. The final results are as follows:

MAYOR

Number of valid ballots for Mayor:	12,201
Number required to be elected in Primary:	6,102
Kuykendall, Marlin	6,557*
Suttles, Mary Ann	4,113
Thurston, Deborah	1,486

COUNCIL

Number of valid ballots for Council:	12,027
Number required to be elected in Primary:	6,015
Arnold, Charles (Charlie)	6,677 *
Dubiel, Alan	5,084
Kuknyo, Chris	7,535 *
Lamerson, James	7,426 *

WRITE-IN CANDIDATE

Luzius, Robert	1,635
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*Elected in the Primary

Agenda Item: Consideration of Official Canvass of the Primary Election of the City of Prescott Held on August 30, 2011

Based on the results of this election, Mayor Kuykendall has been re-elected as Mayor; Charlie Arnold, Chris Kuknyo and James Lamerson have been elected to City Council. All will take office at the end of the regularly-scheduled voting meeting of November 22, 2011.

Attachments -Official Canvass of Votes – Primary Election of August 30, 2011
 -Certification of Election Results from Yavapai County

Recommended Action: **MOVE** to approve the Official Canvass of the City of Prescott Primary Election Held August 30, 2011, as presented.



CITY OF PRESCOTT, ARIZONA
OFFICIAL CANVASS OF VOTES
Primary Election August 30, 2011

NUMBER OF REGISTERED VOTERS: 25,541
NUMBER OF BALLOTS CAST IN THE ELECTION: 12,397
VOTER TURNOUT PERCENTAGE: 48.54%



MAYOR

Number of valid ballots for Mayor: 12,201
Number required to be elected in Primary: 6,102

Kuykendall, Marlin 6,557 *
Suttles, Mary Ann 4,113
Thurston, Deborah 1,486



COUNCIL

Number of valid ballots for Council: 12,027
Number required to be elected in Primary: 6,015

Arnold, Charles (Charlie) 6,677 *
Dubiel, Alan 5,084
Kuknyo, Chris 7,535 *
Lamerson, James 7,426 *

WRITE-IN CANDIDATE

Luzius, Robert 1,635

*Elected in the Primary

SUBMITTED THIS 13TH DAY OF SEPTEMBER, 2011.

Elizabeth A. Burke, City Clerk

Elections
Lynn A. Constabile
Elections Director
928 771-3250
928 771-3446 (Fax)

Yavapai County Recorder
Ana Wayman-Trujillo
County Recorder
1015 Fair Street-Room 228
Prescott, Arizona 86305
928-771-3244
928-771-3258 (Fax)

Voter Registration
Karen McCracken
Registrar of Voters
928-771-3248
928-771-3446 (Fax)



CERTIFICATION OF ELECTION RESULTS

For the

CITY OF PRESCOTT PRIMARY ELECTION

AUGUST 30, 2011

YAVAPAI COUNTY, ARIZONA

We, Ana Wayman-Trujillo, Yavapai County Recorder, and Lynn A. Constabile, Yavapai County Elections Director, hereby certify that the attached foregoing vote results contains a full, true, and correct copy of the vote tabulations for the August 30, 2011, City of Prescott Primary Election.

Dated this 31ST day of August, 2011

A large, stylized handwritten signature in black ink, appearing to read "Ana Wayman-Trujillo".

Ana Wayman-Trujillo, County Recorder

A handwritten signature in black ink, appearing to read "Lynn A. Constabile".

Lynn A. Constabile, Elections Director

Election Summary Report

Date:08/31/11

August 30 2011

Time:14:09:38

Summary For Jurisdiction Wide, All Counters, All Races

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UNOFFICIAL FINAL RESULTS

Registered Voters 25541 - Cards Cast 12397 48.54%

Num. Report Precinct 4 - Num. Reporting 4 100.00%

Prescott Mayor		Total	
Number of Precincts		4	
Precincts Reporting		4	100.0 %
Vote For		1	
Times Counted	12397/25541		48.5 %
Total Votes		12201	
Times Blank Voted		186	
Times Over Voted		10	
KUYKENDALL, MARLIN	6557		53.74%
SUTTLES, MARY ANN	4113		33.71%
THURSTON, DEBORAH	1486		12.18%
Write-in Votes	45		0.37%

Prescott Council		Total	
Number of Precincts		4	
Precincts Reporting		4	100.0 %
Vote For		3	
Times Counted	12397/25541		48.5 %
Total Votes		28477	
Times Blank Voted		361	
Times Over Voted		9	
ARNOLD, CHARLES 'CHA	6677		23.45%
DUBIEL, ALAN	5084		17.85%
KUKNYO, CHRIS	7535		26.46%
LAMERSON, JAMES	7426		26.08%
Write-in Votes	1755		6.16%

Statement of Votes Cast

August 30 2011

SOVC For Jurisdiction Wide, All Counters, All Races
UNOFFICIAL FINAL RESULTS

Date:08/31/11

Time:14:09:57

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	TURN OUT		
	Reg. Voters	Cards Cast	% Turnout
Jurisdiction Wide			
Prescott A - 04-01,05-02,08-01,09-01,10-02,11-01,18-01,23-02,25-01/05,58-0			
Polling	6389	0	0.00%
Mail Ballots	6389	2800	43.83%
Total	6389	2800	43.83%
Prescott B - 07-01,24-01,32-01,53-01,68-01/05,69-01,70-02,87-01			
Polling	6341	0	0.00%
Mail Ballots	6341	3044	48.01%
Total	6341	3044	48.01%
Prescott C - 22-02,26-01,62-01,64-02,71-02,73-01,82-02			
Polling	6367	0	0.00%
Mail Ballots	6367	3282	51.55%
Total	6367	3282	51.55%
Prescott D - 51-02,80-01,83-01,84-02,89-05,96-01,112-01			
Polling	6444	0	0.00%
Mail Ballots	6444	3271	50.76%
Total	6444	3271	50.76%
Total			
Polling	25541	0	0.00%
Mail Ballots	25541	12397	48.54%
Total	25541	12397	48.54%

Statement of Votes Cast
 August 30 2011
 SOVC For Jurisdiction Wide, All Counters, All Races
 UNOFFICIAL FINAL RESULTS

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	Prescott Mayor					
	Reg. Voters	Vote For	Times Counted	Total Votes	Times Blank Voted	Times Over Voted
Jurisdiction Wide						
Prescott A - 04-01,05-02,08-01,09-01,10-02,11-01,18-01,23-02,25-01/05,58-0						
Polling	6389	1	0	0	0	0
Mail Ballots	6389	1	2800	2766	30	4
Total	6389	2	2800	2766	30	4
Prescott B - 07-01,24-01,32-01,53-01,68-01/05,69-01,70-02,87-01						
Polling	6341	1	0	0	0	0
Mail Ballots	6341	1	3044	2988	55	1
Total	6341	2	3044	2988	55	1
Prescott C - 22-02,26-01,62-01,64-02,71-02,73-01,82-02						
Polling	6367	1	0	0	0	0
Mail Ballots	6367	1	3282	3218	62	2
Total	6367	2	3282	3218	62	2
Prescott D - 51-02,80-01,83-01,84-02,89-05,96-01,112-01						
Polling	6444	1	0	0	0	0
Mail Ballots	6444	1	3271	3229	39	3
Total	6444	2	3271	3229	39	3
Total						
Polling	25541	4	0	0	0	0
Mail Ballots	25541	4	12397	12201	186	10
Total	25541	8	12397	12201	186	10

Statement of Votes Cast
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	Prescott Mayor					
	KUYKENDALL, MARLIN		SUTTLES, MARY ANN		THURSTON, DEBORAH	
Jurisdiction Wide						
Prescott A - 04-01,05-02,08-01,09-01,10-02,11-01,18-01,23-02,25-01/05,58-0						
Polling	0	-	0	-	0	-
Mail Ballots	1497	54.12%	935	33.80%	320	11.57%
Total	1497	54.12%	935	33.80%	320	11.57%
Prescott B - 07-01,24-01,32-01,53-01,68-01/05,69-01,70-02,87-01						
Polling	0	-	0	-	0	-
Mail Ballots	1575	52.71%	988	33.07%	416	13.92%
Total	1575	52.71%	988	33.07%	416	13.92%
Prescott C - 22-02,26-01,62-01,64-02,71-02,73-01,82-02						
Polling	0	-	0	-	0	-
Mail Ballots	1791	55.66%	1031	32.04%	384	11.93%
Total	1791	55.66%	1031	32.04%	384	11.93%
Prescott D - 51-02,80-01,83-01,84-02,89-05,96-01,112-01						
Polling	0	-	0	-	0	-
Mail Ballots	1694	52.46%	1159	35.89%	366	11.33%
Total	1694	52.46%	1159	35.89%	366	11.33%
Total						
Polling	0	-	0	-	0	-
Mail Ballots	6557	53.74%	4113	33.71%	1486	12.18%
Total	6557	53.74%	4113	33.71%	1486	12.18%

Statement of Votes Cast

August 30 2011

SOVC For Jurisdiction Wide, All Counters, All Races
UNOFFICIAL FINAL RESULTS

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	Prescott Mayor	
	Write-In Votes	
Jurisdiction Wide		
Prescott A - 04-01,05-02,08-01,09-01,10-02,11-01,18-01,23-02,25-01/05,58-0		
Polling	0	-
Mail Ballots	14	0.51%
Total	14	0.51%
Prescott B - 07-01,24-01,32-01,53-01,68-01/05,69-01,70-02,87-01		
Polling	0	-
Mail Ballots	9	0.30%
Total	9	0.30%
Prescott C - 22-02,26-01,62-01,64-02,71-02,73-01,82-02		
Polling	0	-
Mail Ballots	12	0.37%
Total	12	0.37%
Prescott D - 51-02,80-01,83-01,84-02,89-05,96-01,112-01		
Polling	0	-
Mail Ballots	10	0.31%
Total	10	0.31%
Total		
Polling	0	-
Mail Ballots	45	0.37%
Total	45	0.37%

Statement of Votes Cast

August 30 2011

SOVC For Jurisdiction Wide, All Counters, All Races

UNOFFICIAL FINAL RESULTS

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	Prescott Council					
	Reg. Voters	Vote For	Times Counted	Total Votes	Times Blank Voted	Times Over Voted
Jurisdiction Wide						
Prescott A - 04-01,05-02,08-01,09-01,10-02,11-01,18-01,23-02,25-01/05,58-0						
Polling	6389	3	0	0	0	0
Mail Ballots	6389	3	2800	6305	97	3
Total	6389	6	2800	6305	97	3
Prescott B - 07-01,24-01,32-01,53-01,68-01/05,69-01,70-02,87-01						
Polling	6341	3	0	0	0	0
Mail Ballots	6341	3	3044	6962	95	2
Total	6341	6	3044	6962	95	2
Prescott C - 22-02,26-01,62-01,64-02,71-02,73-01,82-02						
Polling	6367	3	0	0	0	0
Mail Ballots	6367	3	3282	7679	64	3
Total	6367	6	3282	7679	64	3
Prescott D - 51-02,80-01,83-01,84-02,89-05,96-01,112-01						
Polling	6444	3	0	0	0	0
Mail Ballots	6444	3	3271	7531	105	1
Total	6444	6	3271	7531	105	1
Total						
Polling	25541	12	0	0	0	0
Mail Ballots	25541	12	12397	28477	361	9
Total	25541	24	12397	28477	361	9

