Town of Chino Valley

MEETING NOTICE
TOWN COUNCIL

REGULAR MEETING
Tuesday, February 26, 2013
6:00 P.M.

Council Chambers
202 N. State Route 89
Chino Valley, Arizona

AGENDA

1) CALL TO ORDER, INVOCATION; PLEDGE OF ALLEGIANCE; ROLL CALL

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

a) Proclamation declaring March 20, 2013 as "Arizona Gives Day," sponsored by West Yavapai Guidance Clinic Foundation.

3) CALL TO THE PUBLIC

Call to the Public is an opportunity for the public to address the Council concerning a subject that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to speaker remarks.

4) RESPONSE TO THE PUBLIC

Response to the Public is an opportunity for the Mayor to inform the public about how Town officials addressed matters raised during Call to the Public at a previous meeting.

5) CURRENT EVENT SUMMARIES AND REPORTS

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events, or ask a staff member to provide the same. Presentation on information requested by the Mayor and Council will be made and questions answered. No action will be taken.

a) Presentation regarding Proposition 424 "Alternative Expenditure Limitation - Home Rule Option." (Joe Duffy, Finance Director)

6) CONSENT AGENDA

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

a) Consideration and possible action to approve the January 31, 2013 Joint Study Session minutes. (Jami Lewis, Town Clerk)

b) Consideration and possible action to approve the February 5, 2013 Special Meeting minutes. (Jami Lewis, Town Clerk)

c) Consideration and possible action to appoint Robert McCaullay to the Planning and Zoning Commission for a three-year term starting February 1, 2013. (Council Appointments Committee)

d) Consideration and possible action to approve Amendment Number 2 to the Police Officer's Association Memorandum of Understanding with the Town of Chino Valley, effective January 1, 2013. (Cecilia Watts, General Services Director)

e) Consideration and possible action to approve Change Order Number 1 to the Professional Services Agreement with Economists.com dated June 12, 2012, in the amount of $1,750, with $875 to come from the Water Fund rate study line, and $875 to come from the Sewer Fund rate study line. (Ron Grittman, Public Works Director)

7) ACTION ITEMS

a) Consideration and possible action to adopt Resolution No. 13-1006 declaring as a public record that certain document filed with the Town Clerk entitled "2013 Changes to Article IV - Privilege Taxes, of the Tax Code of the Town of Chino Valley;" adopt Ordinance No. 13-765 adopting the same by reference; and amend the Chino Valley Tax Code by increasing the Town of Chino Valley's Transaction Privilege Tax (Sales Tax) rate for certain taxable items from three percent (3%) to four percent (4%), to be effective June 1, 2013. (Joe Duffy, Finance Director)

Recommended Action: Adopt Resolution No. 13-1006 declaring as a public record that certain document filed with the Town Clerk entitled "2013 Changes to Article IV - Privilege Taxes, of the Tax Code of the Town of Chino Valley;" adopt Ordinance No. 13-765 adopting the same by reference; and amend the Chino Valley Tax Code by increasing the Town of Chino Valley's Transaction Privilege Tax (Sales Tax) rate for certain taxable items from three percent (3%) to four percent (4%), to be effective June 1, 2013.

b) Consideration and possible action to extend the existing month-to-month lease for the Food Bank an additional four months. (Robert Smith, Town Manager)

Recommended Action: Approve a four month extension to the existing, month-to-month lease for the Food Bank.

c) Consideration and possible action to approve Proposal and Contract with Circle C Construction, in the amount of $12,220.30, plus an additional $500 for design drawings, to enclose an approximately 98 square foot portion at the southeast corner of the South Campus Town Hall facility. Funds to come from Contingency. (Jami Lewis, Town Clerk; Ron Grittman, Town Engineer)

Recommended Action: Approve Circle C Construction Proposal and Contract and Exhibit "A" thereto, in the amount of $12,220.30, plus an additional $500 for design drawings, with the added stipulation that Circle C must demonstrate proof of adequate comprehensive general liability insurance coverage naming the Town as an additional insured and must demonstrate proof of adequate workers compensation insurance coverage in accordance with applicable laws, prior to commencement of work.

d) Consideration and possible action to authorize the Mayor and Council to sign a joint letter with other municipal leaders to Senator John McCain with regard to the F-35 training program. (Mayor Marley)

Recommended Action: Authorize the Mayor and Council to sign a joint letter to Senator John McCain with regard to the F-35 training program.

e) Consideration and possible action to authorize the Mayor to sign a Resolution of Support for HB 2338 with regard to Regional Water Augmentation Authorities. (Mayor Marley)

Recommended Action: To be determined per Council discussion.

f) Consideration and possible action to authorize the Mayor to sign a letter on behalf of the Council to the State Legislature with regard to the recommendations made in the final report by the Governor's TPT Simplification Task Force. (Vice-Mayor Tenney)

Recommended Action: To be determined per Council discussion.

g) Consideration and possible action regarding Council sponsorship of a booth in the amount of $200, and participation in the annual Chino Valley Area Chamber of Commerce Health and Business Expo on April 20, 2013. Funds to come from Mayor and Council public relations line. (Jami Lewis, Town Clerk)

Recommended Action: To be determined per Council discussion.

h) Consideration and possible action with regard to the Town obtaining a Platinum Sponsorship with the Chino Valley Area Chamber of Commerce in the amount of $2,500. Funds to come from Mayor and Council public relations line. (Mayor Marley)

Recommended Action: To be determined per Council discussion.

8) EXECUTIVE SESSION

Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the Town's attorneys on any of the above agenda items pursuant to A.R.S. § 38-431.03(A)(3).

a) Council may vote to hold an executive session pursuant to Arizona Revised Statutes § 38-431.01(A)(3), discussion or consultation for legal advice with the attorney or attorneys of the public body, and/or § 38-431.01(A)(4), discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding a pre-annexation development agreement that is the subject of pending litigation,*Cortez Enterprises v. Town of Chino Valley* , CV 2006-1407, Yavapai County Superior Court, including but not limited to the Oct 10, 2012 mediation. (Mayor Marley)

b) Council may vote to hold an executive session pursuant to A.R.S. §§ 38-431.03(A)(1) to discuss the employment, assignment, appointment, promotion, demotion, dismissal, and/or salaries of the office of town attorney. (Mayor Marley)

c) Consideration and possible action regarding town attorney appointment.

9) ADJOURNMENT

Dated this 22nd day of February, 2013.

By: ***Jami C. Lewis, Town Clerk***

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 636-2646 (voice) or 636-1787 (TDD) 48 hours prior to the meeting to request a reasonable accommodation to participate in this meeting. Supporting documentation and staff reports furnished to the Council with this agenda are available for review on the Town website at http://www.chinoaz.net/clerk/townagenda.shtml, and in the Public Library and Town Clerk's Office.

CERTIFICATION OF POSTING

The undersigned hereby certifies that a copy of this notice was duly posted at Chino Valley South Campus, Chino Valley Post Office, and Chino Valley North Campus in accordance with the statement filed by the Town Council with the Town Clerk.

Date:____________________ Time:_________________ By:____________________________________

Jami C. Lewis, Town Clerk

TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 2. a.**

Meeting Date: 02/26/2013
Contact Person/Dept: Jami Lewis, Town Clerk
Department: Town Clerk
Estimated length of staff presentation: None

AGENDA ITEM TITLE:
Proclamation declaring March 20, 2013 as "Arizona Gives Day," sponsored by West Yavapai Guidance Clinic Foundation.

RECOMMENDED MOTION:
N/A

Attachments

Arizona Gives Day Proclamation

Office of the Mayor (928) 636-2646

PROCLAMATION

Arizona Gives Day – March 20, 2013

Whereas, *a joint effort must be made to leverage the collective energy of Arizona's $24 billion nonprofit community to build sound relationships with new donors and increase the engagement of individuals with Arizona's nonprofit community; expand the capacity of nonprofits to incorporate the fastest growing source of individual investors: online giving; relieve pressure on institutional investors (foundations and corporations) to be funders of first choice for so many nonprofits; and generate media messages which help to educate the wider public about the value and contributions of community impact missions in our town; and*

Whereas, *a pathway for community nonprofits to share their stories and connect with individuals throughout Arizona is a valuable asset to our community; and*

Whereas, *every individual in Arizona is compelled to contribute to the strength of nonprofit organizations; and*

Whereas, *donations made to Arizona nonprofits help to rally volunteers, change lives, build leaders, allow citizens to build networks, fight for rights, and champion community causes; and*

Whereas, *Arizona nonprofits impact us all;*

Now, Therefore, *I, Chris Marley, Mayor of the Town of Chino Valley, do hereby proclaim **March 20, 2013** as **Arizona Gives Day** in Chino Valley, Arizona, and urge all of our citizens to recognize this observance.*

In Witness Whereof, *I have hereunto set my hand and caused the Seal of the Town of Chino Valley to be affixed this **26th** day of **February** 2013.*

____
Chris Marley, Mayor

ATTEST: ________________________
Jami C. Lewis, Town Clerk

TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 6. a.**

Meeting Date: 02/26/2013
Contact Person: Jami Lewis, Town Clerk
Phone: 928-636-2646 x-1208
Department: Town Clerk
Item Type: Consent

AGENDA ITEM TITLE:
Consideration and possible action to approve the January 31, 2013 Joint Study Session minutes. (Jami Lewis, Town Clerk)

RECOMMENDED ACTION:
Approve the January 31, 2013 Joint Study Session minutes.

Attachments

January 31, 2013 minutes

D R A F T

MINUTES OF THE JOINT STUDY SESSION OF THE TOWN COUNCIL AND PLANNING AND ZONING COMMISSION OF THE TOWN OF CHINO VALLEY

TUESDAY, JANUARY 31, 2013
6:00 P.M.

The Town Council and Planning and Zoning Commission of the Town of Chino Valley, Arizona, met for a Joint Study Session in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona, on Tuesday, January 31, 2013.

Present:	Mayor Chris Marley; Vice-Mayor Carl Tenney; Councilmember Mike Best; Councilmember Darryl Croft; Councilmember Dean Echols; Councilmember Linda Hatch; Councilmember Lon Turner
Staff Present:	Town Manager Robert Smith; General Services Director Cecilia Watts; Town Engineer/Public Works Director Ron Grittman; Building Official Dan Trout; Town Clerk Jami Lewis (recorder)
Attendees:	Commissioner Michael Edmonds, Commissioner Charles Merritt, Commissioner Florence Sloan

1) CALL TO ORDER; ROLL CALL

Mayor Marley called the meeting to order at 4:32 p.m.

Commissioner Merritt arrived at 4:46 p.m.

Councilmember Hatch attended by conference phone and left the meeting at 5:20 p.m.

2) Briefing regarding the General Plan Update, including but not limited to a summary of General Plan Committee activities, identified future community cores, and draft goals. (Dava Hoffman, Planning Consultant, and General Plan Committee)

Acronyms used in this item:
- GPC (General Plan Committee)
- OHM (Old Home Manor)
- SR89 (State Route 89)
- UDO (Unified Development Ordinance)

Ms. Hoffman introduced the General Plan Committee Members who were present: Nancy Best, Michael Edmonds,Trisha Lamb, Marti Klein, Dan McGuire, Cheri Romley, Ron Romley, and Celia Vander Molen. She then briefed Council and the Planning and Zoning Commission on General Plan Committee (GPC) activities, and draft community cores and goals.

February through August 2012. The GPC:

- Was appointed and held monthly meetings.
- Received input from various authorities and discussed Town assets, concerns, and vision, as well as General Plan Elements for land use, circulation, economic development, water, and development concepts and standards.
- Held a public workshop on April 2, 2012.
- Briefed Council and Commission on August 2, 2012, and discussed population changes and land use assumptions related to residential density and commercial intensity.

August through December 2012. The GPC:

- Continued monthly meetings and discussed the connected nature of land use, circulation and economic development, and working on these three elements together.
- Discussed clustering uses for walkable neighborhoods to provide a sense of place and lifestyle options; identified community cores, wherein people-gathering centers provided a sense of community; and enhancing business growth and employment opportunities.

Community Cores

- These were defined as places with a combination of uses, more concentrated than other areas, with an emphasis on (i) easy access, with attractive people-place amenities; (ii) combining residential with various other uses; and (iii) supporting local business and expansions.
- Core areas that could be developed in the near term were: (i) Road 2 North/SR89—Major Community Core with mixed-use business and residential, and downtown civic component; (ii) Road 1 South/SR89—Hospitality/Entertainment Core with mixed-use business/residential and tourist-oriented business; and (iii) Perkinsville Road/SR89—Recreation/Employment Gateway with mixed-use business/residential and major recreation and employment entry.
- Core areas that could be developed in the mid to long term were: (i) Road 4 South or Road 5 South/SR89—Gateway Core/Regional Entry with future alignment of regional connector; (ii) Road 1 North/SR89—Future Medical Hub; and (iii) Road 4 North/SR89—North Mixed-Use Hub.

Potential Development Corridors were identified at:

- Road 1 East from Road 4 South to Road 4 North—Agri-Business/Agri-Tourism with existing and expanded farms, winery, and nurseries; and tourist trolley loop with expansions to Yavapai Community College at OHM and Del Rio School agri-festivals.
- SR89—Continued development of existing businesses and mixed zones.

Draft Goals for Land Use, Circulation, Economic Development

- Goal 1—Focus on community core development. These may consist primarily of neighborhood shops, or focus on entertainment, recreation or civic facilities, and all were combined with residential components. The first three predicted for near-term development in the expected order were: Major Community, Hospitality/Entertainment, and Recreation/Employment Gateway as described above.
- Goal 2—Encourage lifestyle choices in land use and circulation by: (i) retaining existing

large lots and ranches, protecting them through buffering techniques, with appropriately placed pedestrian access, and encouraging clustered, walkable neighborhoods; (ii) emphasizing safe pedestrian and bicycle trails, pathways, commons, parks, and other recreational facilities, public and/or private; being pedestrian-friendly and amending the UDO to permit residential uses in commercial zones and adding incentives for people-gathering spaces; (iii) augmenting the transit system for all age groups; and (iv) maintaining and improving streets for all modes of transportation.
- Goal 3—Enhance local business and create a sustainable economy by: (i) developing community cores to enhance local business; (ii) encouraging one-stop centers; (iii) marketing appropriate locations suitable for employment bases and expanding infrastructure; and (iv) encouraging expansions of existing educational institutions and healthcare.
- All of these needed to happen together as they all enriched each other.

Council, Commission, GPC and staff discussed the above items. Key discussion points were:

- The GPC defined "large" as one acre or more.
- The draft General Plan will be circulated to nearby entities, such as Yavapai County, Prescott, Prescott Valley, and Central Yavapai Metropolitan Planning Organization, for input and to encourage regional cooperation with planning efforts and tourism.
- The state's broadband initiative will be part of economic development planning in the future.
- The GPC did not believe that OHM could become the new 'downtown' within the next 10 years per the current OHM master plan; they believed the Road 2 North/SR89 core area was more viable and had more potential.
- Adoption of the General Plan will require a new zoning map, UDO amendments, and new development processes, as well as an accountability plan to see the vision go forward.
- Some inconsistencies in the current UDO could not wait for General Plan adoption and needed to be addressed now.
- Mixed zoning was not common in the Town and would take getting used to.

Ruth Mayday, a planner with the Town of Prescott Valley and Chino Valley resident, spoke about being impressed with the GPC's plan thus far.

Council recommended that the GPC:

- Continue in their current direction.
- Keep the following new or future potential projects in mind: industrial park at OHM, southeast loop road; and possible connector road along Road 2 North from Williamson Valley to Chino Valley.
- Include both sides of Road 1 South at SR89 on the Community Core Map.
- Look at one-half and one-quarter acre zoning in the core areas and include those in the General Plan document.
- Strike a balance between weak and harsh regulations related to businesses.

3) ADJOURNMENT

MOVED by Vice-Mayor Carl Tenney, seconded by Councilmember Dean Echols to adjourn the meeting at 5:28 p.m.

Vote: 7 - 0 PASSED - Unanimously

Chris Marley, Mayor

ATTEST:

Jami C. Lewis, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Joint Study Session of the Town Council and Planning and Zoning Commission of the Town of Chino Valley, Arizona held on the 31st day of January, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 26th day of February, 2013.

Jami C. Lewis, Town Clerk

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TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 6. b.**

Meeting Date: 02/26/2013
Contact Person: Jami Lewis, Town Clerk
Phone: 928-636-2646 x-1208
Department: Town Clerk
Item Type: Consent

AGENDA ITEM TITLE:

Consideration and possible action to approve the February 5, 2013 Special Meeting minutes. (Jami Lewis, Town Clerk)

RECOMMENDED ACTION:

Approve the February 5, 2013 Special Meeting minutes.

Attachments

February 5, 2013 minutes

D R A F T

MINUTES OF THE SPECIAL COUNCIL MEETING OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

TUESDAY, FEBRUARY 5, 2013 6:00 P.M.

The Town Council of the Town of Chino Valley, Arizona, met for a Special Meeting in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona, on Tuesday, February 5, 2013.

Present:	Mayor Chris Marley; Vice-Mayor Carl Tenney; Councilmember Mike Best; Councilmember Darryl Croft; Councilmember Dean Echols; Councilmember Linda Hatch; Councilmember Lon Turner
Staff Present:	Town Manager Robert Smith; Town Clerk Jami Lewis (recorder)

1) CALL TO ORDER; ROLL CALL

Mayor Marley called the meeting to order at 12:36 p.m.

2) Council may vote to hold an executive session pursuant to A.R.S. §§ 38-431.03(A)(1), (A)(3), and/or (A)(4) to (i) discuss the employment, assignment, appointment, promotion, demotion, dismissal, and/or salaries of the office of town attorney, including conducting interview(s) of a candidate(s), pursuant to Section 31.24 of the Chino Valley Town Code ("Town Attorney Appointment").

Council reviewed the interview questions and process.

The questions pertained to: maintaining relations and communications between the Town and the firm; experience with municipal and public matters, and technology, negotiation and conflict resolution skills; available hours and billing procedures; knowledge of the Town and/or region; and reasons for applying.

MOVED by Councilmember Darryl Croft, seconded by Councilmember Dean Echols to go into executive session at 12:51 p.m.

Vote: 7 - 0 PASSED - Unanimously

Council reconvened into open session at 5:25 p.m.

3) Consideration and possible action regarding town attorney appointment and/or legal advice, as directed by the Council.

Council took no action on item 3.

4) ADJOURNMENT

MOVED by Councilmember Darryl Croft, seconded by Councilmember Mike Best to adjourn the meeting at 5:25 p.m.

Vote: 7 - 0 PASSED - Unanimously

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Chris Marley, Mayor

ATTEST:

____

Jami C. Lewis, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the Town Council of the Town of Chino Valley, Arizona held on the 5th day of February, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 26th day of February, 2013.

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Jami C. Lewis, Town Clerk

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TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 6. c.**

Meeting Date:	02/26/2013
Contact Person:	Jami Lewis, Town Clerk Phone: 928-636-2646 x-1208
Department:	Town Clerk
Item Type:	Consent
Estimated length of staff presentation:	None
Physical location of item:	N/A

AGENDA ITEM TITLE:

Consideration and possible action to appoint Robert McCaullay to the Planning and Zoning Commission for a three-year term starting February 1, 2013.

RECOMMENDED ACTION:

Appoint Robert McCaullay to the Planning and Zoning Commission for a three-year term starting February 1, 2013.

SITUATION AND ANALYSIS:

Three seats on the Planning and Zoning Commission expired January 31, 2013. During the Town's recruitment for these positions, staff received two applications from current Commission members, none from the public at large, and the third Commissioner did not re-apply. Council re-appointed the two incumbents on January 8, 2013.

Since that time, staff has received a new application from Mr. McCaullay. Staff forwarded the new application to the Council Appointments Committee to receive input as to whether or not each member preferred to interview Mr. McCaullay or forward the application directly to Council for appointment. The committee members preferred the latter.

Other Pertinent Documents Available Upon Request:

Application, Robert McCaullay

Fiscal Impact

Fiscal Impact?: No

If Yes, Budget Code:

Available:

Funding Source:

TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 6. d.**

Meeting Date:	02/26/2013
Contact Person:	Cecilia Watts, General Services Director
	Phone: 928-636-2646 x-1202
Department:	General Services
Item Type:	Consent
Estimated length of staff presentation:	None
Physical location of item:	Chino Valley Police Department

AGENDA ITEM TITLE:

Consideration and possible action to approve Amendment Number 2 to the Police Officer's Association Memorandum of Understanding with the Town of Chino Valley, effective January 1, 2013.

RECOMMENDED ACTION:

Approve Amendment Number 2 to the Police Officer's Association Memorandum of Understanding with the Town of Chino Valley, effective January 1, 2013.

SITUATION AND ANALYSIS:

In December 2012 Council adopted Amendment Number 1 to the Memorandum of Understanding between the Police Officer's Association and the Town of Chino Valley. The language of Amendment Number 1, however, did not accurately memorialize the parties' understanding because it referenced a 40-hour work week, rather than an 80-hour, 2-week work period. At the December 11, 2012, Council Meeting, Staff verbally presented the intent of the proposed Amendment Number 1 to the MOU. Amendment Number 2 is presented for the Council's consideration in order to accurately memorialize the 14-day/80-hour work period, in conformance with what was discussed at the December 11, 2012 Council Meeting.

Fiscal Impact

Fiscal Impact?: No

If Yes, Budget Code:

Available:

Funding Source:

Attachments

Amendment No 2, CV Police Officer's Association MOU

AMENDMENT NUMBER 2 TO
MEMORANDUM OF UNDERSTANDING
BETWEEN THE TOWN OF CHINO VALLEY, ARIZONA
AND
CHINO VALLEY POLICE OFFICER ASSOCIATION

This Second Amendment is made and entered into this 26th day of February, 2013 with an Effective Date of January 1, 2013 by and between the Town of Chino Valley, a municipal corporation of the State of Arizona ("Town") and Chino Valley Police Officer Association, a chartered non-profit labor organization ("POA"). The Town and Consultant are collectively referred to as the "Parties".

RECITALS

A. The Parties have heretofore entered into a Memorandum of Understanding dated effective July 8, 2010 (the "POA MOU").

B. On December 11, 2012, the Parties entered into Amendment Number 1. The Parties acknowledge that Amendment Number 1 does not accurately memorialize Parties' agreement concerning compensation for overtime hours worked, and now desire to enter into Amendment Number 2 for the purpose of accurately memorializing their agreement.

C. In accordance with Section 33.07 of the Town Code, Section 6-2 of the POA MOU and action taken by the Council on July 8, 2010, the Parties desire to amend the POA MOU.

NOW, THEREFORE, in consideration of the agreements and promises hereinafter set forth and those set forth in the POU MOU, the Parties agree as follows:

AGREEMENT

1. Article 4, Section 4-1, "HOURS OF WORK/WORKING CONDITIONS; Work Schedules," shall be amended to add the following provision:

E. Understanding the difficulty in scheduling manpower on a 24 hour, seven day per week basis, the Association agrees to work with the Town Manager or his designee, including the Chino Valley Police Chief, so that work schedules outside of the normal 40 hour work week can be considered. Pursuant to ARS § 23-392(A) and (B), the POA and the Town agree as follows:

> *If the Association Member is a Chino Valley Police Department sworn law enforcement officer and said Member's job classification prescribes federally-mandated overtime compensation, then time worked in excess of eighty (80) hours in a consecutive 14-day period will be paid at one of the following rates: (i) one and one-half the regular rate at which the Association Member is employed, or (ii) one and one-half compensatory time off for each hour worked. The decision*

regarding whether to receive overtime pay or overtime compensatory time will be at the Association Member's discretion, as per policy and practices in effect as of the Effective Date of this POA MOU.

2. Except as amended in Section 1 above, all other terms and conditions of the POA MOU shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to POA MOU to be effective as of the Effective Date.

THE TOWN OF CHINO VALLEY

By:____________________________
Chris Marley, Mayor

ATTEST:

____
Jami Lewis, Town Clerk

CVPOA Representative:

Signature:____________________________

Printed Name:__________________________

TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 6. e.**

Meeting Date:	02/26/2013
Contact Person:	Ron Grittman, Town Engineer Phone: 928-636-2646 x-1223
Department:	Public Works
Item Type:	Consent
Estimated length of staff presentation:	None
Physical location of item:	Town Water and Sewer System

AGENDA ITEM TITLE:

Consideration and possible action to approve change order number 1 to the professional services agreement with Economists.com dated June 12, 2012, in the amount of $1,750.00.

RECOMMENDED ACTION:

Move to approve change order number 1 to agreement with Economists.com in the amount of $1,750.00.

SITUATION AND ANALYSIS:

In the original scope of work Economist.com proposed two presentations with the Town Council. At the January 8, 2013 staff requested that Mr. Jackson be present. This meeting was not in the original scope of work. The attached change order explains the costs of the additional work requested by the Town.

Other Pertinent Documents Available Upon Request:

Professional Services Agreement with Economists.com dated June 12, 2012.

Fiscal Impact

Fiscal Impact?:	Yes
If Yes, Budget Code:	See Below
Available:	$1,750

Funding Source:

$ 875.00 will come from the Water Fund Rate Study account 04-82-5401
$ 875.00 will come from the Sewer Fund Rate Study account 06-83-5401

Attachments

Change Order

Portland

Dallas

economists.com

Economic and Financial Consulting

January 9, 2013

Mr. Ron Grittman
Town Engineer
Town of Chino Valley, Arizona
1020 W. Palomino
Chino Valley, AZ 86323

Dear Mr. Grittman:

Thank you for allowing ***Economists.com*** the opportunity to present this addendum to our proposal for an updated Utility Rate Study and Long-Term Financial Plan.