Statement of Votes Cast
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	Prescott Council					
	ARNOLD, CHARLES 'CHA		DUBIEL, ALAN		KUKNYO, CHRIS	
Jurisdiction Wide						
Prescott A - 04-01,05-02,08-01,09-01,10-02,11-01,18-01,23-02,25-01/05,58-0						
Polling	0	-	0	-	0	-
Mail Ballots	1455	23.08%	1120	17.76%	1698	26.93%
Total	1455	23.08%	1120	17.76%	1698	26.93%
Prescott B - 07-01,24-01,32-01,53-01,68-01/05,69-01,70-02,87-01						
Polling	0	-	0	-	0	-
Mail Ballots	1603	23.02%	1246	17.90%	1843	26.47%
Total	1603	23.02%	1246	17.90%	1843	26.47%
Prescott C - 22-02,26-01,62-01,64-02,71-02,73-01,82-02						
Polling	0	-	0	-	0	-
Mail Ballots	1842	23.99%	1342	17.48%	2037	26.53%
Total	1842	23.99%	1342	17.48%	2037	26.53%
Prescott D - 51-02,80-01,83-01,84-02,89-05,96-01,112-01						
Polling	0	-	0	-	0	-
Mail Ballots	1777	23.60%	1376	18.27%	1957	25.99%
Total	1777	23.60%	1376	18.27%	1957	25.99%
Total						
Polling	0	-	0	-	0	-
Mail Ballots	6677	23.45%	5084	17.85%	7535	26.46%
Total	6677	23.45%	5084	17.85%	7535	26.46%

Statement of Votes Cast

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UNOFFICIAL FINAL RESULTS

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	Prescott Council			
	LAMERSON, JAMES		Write-In Votes	
Jurisdiction Wide				
Prescott A - 04-01,05-02,08-01,09-01,10-02,11-01,18-01,23-02,25-01/05,58-0				
Polling	0	-	0	-
Mail Ballots	1636	25.95%	396	6.28%
Total	1636	25.95%	396	6.28%
Prescott B - 07-01,24-01,32-01,53-01,68-01/05,69-01,70-02,87-01				
Polling	0	-	0	-
Mail Ballots	1785	25.64%	485	6.97%
Total	1785	25.64%	485	6.97%
Prescott C - 22-02,26-01,62-01,64-02,71-02,73-01,82-02				
Polling	0	-	0	-
Mail Ballots	1983	25.82%	475	6.19%
Total	1983	25.82%	475	6.19%
Prescott D - 51-02,80-01,83-01,84-02,89-05,96-01,112-01				
Polling	0	-	0	-
Mail Ballots	2022	26.85%	399	5.30%
Total	2022	26.85%	399	5.30%
Total				
Polling	0	-	0	-
Mail Ballots	7426	26.08%	1755	6.16%
Total	7426	26.08%	1755	6.16%

COUNTY OF YAVAPAI
ELECTION DATE: August 30, 2011
WRITE-IN BALLOT RESULTS

August 31, 2011 _____
Date

JURISDICTION	BALLOT CODE	Office
		Luzius, Robert Council 4-year
Prescott	Prescott A	357
	Prescott B	462
	Prescott C	444
	Prescott D	372
	TOTALS	1635



COUNTY OF YAVAPAI - City of Prescott

PRIMARY ELECTION DATE August 30, 2011

REJECTED BALLOT REPORT

MAIL BALLOTS REJECTED

COUNCIL AGENDA MEMO – 09/13/11
DEPARTMENT: City Clerk
AGENDA ITEM: Public Hearing and consideration of a liquor license application from John J. Nielsen, applicant for Prescott Brewing Company, Inc., an Arizona Corporation, for a Series 03, <i>Domestic Microbrewery</i> , license for Prescott Brewing Company located at 6396 Lear Lane.

Approved By:	Date:
Department Head: Elizabeth A. Burke, City Clerk	
Finance Director: Mark Woodfill	
Acting City Manager: Craig McConnell <i>Craig McConnell</i>	8-30-11

A Liquor License Application, City No. 12-184, State No. 03133007, has been received from John J. Nielsen, applicant for Prescott Brewing Company, Inc., an Arizona Corporation, for a Series 03, *Domestic Microbrewery*, license for **Prescott Brewing Company** located at 6396 Lear Lane.

The public hearing will be held at the Regular Council Meeting of Tuesday, September 13, 2011. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have.

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

Recommended Action: (1) MOVE to close the Public Hearing; and (2) MOVE to approve/deny State Liquor License Application No. 03133007, for a new Series 03, <i>Domestic Microbrewery</i> , for John J. Nielsen applicant for Prescott Brewing Company located at 6396 Lear Lane.
--

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

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

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

Historical Note

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

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

SERIES 01 -- In-State Producer's License

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

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

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

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

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

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

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

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

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

SERIES 03 -- Domestic Microbrewery License

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

SERIES 04 -- Wholesaler's License

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

SERIES 05 -- Government License

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

SERIES 06 -- Bar License -- TRANSFERABLE

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

SERIES 07 -- Beer and Wine Bar License - TRANSFERABLE

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

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

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

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

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

SERIES 09S -- Liquor Store (Sampling) License

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

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

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

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

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

SERIES 12 -- Restaurant License

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

SERIES 13 -- Domestic Farm Winery License

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

SERIES 14 -- Club License

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

SERIES 15 -- Special Event License

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

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

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

SERIES 17 -- Direct Shipment License

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

COUNCIL AGENDA MEMO – 09/13/11
DEPARTMENT: City Clerk
AGENDA ITEM: Public Hearing and consideration of a liquor license application from Gregory John Swigut, applicant for Ariva LLC, for an Agent Change application for Papa's Italian Restaurant located at 1124 White Spar Road.

Approved By:	Date:
Department Head: Elizabeth A. Burke, City Clerk	
Finance Director: Mark Woodfill	
Acting City Manager: Craig McConnell <i>Craig McConnell</i>	8-22-11

A Liquor License Application, City No. 12-185, State No. 07130022, has been received from Gregory John Swigut, applicant for Ariva LLC for an Agent Change for **Papa's Italian Restaurant** located at 1124 White Spar Road.

The public hearing will be held at the Regular Council Meeting of Tuesday, September 13, 2011. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have.

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

<p>Recommended Action: (1) MOVE to close the Public Hearing, and (2) MOVE to approve/deny Liquor License Application No. 07130022, for an Agent Change, for Gregory John Swigut applicant for Papa's Italian Restaurant located at 1124 White Spar Road.</p>

COUNCIL AGENDA MEMO – September 13, 2011

DEPARTMENT: Risk Management

AGENDA ITEM: Purchase of an Airport Premises Liability Insurance Policy for a term of October 1, 2011, through September 30, 2012, from Ace Property and Casualty Insurance Company at a premium cost of \$14,750.00

Approved By:

Date:

Department Head: Sheri Swain

Finance Director: Mark Woodfill

City Manager: Craig McConnell



9-2-11

Background

Willis Global Aviation, a division of Willis of Arizona (Willis), the City's insurance broker, has recently completed solicitation of competitive quotes for the Airport Premises Liability policy that the City purchases annually for coverages pertaining to airport operations. The policy limit is \$50,000,000 with a zero deductible. The current policy expires September 30, 2011.

Quotes were received from two of the five qualified insurance companies contacted (see attached summary). The most favorable proposal for a \$50,000,000 policy limit was submitted by Ace Property and Casualty Insurance Company (Ace). Their quote of \$14,750.00 represents a savings of \$1,976.00 (12% below) compared to the current policy premium. Ace has been the Airport Liability carrier for several years, understands the City's airport operations, and submitted the lowest cost proposal.

Quotes were also received for a policy limit of \$75,000,000. The \$50,000,000 level of coverage, maintained by Flagstaff, Chandler, and Mesa, is also deemed sufficient for Prescott.

Budget

This insurance coverage is included in the Airport budget. Funding is available to support the expense in the amount of \$14,750.00.

Recommended Action: **MOVE** to approve purchase of an Airport Premises Liability Insurance Policy for a term of October 1, 2011, through September 30, 2012, from Ace Property and Casualty Insurance Company at a premium cost of \$14,750.00.

**Appendix to Proposal
Summary of Quotes and Indications Sought & Received**

ACE Property & Casualty Ins. Co. / ACE USA	Airport Liability	Primary	Quote based expiring \$50,000,000 Limit	Quote	Yes	See Quote for War & TRIA Premium, if req'd	\$14,750	Nil	Not Applicable			
ACE Property & Casualty Ins. Co. / ACE USA	Airport Liability	Primary	Quote for alternative \$75,000,000 Limit	Quote	Yes	See Quote for War & TRIA Premium, if req'd	\$17,300	Nil	Not Applicable			
Commerce & Industry Ins. Co. / Chartis Aerospace	Airport Liability	Primary	Quote based expiring \$50,000,000 Limit	Quote	Yes	See Quote for War & TRIA Premium, if req'd	\$14,981	Nil	Not Applicable			
Commerce & Industry Ins. Co. / Chartis Aerospace	Airport Liability	Primary	Quote for alternative \$75,000,000 Limit	Quote	Yes	See Quote for War & TRIA Premium, if req'd	\$17,653	Nil	Not Applicable			
Federal Insurance Co / Start Aviation	Airport Liability	Primary	indication based expiring \$50,000,000 Limit	Indication	No	Premium only, no War or TRIA	\$17,700	Nil	Not Applicable			
Global Aerospace Inc.	Airport Liability	Primary	No Response	N/A	N/A	Not Applicable		Nil	Not Applicable			
StarNet Ins. Co / Berkley Aviation	Airport Liability	Primary	Pass - would not be able to offer competitive pricing	N/A	N/A	Not Applicable		Nil	Not Applicable			

PLEASE NOTE: Unless you instruct us otherwise, your direction to bind coverage and/or payment of the premium related to your insurance placement will be deemed consent to the compensation disclosed above or as outlined in the binding documentation provided by the carrier.

COUNCIL AGENDA MEMO – September 13, 2011

DEPARTMENT: City Manager – Water Resources

AGENDA ITEM: Payment of Arizona Department of Water Resources FY2011-2012 Municipality Fee in the amount of \$49,637.15

Approved By:		Date:
Department Head:		
Finance Director:	Mark Woodfill	
City Manager:	Craig McConnell <i>Craig McConnell</i>	8-30-11

Item Summary

This item is for payment of the FY 2011-2012 Municipality Fee in the amount of \$49,637.15 to the Arizona Department of Water Resources (ADWR). The charge is a new assessment on all cities and towns enacted during the 2011 regular legislative session which became effective on July 20, 2011 (SB 1624, A.R.S § 45-118). The monies generated will be used by ADWR to carry out the purposes of Title 45 (Waters), Arizona Revised Statutes.

The fee, to be assessed annually, is calculated as follows:

$$(\text{Municipal Population} + \text{State Population}) \times (\$7,000,000 - \text{Unobligated Monies}) = \text{Municipal Fee}$$

For the City of Prescott in FY 2011-2012:

$$(39,843 + 5,022,150) \times (\$7,000,000 - \$743,312.46) = \$49,637.15$$

Budget

Since it was uncertain whether SB 1624 would be passed and become law, and the City was not notified of the fee due for FY 2011-2012 until July 2011, an accurate amount could not be budgeted in the present fiscal year. With minor adjustments to the large Water Fund capital program, however, funding sufficient to pay this new obligation can be made available. In subsequent fiscal years \$55,510 (0.793% x \$7,000,000) will be budgeted. This is the maximum the City will be required to pay until the next census.

Attachment - ADWR invoice dated August 15, 2011

Recommended Action: **MOVE** to approve payment of the Arizona Department of Water Resources FY2011-2012 Municipality Fee in the amount of \$49,637.15.

JANICE K. BREWER
Governor



SANDRA A. FABRITZ-WHITNEY
Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
PHOENIX, ARIZONA 85012-2105
602-771-8500

Date: August 15, 2011

To: CITY OF PRESCOTT
ATTN: CITY MANAGER
201 S. CORTEZ
PRESCOTT, AZ 86303

Re: FY 2011-2012 Municipality Fee Invoice

Dear City Manager,

The enclosed invoice is sent pursuant to Senate Bill 1624, which enacted A.R.S. § 45-118 to allow for the assessment and collection of fees from each municipality in the state. The invoice also is being sent in accordance with A.A.C. R12-15-107, which the Arizona Department of Water Resources (ADWR) adopted to establish the fee and to manage the billing and the collection process in this initial year of the fee. A permanent rule establishing the fee and governing administration of the fee will be adopted for subsequent fiscal years.

Pursuant to A.A.C. R12-15-107(B), the Director calculated your municipality fee in the following manner:

$(\text{Municipal Population} \div \text{State Population}) \times (\$7,000,000 - \text{Unobligated Monies}) = \text{Municipal Fee}$

$(39,843 \div 5,022,150) \times (\$7,000,000 - \$743,312.46) = \$49,637.15$

A.A.C. R12-15-107 allows for the payment of the fee in either one or two installments. An initial payment of at least one-half of the fee is due and payable on October 17, 2011. Should you elect to pay in two installments, the unpaid balance is due and payable by January 16, 2012.

If you have questions regarding your invoice, the statute or rule, please contact Michelle Moreno, ADWR Public Information Officer, at (602) 771-8530 or mamoreno@azwater.gov

Sincerely,

A handwritten signature in black ink that reads "Sandra A. Fabritz-Whitney".

Sandra A. Fabritz-Whitney



Arizona Department of Water Resources Municipality Fee Invoice

If you have any questions,
call Michelle Moreno at
(602) 771-8530

Municipality CITY OF PRESCOTT CITY OF PRESCOTT ATTN: CITY MANAGER 201 S. CORTEZ PRESCOTT, AZ 86303	Invoice Number: MUNI-35 Invoice Date 8/15/2011 Total Amount: \$49,637.15 Payment may be made by check or wire transfer Routing # 026009593 Bank account # 001-000985
--	---

^ Keep the top portion for your records ^ ADWR Federal Tax # 86-6004791

----- Cut along this line -----

This entire bottom portion must be returned to ADWR if paying by check

CITY OF PRESCOTT ATTN: CITY MANAGER 201 S. CORTEZ PRESCOTT, AZ 86303	Invoice Number: MUNI-35 Total Amount Due: \$24,819.15 Payment Due Date: 1/16/2012
Do not write below this line	Amount Paid:
Make your check or money order payable to: Arizona Department of Water Resources THIS FORM MUST ACCOMPANY YOUR REMITTANCE Mail to: Financial Services Arizona Department of Water Resources P.O. Box 36020 Phoenix AZ, 85067	Check No. Received: Postmarked: Entered:

----- Cut along this line -----

This entire bottom portion must be returned to ADWR if paying by check

CITY OF PRESCOTT ATTN: CITY MANAGER 201 S. CORTEZ PRESCOTT, AZ 86303	Invoice Number: MUNI-35 Total Amount Due: \$24,818.00 Payment Due Date: 10/17/2011
Do not write below this line	Amount Paid:
Make your check or money order payable to: Arizona Department of Water Resources THIS FORM MUST ACCOMPANY YOUR REMITTANCE Mail to: Financial Services Arizona Department of Water Resources P.O. Box 36020 Phoenix AZ, 85067	Check No. Received: Postmarked: Entered:

COUNCIL AGENDA MEMO – September 13, 2011
DEPARTMENT: Parks, Recreation & Library
AGENDA ITEM: Resolution No. 4095-1205 approving an Intergovernmental Agreement between the Arizona State Library and City of Prescott for grant funding of a Job Help Hub at the Prescott Public Library

Approved By:	Date:
Department Head: Debbie Horton	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	8-30-11

Background

The Arizona State Library has been awarded a grant to provide educational and career training to local communities. The grant will provide job seekers and entrepreneurs with assistance, targeted resources and longer periods of uninterrupted computer time to complete job searches, resumes and unemployment forms. It will also help develop 21st century skills to launch or grow a small business.

As part of the grant, Job Help Hubs will be developed in each Arizona county to enable libraries to provide services to patrons seeking employment assistance. The grant will make available to libraries laptop computers with specialized job related and training software, and an instructor to assist with resumes, job searches and employment applications. Yavapai County's Job Help Hub will be located within the Prescott Public Library.

Prescott Public Library has already received eleven laptop computers and additional equipment from the State Library. This intergovernmental agreement (IGA) will effectuate reimbursement to the City of Prescott for the cost of employing the part-time Job Help Hub instructor through June 14, 2013.

Budget

Grant funding from the Arizona State Library will reimburse City costs as set forth by the IGA. Reimbursement of the instructor is specified at \$18.00 per hour, not to exceed \$17,000.00 per year.

Attachment - IGA between the Arizona State Library and City of Prescott

Recommended Action: MOVE to adopt Resolution No. 4095-1205.
--

RESOLUTION NO. 4095-1205

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA STATE LIBRARY, ACCEPTING FUNDING OF A JOB HELP HUB AT THE PRESCOTT PUBLIC LIBRARY AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, the City and the Arizona State Library wish to enter into a certain Intergovernmental Agreement ("IGA") attached hereto as Exhibit "A," and made a part hereof, for the City to accept funds from the Arizona State Library to provide job seekers and entrepreneurs with assistance, targeted resources and longer periods of uninterrupted computer time to complete job searches, resumes and unemployment forms; and

WHEREAS, the Prescott Public Library has already received eleven laptop computers and additional equipment from the State Library. This IGA will effectuate reimbursement to the City of Prescott for the cost of employing the part-time Job Help Hub instructor through June 14, 2013; and

WHEREAS, the grant funding will reimburse City costs as set forth by the IGA. Reimbursement of the instructor is specified at \$18.00 per hour, not to exceed \$17,000 per year; and

WHEREAS, the City of Prescott and the Arizona State Library have the authority to enter into the foregoing agreement pursuant to ARS Sections 11-952, 48-3603(9) and 9-240(5).

ENACTMENTS:

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

Section 1. THAT the City of Prescott hereby approves the attached Intergovernmental Agreement with the Arizona State Library for the City to accept grant funding of a Job Help Hub as set forth in Exhibit "A" which is attached and made a part hereof.

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

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 13th day of September, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

INTERGOVERNMENTAL AGREEMENT
ASLAPR-AZJAC-IGA-11-1-001
between
ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS
and
City of Prescott

WHEREAS A.R.S. §41-2701 et seq., authorizes the State of Arizona, as the Arizona State Library, Archive and Public Records ("ASLAPR"), to execute and administer a specific federal grant, American Recovery and Reinvestment Act (ARRA) - PCC, AZ Job Help Hubs @ Your Library, CFDA number 11.557, award number 04-41-B10521, awarded July 2, 2010, herein referred to as Broadband Technology Opportunities Program Round 2 ("BTOP II"), as administered by the U.S. Department of Commerce (DoC), National Institute of Standards and Technology (NIST).

THEREFORE, in consideration of the mutual promises and covenants contained herein, ASLAPR and City of Prescott ("RECIPIENT"), located at **201 S. Cortez, Prescott, AZ 86303**, enter into this Intergovernmental Agreement ("AGREEMENT") as follows:

1. Purpose of Agreement

To address the increased demand by job-seekers on local libraries as a local resource where patrons can utilize internet access to search for or apply to jobs and also obtain or improve job-related skills, ASLAPR will provide funding to RECIPIENT for the purpose of employing a part-time instructor ("INSTRUCTOR"). Specifically, these funds are to be used, solely, as compensation to the INSTRUCTOR for labor hours, employee administrative related expenses, and to offset allowable travel costs, if any, incurred by the INSTRUCTOR for activities that support the implementation and tasks specified in the BTOP II grant as set forth herein.

The BTOP II implementation has two components: (1) Job Help Hubs ("JHH") and (2) Virtual Workforce Workstations ("VWW"). Together these are dubbed the Arizona Job Assistance Centers ("AzJAC") project. The VWW is a single workstation dedicated to job seekers for job search and placement assistance, skill assessments, development of individual employment plans, and career planning. The JHH is a portable computer lab dedicated to assisting job seekers with skill assessments, skill development and adult education. At least one JHH will be located in each county and within those counties located in communities determined to have the greatest need. The JHH labs are intended to provide face-to-face training and re-training and there is a provision in the grant to provide for the INSTRUCTOR to help with resumes, job searches, employment applications, starting a business, and continuing education opportunities.

2. Effective Date/Term of Agreement

The term of the AGREEMENT shall commence on **October 13, 2011** ("EFFECTIVE DATE"), and shall remain in effect until **June 14, 2013** ("TERMINATION DATE"), contingent upon federal funding, unless terminated or canceled as provided herein.

3. Contract Type

This AGREEMENT is a Cost Reimbursement, Sub-Grant Contract.

4. Description of Services

RECIPIENT shall hire INSTRUCTOR and shall guarantee that the INSTRUCTOR performs work, complies with his responsibilities, and meets the objectives for INSTRUCTOR as per BTOP II requirements and as described herein:

A. INSTRUCTOR Duties

As per the grant's terms and conditions, the INSTRUCTOR's primary duties are to provide training and one-on-one assistance to job-seekers in a classroom setting for an average of 16 hours per week. INSTRUCTOR will perform the following services:

- (1) Perform services at the principal location, the JHH site ("PARTICIPATING LIBRARY"),
- (2) Participate in a training curriculum sponsored by Arizona Workforce Connection and sanctioned by ASLAPR. This training is focused on how to assist JHH patrons with resources, triage job and employment inquiries, and learn about the special issues of working with displaced employees. INSTRUCTOR will be paid for the hours while attending this training and may request reimbursement for travel costs as provided herein.
- (3) With prior permission from ASLAPR, the INSTRUCTOR may, at the discretion and direction of the PARTICIPATING LIBRARY, attend other training provided by Arizona Workforce or other training deemed important to assist in providing training or education to job-seekers. INSTRUCTOR will be paid for the hours while attending this training and may request reimbursement for travel costs as provided herein.
- (4) Install and implement any software on the JHH laptops as needed.
- (5) Prioritize training by those endeavors deemed important by Arizona Workforce Connection and sanctioned by the Participating Library.
- (6) Utilize the JHH, or subsets of, at other venues as requested by and under the direction of the PARTICIPATING LIBRARY to provide services as described herein.
- (7) Initiate, plan, construct, or deliver, presentations, talks, or seminars to promote the JHH availability and offerings as necessary.

B. Reporting Requirements

The RECIPIENT shall submit reports that contain the information required under section 1512(c) of the ARRA in accordance with any guidance issued by the Office of Management and Budget, the U.S. Department of Education (ARRA Division A, Section 1512(c)), the Governor's Office of Economic Recovery, or ASLAPR.

C. Hours and Compensation

(1) LABOR

INSTRUCTOR is to be compensated at a rate of **\$18.00 per hour**. The anticipated **average monthly hours of contracted services are 75 hours** based on a combination of an **average 18 hours per week** and a 50-week work-year.

Based on the EFFECTIVE DATE and TERMINATION DATE, reimbursement to RECIPIENT for labor cannot exceed \$1,711 in any one month and cannot exceed \$32,659 for the entire contract without prior written permission from the ASLAPR. In any given month, RECIPIENT shall obtain this written permission three (3) business days prior to authorizing INSTRUCTOR to exceed monthly reimbursement amount established herein.

Upon the AGREEMENT being duly signed by both parties, ASLAPR and RECIPIENT will determine the method of time logging and the chain of administrative approval necessary and verify the INSTRUCTOR's hours for compensation and reporting.

(2) TRAVEL

Travel expenses shall be at the prevailing State rates and reimbursable at cost. State rates, as established by the Arizona Department of Administration, General Accounting Office, are made part of this agreement by reference herein. Travel expenses shall be at the prevailing State rates and reimbursable at cost. State rates, as established by the Arizona Department of Administration, General Accounting Office, and are made part of this agreement by reference herein (accessible at: www.gao.az.gov/travel/default.asp)

ASLAPR will reimburse expenses to SUNGRANTEE using a warrant, transfer, or by direct deposit. Method of payment will be at the discretion of ASLAPR and RECIPIENT will allow twenty (20) working days to receive payment from the time that ASLAPR receives a properly executed Travel Payment Request Form.