Economists.com is an economic and financial consulting firm with offices in Dallas, Texas and Portland, Oregon. Our principal clients are national, state and local governments. Our firm contains professionals with decades of experience in water and wastewater utility operations and economic/financial management. Our specific water and wastewater services include:

- **Water and Wastewater Rate Studies**
- Sanitation Rate Studies
- Economic evaluation of water resources
- Water Planning and Management
- Connection and Impact Fee Studies
- Expert Witness Testimony on Reasonableness of Rate Structure
- Resource Allocation Studies
- Privatization Analysis
- Economic Impact and Development Studies

More information is available on our firm and professionals at our web site, www.economists.com. We are proud to have served as the Town's rate consultants for the past five years and look forward to continuing to provide such service to the Town.

Subsequent to the completion of the final report, Town staff and Council added an agenda item to the January 8, 2013 Council meeting addressing the adoption of a Notice of Intent to Increase Water and Wastewater Rates. This is required according to Arizona statutes as part of the rate setting process. The Council requested that the Project Manager, Dan V. Jackson, attend this meeting and make a presentation on the need for a rate adjustment and long-term financial plan. Planning for, developing a presentation for, and attending this meeting is outside the scope of the original engagement, and therefore a change order is required.

The project team proposes to complete these additional services for a total fees and expenses not to exceed **$1,750**.

If this proposal is acceptable to you, please execute one copy of this letter and return it to our Dallas office. Thank you for this opportunity; we look forward to continuing to work with the Town of Chino Valley.

Very Truly Yours,

Dan V. Jackson
Managing Director

ACCEPTED BY:

______________________________ ____________________

Date

5500 Democracy Drive, Suite 130, Plano, Texas 75024
Office: (972) 378-6588 ♦ Fax: (972) 378-6988
Web Site: www.economists.com

TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 7. a.**

Meeting Date:	02/26/2013
Contact Person:	Joe Duffy, Finance Director Phone: 928-636-2646 x-1211
Department:	Finance
Item Type:	Action-Presentation
Estimated length of staff presentation:	15 minutes
Physical location of item:	Townwide

AGENDA ITEM TITLE:

Consideration and possible action to adopt Resolution No. 13-1006 declaring as a public record that certain document filed with the Town Clerk entitled "2013 Changes to Article IV - Privilege Taxes, of the Tax Code of the Town of Chino Valley;" adopt Ordinance No. 13-765 adopting the same by reference; and amend the Chino Valley Tax Code by increasing the Town of Chino Valley's Transaction Privilege Tax (Sales Tax) rate for certain taxable items from three percent (3%) to four percent (4%), to be effective June 1, 2013.

RECOMMENDED ACTION:

Adopt Resolution No. 13-1006 declaring as a public record that certain document filed with the Town Clerk entitled "2013 Changes to Article IV - Privilege Taxes, of the Tax Code of the Town of Chino Valley;" adopt Ordinance No. 13-765 adopting the same by reference; and amend the Chino Valley Tax Code by increasing the Town of Chino Valley's Transaction Privilege Tax (Sales Tax) rate for certain taxable items from three percent (3%) to four percent (4%), to be effective June 1, 2013.

SITUATION AND ANALYSIS:

In August of 2012, the Town of Chino Valley initiated a Strategic Financial Plan to address the community's structural deficit. The goal of the process was to eliminate the annual deficit in the General Fund.

Achieving financial stability and sustainability required exploring the available revenue enhancement options and/or expenditure reductions. Two options for revenue enhancement were identified including property tax and sales tax increase.

Information and discussions detailing the revenue enhancement options were held at the

December 6, 2012 Study Session.

Council voted to instruct staff of Council's intent to increase the current sales tax rate by 1%, effective June 1, 2013, and instructed staff to post the necessary notice on the Town's website and other appropriate venues.

A recent citizens survey indicated that the community preferred a sales tax increase over a property tax. The proposed increase is estimated to generate and additional $ 1,146,000 per fiscal year.

The attached Notice of Proposed Increase of Transaction Privilege Tax (Sales Tax) Rate has been posted on the Town's web site since December 19, 2012.

Fiscal Impact

Fiscal Impact?: Yes
If Yes, Budget Code: 01-31-4164
Available:

Funding Source:
Revenue Item

Attachments

Pulblic Notice, posted December 19, 2012
Ordinance 13-765
Resolution 13-1006
Resolution 13-1006 Exhibit, Tax Code Changes

Notice of Proposed Increase of Transaction Privilege Tax (Sales Tax) Rate

In accordance with A.R.S. § 9-499.15, public notice is hereby given that the Chino Valley Town Council will consider an increase in the Town's Transaction Privilege Tax (Sales Tax) rate from three percent (3%) to four percent (4%) no sooner than 60 days after the posting date of this notice. On or after February 26, 2012, the Chino Valley Town Council will consider approving changes to the Chino Valley Tax Code for the tax rate increase in each of the sections of the Town Tax Code listed below:

Section 32.25-405	Advertising
Section 32.25-410	Amusements, exhibitions, and similar activities
Section 32.25-415	Construction contracting: construction contractors
Section 32.25-416	Construction contracting: speculative builders
Section 32.25-417	Construction contracting: owner-builders who are not speculative builders
Section 32.25-425	Job printing
Section 32.25-427	Manufactured buildings
Section 32.25-430	Timbering and other extraction
Section 32.25-435	Publishing and periodicals distribution
Section 32.25-440	Rental occupancy
Section 32.25-444	Hotels.
Section 32.25-447	Rental, leasing, and licensing for use of real property: additional tax upon transient lodging
Section 32.25-450	Rental, leasing, and licensing for use of tangible personal property
Section 32.25-455	Restaurants and Bars
Section 32.25-460	Retail sales: measure of tax; burden of proof; exclusions
Section 32.25-470	Telecommunication services
Section 32.25-475	Transporting for hire
Section 32.25-480	Utility services

Notice posting date: December 19, 2012

ORDINANCE NO. 13-765

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, ADOPTING "2013 CHANGES TO ARTICLE IV – PRIVILEGE TAXES, OF THE TAX CODE OF THE TOWN OF CHINO VALLEY" BY REFERENCE; RELATING TO THE TRANSACTION PRIVILEGE TAX; INCREASING THE TRANSACTION PRIVILEGE TAX RATE; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND PROVIDING FOR SEVERABILITY

WHEREAS, Ordinance No. 37, adopted on June 23, 1983, established the Town of Chino Valley transaction privilege tax rate of one percent (1%); and

WHEREAS, Ordinance No. 77, adopted on June 25, 1987, increased the transaction privilege tax rate to two percent (2%); and

WHEREAS, Ordinance No. 04-581, adopted on June 24, 2004, increased the transaction privilege tax rate to three percent (3%), with certain enumerated exceptions; and

WHEREAS, the Town of Chino Valley has an on-going structural deficit in the General Fund that continues to deplete the available general fund reserves, and in order for the Town to achieve financial stability and sustainability, additional on-going general fund revenues need to be increased;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA:

<u>Section 1.</u> That certain document known as "2013 Changes to Article IV – Privilege Taxes, of the Tax Code of the Town of Chino Valley," three (3) copies of which are on file in the office of the Town Clerk of the Town of Chino Valley, Arizona, which document was made a public record by Resolution No. 13-1006 of the Town of Chino Valley, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance and which is described in brief in Sections 2-4 of this Ordinance.

<u>Section 2.</u> That the transaction privilege tax rate in each of the sections of the Town Tax Code listed below is increased from three percent (3%) to three percent (4%):

Section 32.25-405 Advertising
Section 32.25-410 Amusements, exhibitions, and similar activities
Section 32.25-415 Construction contracting: construction contractors
Section 32.25-416 Construction contracting: speculative builders

Section 32.25-417 Construction contracting: owner-builders who are not speculative builders
Section 32.25-425 Job printing
Section 32.25-427 Manufactured buildings
Section 32.25-430 Timbering and other extraction
Section 32.25-435 Publishing and periodicals distribution
Section 32.25-440 Rental occupancy
Section 32.25-444 Hotels.
Section 32.25-447 Rental, leasing, and licensing for use of real property: additional tax upon transient lodging
Section 32.25-450 Rental, leasing, and licensing for use of tangible personal property
Section 32.25-455 Restaurants and Bars
Section 32.25-460 Retail sales: measure of tax; burden of proof; exclusions
Section 32.25-470 Telecommunication services
Section 32.25-475 Transporting for hire
Section 32.25-480 Utility services

Section 3. That the transaction privilege tax rate in the section of the Town Tax Code listed below will remain at the current rate of .015 cents per gallon.

Section 32.25-422 Jet fuel sales

Section 4. That the transaction privilege tax rate in the section of the Town Tax Code listed below will remain at the current rate of one-tenth of ten percent (.1%).

Section 32.25-432 Mining

Section 5. That transaction privilege tax rate in the section of the Town Tax Code listed below will remain at the current rate of three percent (3%).

Section 32.25-445 Rental, leasing, and licensing for use of real property

Section 6. That the transaction privilege tax rate in the section of the Town Tax Code listed below will remain at the current rate of three percent (3%).

Section 32.25-477 Operating a Pipeline

Section 7. That any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a class one misdemeanor.

Section 8. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 9. That the effective date of this ordinance shall be June 1, 2013.

Section 10. The additional tax imposed pursuant to Section 2 of this ordinance shall not apply to contracts entered into prior to the effective date of this ordinance.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 26th day of February, 2013.

Chris Marley, Mayor

ATTEST:

APPROVED AS TO FORM:

Jami C. Lewis, Town Clerk

Musgrove Drutz & Kack, PC
Town Attorney

RESOLUTION NO. 13-1006

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, DECLARING AS A PUBLIC RECORD WITHIN THE MEANING OF A.R.S. §9-801 THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "2013 CHANGES TO ARTICLE IV – PRIVILEGE TAXES, OF THE TAX CODE OF THE TOWN OF CHINO VALLEY"

BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA:

That certain document entitled "2013 Changes to Article IV – Privilege Taxes, of the Tax Code of the Town of Chino Valley," effective June 1, 2013, is hereby declared to be a public record within the meaning of A.R.S. §9-801, three (3) copies of which are on file in the office of the Town Clerk and which are available for inspection by the public during normal business hours.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 26th day of February, 2013.

____
Chris Marley, Mayor

ATTEST:

____
Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:

____
Musgrove Drutz & Kack, PC
Town Attorney

2013 CHANGES TO ARTICLE IV – PRIVILEGE TAXES, OF THE TAX CODE OF THE TOWN OF CHINO VALLEY

Article IV - Privilege Taxes

Sec. 32.25-400. Imposition of Privilege Taxes; presumption.

(a) There are hereby levied and imposed, subject to all other provisions of this Chapter, the following Privilege Taxes for the purpose of raising revenue to be used in defraying the necessary expenses of the Town, such taxes to be collected by the Tax Collector:

(1) a Privilege Tax upon persons on account of their business activities, to the extent provided elsewhere in this Article, to be measured by the gross income of persons, whether derived from residents of the Town or not, or whether derived from within the Town or from without.

(2) a Privilege Tax upon certain persons for the privilege of occupancy of real property, in accordance with the provisions of Section 32.25-440.

(3) A privilege tax upon persons for the privilege of selling jet fuel, whether derived from residents of the Town or not, or whether derived from within the Town or from without, in accordance with the provisions of Section 32.25-422.

(b) Taxes imposed by this Chapter are in addition to others. Except as specifically designated elsewhere in this Chapter, each of the taxes imposed by this Chapter shall be in addition to all other licenses, fees, and taxes levied by law, including other taxes imposed by this Chapter.

(c) Presumption. For the purpose of proper administration of this Chapter and to prevent evasion of the taxes imposed by this Chapter, it shall be presumed that all gross income is subject to the tax until the contrary is established by the taxpayer.

(d) Limitation of exemptions, deductions, and credits allowed against the measure of taxes imposed by this Chapter. All exemptions, deductions, and credits set forth in this Chapter shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax.

Sec. 32.25-405. Advertising.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of "local advertising" by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from "local advertising". All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered "Local Advertising", except the following:

(1) the advertising of a product or service which is sold or provided both within and without the State by more than one "commonly designated business entity" within the State, and in which the advertisement names either no "commonly designated business entity" within the State or more than one "commonly designated business entity". "Commonly Designated Business Entity" means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.

(2) the advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State.

(3) the advertising of a product which may only be purchased from an out-of-State supplier.

(4) political advertising for United States Presidential and Vice Presidential candidates only.

(5) advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.

(6) advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

(b) (Reserved)

Sec. 32.25-407. (Reserved)

Sec. 32.25-410. Amusements, exhibitions, and similar activities.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of providing amusement that begins in the town or takes place entirely within the Town, which includes the following type or nature of businesses:

(1) operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dance halls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or entertainment.

(2) health spas, fitness centers, dance studios, or other persons who charge for the use of premises for sports, athletic, other health-related activities or instruction, whether on a per-event use, or for long-term usage, such as membership fees.

(b) Deductions or exemptions. The gross proceeds of sales or gross income derived from the following sources is exempt from the tax imposed by this Section:

(1) (Reserved)

(2) Amounts retained by the Arizona Exposition and State Fair Board from ride ticket sales at the annual Arizona State Fair.