RECIPIENT will be reimbursed for INSTRUCTOR's mileage, only. The only exceptions are if the Instructor provides services to RECIPIENT in one of the following four counties: Coconino, Yavapai, Mohave, Navajo, and Apache. Instructors for these counties will be permitted to submit expenses supporting JHH endeavors involving overnight trips. A section of Travel Payment Request Form requires an explanation of the justification for such trips and completion of the section will be required for RECIPIENT to receive reimbursement. All travel reimbursement requests are subject to the policies set forth by Arizona Department of Administration, General Accounting Office.

5. Documents Incorporated by Reference

Incorporation by Reference into AGREEMENT as if fully set forth herein are the following:

- (1) Title XIV of the American Recovery and Reinvestment Act (ARRA) of 2009, known as the State Fiscal Stabilization Fund (Public Law 111-5 (H.R. 1), February 17, 2009; 123 Stat. 115, as amended by Public Law 111-8 (H.R. 1105), the Omnibus Appropriations Act, 2009; Division A, Section 523; March 11, 2009; 123 Stat. 524), as administered by the U.S. Department of Education.

(Included as Attachment 1 and accessible at:

<http://www2.ed.gov/policy/gen/leg/recovery/statutory/stabilization-fund.doc>).

It is the RECIPIENT's responsibility to obtain the most current revisions of this document.

6. RECIPIENT ARRA Assurances

RECIPIENT assures compliance with the guidelines, provisions and reporting requirements of the ARRA recipients. RECIPIENT accepts that the Federal Government may issue additional guidance or change requirements or terms and conditions of this AGREEMENT as ARRA funds are distributed and programs are implemented for the stated designated goals and quick timelines. RECIPIENT agrees that any such supplementary guidance, clarifications, or provisions, shall become terms and conditions of this award.

RECIPIENT certifies that it will not use ARRA funds for any unauthorized purposes and understands that misuse of ARRA funds may result in a range of penalties from suspension of funds to civil and/or criminal penalties.

7. Programmatic and Financial Reports

RECIPIENT shall provide quarterly program activity reports to the Grantor within five (5) calendar days of the last day of the quarter in which services are provided. RECIPIENT shall use the forms provided by ASLAPR to submit quarterly program activity reports. The report shall contain such information as deemed necessary by the ARRA guidance and ASLAPR. ASLAPR will send these forms to both the PARTICIPATING LIBRARY and RECIPIENT upon receipt of the duly signed AGREEMENT.

8. Renewal

The AGREEMENT shall not bind nor purport to bind ASLAPR for any contractual commitment in excess of the original AGREEMENT period or amount. The AGREEMENT will terminate at the end of the grant period and ASLAPR reserves the right to cancel based on the cancellation criteria set forth in the AGREEMENT.

9. RECIPIENT'S Obligation Regarding Confidentiality

Due to the sensitive nature of the information maintained by ASLAPR, RECIPIENT acknowledges that all information disclosed to it concerning the ASLAPR's operations during performance of this Grant shall not be disclosed to third parties without ASLAPR's prior written consent. All proprietary information and all copies thereof shall be returned to ASLAPR upon completion of the work for which it was obtained or developed.

10. No Parole Evidence

This AGREEMENT is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

11. No Waiver

Either party's failure to insist on strict performance of any term or condition of the AGREEMENT shall not be construed as a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

12. Financial Reimbursement

The RECIPIENT shall be paid on a cost-reimbursement basis. The reimbursement amount is to be determined on the cash basis of accounting. The reimbursement request may be submitted monthly but must be submitted at least quarterly for those items submitted and approved in the budget inclusively.

RECIPIENT shall submit a final reimbursement request no more than fifteen (15) days after the AGREEMENT ends for expenses incurred prior to the date of AGREEMENT termination. All expenses must be liquidated prior to the final reimbursement request. Requests for reimbursement received later than fifteen (15) days after the AGREEMENT termination will not be paid. If awarded a contract, RECIPIENT must have sufficient funds to meet obligations for up to sixty (45) days while awaiting reimbursements from ASLAPR.

Notwithstanding any other payment provision of this AGREEMENT, failure of the RECIPIENT to submit required reports when due, or failure to perform or deliver required work, supplies or services, may result in the withholding of payment under this AGREEMENT at the discretion of ASLAPR.

13. Manner of Financing

- A. RECIPIENT will receive the amounts specified in **Section 4.C** of this AGREEMENT, **Hours and Compensation**, in the manner specified in Section 12 of this AGREEMENT, **Financial Reimbursement**, and as specified in within **Section 12**.
- B. Payment made by ASLAPR to the RECIPIENT will be on a reimbursement basis only and is conditioned upon receipt of applicable, accurate and complete reimbursement documents, as required by ASLAPR, to be submitted by the RECIPIENT. Final payment shall be contingent upon receipt of all fiscal and programmatic reports required of the RECIPIENT under this AGREEMENT.
- C. Requested reimbursement must be submitted in an all-inclusive basis.
- D. Travel expenses shall be at State rates and reimbursable at cost as referenced in Section 4.C.2 of this AGREEMENT, **Travel**.

14. DUNS/CCR

The RECIPIENT is required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number for the fiscal agent and proof of current registration in the Central Contractor Registration (CCR) database. CCR registration must be maintained for the term of the AGREEMENT.

15. Restrictions on Lobbying

The RECIPIENT shall not use these funds to pay for, influence, or seek to influence any officer or employee of the State of Arizona or the federal government.

16. Printed Material

It is agreed that any report or printed matter completed as a part of this AGREEMENT is a work for hire and shall not be copyrighted by the SUBGRANTEE. Any publicly printed material under this AGREEMENT shall state "This project was supported by the U.S. Department of Commerce, the Governor's Office of Economic Recovery, and Arizona State Library, Archives and Public Records".

17. Fiscal Responsibility

It is understood and agreed that the total amount of the funds used under this AGREEMENT shall be used for the project as specified within this AGREEMENT. Should the project not be completed, be partially completed, or be completed at a lower cost than the original budget called for, the amount reimbursed to RECIPIENT shall be for only the amount of dollars actually spent by the RECIPIENT. For any funds received under this AGREEMENT for which expenditure is disallowed in an audit exception by the ASLAPR, the State of Arizona, or Federal government, RECIPIENT shall reimburse said funds directly to the ASLAPR immediately within fifteen (15) business days, exclusive of state holidays.

18. Records and Audit Trails

Under A.R.S. § 35-214 and § 35-215, the RECIPIENT shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the performance of the AGREEMENT for a period of five (5) years after the closing of the federal grant. The RECIPIENT's books and records may be subject to an audit by the State of Arizona or Federal Government, to the extent that the books and records relate to the performance of the AGREEMENT.

RECIPIENT shall maintain proper audit trails for all reports related to this AGREEMENT. ASLAPR reserves the right to review all program records.

All records shall be subject to inspection and audit by the State of Arizona or Federal government at reasonable times. Upon request, RECIPIENT shall produce a legible copy of any or all such records.

19. Funds Management

The RECIPIENT must maintain funds received under this AGREEMENT in separate ledger accounts and cannot mix these funds with other sources. RECIPIENT must manage funds according to applicable federal regulations for administrative requirements, cost principles and audits.

The RECIPIENT must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- (1) Financial Management
- (2) Personnel
- (3) Travel

A system is adequate if it is: 1) written; 2) consistently followed (it applies in all similar circumstances); and 3) consistently applied (it applies to all sources of funds). The ASLAPR reserves the right to review all business systems policies.

The fiscal person is considered a Key Person for this grant and it is essential that RECIPIENT provide adequate and competent personnel capable of achieving the successful accomplishment of obligations under this AGREEMENT.

20. Assignment and Delegation

RECIPIENT may not assign any rights hereunder without the express, prior written consent of ASLAPR.

21. Notification Regarding Changes

RECIPIENT shall notify ASLAPR in writing, with immediate notice, of any changes that will directly affect service delivery under the terms of this AGREEMENT. No changes shall be implemented without written approval or a formal amendment to this AGREEMENT issued by ASLAPR.

22. Amendments

Any change in the AGREEMENT, including material changes to the scope of work and/or the budget described herein, whether by modification or supplementation, must be accomplished by a formal AGREEMENT amendment signed and approved by and between the duly authorized representatives of the RECIPIENT and ASLAPR. ASLAPR may approve or reject any amendment, when necessary. Any such amendment shall specify an effective date, any increases or decreases in the amount of the RECIPIENT's compensation, if applicable, and entitled as an "Amendment" and signed by the parties identified in the preceding sentence. The RECIPIENT expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification or supplementation to the AGREEMENT.

23. Subcontractors

The RECIPIENT shall not enter into any Subcontract under this AGREEMENT for the performance of this AGREEMENT without the advance written approval of ASLAPR. The RECIPIENT shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this AGREEMENT.

24. Cancellation for Conflict of Interest

ASLAPR may, by written notice to the RECIPIENT, immediately cancel this AGREEMENT without penalty or further obligation pursuant to A.R.S. §38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating of the AGREEMENT on behalf of ASLAPR is an employee or agent of any other party in any capacity or a consultant to any other party to the AGREEMENT with respect to the subject matter of the AGREEMENT. Such cancellation shall be effective when the RECIPIENT to the AGREEMENT receives written notice from ASLAPR, unless the notice specifies a later time.

25. Cancellation for Cause

ASLAPR reserves the right to cancel the whole or any part of the AGREEMENT due to failure of the SUBGRANTEE to carry out any term or condition of the AGREEMENT, to maintain all required insurance policies, bonds, licenses, permits, or to make unsatisfactory progress in performing this AGREEMENT.

If ASLAPR determines there is cause for cancellation, ASLAPR shall issue a written ten (10) day notice of default to the SUBGRANTEE. And ASLAPR may cancel the AGREEMENT. If ASLAPR cancels AGREEMENT pursuant to this clause, the State reserves all rights or claims to damage for breach of contract.

26. AGREEMENT Termination

ASLAPR reserves the right to terminate the AGREEMENT at any time, for the convenience of ASLAPR, without penalty or recourse, by giving written notice to the RECIPIENT at least thirty (30) days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, and reports prepared by the RECIPIENT under the AGREEMENT shall, at the option of ASLAPR, become property of the State of Arizona. The RECIPIENT shall be entitled to receive just and equitable compensation for that work completed prior to the effective date of termination.

27. Force Majeure

If either party hereto is delayed or prevented from the performance of any act required in this AGREEMENT by reason of acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of or payment for such act will be excused for the period of the delay.

28. Non-Discrimination

All parties to this AGREEMENT agree to comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order No. 09-09, which mandates that all persons, regardless of race, religion, color, age, sex, or national origin shall have equal access to employment opportunities. All parties shall comply with 1) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental disability; 2) all applicable federal regulations regarding equal employment opportunity and relevant orders issued by the U.S. Secretary of Labor; 3) all applicable provisions and regulations relating to the Americans with Disabilities Act, as amended and the Arizona Disability Act of 1992 (A.R.S. 41-1492 et seq.); and 4) all applicable provisions and regulations relating to President's Executive Order No. 13279 - Equal Protection of the Laws for Faith-based and Community Organizations.

29. Ownership of Information

ASLAPR reserves the right to review and approve any publications funded or partially funded through this AGREEMENT. All publications funded or partially funded through this AGREEMENT shall

recognize the Broadband Technology Opportunities Program, administered by the U.S. Department of Commerce and the Arizona State Library, Archives and Public Records.

30. Partial Invalidity

Any term or provision of this AGREEMENT that is hereafter declared contrary to any current or future law, order, regulation or rule, or which is otherwise invalid, shall be deemed stricken from this AGREEMENT without impairing the validity of the remainder of this AGREEMENT.

31. Arbitration

In the event of any dispute arising under this AGREEMENT, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving rise to the dispute. The parties shall follow the procedures set forth in this section to facilitate a resolution and attempt to avoid litigation.

The parties shall negotiate in good faith to resolve the dispute within sixty (60) days of receiving notice of the existence of the dispute. However, if the parties do not reach such resolution within a period of sixty (60) days, then, upon notice by either party to the other, all disputes, claims, questions, or differences shall be finally settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules, in compliance with A.R.S. §12-1518, and any such proceeding shall be held in Maricopa County, Arizona.

32. Governing Law

This AGREEMENT shall be governed and interpreted by the laws of the State of Arizona. The venue for any proceedings, actions, or suits arising from this AGREEMENT shall be in Maricopa County, Arizona.

33. Paragraph Headings

The descriptive headings of this AGREEMENT are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions in this AGREEMENT.

34. Notices

Any and all notices, requests, demands or communications by either party to this AGREEMENT, pursuant to or in connection with this AGREEMENT shall be in writing and shall be delivered in person, facsimile, e-mail, or shall be sent by the United States Postal Service, first class, to the respective parties at the following addresses:

Correspondence to RECIPIENT:

Toni Kaus]
Library Director]
Prescott Public Library
215 E Goodwin St

Prescott, AZ 86303

Telephone: (928) 777 - 1519
Email: toni.kaus@prescott-az.gov
Fax: (928) 771 - 5829

Correspondence to Grantor:

Laura Stone
BTOP II Program Director
Arizona State Library and Archives
1700 West Washington
Suite 200
Phoenix, AZ 85007

Telephone: (___) ___ - _____
Email:
Fax: (___) ___ - _____

35. Indemnification Clause

Each party (as "**Indemnitor**") agrees to indemnify, defend, and hold harmless the other party (as "**Indemnitee**") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "**Claims**") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

In addition, RECIPIENT shall cause its contractor(s) and subcontractors, if any, to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "**Indemnitee**") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "**Claims**") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of RECIPIENT's contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

36. Compliance with Applicable Laws

All parties to this AGREEMENT shall comply with all applicable Federal, State, and local laws.

37. Licensing and Permits

SUBGRANTEE shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by the SUBGRANTEE. SUBGRANTEE shall ensure that INSTRUCTOR maintains all applicable federal, state and local licenses and permits required to perform under this AGREEMENT.

38. Suspension or Debarment Status

If the RECIPIENT has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any federal, state or local government, the applicant must include a letter with its application setting forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment.

Failure by the RECIPIENT to supply the letter or to disclose in the letter all pertinent information regarding a suspension or debarment or failure to offer proof of the expiration or lifting of the debarment or suspension, shall result in denial to the RECIPIENT from participating in this AGREEMENT or cancellation of this AGREEMENT. ASLAPR may also exercise any remedy available by law.

39. Federal Immigration Laws and E-verify

By entering into this AGREEMENT, the RECIPIENT warrants compliance with the Federal Immigration and Nationality Act and all other federal immigration laws and regulations related to the immigration

status of its employees and, in accordance with A.R.S. § 41-4401, warrants its compliance with the applicable sections of the Arizona Administrative Code and A.R.S. § 23-214, Subsection A (participation in E-verify), during the term of the AGREEMENT. Further, the RECIPIENT shall flow down these requirements to all subcontractors utilized during the term of the AGREEMENT.

The State shall retain the right to perform random audits of RECIPIENT and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the RECIPIENT and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to suspension of work, termination of the AGREEMENT for default and suspension and/or debarment of the contractor.

40. Counterparts

This AGREEMENT may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one AGREEMENT.

41. Prohibition on Government Contracts Regarding Iran and Sudan

In accordance with A.R.S. § 35-391.06 and § 35-393.06, the RECIPIENT hereby certifies that the RECIPIENT does not have scrutinized business operations in Sudan or Iran.

42. Authority to Execute this AGREEMENT

Each individual executing this AGREEMENT on behalf of the RECIPIENT represents and warrants that he or she is duly authorized to execute this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto agree to execute this AGREEMENT.

<i>RECIPIENT:</i>	<i>ASLAPR:</i>
City of Prescott 201 S. Cortez, Prescott, AZ 86303	Arizona State Library, Archive and Public Records 1700 W. Washington, Suite 300 Phoenix, AZ 85007
Marlin D. Kuykendall Mayor	Jim Drake Assistant Secretary of State
DATE: ____ / ____ / 2011	DATE: ____ / ____ / 2011

ATTACHMENT 1

American Recovery and Reinvestment Act of 2009
Public Law 111-5 (H.R. 1), February 17, 2009; 123 Stat. 115

As amended by Public Law 111-8 (H.R. 1105), the Omnibus Appropriations Act, 2009;
Division A, Section 523; March 11, 2009; 123 Stat. 524

Below are excerpts from Public Law 111-5, as amended by Public Law 111-8, that relate to the State Fiscal Stabilization Fund administered by the U.S. Department of Education. The U.S. Department of Education has posted this information as a courtesy to readers. The official (and controlling) texts of this material will be printed in those two Public Laws.

DIVISION A, TITLE XIV – STATE FISCAL STABILIZATION FUND
DEPARTMENT OF EDUCATION
STATE FISCAL STABILIZATION FUND

GENERAL PROVISIONS – THIS TITLE

SEC. 14001. ALLOCATIONS.

(a) Outlying Areas. From the amount appropriated to carry out this title, the Secretary of Education shall first allocate up to one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, in consultation with the Secretary of the Interior, for activities consistent with this title under such terms and conditions as the Secretary may determine.

(b) Administration and Oversight. The Secretary may, in addition, reserve up to \$14,000,000 for administration and oversight of this title, including for program evaluation.

(c) Reservation for Additional Programs. After reserving funds under subsections (a) and (b), the Secretary shall reserve \$5,000,000,000 for grants under sections 14006 and 14007.

(d) State Allocations. After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this title to the States as follows:

- (1) 61 percent on the basis of their relative population of individuals aged 5 through 24.
- (2) 39 percent on the basis of their relative total population.

(e) State Grants. From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) Reallocation. The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not award as subgrants or otherwise commit within two years of receiving such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

SEC. 14002. STATE USES OF FUNDS.

(a) Education Fund.

(1) In general. For each fiscal year, the Governor shall use 81.8 percent of the State's allocation under section 14001(d) for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.

(2) Restoring state support for education.

(A) In general. The Governor shall first use the funds described in paragraph (1)—

(i) to provide the amount of funds, through the State's primary elementary and secondary education funding formulae, that is needed—

(I) to restore, in each of fiscal years 2009, 2010, and 2011, the level of State support provided through such formulae to the greater of the fiscal year 2008 or fiscal year 2009 level; and

(II) where applicable, to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008.

(ii) to provide, in each of fiscal years 2009, 2010, and 2011, the amount of funds to public institutions of higher education in the State that is needed to restore State support for such institutions (excluding tuition and fees paid by students) to the greater of the fiscal year 2008 or fiscal year 2009 level.

(B) Shortfall. If the Governor determines that the amount of funds available under paragraph (1) is insufficient to support, in each of fiscal years 2009, 2010, and 2011, public elementary, secondary, and higher education at the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

(C) Fiscal year. For purposes of this paragraph, the term "fiscal year" shall have the meaning given such term under State law.

(3) Subgrants to improve basic programs operated by local educational agencies.--After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

(b) Other Government Services.

(1) In general. The Governor shall use 18.2 percent of the State's allocation under section 14001(d) for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of public school facilities and institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(2) Availability to all institutions of higher education. A Governor shall not consider the type or mission of an institution of higher education, and shall consider any institution for funding for modernization, renovation, and repairs within the State that—

(A) qualifies as an institution of higher education, as defined in subsection 14013(3); and

(B) continues to be eligible to participate in the programs under title IV of the Higher Education Act of 1965.

(c) Rule of Construction. Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

SEC. 14003. USES OF FUNDS BY LOCAL EDUCATIONAL AGENCIES.

(a) In General. local educational agency that receives funds under this title may use he funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) ("SEA"), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) ("IDEA"), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) ("the Perkins Act") or for modernization, renovation, or repair of public school facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) Prohibition. A local educational agency may not use funds received under this title for—

(1) payment of maintenance costs;

(2) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;

(3) purchase or upgrade of vehicles; or

(4) improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities.

(c) Rule of Construction. Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

SEC. 14004. USES OF FUNDS BY INSTITUTIONS OF HIGHER EDUCATION.

(a) In General. A public institution of higher education that receives funds under this title shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students, or for modernization, renovation, or repair of institution of higher education facilities that are primarily used for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) Prohibition. An institution of higher education may not use funds received under this title to increase its endowment.

(c) Additional Prohibition. No funds awarded under this title may be used for—

(1) the maintenance of systems, equipment, or facilities;

(2) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; or

(3) modernization, renovation, or repair of facilities—

- (A) used for sectarian instruction or religious worship; or
- (B) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.

SEC. 14005. STATE APPLICATIONS.

(a) In General. The Governor of a State desiring to receive an allocation under section 14001(d) shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Application. In such application, the Governor shall—

- (1) include the assurances described in subsection (d);
- (2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and
- (3) describe how the State intends to use its allocation, including whether the State will use such allocation to meet maintenance of effort requirements under the ESEA and IDEA and, in such cases, what amount will be used to meet such requirements.

(c) Incentive Grant Application. The Governor of a State seeking a grant under section 14006 shall—

- (1) submit an application for consideration;
- (2) describe the status of the State's progress in each of the areas described in subsection (d), and the strategies the State is employing to help ensure that students in the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA (20 U.S.C. 6311(b)(2)(C)(v)(II)) who have not met the State's proficiency targets continue making progress toward meeting the State's student academic achievement standards;
- (3) describe the achievement and graduation rates (as described in section 1111(b)(2)(C)(vi) of the ESEA (20 U.S.C. 6311(b)(2)(C)(vi)) and as clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations) of public elementary and secondary school students in the State, and the strategies the State is employing to help ensure that all subgroups of students identified in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2)) in the State continue making progress toward meeting the State's student academic achievement standards;
- (4) describe how the State would use its grant funding to improve student academic achievement in the State, including how it will allocate the funds to give priority to high-need local educational agencies; and
- (5) include a plan for evaluating the State's progress in closing achievement gaps.

(d) Assurances. An application under subsection (b) shall include the following assurances:

- (1) Maintenance of effort.
 - (A) Elementary and secondary education. The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.
 - (B) Higher education. The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at least at the level of such support in fiscal year 2006.
- (2) Achieving equity in teacher distribution. The State will take actions to improve teacher effectiveness and comply with section 1111(b)(8)(C) of the ESEA (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of highly qualified teachers between high- and low-poverty schools, and to ensure that low-income and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.
- (3) Improving collection and use of data. The State will establish a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871).
- (4) Standards and assessments. The State—
 - (A) will enhance the quality of the academic assessments it administers pursuant to section 1111(b)(3) of the ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) of such Act (20 U.S.C. 7301a(a));
 - (B) will comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) of the ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of the IDEA (20 U.S.C. 1412(a)(16)) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; and

(C) will take steps to improve State academic content standards and student academic achievement standards consistent with section 6401(e)(1)(A)(ii) of the America COMPETES Act.

(5) Supporting struggling schools. The State will ensure compliance with the requirements of section 1116(b)(7)(C)(iv) and section 1116(b)(8)(B) of the ESEA with respect to schools identified under such sections.

SEC. 14006. STATE INCENTIVE GRANTS.

(a) In General.