(3) Income received from a hotel business subject to tax under Section 32.25-444, if all of the following apply:

(A) The hotel business receives gross income from a customer for the specific business activity otherwise subject to amusement tax.

(B) The consideration received by the hotel business is equal to or greater than the amount to be deducted under this subsection.

(C) The hotel business has provided an exemption certificate to the person engaging in business under this section.

(4) Income that is specifically included as the gross income of a business activity upon which another Section of this Article imposes a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.

(5) Income from arranging transportation connected to amusement activity that is separately stated to the customer, not to exceed consideration paid to the transportation business.

(c) The tax imposed by this Section shall not include arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement themselves or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.

Sec. 32.25-415. Construction contracting: construction contractors.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the Town.

(1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.

(2) (Reserved)

(3) gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 32.25-427.

(4) For taxable periods beginning from and after July 15, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this Section. For the purposes of this subsection, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(b) Deductions and exemptions.

(1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.

(2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).

(3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(A) Section 32.25-465, subsections (g) and (p)

(B) Section 32.25-660, subsections (g) and (p) shall be exempt or deductible, respectively, from the tax imposed by this Section.

(4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 32.25-110, that is deducted from the retail classification pursuant to Section 32.25- 465(g) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance

or removal of the income producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(A) to be incorporated into real property.

(B) to become so affixed to real property that it becomes part of the real property.

(C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 32.25-465, subsection (g) shall be exempt from the tax imposed under this Section.

(7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(8) The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this Section.

(9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. § 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the Town:

(A) The certificate of qualification of the lake facility development issued by the Town pursuant to A.R.S. § 9-499.08, subsection D.

(B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.

(C) Any other information considered to be necessary.

(10) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

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

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

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

(11) For taxable periods beginning from and after July 15, 2008 AND ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(c) "Subcontractor" means a construction contractor performing work for either:

(1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his Town Privilege License number.

(2) an owner-builder who has provided the subcontractor with a written declaration that:

(A) the owner-builder is improving the property for sale; and

(B) the owner-builder is liable for the tax for such construction contracting activity; and

(C) the owner-builder has provided the contractor his Town Privilege License number.

(3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his Town Privilege License number.

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

Sec. 32.25-416. Construction contracting: speculative builders.

(a) The tax shall be equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the Town.

(1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.

(2) "Improved Real Property" means any real property:

(A) upon which a structure has been constructed; or

(B) where improvements have been made to land containing no structure (such as paving or landscaping); or

(C) which has been reconstructed as provided by Regulation; or

(D) where water, power, and streets have been constructed to the property line.

(3) "Sale of Improved Real Property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple

unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.

(4) "Partially Improved Residential Real Property," as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.

(b) Exclusions.

(1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.

(2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Section.

(3) (Reserved)

(4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:

(A) the speculative builder purchasing the partially improved residential real property has a valid Town privilege license for construction contracting as a speculative builder; and

(B) at the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the Town at the time of sale of the partially improved residential real property; and

(C) the seller also:

(i) maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and

(ii) retains a copy of the written declaration provided by the buyer for the transaction;

and

(iii) is properly licensed with the Town as a speculative builder and provides the Town with the written declaration attached to the Town privilege tax return where he claims the exclusion.

(5) For taxable periods beginning from and after July 15, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to exemptions, deductions and tax credits:

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(i) Section 32.25-465, subsections (g) and (p)

(ii) Section 32.25-660, subsections (g) and (p) shall be exempt or deductible, respectively, from the tax imposed by this Section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 32.25-465, subsection (g) shall be exempt from the tax imposed under this section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

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

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

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

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

(2) Deductions.

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

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 32.25-110, that is deducted from the retail classification pursuant to Section 32.25-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(i) to be incorporated into real property.

(ii) to become so affixed to real property that it becomes part of the real property.

(iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(C) For taxable periods beginning from and after july 15, 2008 and ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(3) Tax credits.

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

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

(B) A tax credit equal to the amount of privilege taxes paid to this Town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

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

Sec. 32.25-417. Construction contracting: owner-builders who are not speculative builders.

(a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to four percent (4%) of:

(1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Subsection 32.25-415(c)(2); and

(2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

(b) For taxable periods beginning from and after July 15, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) The tax liability of this Section is subject to the following provisions, relating to exemptions, deductions and tax credits:

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(i) Section 32.25-465, subsections (g) and (p)

(ii) Section 32.25-660, subsections (g) and (p) shall be exempt or deductible, respectively, from the tax imposed by this Section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 32.25-465, subsection (g) shall be exempt from the tax imposed under this Section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

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

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

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

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

(2) Deductions.

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

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 32.25-110, that is deducted from the retail classification pursuant to Section 32.25-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(i) to be incorporated into real property.

(ii) to become so affixed to real property that it becomes part of the real property.

(iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(C) For taxable periods beginning from and after July 15, 2008 and ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

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

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

(B) A tax credit equal to the amount of privilege taxes paid to this Town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

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

(d) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 32.25-540, will be based on reportable date.

(e) (Reserved)

Sec. 32.25-418. (Reserved)

Sec. 32.25-420. (Reserved)

Sec. 32.25-422. Jet fuel sales.

(a) The tax rate shall be at an amount of .015 cents per gallon sold from the business activity upon every person engaging or continuing in the business of selling jet fuel.

(1) Gallons sold includes all gallons sold, bartered, exchanged, included as part or whole of a trade-out, or similar transactions regardless of the type or form of payment.

(2) For purposes of this section the following terms are substitutable in Articles III and V of this chapter, and corresponding regulations:

(A) "gallons" for "gross income"

(B) "gallon(s)" for "amount(s)".

(b) The burden of proving that a sale of jet fuel is not a taxable sale shall be upon the person who made the sale.

(c) Except as provided in Section 32.25-567, when this town and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a jet fuel sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this chapter such city or town has sole and exclusive right to such tax.

(d) The appropriate tax liability for any jet fuel sale where the order is received at a permanent business location of the seller located in this town or in an Arizona city or town that levies an equivalent excise tax shall be at the rate of the city or town of such seller's location.

(e) Exemptions. Notwithstanding Section 32.25-400(d), the exemptions in Section 32.25-465(a),

(b) and (d) through (z) will apply to sales of jet fuel taxed under this Section.

Sec. 32.25-425. Job printing.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

(b) The tax imposed by this Section shall not apply to:

(1) job printing purchased for the purpose of resale by the purchaser in the form supplied by the job printer.

(2) out-of-Town sales.

(3) out-of-State sales.

(4) (Reserved)

(5) sales of job printing to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(6) (Reserved)

Sec. 32.25-427. Manufactured buildings.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income, including site preparation, moving to the site, and/or set-up, upon every person engaging or continuing in the business activity of selling manufactured buildings within the Town. Such business activity is deemed to occur at the business location of the seller where the purchaser first entered into the contract to purchase the manufactured building.

(b) Sales of used manufactured buildings are not taxable.

(c) The sale prices of furniture, furnishings, fixtures, appliances, and attachments that are not incorporated as component parts of or attached to a manufactured building are exempt from the tax imposed by this Section. Sales of such items are subject to the tax under Section 32.25-460.

(d) Under this Section, a trade-in will not be allowed for the purpose of reducing the tax liability.

Sec. 32.25-430. Timbering and other extraction.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the following businesses:

(1) felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.

(2) extracting, refining, or producing any oil or natural gas for sale, profit, or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product extracted, refined, produced, or prepared for sale, profit, or commercial use, when such activity occurs within the Town, regardless of the place of sale of the product or the fact that delivery may be made to a point without the Town or without the State.

(c) If any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this Section.

(d) (Reserved)

Sec. 32.25-432. Mining.

(a) The tax rate shall be at an amount equal to one tenth of one percent (.1%), not to exceed one tenth of one percent, of the gross income from the business activity upon every person engaging or continuing in the business of mining, smelting, or producing for sale, profit, or commercial use any copper, gold, silver, or other mineral product, compound, or combination of mineral products; but not including the extraction, removal, or production of sand, gravel, or rock from the ground for sale, profit, or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product mined, smelted or produced for sale, profit, or commercial use, when such activity occurs within the Town, regardless of the place of sale of the product or the fact that delivery may be made to a point without the Town or without the State.

(c) If any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this Section.

Sec. 32.25-435. Publishing and periodicals distribution.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business activity of:

(1) publication of newspapers, magazines, or other periodicals when published within the Town, measured by the gross income derived from notices, subscriptions, and local advertising as defined in Section 32.25-405. In cases where the location of publication is both within and without this State, gross income subject to the tax shall refer only to gross income derived from residents of this State or generated by permanent business locations within this State.

(2) distribution or delivery within the Town of newspapers, magazines, or other periodicals not published within the Town, measured by the gross income derived from subscriptions.

(b) "Location of Publication" is determined by:

(1) location of the editorial offices of the publisher, when the physical printing is not performed by the publisher; or

(2) location of either the editorial offices or the printing facilities, if the publisher performs his own physical printing.

(c) "Subscription income" shall include all circulation revenue of the publisher except amounts retained by or credited to carriers or other vendors as compensation for delivery within the State by such carriers or vendors, and further except sales of published items, directly or through distributors, for the purpose of resale, to retailers subject to the Privilege Tax on such resale.

(d) "Circulation," for the purpose of measurement of gross income subject to the tax, shall be considered to occur at the place of delivery of the published items to the subscriber or intended reader irrespective of the location of the physical facilities or personnel of the publisher. However, delivery by the United States mails shall be considered to have occurred at the location of publication.

(e) Allocation of taxes between cities and towns. In cases where publication or distribution occurs in more than one city or town, the measurement of gross income subject to tax by the Town shall include:

(1) that portion of the gross income from publication which reflects the ratio of circulation within this Town to circulation in all incorporated cities and towns in this State having substantially similar provisions; plus

(2) only when publication occurs within the Town, that portion of the remaining gross income from publication which reflects the ratio of circulation within this Town to the total circulation of all incorporated cities or towns in this State within which cities the taxpayer maintains a location of publication.

(f) The tax imposed by this Section shall not apply to sales of newspapers, magazines or other periodicals to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

Sec. 32.25-440. Rental occupancy.

(a) For the purposes of this Section only, the following definitions shall apply:

(1) "Landlord" means any lessor of real property under a pre-existing lease.

(2) "Pre-existing Lease" means any written lease, license for use, or rental agreement entered into prior to December 1, 1967; except for the following:

(A) any bilateral amendment to such written agreement which was entered into subsequent to December 1, 1967, wherein the length of the term or the size of the premises affected is changed or both.

(B) any such agreement for lodging or lodging space.

(3) "Rent" means all consideration paid by the tenant to his landlord or to another in payment of or diminution of his own or his landlord's obligation in connection with the real property occupied by the tenant, whether or not such occupancy is designated as a rent, lease or license for use of real property.

(4) "Tenant" means any lessee of real property under a pre-existing lease.

(b) The tax rate shall be at an amount of four percent (4%) of the gross rent paid by a tenant, to the extent of his occupancy of real property in this Town under a pre-existing lease, upon such tenant, for the privilege of such occupancy, subject to the provisions of this Section.

(c) Exclusions. The tax imposed by this Section shall not apply to:

(1) occupancy by a tenant which the Constitution or laws of the United States or of the State of Arizona prohibit the Town from taxing.

(2) occupancy by a tenant of a landlord which the Constitution or laws of the United States or of the State of Arizona prohibit the Town from taxing.

(3) occupancy of lodging or lodging space.

(4) occupancy of real property under other than a pre-existing lease.

(d) Duty of landlords. Every landlord of a tenant subject to the tax:

(1) shall collect the tax imposed by this Section from the tenant liable for the tax at the same time as and together with the tenant's periodic or other payment of rent. The tax required to be collected shall constitute a debt owed by the landlord to the Town.

(2) shall be considered a taxpayer subject to all licensing, recordkeeping, and reporting requirements of this Chapter.

(e) Duty of tenants. Every tenant liable for the tax:

(1) shall, in any instance in which the tax has not been collected by his landlord, remit such tax to the Tax Collector, and in such case, be subject to all licensing and reporting requirements of this Chapter.

(2) shall maintain, and provide upon request, books and records sufficient for the Tax Collector to determine the tax liability of such tenant.

(f) Interest and civil penalties shall be the liability of the landlord collecting and remitting the tax; provided, however, that if the landlord can present clear and convincing evidence that the delinquency was caused by the tenant, then said interest and penalties shall be the liability of the tenant.

(g) Extension of rights of appeal to include tenants and landlords.

(1) Any landlord or tenant may avail himself of the provisions of Sections 32.25-570 through 32.25-575, relating to appeals, and, except as modified hereunder, all provisions of said Sections shall apply.

(2) For the purposes of preserving appeal rights, an assessment against a landlord may be protested and appealed by any tenant paying or liable to pay the tax for the occupancy included in such assessment.

(3) Payment of the tax herein imposed to a landlord by a tenant shall be deemed payment of the tax for the tenant for the purposes of allowing a protest to be initiated under Sections 32.25-570 through 32.25-575.

(4) The filing of a protest petition by a tenant shall not relieve the landlord of his obligation to report and remit the protested tax, or any subsequent periodic payments of tax governed by the initial protest.

(h) Refunds. Any refunds of taxes authorized by this Chapter shall be made to the tenant. Any refunds of interest and civil penalties authorized by this Chapter shall be made to the person liable for such, as provided in subsection (f) above.

Sec. 32.25-444. Hotels.

The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or lodging space furnished to any:

(a) Person.

(b) Exclusions. The tax imposed by this Section shall not include:

(1) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility.

(2) Gross proceeds of sales or gross income that is properly included in another business activity under this Article and that is taxable to the person engaged in that business activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

(3) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this Article.

(4) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under Section 32.25-410 or Section 32.25-475 due to an exclusion, exemption or deduction.

(5) Gross proceeds of sales or gross income from commissions received from a person providing services or property to the customers of the hotel. However, such commissions may be subject to tax under Section 32.25-445 or Section 32.25-450 as rental, leasing or licensing for use of real or tangible personal property.

(6) Income from providing telephone, fax or Internet services to customers at an additional charge, that is separately stated to the customer and is separately maintained in the hotel's books and records. However, such gross proceeds of sales or gross income may be subject to tax under Section 32.25-470 as telecommunication services.

Sec. 32.25-445. Rental, leasing, and licensing for use of real property.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the Town for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the Town for a consideration including any improvements, rights, or interest in such property; provided further that:

(1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.

(2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.

(3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 32.25-470.

(b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.

(c) Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.

(d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this Section.

(e) (Reserved)

(f) A person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces rented, leased or licensed or available for rent, lease, or license within the State and no units of commercial property for rent, lease, or license within the State, is not deemed to be in the rental business, and is therefore exempt from the tax imposed by this Section on such income. However, a person who has one (1) or more units of commercial property is subject to the tax imposed by this Section on rental, lease and license income from all such lodging spaces and commercial units of real estate even though said person may have fewer than three (3) lodging spaces.

(g) (Reserved)

(h) (Reserved)

(i) (Reserved)

(j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 32.25-444 of this code.

(k) (Reserved)

(l) (Reserved)

(m) (Reserved)

(n) Notwithstanding the provisions of Section 32.25-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.

(o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this Section.

(p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.

(q) Charges to patients receiving "personal care" or "directed care", by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.

(r) Income received from the rental of any “low-income unit” as established under Section 42 of the Internal Revenue Code, including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the “gross rent” defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to income received from the rental of individual rental units subject to statutory or regulatory “low-income unit” rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the “gross rent” limitation for the unit and the rent received from that unit.

Sec. 32.25-446. (Reserved)

Sec. 32.25-447. Rental, leasing, and licensing for use of real property: additional tax upon transient lodging.

In addition to the taxes levied as provided in Section 32.25-444, there is hereby levied and shall be collected an additional tax in an amount equal to four percent (4%) of the gross income from the business activity of any hotel engaging or continuing within the Town in the business of charging for lodging and/or lodging space furnished to any transient.

Sec. 32.25-450. Rental, leasing, and licensing for use of tangible personal property.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the Town as provided by Regulation.

(b) Special provisions relating to long-term motor vehicle leases. A lease transaction involving a motor vehicle for a minimum period of twenty-four (24) months shall be considered to have occurred at the location of the motor vehicle dealership, rather than the location of the place of business of the lessor, even if the lessor's interest in the lease and its proceeds are sold, transferred, or otherwise assigned to a lease financing institution; provided further that the city or town where such motor vehicle dealership is located levies a Privilege Tax or an equivalent excise tax upon the transaction.

(c) Gross income derived from the following transactions shall be exempt from Privilege Taxes imposed by this Section:

(1) rental, leasing, or licensing for use of tangible personal property to persons engaged or continuing in the business of leasing, licensing for use, or rental of such property.

(2) rental, leasing, or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction.

(3) rental, leasing, or licensing for use of film, tape, or slides to a theater or other person taxed under Section 32.25-410, or to a radio station, television station, or subscription television system.

(4) rental, leasing, or licensing for use of the following:

(A) prosthetics.

(B) income-producing capital equipment.

(C) mining and metallurgical supplies. These exemptions include the rental, leasing, or licensing for use of tangible personal property which, if it had been purchased instead of leased, rented, or licensed by the lessee or licensee, would qualify as income-producing capital equipment or mining and metallurgical supplies.

(5) rental, leasing, or licensing for use of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or rental, leasing, or licensing for use of tangible personal property in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

(6) separately billed charges for delivery, installation, repair, and/or maintenance as provided by Regulation.

(7) charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services.

(8) (Reserved)

(9) rental, leasing, or licensing of aircraft that would qualify as aircraft acquired for use outside the State, as prescribed by Regulation, if such rental, leasing, or licensing had been a sale.

(10) rental, leasing or licensing for use an alternative fuel vehicle if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. § 1-215.

(11) rental, leasing, and licensing for use of solar energy devices, for taxable periods beginning from and after July 1, 2008. The lessor shall register with the department of revenue as a solar energy retailer. By registering, the lessor acknowledges that it will make its books and records relating to leases of solar energy devices available to the department of revenue and Town, as applicable, for examination.

Sec. 32.25-452. (Reserved)

Sec. 32.25-455. Restaurants and Bars.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of preparing or serving food or beverage in a bar, cocktail lounge, restaurant, or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises, including also the activity of catering. Cover charges and minimum charges must be included in the gross income of this business activity.

(b) Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off premises shall also be allowed to exclude separately charged delivery, set-up, and clean-up charges, provided that the charges are also maintained separately in the books and records. When a taxpayer delivers food and/or serves such food off premises, his regular business location shall still be deemed the location of the transaction for the purposes of the tax imposed by this Section.

(c) The tax imposed by this Section shall not apply to sales to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(d) The tax imposed by this Section shall not apply to sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. § 42-5061(A)49, that serves the food and beverages to its passengers, without additional charge, for consumption in flight.

(e) The tax imposed by this Section shall not apply to sales of prepared food, beverages, condiments or accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours.

(f) For the purposes of this Section, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

Sec. 32.25-460. Retail sales: measure of tax; burden of proof; exclusions.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail.

(b) The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.

(c) Exclusions. For the purposes of this Chapter, sales of tangible personal property shall not include:

(1) sales of stocks, bonds, options, or other similar materials.

(2) sales of lottery tickets or shares pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.

(3) sales of platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by Regulation.

(4) gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity upon which another Section of this Article imposes a tax, shall be considered gross income of that business activity, and are not includable as gross income subject to the tax imposed by this Section.

(5) sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.

(d) (Reserved)

(e) When this Town and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this Chapter such city or town has sole and exclusive right to such tax.

(f) The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this Town or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.

(g) Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this Section.

Sec. 32.25-465. Retail sales: exemptions.

Income derived from the following sources is exempt from the tax imposed by Section 32.25-460:

(a) sales of tangible personal property to a person regularly engaged in the business of selling such property.

(b) out-of-Town sales or out-of-State sales.

(c) charges for delivery, installation, or other direct customer services as prescribed by Regulation.

(d) charges for repair services as prescribed by Regulation, when separately charged and separately maintained in the books and records of the taxpayer.

(e) sales of warranty, maintenance, and service contracts, when separately charged and separately

maintained in the books and records of the taxpayer.

(f) sales of prosthetics.

(g) sales of income-producing capital equipment.

(h) sales of rental equipment and rental supplies.

(i) sales of mining and metallurgical supplies.

(j) sales of motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes; or sales of use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section 28-5739, or sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

(k) sales of tangible personal property to a construction contractor who holds a valid Privilege Tax License for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity.

(l) sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this State.

(m) sales of tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines, or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.

(n) sales made directly to the Federal government to the extent of:

(1) one hundred percent (100%) of the gross income derived from retail sales made by a manufacturer, modifier, assembler, or repairer.

(2) fifty percent (50%) of the gross income derived from retail sales made by any other person.

(o) sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar establishments of articles consumed as food, drink, or condiment, whether simple, mixed, or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 32.25-455 or the equivalent excise tax upon such income.

(p) sales of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or sales of tangible personal property purchased in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

(q) food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 United States Code Section 1786) but only to the extent that food stamps or food instruments were actually used to purchase such food.

(r) sales of the following to persons engaging or continuing in the business of farming, ranching, or feeding livestock, poultry or ratites:

(1) seed, fertilizer, fungicides, seed treating chemicals, and other similar chemicals.

(2) feed for livestock, poultry or ratites, including salt, vitamins, and other additives to such feed.

(3) livestock, poultry or ratites purchased or raised for slaughter, but not including livestock purchased or raised for production or use, such as milch cows, breeding bulls, laying hens, riding or work horses.

(4) (Reserved)

This exemption shall not be construed to include machinery, equipment, fuels, lubricants, pharmaceuticals, repair and replacement parts, or other items used or consumed in the running, maintenance, or repair of machinery, equipment, buildings, or structures used or consumed in the business of farming, ranching, or feeding of livestock, poultry or ratites.

(s) sales of groundwater measuring devices required by A.R.S. Section 45-604.

(t) (Reserved)

(u) sales of aircraft acquired for use outside the State, as prescribed by Regulation.

(v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

(aa) the sale of tangible personal property used in remediation contracting as defined in Section 32.25-100 and Regulation 32.25-100.5.

(bb) sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(1) printed or photographic materials.

(2) electronic or digital media materials.

(cc) sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. § 42-5061(A)(49), that serves the food and beverages to its passengers, without additional charge, for consumption in flight. For the purposes of this subsection, “accessories” means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(dd) in computing the tax base in the case of the sale or transfer of wireless telecommunication equipment as an inducement to a customer to enter into or continue a contract for telecommunication services that are taxable under Section 32.25-470, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

(ee) for the purposes of this Section, a sale of wireless telecommunication equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 32.25-470 is considered to be a sale for resale in the regular course of business.

(ff) sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or § 49-480.

(gg) sales of food, beverages, condiments and accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, “accessories” means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(hh) sales of personal hygiene items to a person engaged in the business of and subject to tax under Section 32.25-444 of this code if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.

(ii) For the purposes of this Section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

(jj) Sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, “accessories” means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(kk) sales of motor vehicles that use alternative fuel was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. § 1-215.

(ll) Sales of solar energy devices, for taxable periods beginning from and after July 15, 2008. The retailer shall register with the department of Revenue as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and city, as applicable, for examination.

Sec. 32.25-470. Telecommunication services.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this Town.

(1) Telecommunication services shall include:

(A) two-way voice, sound, and/or video communication over a communications channel.

(B) one-way voice, sound, and/or video transmission or relay over a communications channel.

(C) facsimile transmissions.

(D) providing relay or repeater service.

(E) providing computer interface services over a communications channel.

(F) time-sharing activities with a computer accomplished through the use of a communications channel.

(2) Gross income from the business activity of providing telecommunication services to consumers within this Town shall include:

(A) all fees for connection to a telecommunication system.

(B) toll charges, charges for transmissions, and charges for other telecommunications services; provided that such charges relate to transmissions originating in the Town and terminating in this State.

(C) fees charged for access to or subscription to or membership in a telecommunication system or network.

(D) charges for monitoring services relating to a security or burglar alarm system located within the Town where such system transmits or receives signals or data over a communications channel.

(E) charges for telephone, fax or Internet access services provided at an additional charge by a hotel business subject to taxation under Section 32.25-444.

(b) Resale telecommunication services. Gross income from sales of telecommunication services to another provider of telecommunication services for the purpose of providing the purchaser's customers with such service shall be exempt from the tax imposed by this Section; provided, however, that such purchaser is properly licensed by the Town to engage in such business.

(c) Interstate transmissions. Charges by a provider of telecommunication services for transmissions originating in the Town and terminating outside the State are exempt from the tax imposed by this Section.

(d) (Reserved)

(e) (Reserved)

(f) Prepaid calling cards. Telecommunications services purchased with a prepaid calling card that are taxable under Section 32.25-460 are exempt from the tax imposed under this Section.

(g) Internet Access Services - the gross income subject to tax under this section shall not include sales of internet access services to the person's subscribers and customers. For the purposes of this subsection:

(1) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.

(2) "Internet Access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

Sec. 32.25-475. Transporting for hire.

The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this Town to another point within the State:

(a) Transporting of persons or property by railroad; provided, however, that the tax imposed by this subsection shall not apply to transporting freight or property for hire by a railroad operating exclusively in this State if the transportation comprises a portion of a single shipment of freight or property, involving more than one railroad, either from a point in this State to a point outside this State or from a point outside this State to a point in this State. For purposes of this paragraph, “a single shipment” means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.

(b) Transporting of oil or natural or artificial gas through pipe or conduit.

(c) Transporting of property by aircraft.

(d) Transporting of persons or property by motor vehicle, including towing and the operation of private car lines, as such are defined in Article VII, Chapter 14, Title 42 , Arizona Revised Statutes; provided, however, that the tax imposed by this subsection shall not apply to:

(1) gross income subject to the tax imposed by Article IV, Chapter 16, Title 28, Arizona Revised Statutes.

(2) gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.