(1) Reservation. From the total amount reserved under section 14001(c) that is not used for section 14007, the Secretary may reserve up to 1 percent for technical assistance to States to assist them in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d).

(2) Remainder. Of the remaining funds, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d).

(b) Basis for Grants. The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 14005 and such other criteria as the Secretary determines appropriate, which may include a State's need for assistance to help meet the objective of paragraphs (2), (3), (4), and (5) of section 14005(d).

(c) Subgrants to Local Educational Agencies. Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

SEC. 14007. INNOVATION FUND.

(a) In General.

(1) Eligible entities. For the purposes of this section, the term "eligible entity" means—

- (A) a local educational agency; or
- (B) a partnership between a nonprofit organization and—
 - (i) one or more local educational agencies; or
 - (ii) a consortium of schools.

(2) Program established. From the total amount reserved under section 14001(c), the Secretary may reserve up to \$650,000,000 to establish an Innovation Fund, which shall consist of academic achievement awards that recognize eligible entities that meet the requirements described in subsection (b).

(3) Basis for awards. The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

- (A) to allow such eligible entities to expand their work and serve as models for best practices;
- (B) to allow such eligible entities to work in partnership with the private sector and the philanthropic community; and
- (C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success.

(b) Eligibility. To be eligible for such an award, an eligible entity shall—

(1) have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2));

(2) have exceeded the State's annual measurable objectives consistent with such section 1111(b)(2) for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 1111(c)(2) of the ESEA;

(3) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(4) demonstrate that they have established partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

(c) Special Rule. In the case of an eligible entity that includes a nonprofit organization, the eligible entity shall be considered to have met the eligibility requirements of paragraphs (1), (2), (3) of subsection (b) if such nonprofit organization has a record of meeting such requirements.

SEC. 14008. STATE REPORTS.

For each year of the program under this title, a State receiving funds under this title shall submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes—

- (1) the uses of funds provided under this title within the State;
- (2) how the State distributed the funds it received under this title;
- (3) the number of jobs that the Governor estimates were saved or created with funds the State received under this title;
- (4) tax increases that the Governor estimates were averted because of the availability of funds from this title;
- (5) the State's progress in reducing inequities in the distribution of highly qualified teachers, in implementing a State longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;
- (6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this title, and a description of any actions taken by the State to limit those increases;
- (7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance; and
- (8) a description of each modernization, renovation and repair project funded, which shall include the amounts awarded and project costs.

SEC. 14009. EVALUATION.

The Comptroller General of the United States shall conduct evaluations of the programs under sections 14006 and 14007 which shall include, but not be limited to, the criteria used for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

SEC. 14010. SECRETARY'S REPORT TO CONGRESS.

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of State reports, that evaluates the information provided in the State reports under section 14008 and the information required by section 14005(b)(3) including State-by-State information.

SEC. 14011. PROHIBITION ON PROVISION OF CERTAIN ASSISTANCE.

No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools, unless such funds are used to provide special education and related services to children with disabilities, as authorized by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

SEC. 14012. FISCAL RELIEF.

(a) In General. For the purpose of relieving fiscal burdens on States and local educational agencies that have experienced a precipitous decline in financial resources, the Secretary of Education may waive or modify any requirement of this title relating to maintaining fiscal effort.

(b) Duration. A waiver or modification under this section shall be for any of fiscal year 2009, fiscal year 2010, or fiscal year 2011, as determined by the Secretary.

(c) Criteria. The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State receiving such waiver or modification will not provide for elementary, secondary, and public higher education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State than the percentage provided for such purpose in the preceding fiscal year.

(d) Maintenance of Effort. Upon prior approval from the Secretary, a State or local educational agency that receives funds under this title may treat any portion of such funds that is used for elementary, secondary, or postsecondary education as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other program, including part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), administered by the Secretary.

(e) Subsequent Level of Effort. Notwithstanding (d), the level of effort required by a State or local educational agency for the following fiscal year shall not be reduced.

SEC. 14013. DEFINITIONS.

Except as otherwise provided in this title, as used in this title—

- (1) the terms "elementary education" and "secondary education" have the meaning given such terms under State law;
- (2) the term "high-need local educational agency" means a local educational agency—
 - (A) that serves not fewer than 10,000 children from families with incomes below the poverty line; or
 - (B) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line;
- (3) the term "institution of higher education" has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);
- (4) the term "Secretary" means the Secretary of Education;
- (5) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and
- (6) any other term used that is defined in section 9101 of the ESEA (20 U.S.C. 7801) shall have the meaning given the term in such section.

[END]

COUNCIL AGENDA MEMO – September 13, 2011

DEPARTMENT: Public Works

AGENDA ITEM: Award of bid and contract for the Meadowbrook Road Water Main Replacement Project to Action Direct, LLC, dba Redpoint Contracting, in the amount of \$238,325.00

Approved By:

Date:

Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	<i>8-30-11</i>

Item Summary

This item is to award the bid and contract with Action Direct, LLC, dba Redpoint Contracting, of Phoenix, Arizona, for a water main replacement on Meadowbrook Road. This project will include trenching and pavement replacement to facilitate the installation of a water main and associated services.

Background

The City of Prescott has experienced numerous water main breaks within the limits of this project. To reduce operations and maintenance costs, as well as potential property damage due to water main breaks, the City is proceeding with a durable solution.

The project requires the contractor to install approximately 865 lineal feet of 8-inch ductile iron pipe, fire hydrants, water services, and related appurtenances in Meadowbrook Road and a portion Forest Hills Road. The contractor will be responsible for notifying residents of construction impacts, installing the improvements, and restoring the area to pre-construction condition.

Bid Results

A mandatory pre-bid meeting was held on August 3, 2011. Six (6) bids were received on August 11, 2011, as follows:

<u>Bidder</u>	<u>Location</u>	<u>Base Bid</u>
Redpoint Contracting	Phoenix, AZ	\$238,325.00
RK Sanders, Inc.	Phoenix, AZ	\$240,834.00
Fann Contracting, Inc.	Prescott, AZ	\$248,623.50
Asphalt Paving & Supply, Inc.	Prescott Valley, AZ	\$299,415.00
CNB Excavating, Inc.	Dewey, AZ	\$312,990.00
Capital Improvements, LLC	Prescott, AZ	\$394,448.00
Engineer's Estimate	N/A	\$242,125.80

Agenda Item: Award of bid and contract for the Meadowbrook Road Water Main Replacement Project to Action Direct, LLC, dba Redpoint Contracting, in the amount of \$238,325.00

Written confirmation of bid has been received from the low responsive bidder, Action Direct, LLC, dba Redpoint Contracting. Verification of the company's license, bonding, references, and past performance of similar projects has been completed.

Schedule

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

Award of Contract	September 13, 2011
Pre-Construction Meeting	September 19, 2011
Notice to Proceed (NTP)	September 26, 2011
Substantial Project Completion	November 10, 2011

Budget

FY 2012 funding for this project will be from the Water Fund; Account No. 7007810-09556.

Attachment - Vicinity map

Recommended Action: **MOVE** to award the bid and contract for the Meadowbrook Road Water Main Replacement Project to Action Direct, LLC, dba Redpoint Contracting, in the amount of \$238,325.00.

COUNCIL AGENDA MEMO – September 13, 2011
DEPARTMENT: Public Works
AGENDA ITEM: Award of bid and contract for the Chino Valley Arsenic Treatment Site Improvements Project to RK Sanders, Inc., in the amount of \$155,777.00.

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	8-30-11

Item Summary

This item is to award the bid and contract with RK Sanders, Inc., of Phoenix, Arizona for site improvements at five (5) City of Prescott well sites located within the Town of Chino Valley. This project will include landscaping and screen walls. The project is necessary to fulfill Town of Chino Valley permit conditions for the arsenic treatment installations built for compliance with requirements of the Environmental Protection Agency (EPA) and Arizona Department of Environmental Quality (ADEQ).

Background

Prescott was required to install arsenic treatment at City-owned well sites in Chino Valley to assure compliance with EPA and ADEQ standards for drinking water. The City applied for a Town of Chino Valley Conditional Use Permit for these improvements in 2007. A permit condition requires that landscaping and screening be provided at the well sites to minimize visual impact to surrounding residences.

The project requires the contractor to install colored concrete block walls, privacy fencing, gates, trees, shrubs, and irrigations systems. The vegetation to be planted has been selected for low water use. The contractor will be responsible for performing the improvements and establishing landscaping growth.

Bid Results

A mandatory pre-bid meeting was held August 3, 2011. Four (4) bids were received on August 11, 2011, as follows:

<u>Bidder</u>	<u>Location</u>	<u>Base Bid</u>
RK Sanders, Inc.	Phoenix, AZ	\$155,777.00
AJP Electric, Inc.	Phoenix, AZ	\$188,807.00
GL General Contracting LLC	Phoenix, AZ	\$216,911.00
CNB Excavating, Inc.	Dewey, AZ	\$267,000.00
Engineer's Estimate	N/A	\$207,488.00

Agenda Item: Award of bid and contract for the Chino Valley Arsenic Treatment Site Improvements to RK Sanders, Inc., in the amount of \$155,777.00.

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

Schedule

The contract allows ninety (90) calendar days for completion of the work with project milestones listed below:

Award of Contract	September 13, 2011
Pre-Construction Meeting	September 19, 2011
Notice to Proceed (NTP)	September 26, 2011
Substantial Project Completion	December 26, 2011

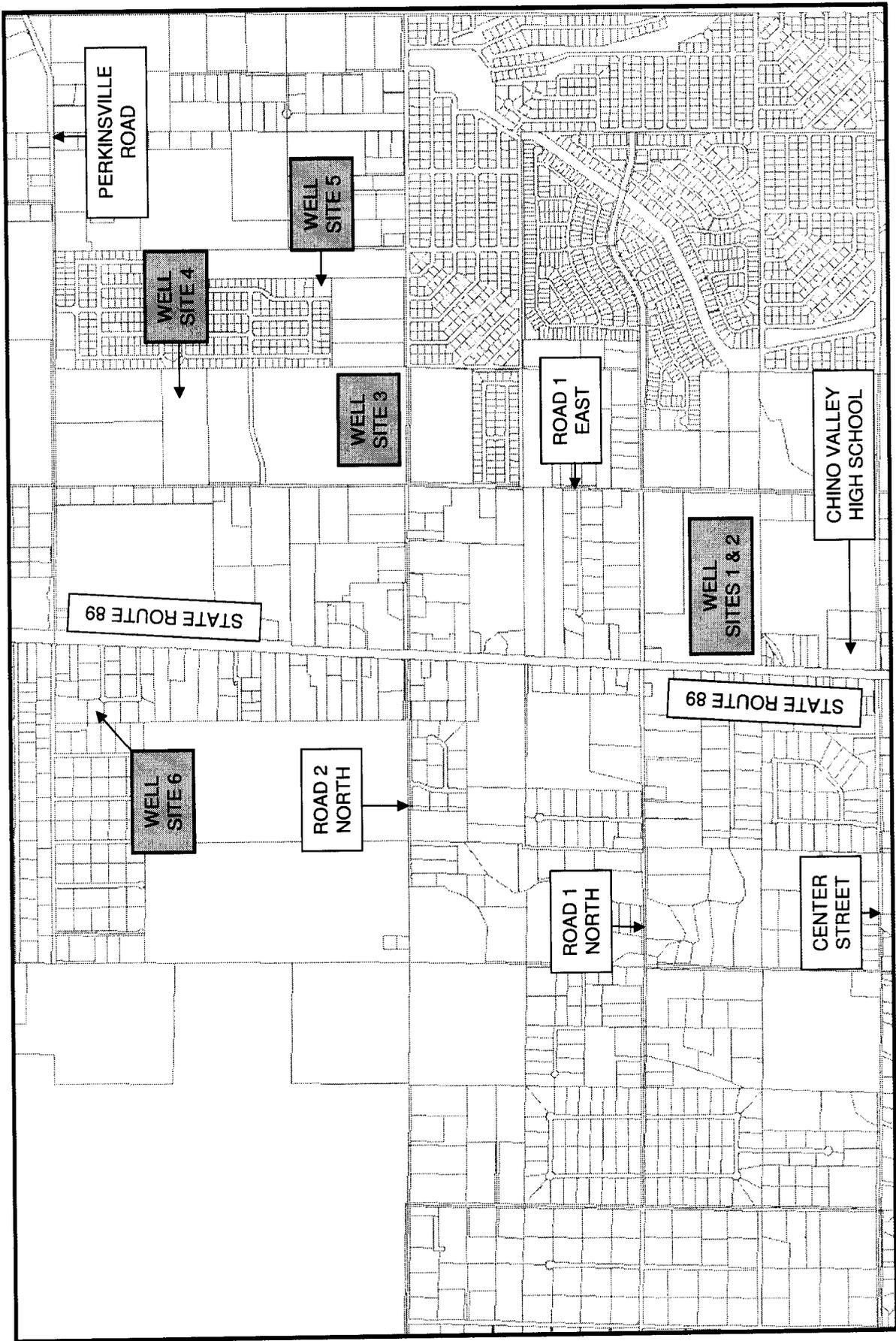
Budget

FY 2012 funding for this project will be from the Water Fund; Account No. 7007810-09511.

Attachment - Vicinity Map

Recommended Action: **MOVE** to award the bid and contract for the Chino Valley Arsenic Treatment Site Improvements to RK Sanders, Inc., in the amount of \$155,777.00.

Chino Valley Arsenic Treatment Plant Site Improvements



COUNCIL AGENDA MEMO – September 13, 2011
DEPARTMENT: Public Works
AGENDA ITEM: Ordinance No. 4808-1208 approving a Corrective Sewer Easement from First American Title Insurance Company, Trustee for Carrington Homes, Inc.

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	<i>8-30-11</i>

Item Summary

This item is to approve a Corrective Sewer Easement from First American Title Insurance Company, Trustee for Carrington Homes, Inc., that was previously approved by Council on May 24, 2011.

Background

Pioneer Title recently acquired the Prescott office of First American Title Insurance Company and has requested modification of the subject easement approved by Council on May 24, 2011. First American Title Insurance Company will continue to serve as the Trustee for Carrington Homes, Inc. The changes requested are a result of the merger and involve only the description of the "Grantor" in the main body of the Easement and the notary acknowledgment. The location and all physical dimensions of the Easement have not changed from what Council approved on May 24, 2011.

Attached is the Easement approved by Council on May 24, 2011, showing the deleted notary acknowledgment. The additions to the "Grantor" and notary acknowledgment are italicized to illustrate the changes. There are no changes to Exhibits "A", "B" and "C".

The attached ordinance will repeal Ordinance No. 4789-1140, previously adopted, and accept the Corrective Sewer Easement from First American Title Company.

- Attachments**
- Copy of Council Agenda Memo, May 24, 2011
 - Easement showing changes
 - Corrective Sewer Easement
 - Area Plan
 - Sewer Overview Map
 - Exhibit "A" Legal Description of Easement
 - Exhibit "B" Map of Easement
 - Exhibit "C" General Requirements and Restrictions
 - Ordinance 4808-1208

Recommended Action: MOVE to adopt Ordinance No. 4808-1208.

COUNCIL AGENDA MEMO – MAY 24, 2011

DEPARTMENT: Public Works

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

Approved By:

Date:

Department Head: Mark Nietupski, Public Works Director

5/16/2011

Finance Director: Mark Woodfill

City Manager: Craig McConnell

Item Summary

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

Background

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

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

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

There is no cost to the City for the easement.

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

Attachments

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

COPY

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

When recorded, mail to:

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

SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, First American Title Insurance Company, *A California corporation, successor by merger to the First American Title Insurance Agency, Inc., an Arizona corporation, as Trustee under Trust No. 5015, and not personally*, Trustee for Carrington Homes, Inc., hereinafter called "Grantor", hereby grants unto the City of Prescott, a municipal corporation of the State of Arizona, hereinafter referred to as the "Grantee", its successors or assigns, the right of ingress and egress over and through the following described property, for public sewer purposes and, to use and construct same, together with the right to construct, maintain and place any sewer utilities therein, said property more particularly described and shown on the attached Exhibits "A" and "B" and Exhibit "C" attached hereto and made a part of the easement, describes the General Requirements and Restrictions placed on the easement by the Grantee.

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

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

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

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

City of Prescott

By _____
MARLIN D. KUYKENDALL, Mayor

When recorded, mail to:

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

CORRECTIVE SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, First American Title Insurance Company, a California corporation, successor by merger to First American Title Insurance Agency, Inc., an Arizona corporation, as Trustee under Trust No. 5015, and not personally, Trustee for Carrington Homes, Inc., hereinafter called "Grantor", hereby grants unto the City of Prescott, a municipal corporation of the State of Arizona, hereinafter referred to as the "Grantee", its successors or assigns, the right of ingress and egress over and through the following described property, for public sewer purposes and, to use and construct same, together with the right to construct, maintain and place any sewer utilities therein, said property more particularly described and shown on the attached Exhibits "A" and "B" and Exhibit "C" attached hereto and made a part of the easement, describes the General Requirements and Restrictions placed on the easement by the Grantee.

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

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

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

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

AREA PLAN

PRESCOTT HIGHLANDS ESTATES

NORTH RIDGE DR

WATSON PROPERTY

HIBISCUS CR

E DELANO AVE

E DELANO AVE

COLTER BAY CT

BARRETT DR

BENEFITED 12 LOTS

GENTRY LN

TAMARACK LN

PROPOSED SEWER EASEMENT

EXISTING SEWER EASEMENT

CR

STERLING RIDGE

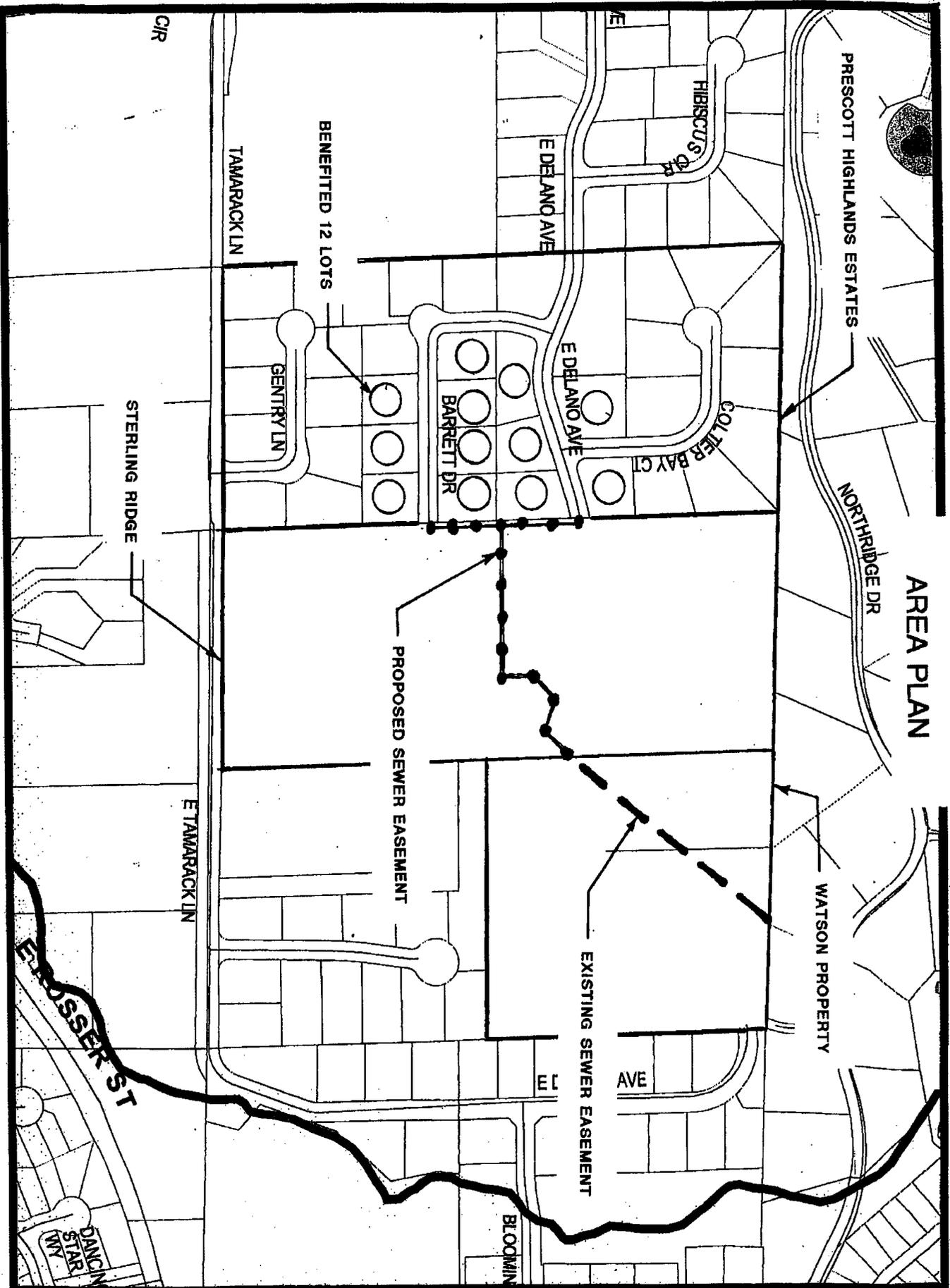
E TAMARACK LN

AVE

BLOOMING

ELROSSER ST

DANCIN STAR TMY



ORDINANCE NO. 4808-1208

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, REPEALING ORDINANCE NO. 4789-1140 AND ACCEPTING A CORRECTIVE SEWER EASEMENT FROM FIRST AMERICAN TITLE INSURANCE COMPANY, TRUSTEE FOR CARRINGTON HOMES, INC., TO PROVIDE SEWER SERVICE TO THE PRESCOTT HIGHLANDS SUBDIVISION

RECITALS:

WHEREAS, on May 24, 2011, the Prescott City Council adopted Ordinance No. 4789-1140, accepting a sewer easement from First American Title Insurance Company, Trustee for Carrington Homes, Inc.; and

WHEREAS, subsequent to said adoption Pioneer Title acquired the Prescott Office of First American Title Insurance Company, and has requested changes to said easement; and

WHEREAS, First American Title Insurance Company will continue to be the Trustee for Carrington Homes, Inc. The Corrective Sewer Easement is required as a result of the merger with Pioneer Title and the changes to the Grantor description and notary acknowledgment; and

WHEREAS, the City Council of the City of Prescott determined that accepting a Corrective Sewer Easement from First American Title Insurance Company, more particularly described and shown in the attached Exhibits "A" and "B" would benefit the public health, safety and welfare of the citizens of the City of Prescott; and,

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

ENACTMENTS:

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

SECTION 1. THAT, Ordinance No. 4789-1140, adopted by the Prescott City Council on May 24, 2011, is hereby repealed.

SECTION 2. THAT the City of Prescott accepts a Corrective Sewer Easement from First American Title Insurance Company, Trustee for Carrington Homes, Inc., as described and shown in Exhibits "A" and "B" with certain General Requirements and Restrictions as described in Exhibit "C", said exhibits attached hereto and made a part hereof.

SECTION 3. THAT the attached Corrective Sewer Easement, (Exhibits "A" and "B") and General Requirements and Restrictions, (Exhibit "C") are hereby ordered to be recorded in the Office of the Yavapai County Recorder, Arizona.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 13th day of September, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

EXHIBIT "A"

Sewer Easement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Containing 23,941.24 square feet, more or less.