(3) (Reserved)

(4) (Reserved)

(e) (Reserved)

(f) Deductions or exemptions. The gross proceeds of sales or gross income derived from the following sources is exempt from the tax imposed by this Section:

(1) income that is specifically included as the gross income of a business activity upon which another Section of Article IV imposes a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.

(2) income from arranging amusement or transportation when the amusement or transportation is conducted by another person not to exceed consideration paid to the amusement or transportation business.

(g) The tax imposed by this Section shall not include arranging transportation as a convenience to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the transportation is performed by third party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

Sec. 32.25-477. Operating a pipeline.

The tax rate shall be an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of operating a pipeline for transporting oil, or natural or artificial gas, or water, through pipes or conduits from a point within the Town to another point in the Town or in the State.

Sec. 32.25-480. Utility services.

(a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of producing, providing, or furnishing utility services including electricity, electric lights, current, power, gas (natural or artificial), or water to:

(1) consumers or ratepayers who reside within the Town.

(2) consumers or ratepayers of this Town, whether within the Town or without, to the extent that this Town provides such persons utility services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this Town for providing such utility services to such persons.

(b) Exclusion of certain sales of natural gas to a public utility. Notwithstanding the provisions of subsection (a) above, the gross income derived from the sale of natural gas to a public utility for the purpose of generation of power to be transferred by the utility to its ratepayers shall be considered a retail sale of tangible personal property subject to Sections 32.25-460 and 32.25-465, and not considered gross income taxable under this Section.

(c) Resale utility services. Sales of utility services to another provider of the same utility services for the purpose of providing such utility services either to another properly licensed utility provider or directly to such purchaser's customers or ratepayers shall be exempt and deductible from the gross income subject to the tax imposed by this Section, provided that the purchaser is properly licensed by all applicable taxing jurisdictions to engage or continue in the business of providing utility services, and further provided that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.

(d) (Reserved)

(e) The tax imposed by this Section shall not apply to sales of utility services to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(f) The tax imposed by this Section shall not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

(g) The tax imposed by this Section shall not apply to:

(1) revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are

segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

(2) revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This exclusion shall not exceed the value of such property and equipment.

(h) The tax imposed by this Section shall not apply to sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or § 49-480.

Sec. 32.25-485. (Reserved)

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TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 7. b.**

Meeting Date:	02/26/2013
Contact Person:	Robert Smith, Town Manager Phone: 928-636-2646 x-1201
Department:	Town Manager
Item Type:	Action-Presentation
Estimated length of staff presentation:	5 minutes
Physical location of item:	1943 Voss Drive, Town's North Campus

AGENDA ITEM TITLE:

Consideration and possible action to extend the existing month-to-month lease for the Food Bank an additional four months.

RECOMMENDED ACTION:

Approve a four month extension to the existing, month-to-month lease for the Food Bank.

SITUATION AND ANALYSIS:

The Food Bank has been working to create a new operational location but is not complete on the construction. An extension of the month-to-month lease will allow the organization time to finish it's new location and move in. An estimated 60 days of work is left outstanding on the structure, and it is estimated that 4 months will give the food bank time to finish construction and move to the new facility.

Other Pertinent Documents Available Upon Request:

Existing lease document is available at Town Hall.

Fiscal Impact

Fiscal Impact?:	N/A
If Yes, Budget Code:	
Available:	
Funding Source:	

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TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No.** 7. c.

Meeting Date:	02/26/2013
Contact Person:	Jami Lewis, Town Clerk
	Phone: 928-636-2646 x-1208
Department:	Town Clerk
Item Type:	Action-Presentation
Estimated length of staff presentation:	5 minutes
Physical location of item:	202 N. State Route 89, Town North Campus

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AGENDA ITEM TITLE:

Consideration and possible action to approve Proposal and Contract with Circle C Construction, in the amount of $12,220.30, plus an additional $500 for design drawings, to enclose an approximately 98 square foot portion at the southeast corner of the South Campus Town Hall facility.

RECOMMENDED ACTION:

Approve Circle C Construction Proposal and Contract and Exhibit "A" thereto, in the amount of $12,220.30, plus an additional $500 for design drawings, with the added stipulation that Circle C must demonstrate proof of adequate comprehensive general liability insurance coverage naming the Town as an additional insured and must demonstrate proof of adequate workers compensation insurance coverage in accordance with applicable laws, prior to commencement of work.

SITUATION AND ANALYSIS:

On February 12, 2013, staff informed Council about a need to create a storage area for inactive and permanent records in the South Campus facility to accommodate an overflow from the inactive records shed currently being stored at the North Campus, which is to be remodeled for use by the Library.

Staff solicited a proposal from Circle C Construction, the contractor that performed the remodeling on the new Town Hall, who provided a quote of $12,220.30. Although the proposal was provided in December 2012 with a possible 5-day withdrawal, staff has contined discussions on the project with Circle C, who has indicated that they are holding to this price.

Council is also being asked to approve an additional $500 over Circle C's price for the cost of design drawings to submit for a building permit.

Fiscal Impact

Fiscal Impact?:	Yes
If Yes, Budget Code:	01-95-5600
Available:	$12,720.30

Funding Source:

Funds to come from Non-Departmental contingency line.

Attachments

Circle C Construction Proposal and Contract

Exhibit "A" to Circle C Proposal and Contract

Harper & Son Development, Inc
dba/
CIRCLE C CONSTRUCTION
P.O.BOX 960
CHINO VALLEY, AZ.
ROC182916, ROC182917

PROPOSAL AND CONTRACT

Date Submitted: December 17, 2012 **Job Name:** Town of Chino Valley/ Town Hall

Job Address or Location: Chino Valley, Arizona
Contractee: Town of Chino Valley

I propose to furnish all materials and perform all labor necessary to complete the following:

To close in 17 ft. 4" by 8 ft. open area at the South East corner of Town Hall Building.

Work includes as follows: Excavate, rebar and concrete for one 6 ft. footing 16" wide x 18" deep; abc subgrade compacted fill; 4" 3000 psi concrete floor (level with existing foyer); block to fill in two "window" type openings (6' 8"x40"), block in East opening (6'x8' area); remove 88"x88" glass and framed units (4); install one 3' metal (flush) door with lever key/lock and metal jamb, with 24" of block on each side in opening resulting from removal of glass; supply sloped roof from block wall of building to block wall above window openings with 18" overhang (use 10 ft. rafters); cut back overhang as needed to tie in new roof with a 3:12 minimum pitch; install shingles to match existing as close as possible with new locally available shingles; paint block and facia to match existing; install gutter and 1 downspout; install 2- 48" florescent 2 tube covered fixtures and one switch, fed off existing power circuit with exposed metal conduit (inside storage room).

I will include plan drawings for permit, but exclude permit fees and any engineering and any other work not listed above.

FOR THE SUM OF: $11,450.00 plus sales tax $770.30. **Totaling $12,220.30**

$12,220.30 payable upon completion of work listed above.

Any alteration or deviation from the above specifications involving extra cost of material or labor will only be executed upon written orders for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be made in writing. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. All agreements contingent upon strikes, accidents or delays beyond our control, owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by workmen's compensation insurance. Circle C Construction carries general liability insurance. Owner agrees to obtain a builders risk insurance policy to cover property during construction against loss by fire, vandalism, liability, or other losses on property components installed in their permanent location.

AUTHORIZED SIGNATURE ______________________ NOTE: THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN 5 DAYS

ACCEPTANCE OF PROPOSAL: THE ABOVE PRICES, SPECIFICATIONS AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. YOU ARE AUTHORIZED TO DO THE WORK AS SPECIFIED. PAYMENTS WILL BE MADE AS OUTLINED ABOVE

ACCEPTED ______________________ Date ____________________

______________________ Date ____________________

EXHIBIT "A" TO
HARPER & SON DEVELOPMENT, INC.
dba/ CIRCLE C CONSTRUCTION
PROPOSAL AND CONTRACT
DATED DECEMBER 17, 2012

Harper & Son Development, Inc. dba/ Circle C Construction ("**Contractor**") understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Contractor must also comply with A.R.S. § 34-301, "Employment of Aliens on Public Works Prohibited", and A.R.S. § 34-302, as amended, "Residence Requirements for Employees".

Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to Town that the Contractor and any of its subcontractors ("**Subcontractors**") will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and A.R.S. §23-214(A) (hereinafter "**Contractor Immigration Warranty**").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Agreement and shall subject the Contractor to penalties up to and including termination of this Agreement at the sole discretion of the Town.

The Town retains the legal right to inspect the papers of any Contractor or Subcontractors' employees who work on this Agreement to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. Contractor agrees to assist the Town in regard to any such inspections.

The Town may, at its sole discretion, conduct random verification of the employment records of the Contractor and any of the Subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor agrees to assist the Town in regard to any random verifications performed.

Neither the Contractor nor any of the Subcontractors shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractors establish that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214, Subsection A.

The provisions of this paragraph must be included in any contract the Contractor enters into with any and all of its Subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a Contractor or Subcontractor.

Under this Agreement, Contractor is deemed to be a Contractor as defined in the preceding sentence. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

Signature:
Harper & Son Development, Inc.
dba/ Circle C Construction

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TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 7. d.**

Meeting Date:	02/26/2013
Contact Person:	Jami Lewis, Town Clerk Phone: 928-636-2646 x-1208
Department:	Council
Item Type:	Action
Estimated length of staff presentation:	None
Physical location of item:	N/A

AGENDA ITEM TITLE:

Consideration and possible action to authorize the Mayor and Council to sign a joint letter with other municipal leaders to Senator John McCain with regard to the F-35 training program.

RECOMMENDED ACTION:

Authorize the Mayor and Council to sign a joint letter to Senator John McCain with regard to the F-35 training program.

SITUATION AND ANALYSIS:

Coleman Dahm & Associates, a public affairs company that works with suppiers and vendors for the F-35 Joint Strike Fighter, is recruiting municipal leaders to sign a joint letter to Senator John McCain, thanking him for his efforts in securing the F-35 training program for Arizona. As the economic impact on the state from the F-35 is tremendous, municipal leaders are showing their support of this program.

Other Pertinent Documents Available Upon Request:

The following links provide additional information on the F-35 training mission and its economic impact on Arizona:

http://lukeforward.com/f-35-arizona/

http://fightercountry.org/partnership/welcome-to-fighter-country

Fiscal Impact

Fiscal Impact?: No
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Press Release from John McCain's Office

Proposed letter to John McCain

U.S. SENATOR • ARIZONA
JOHN McCAIN

http://mccain.senate.gov **PRESS RELEASE**

AS PREPARED FOR DELIVERY:

Contact: Brian Rogers or Rachael Dean
Tuesday, November 20, 2012
(202) 224-7130

REMARKS BY SENATOR JOHN McCAIN AT THE MARINE FIGHTER ATTACK SQUADRON 121 RE-DESIGNATION CEREMONY

Washington, D.C. – U.S. Senator John McCain (R-AZ) delivered the following remarks today at the Marine Fighter Attack Squadron 121 Re-Designation Ceremony in Yuma, Arizona:

"Governor Brewer, Undersecretary Work, General Amos, distinguished guests, ladies and gentlemen: With great pride for the United States Marine Corps, the State of Arizona, and the City of Yuma, I join you today in welcoming the first operational units of the F-35 'Lightning II' Joint Strike Fighter to Marine Corps Air Station Yuma.

"Today marks the beginning of Joint Strike Fighters' flying over the skies of Arizona for perhaps the next fifty years. That's another fifty years for the City of Yuma and the State of Arizona to do their part to help ensure that this great Nation remains strong and secure. I know that we will all do so, and for this we should all be both humbled and proud.

"The arrival of the F-35 aircraft today is the culmination of a great deal of hard work and dedication by many in our community, which has for many years worked to support and preserve those military resources that are critical for our national security.

"It is no coincidence that the Marines chose Yuma and the Air Force chose Luke Air Force Base for the stationing of these initial F-35s: The flying weather is perfect; the Barry M. Goldwater range is the premier air-to-ground training range in the country; and the communities across our State are unparalleled in their dedication to our military. I also continue to hope that the Air Force will choose Tucson as the location for international F-35 training, so we can continue to make the most of everything that Arizona has to offer.

"With today's arrival of Joint Strike Fighters to Yuma, I am – after many years of frustration and setbacks – encouraged that the overall program is moving in the right direction. After several major restructuring efforts over the last two years, initiated by then-Secretary of Defense Gates, the Government Accountability Office recently found for the first time in the program's history that the program is finally set up to produce more achievable and predictable outcomes.

"In addition, I agree with recent comments made by the incoming JSF program executive officer Major General Christopher Bogdan, who said that, until recently, this program was like a gigantic aircraft carrier on course to run aground. But, as General Bogdan noted, thanks to the efforts of his predecessor, Vice Admiral David Venlet, the F-35 industry partners, and the Office of the Secretary of Defense, this ship now seems to be pointing out into the blue ocean. For this reason, as Admiral Venlet departs the program, I would like to thank him for his selfless service to our Nation, which he exemplified most recently by his leadership of this enormously challenging program.

"With the JSF program still early in flight testing, much work remains to ensure that these aircraft are truly operational at the end of the day and that the JSF program can be called a success. Continued progress in the program will require that all of the stakeholders within the Department of Defense – program management; the independent acquisition policy, cost-estimating and testing and evaluation communities; and the military departments that will take delivery of these aircraft – work collaboratively and productively together. The Department and its industry partners must also continue to work together to ensure the success of the F-35B here in Yuma and throughout the Marine Corps.

"Today's occasion demonstrates how successfully this collaboration can work: The fact that F-35Bs are standing on this runway is due, in large measure, to the personal commitment and partnership between General Amos and Bob Stevens – two Marines who have shown what the Corps can do when directing its focus and energy to overcome a daunting challenge.

"This is the essence of who Marines are and why we love them. Nowhere was this fighting spirit better demonstrated than in the case of two Yuma Marines: Sergeant Bradley Atwell and Lieutenant Colonel Christopher 'Otis' Raible, who lost their lives defending their fellow Marines at Camp Bastion, in the Helmand Province of Afghanistan, on September 14, 2012. Today, we remember their extraordinary courage and extend our sincerest condolences, and the thanks of a grateful Nation, to Sgt. Atwell's family and wife, Danielle, who is from Yuma, and to Donella Raible and their three children, Catherine, Allison and Brian.

"We honor Sgt. Atwell and Lt. Col. Raible not simply for their heroism in facing death, but for their life of service. We honor them because of how they lived – devoting every day to serving a just cause that is greater than any one of us: the special cause of our Country, the higher calling of the Marine Corps and the moral responsibility that rests with each of us to leave the world a better place than we found it. Sgt. Atwell and Lt. Col. Raible lived this creed; and our world, our Country and our great State of Arizona are better because of these two brave men, who we honor in life and in death, and to whom we can offer no higher praise than to say: They were Americans. They were Arizonans. They were our boys. They were Marines.

"Sgt. Atwell and Lt. Col. Raible did their duty. The unique responsibility now rests more heavily with us to carry on their precious work of securing and bettering our country. We will never equal the service of these men, but it is our solemn duty to be forever inspired by their example and summoned ever higher in our own modest efforts on behalf of our country.

"With the arrival today of what may be the greatest combat aircraft in the history of the world to its home in Yuma, I am confident that this great city and our beloved state of Arizona will now contribute another important chapter to the defense of the country we all cherish so dearly.

"Thank you."

###

Senator John McCain
2201 East Camelback Road
Suite 115
Phoenix, AZ 85016

Dear Senator McCain,

The F-35 is an important step in updating our military technologies and provides our men and women in uniform with the most advanced weapons system ever created. Additionally, the F-35 Joint Strike Fighter training program is a tremendous asset to Arizona's economy. Thank you for providing vital support to the program's continued funding. We appreciate the hard work you have done to ensure this program is financially responsible for our country's taxpayers and benefits Arizona specifically by creating jobs in our economy.

Thank you for serving Arizona. Please continue supporting the F-35 program and advocating for our troops.

Sincerely,

TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 7. e.**

Meeting Date:	02/26/2013
Contact Person:	Jami Lewis, Town Clerk Phone: 928-636-2646 x-1208
Department:	Council
Item Type:	Action
Estimated length of staff presentation:	None
Physical location of item:	N/A

AGENDA ITEM TITLE:

Consideration and possible action to authorize the Mayor to sign a Resolution of Support for HB 2338 with regard to Regional Water Augmentation Authorities.

RECOMMENDED ACTION:

To be determined per Council discussion.

SITUATION AND ANALYSIS:

On February 5, 2013, NAMWUA (Northern Arizona Municipal Water Users Association) Board Members were presented with a letter of support for their consideration with regard to Speaker Andy Tobin's HB 2338 (Regional Water Augmentation Authorities). Subsequently, Bradley Hill, the Hydrologist and Utilities Director for the City of Flagstaff, suggested that each municipality represented in NAMWUA also send a letter of support, focusing their message on their local community's needs. On February 7, the Prescott Valley Council considered a resolution of support.

Mayor Marley is asking Council to discuss and consider drafting their own Resolution of Support. The NAMWUA letter and Prescott Valley's resolution are attached as examples of language that Council could adopt.

Fiscal Impact

Fiscal Impact?:	No
If Yes, Budget Code:	
Available:	

Funding Source:

Attachments

HB 2338
HB 2338 Questions & Answers
Prescott Valley Resolution of Support
NAMWUA Letter of Support

REFERENCE TITLE: regional water augmentation authorities

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2338

Introduced by
Representatives Tobin, Barton

AN ACT

AMENDING TITLE 45, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 17; AMENDING SECTIONS 48-6415, 49-1201, 49-1202, 49-1203 AND 49-1271, ARIZONA REVISED STATUTES; REPEALING SECTION 49-1272, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-1273, 49-1274, 49-1275 AND 49-1278, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO REGIONAL WATER AUGMENTATION AUTHORITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 45, Arizona Revised Statutes, is amended by adding chapter 17, to read:

CHAPTER 17

REGIONAL WATER AUGMENTATION AUTHORITIES

ARTICLE 1. FORMATION

45-2901. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "AUTHORITY" MEANS A REGIONAL WATER AUGMENTATION AUTHORITY ESTABLISHED UNDER THIS CHAPTER.

2. "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

3. "PRIVATE WATER COMPANY" MEANS ANY ENTITY THAT DISTRIBUTES OR SELLS WATER, EXCEPT A POLITICAL SUBDIVISION OR ANY ENTITY THAT IS ESTABLISHED PURSUANT TO TITLE 48 AND THAT IS NOT REGULATED AS A PUBLIC SERVICE CORPORATION BY THE ARIZONA CORPORATION COMMISSION UNDER A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

4. "PUBLIC AGENCY" INCLUDES THIS STATE AND ANY COUNTY, CITY, TOWN, DISTRICT OR OTHER PUBLIC AGENCY OR ENTITY ESTABLISHED UNDER THE LAWS OF THIS STATE.

5. "WATER PROJECT" MEANS ANY FACILITIES NECESSARY OR CONVENIENT TO OBTAIN, DIVERT, WITHDRAW, TRANSPORT, EXCHANGE, DELIVER, TREAT, REUSE, STORE, RECHARGE OR RECOVER WATER, INCLUDING RIGHTS-OF-WAY, REAL AND PERSONAL PROPERTY, INTERESTS IN PROPERTY AND IMPROVEMENTS TO PROPERTY THAT ARE NECESSARY OR APPROPRIATE TO MAINTAIN AND OPERATE THE FACILITIES.

45-2902. Formation

A. TWO OR MORE OF THE FOLLOWING ENTITIES, AT LEAST ONE OF WHICH MUST BE A PUBLIC AGENCY, MAY FORM A REGIONAL WATER AUGMENTATION AUTHORITY THAT HAS A CLEAR PUBLIC PURPOSE:

1. ANY CITY OR TOWN.

2. ANY COUNTY.

3. ANY ENTITY ESTABLISHED UNDER TITLE 45, CHAPTER 11 OR CHAPTER 13.

4. ANY ENTITY ESTABLISHED UNDER TITLE 48, CHAPTER 4, ARTICLE 6 OR TITLE 48, CHAPTER 17, 18, 19, 20, 21, 22, 28 OR 34.

5. ANY DOMESTIC WATER OR DOMESTIC WATER AND WASTEWATER IMPROVEMENT DISTRICT ESTABLISHED UNDER TITLE 48, CHAPTER 6.

6. THE STATE LAND DEPARTMENT.

7. ANY INDIAN TRIBE LOCATED IN THIS STATE.

8. ANY PRIVATE ENTITY, INCLUDING A PRIVATE WATER COMPANY.

B. THE AUTHORITY SHALL BE FORMED ON THE ADOPTION OF RESOLUTIONS BY EACH PARTICIPATING ENTITY APPROVING ITS MEMBERSHIP IN THE AUTHORITY AND APPROVING THE AUTHORITY'S FORMATION. EACH PARTICIPATING ENTITY SHALL CONCURRENTLY APPOINT THE PERSON WHO WILL REPRESENT IT ON THE AUTHORITY'S BOARD.

C. ON FULL COMPLIANCE WITH SUBSECTION B OF THIS SECTION, THE AUTHORITY SHALL:

1. NOTIFY THE BOARD OF SUPERVISORS IN EACH COUNTY IN WHICH A PROPOSED USE OF WATER FROM THE AUTHORITY WILL BE LOCATED OF THE AUTHORITY'S FORMATION, AND FILE WITH EACH BOARD OF SUPERVISORS THE ORGANIZATIONAL DOCUMENTS OF THE AUTHORITY. THE ORGANIZATIONAL DOCUMENTS OF THE AUTHORITY SHALL INCLUDE ITS MEMBERSHIP, THE WATER ISSUES TO BE ADDRESSED BY THE AUTHORITY AND THE PROPOSED LOCATIONS OF USES OF WATER TO BE SUPPLIED BY THE AUTHORITY.

2. PUBLISH A NOTICE OF THE AUTHORITY'S FORMATION ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH A PROPOSED USE OF WATER FROM THE AUTHORITY WILL BE LOCATED.

3. NOTIFY EACH AUTHORITY MEMBER THAT THE EVENTS PRESCRIBED BY SUBSECTION B OF THIS SECTION HAVE OCCURRED.

D. AUTHORITY MEMBERS MUST SHARE IN THE COSTS OF FINANCING AUTHORITY WATER PROJECTS AND SERVICES OF THE AUTHORITY.

E. AUTHORITY MEMBERS ARE NOT REQUIRED TO HAVE ADJOINING OR COTERMINOUS BOUNDARIES.

45-2903. Protest against formation; appeal

A. ANY AGGRIEVED PERSON OR ENTITY MAY PROTEST THE FORMATION OF THE AUTHORITY UNDER THIS CHAPTER BY FILING AN ACTION IN THE SUPERIOR COURT IN ANY COUNTY IN WHICH A PROPOSED USE OF WATER FROM THE AUTHORITY WILL BE LOCATED. THE GROUNDS FOR ANY PROTEST ARE LIMITED TO WHETHER THE FORMATION OF THE AUTHORITY OCCURRED IN SUBSTANTIAL COMPLIANCE WITH SECTION 45-2902. ANY PROTEST MUST BE FILED WITHIN THIRTY DAYS AFTER THE SECOND PUBLICATION OF NOTICE OF THE AUTHORITY'S FORMATION AS PROVIDED IN SECTION 45-2902. IF MORE THAN ONE PROTEST IS PENDING, THEY SHALL BE CONSOLIDATED FOR TRIAL.

B. THE SUPERIOR COURT SHALL TRY ALL PROTESTS WITHOUT DELAY AND SHALL DETERMINE WHETHER THE FORMATION OF THE AUTHORITY OCCURRED IN SUBSTANTIAL COMPLIANCE WITH SECTION 45-2902.

C. THE FORMATION OF THE AUTHORITY IS LAWFUL AND CONCLUSIVE AGAINST ALL PERSONS IF AN ACTION IS NOT FILED AS PROVIDED IN SUBSECTION A OF THIS SECTION. IF AN ACTION IS FILED AS PROVIDED IN SUBSECTION A OF THIS SECTION AND THAT ACTION IS UNSUCCESSFUL, THE FORMATION OF THE AUTHORITY IS LAWFUL AND CONCLUSIVE AGAINST ALL PERSONS ON THE DATE THAT THE JUDGMENT DISMISSING THE ACTION IS NO LONGER SUBJECT TO JUDICIAL REVIEW.

D. THE AUTHORITY MAY EXERCISE ALL OF THE POWERS PROVIDED BY THIS CHAPTER NOTWITHSTANDING THE PENDENCY OF ANY PROTEST.

45-2904. Corporate existence; exemption from regulation

A. THE AUTHORITY IS A POLITICAL SUBDIVISION OF THIS STATE AND IS A CORPORATE AND POLITICAL BODY THAT MAY ACT IN ITS OFFICIAL CORPORATE NAME AND SHALL HAVE ALL OF THE RIGHTS AND IMMUNITIES OF MUNICIPAL CORPORATIONS THAT ARE GRANTED BY THE CONSTITUTION AND STATUTES OF THIS STATE, INCLUDING IMMUNITY OF ITS PROPERTY FROM TAXATION.

B. THE AUTHORITY IS NOT A PUBLIC SERVICE CORPORATION SUBJECT TO REGULATION BY THE ARIZONA CORPORATION COMMISSION.

45-2905. Dissolution of authority

A. THE AUTHORITY MAY BE DISSOLVED ONLY BY A UNANIMOUS VOTE OF THE DIRECTORS AND ONLY IF ALL CONTRACTUAL OBLIGATIONS AND DEBTS OF THE AUTHORITY ARE SATISFIED AND ANOTHER GOVERNMENTAL ENTITY OR ENTITIES ACCEPT DEDICATION OF ALL AUTHORITY PROJECTS.

B. AFTER UNANIMOUSLY VOTING TO DISSOLVE THE AUTHORITY AS PROVIDED IN SUBSECTION A OF THIS SECTION, THE DIRECTORS SHALL ADOPT BY RESOLUTION A PLAN OF TERMINATION TO BE EXECUTED WITHIN A STATED PERIOD OF TIME AFTER IT IS ADOPTED. THE PLAN OF TERMINATION IS JUDICIALLY ENFORCEABLE.