01/12/11

LE #492-01

492-01 Sew Esmt.doc

SCOTT A. LYON, R.L.S.



EXPIRES 6/30/13

EXHIBIT "B"

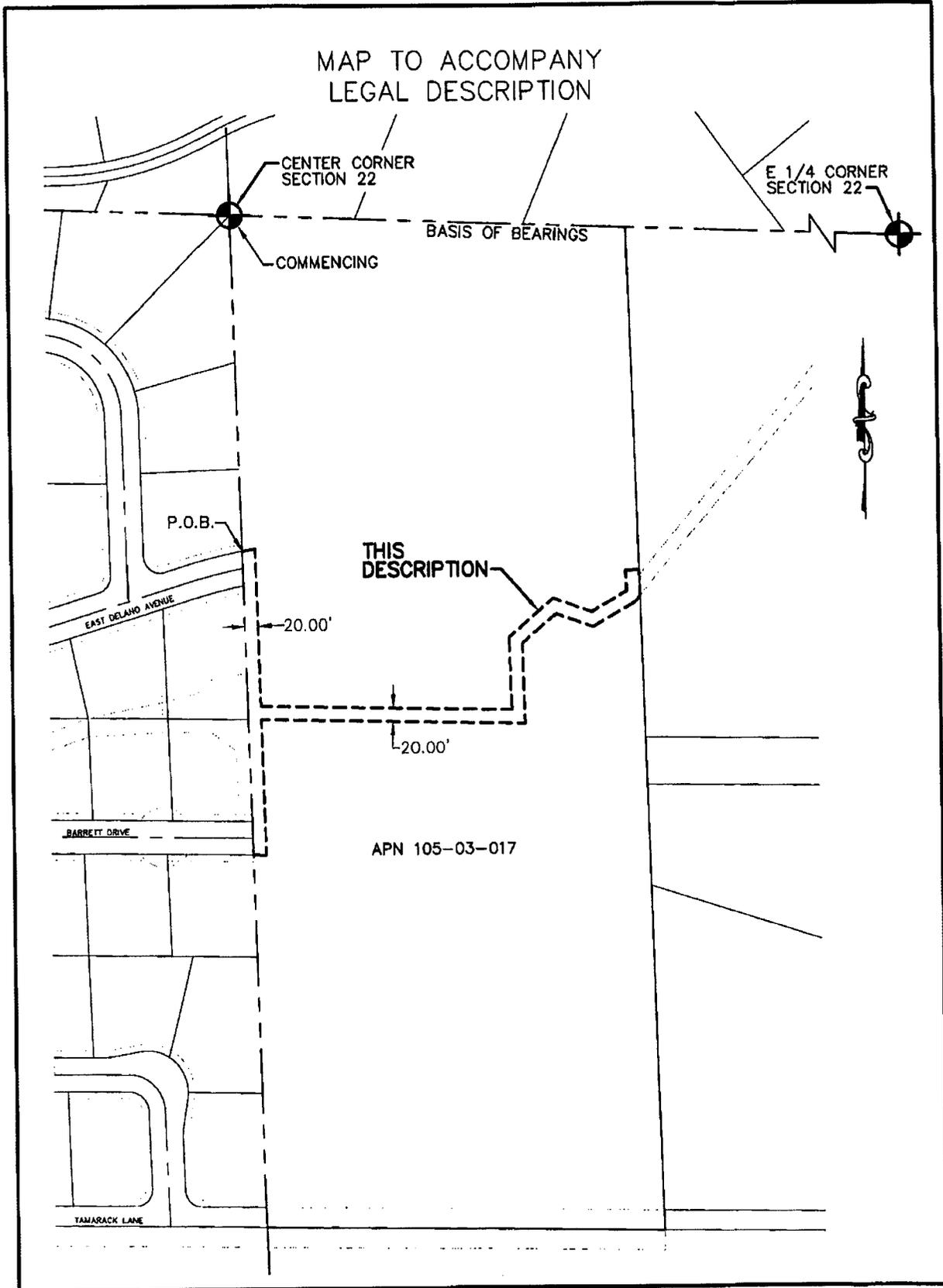


Exhibit 'C'

Sewer Easement Requirements and Restrictions

General Requirements

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

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

Excavation

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

Exhibit 'C' continued

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

Streets, Roads, and Driveways

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

Fences

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

Landscaping

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

Open Waterways

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

Exhibit 'C' continued

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

Penalties for Failure to Abide by Restrictions

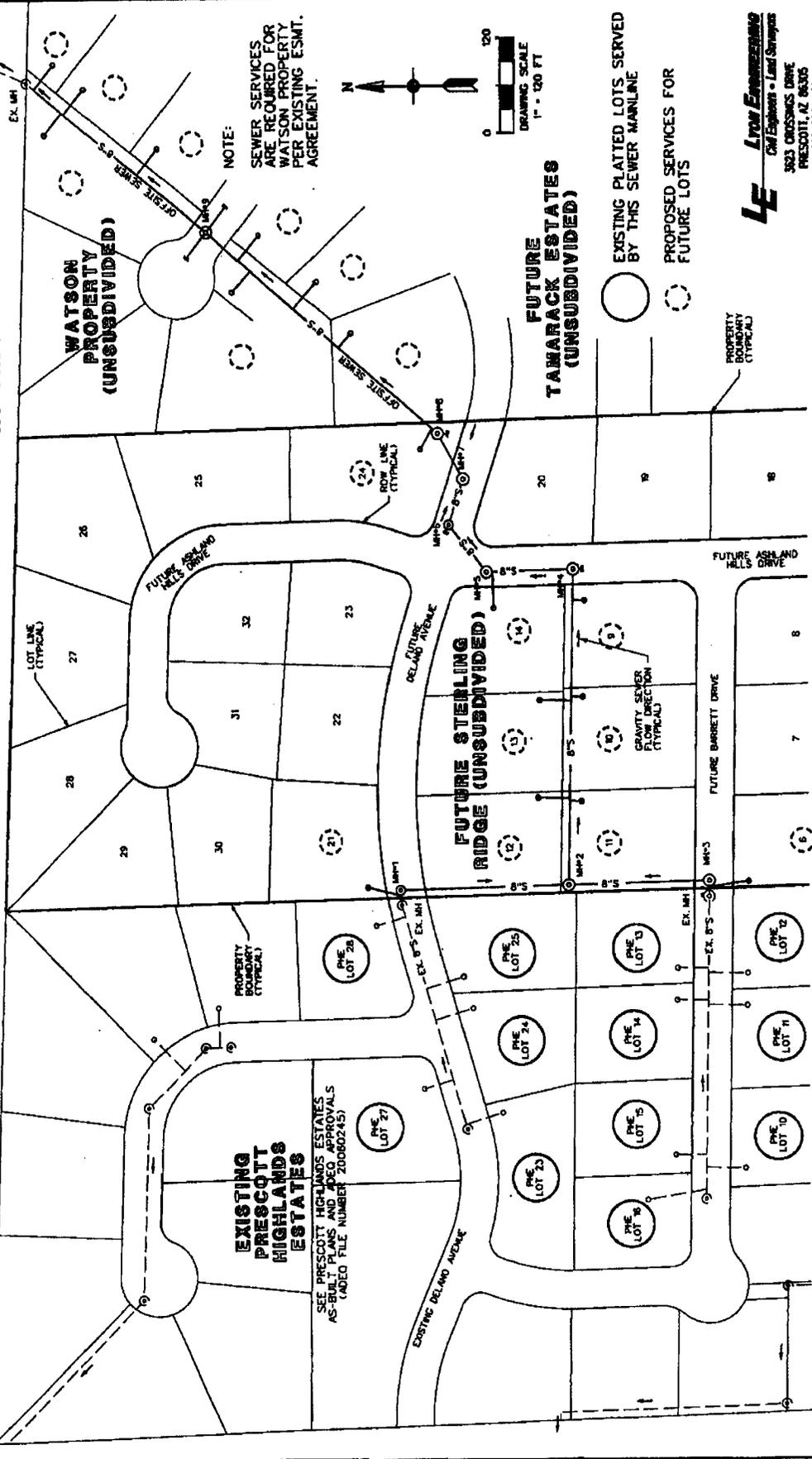
1. Failure to follow or abide by these Easement Restrictions may be punishable per any federal, state or local statues, codes, ordinances, rules or regulations.
2. Owners shall be liable to the City for any damage to City property within the Easement area caused by the property owners' negligence in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

Contact Information

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

SEWER OVERVIEW MAP

**EXISTING ESTATES UNIT 1
AT PRESCOTT LAKES**



**EXISTING
PRESCOTT
HIGHLANDS
ESTATES**

SEE PRESCOTT HIGHLANDS ESTATES
AS-BUILT PLANS AND ADEQ APPROVALS
(ADEQ FILE NUMBER 20060245)

**WATSON
PROPERTY
(UNSUBDIVIDED)**

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

**FUTURE STERLING
RIDGE (UNSUBDIVIDED)**

**FUTURE
TAMARRACK ESTATES
(UNSUBDIVIDED)**

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

PROPERTY
BOUNDARY
(TYPICAL)

FUTURE ISLAND
HILLS DRIVE

FUTURE BARRETT DRIVE

EXISTING DELANO AVENUE

EXISTING DELANO AVENUE

EXISTING DELANO AVENUE

LE **Low Engineering**
Civil Engineers • Land Surveyors
3923 CROSSINGS DRIVE
PRESCOTT, AZ 86305
(928) 776-1750

COUNCIL AGENDA MEMO – September 13, 2011	
DEPARTMENT: Legal	
AGENDA ITEM: Acceptance of a proposal by the Ft. McDowell Indian Community to dismiss its appeal with prejudice re the City of Prescott's Decision of Assured Water Supply and authorization of legal counsel to take any steps necessary to effectuate the dismissal	

Approved By:		Date:
Department Head: Gary D. Kidd		
Finance Director: Mark Woodfill		
Acting City Manager: Craig McConnell <i>Craig McConnell</i>		9.7.11

Item Summary

The Ft. McDowell Indian Community (FMIC), through its legal counsel, has agreed, as had the Yavapai Apache Nation (YAN) earlier, to dismiss its remaining claims in the Maricopa County Superior Court. These claims (counts 6 and 7 for FMIC) related to the quantification of importable water under ARS 45-555(E) and the ability of Prescott to deliver that water to Prescott Valley. Earlier, YAN proposed a resolution of the last remaining issues it has in the longstanding litigation over the City of Prescott's Designation of Assured Water Supply (DAWS) and this was approved by Council. Recently, after discussions among YAN and Ft. McDowell, ADWR, and legal counsel for Prescott, FMIC is also agreeable to dismissing its remaining counts in the lawsuit.

The only remaining litigation by FMIC stemmed from the efforts by the City of Prescott to obtain a modification of its DAWS to include groundwater from the Big Chino Sub-basin, and there are two counts in FT McDowell's portions of the complaint relating to the proposed service of water to Prescott Valley within the DAWS, and legal objections related to the quantification of importable water under ARS 45-555(E) by ADWR and the administrative hearing ruling of Judge Sheddon. On Thursday, September 1, 2011, MCIC, through its legal counsel, indicated it is agreeable to dismiss its two remaining counts with prejudice, if the dismissal would provide that each party bear its own fees and costs. This final dismissal by Ft. McDowell will end all pending litigation pertaining to the DAWS application and the constitutionality of Prescott's right to import water pursuant to state statutes.

This final dismissal now being proposed by Ft. McDowell Indian Community will mean that the Superior Court cases are done and all of the appeals will be final and the rulings in favor of Prescott will stand and not be subject to any further appeal.

<p>Recommended Action: MOVE to authorize acceptance of the proposal of the Ft. McDowell Indian Community to dismiss its remaining counts with prejudice, and authorize legal counsel to take any steps necessary to effectuate the dismissal.</p>
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