C. ALL UNEXPENDED AND UNENCUMBERED MONIES OF THE AUTHORITY SHALL BE DEPOSITED IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND ESTABLISHED BY SECTION 49-1271.

ARTICLE 2. POWERS AND DUTIES

45-2921. Board of directors; organization; compensation

A. THE AUTHORITY SHALL HAVE A BOARD OF DIRECTORS. EACH DIRECTOR APPOINTED PURSUANT TO THIS SECTION SHALL HAVE ONE VOTE.

B. THE BOARD CONSISTS OF PERSONS APPOINTED BY FORMAL ACTION OF THE ENTITIES THAT ARE AUTHORITY MEMBERS. EACH AUTHORITY MEMBER SHALL APPOINT ONE DIRECTOR TO THE BOARD. EACH DIRECTOR APPOINTED PURSUANT TO THIS SUBSECTION SHALL SERVE AT THE PLEASURE OF THE AUTHORITY MEMBER THAT APPOINTED THE DIRECTOR. EACH DIRECTOR APPOINTED PURSUANT TO THIS SUBSECTION MAY BE REMOVED FROM THE BOARD BY FORMAL ACTION OF THE AUTHORITY MEMBER THAT APPOINTED THE DIRECTOR. AN AUTHORITY MEMBER THAT REMOVES A DIRECTOR FROM THE BOARD SHALL APPOINT ANOTHER DIRECTOR TO THE BOARD.

C. THE BOARD SHALL SELECT A CHAIRPERSON, VICE-CHAIRPERSON AND SECRETARY-TREASURER FROM AMONG ITS APPOINTED DIRECTORS. OFFICERS SHALL SERVE AT THE PLEASURE OF THE DIRECTORS.

D. BOARD MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF ACTUAL AND NECESSARY EXPENSES WHILE ENGAGED IN OFFICIAL BUSINESS UNDER ORDER OF THE BOARD.

E. THE BOARD MEMBERS OF THE AUTHORITY ARE PUBLIC OFFICERS FOR PURPOSES OF TITLE 38, CHAPTER 3, ARTICLE 8. THE EMPLOYEES OF THE AUTHORITY ARE EMPLOYEES FOR PURPOSES OF TITLE 38, CHAPTER 3, ARTICLE 8.

45-2922. Meetings; notice

A. THE BOARD SHALL HOLD REGULAR MEETINGS EVERY CALENDAR QUARTER AND ADDITIONAL MEETINGS ON THE CALL OF THE CHAIRPERSON OR A MAJORITY OF THE BOARD MEMBERS. THE SECRETARY-TREASURER SHALL GIVE AT LEAST THREE DAYS' NOTICE OF EACH MEETING TO EACH BOARD MEMBER IN ADDITION TO THE PUBLIC NOTICES REQUIRED BY LAW.

B. THE AUTHORITY IS A PUBLIC BODY FOR PURPOSES OF TITLE 38, CHAPTER 3, ARTICLE 3.1.

C. A MAJORITY OF THE BOARD CONSTITUTES A QUORUM. EXCEPT AS PROVIDED IN SECTION 45-2905, ALL ACTIONS TAKEN BY THE BOARD REQUIRE A MAJORITY VOTE OF THE BOARD, UNLESS THE BYLAWS REQUIRE A LARGER NUMBER OF VOTES.

45-2923. Administrative powers and duties; executive director

A. THE BOARD SHALL:

1. DETERMINE ITS ORGANIZATIONAL AND PROCEDURAL STRUCTURE.

2. ADOPT ORGANIZATIONAL DOCUMENTS THAT DESCRIBE THE AUTHORITY'S PURPOSE AND MEMBERSHIP AND THE WATER ISSUES TO BE ADDRESSED BY THE AUTHORITY.

3. ADOPT, AMEND OR REPEAL BYLAWS, RULES AND FORMS CONSISTENT WITH THE REQUIREMENTS OF THIS CHAPTER.

4. PRESCRIBE A SYSTEM OF ACCOUNTS.

5. EXERCISE THE POWERS AND DUTIES OF THE AUTHORITY AS PRESCRIBED BY THIS CHAPTER.

B. THE BOARD MAY:

1. SET POLICY AND MANAGE AND CONDUCT THE BUSINESS AND AFFAIRS OF THE AUTHORITY.

2. MAKE AND EXECUTE ALL NECESSARY CONTRACTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3.

3. ASSUME, ADOPT AND RATIFY CONTRACTS TRANSFERRED TO THE AUTHORITY BY AN AUTHORITY MEMBER.

4. SUE AND BE SUED.

5. ADOPT A SEAL FOR THE AUTHORITY TO BE USED TO ATTEST TO DOCUMENTS.

6. INVEST AND REINVEST MONIES BELONGING TO THE AUTHORITY.

7. INCUR DEBTS, LIABILITIES AND OBLIGATIONS.

8. PROVIDE FOR PAYMENT OF ALL DEBTS AND APPROPRIATE CLAIMS AGAINST THE AUTHORITY FROM THE APPROPRIATE FUNDS.

9. EMPLOY AN EXECUTIVE DIRECTOR AND THE ADMINISTRATIVE, LEGAL, ENGINEERING, ACCOUNTING, CLERICAL AND OTHER STAFF AS MAY BE NECESSARY AND PRESCRIBE THE DUTIES, TERMS AND CONDITIONS OF EMPLOYMENT.

10. RETAIN OUTSIDE PROFESSIONAL SERVICES INCLUDING ACCOUNTING, ENGINEERING, LEGAL AND OTHER CONSULTING SERVICES.

11. ACQUIRE SUITABLE OFFICES, FURNISHINGS AND NECESSARY EQUIPMENT AND SUPPLIES.

12. PERFORM ALL OTHER ACTS NECESSARY TO CARRY OUT THE PURPOSES OF THIS CHAPTER.

C. ALL ACTIONS TAKEN BY THE AUTHORITY UNDER THIS CHAPTER SHALL BE IN ACCORDANCE WITH STATE AND FEDERAL LAW.

45-2924. Functional powers of the board

A. THE BOARD, IN THE NAME OF THE AUTHORITY AND FOR THE BENEFIT OF ITS MEMBERS, MAY:

1. LAWFULLY ACQUIRE, SELL, LEASE, EXCHANGE, OCCUPY, MANAGE, POSSESS OR OTHERWISE DISPOSE OF REAL AND PERSONAL PROPERTY, EASEMENTS AND RIGHTS-OF-WAY THAT ARE NECESSARY OR REQUIRED FOR WATER SUPPLIES AND PROJECTS FOR THE USE OF THE MEMBERS OF THE AUTHORITY.

2. CONSTRUCT, MAINTAIN AND OPERATE ALL WORKS AND OTHER PROPERTY ACQUIRED AND USED FOR ANY OF THE PROJECTS OWNED BY THE AUTHORITY.

3. ACQUIRE, HOLD, ASSIGN OR OTHERWISE DISPOSE OF WATER RIGHTS, INCLUDING LONG-TERM STORAGE CREDITS AS DEFINED IN SECTION 45-802.01.

4. ACQUIRE AND SELL WATER, UNLESS THE SALE OF WATER IS DIRECTLY TO CUSTOMERS OF A MUNICIPAL PROVIDER AS DEFINED BY SECTION 45-561 AND THE MUNICIPAL PROVIDER DID NOT CONSENT TO THE SALE OF WATER BY THE AUTHORITY.

5. TREAT WATER, UNLESS TREATMENT CONFLICTS WITH ANOTHER ENTITY'S JURISDICTION AND THE ENTITY DID NOT CONSENT TO TREATMENT BY THE AUTHORITY.

6. LEASE AND EXCHANGE WATER.

7. TRANSPORT AND DELIVER WATER, SUBJECT TO CHAPTER 2, ARTICLES 8 AND 8.1 OF THIS TITLE, RELATING TO TRANSPORTATION OF GROUNDWATER.

8. CHARGE FEES FOR SERVICES AND WATER SALES.

9. ASSESS MEMBERSHIP FEES AND ACCEPT CAPITAL CONTRIBUTIONS FROM PRIVATE ENTITIES.

10. ACQUIRE ELECTRICITY OR OTHER FORMS OF ENERGY NECESSARY TO TRANSPORT WATER OR OPERATE AUTHORITY PROJECTS.

11. APPLY FOR AND RECEIVE FINANCIAL ASSISTANCE FROM MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING TRUST FUND ESTABLISHED UNDER SECTION 49-1271 NOTWITHSTANDING SECTION 49-1273, SUBSECTION C.

12. PLAN, COORDINATE, CONSTRUCT, OPERATE, MAINTAIN, DISMANTLE AND OWN WATER PROJECTS.

13. PARTNER WITH INDIAN TRIBES OR FEDERAL AGENCIES ON MATTERS RELATING TO THE PURPOSE OF THE AUTHORITY.

14. OBTAIN GRANTS AND PROVIDE TECHNICAL AND FINANCIAL ASSISTANCE TO AUTHORITY MEMBERS RELATING TO THE DEVELOPMENT OF WATER PROJECTS.

15. ISSUE REVENUE BONDS AND PLEDGE REVENUES OF THE AUTHORITY FOR REPAYMENT OF THE BONDS.

16. EXERCISE THE POWER OF EMINENT DOMAIN PURSUANT TO TITLE 12, CHAPTER 8, ARTICLE 3 FOR PURPOSES OF CONDEMNING REAL PROPERTY NECESSARY FOR PIPELINES, INFRASTRUCTURE AND EASEMENTS FOR AUTHORITY WATER PROJECTS. THE AUTHORITY SHALL NOT EXERCISE THE POWER OF EMINENT DOMAIN TO CONDEMN WATER, WATER RIGHTS, WELLS, EXISTING WATER SYSTEMS, LAND OWNED BY ANOTHER GOVERNMENTAL ENTITY OR LAND FOR PURPOSES OF DRILLING WELLS OR TO ACQUIRE ELECTRICAL FACILITIES.

17. CONDUCT ANY OTHER ACTIVITIES THAT ARE REASONABLY NECESSARY AND RELATED TO THE POWERS AND DUTIES DESCRIBED BY THIS CHAPTER.

B. THE BOARD MAY:

1. APPLY FOR AND HOLD, IN ITS OWN NAME OR ON BEHALF OF AN AUTHORITY MEMBER, ANY PERMITS REQUIRED BY LAW TO ENGAGE IN THE ACTIVITIES DESCRIBED IN THIS CHAPTER.

2. TAKE CONVEYANCES FOR ALL PROPERTY ACQUIRED BY THE AUTHORITY IN THE AUTHORITY'S NAME.

3. SELL, LEASE, EXCHANGE OR OTHERWISE DISPOSE OF ANY OF THE AUTHORITY'S PROPERTY THAT IS NO LONGER NECESSARY OR SUITABLE FOR THE USES AND PURPOSES OF THE AUTHORITY AND EXECUTE, ACKNOWLEDGE AND DELIVER ALL SUCH CONVEYANCES, LEASES, CONTRACTS OR OTHER INSTRUMENTS AS THE BOARD DEEMS NECESSARY.

4. INSTITUTE AND MAINTAIN ACTIONS AND PROCEEDINGS NECESSARY TO ENFORCE, MAINTAIN, PROTECT OR PRESERVE ALL CONTRACTS, SUBCONTRACTS, RIGHTS, PRIVILEGES AND IMMUNITIES CREATED UNDER OR GRANTED BY THIS CHAPTER.

45-2925. Water for subdivided land outside active management area; adequate water supply requirement

IF AN AUTHORITY RECEIVES FINANCIAL ASSISTANCE FROM THE WATER SUPPLY DEVELOPMENT REVOLVING TRUST FUND PURSUANT TO SECTION 49-1273:

1. THE AUTHORITY SHALL NOT PROVIDE WATER TO SUBDIVIDED LAND THAT IS LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND FOR WHICH A PUBLIC REPORT IS ISSUED AFTER ________________ UNLESS THE DIRECTOR HAS DETERMINED THAT THERE IS AN ADEQUATE WATER SUPPLY FOR THAT SUBDIVIDED LAND PURSUANT TO SECTION 45-108.

2. A MEMBER OF THE AUTHORITY SHALL NOT PROVIDE WATER TO SUBDIVIDED LAND THAT IS LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND FOR WHICH A PUBLIC REPORT IS ISSUED AFTER ________________ UNLESS THE DIRECTOR HAS DETERMINED THAT THERE IS AN ADEQUATE WATER SUPPLY FOR THAT SUBDIVIDED LAND PURSUANT TO SECTION 45-108 OR THE DIRECTOR HAS DESIGNATED THE MEMBER AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108.

ARTICLE 3. REVENUE BONDS

45-2941. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOND" MEANS ANY OBLIGATION AUTHORIZED AND ISSUED PURSUANT TO THIS ARTICLE, INCLUDING:

(a) BONDS, LEASE-PURCHASE AND INSTALLMENT PURCHASE AGREEMENTS.

(b) CERTIFICATES OF PARTICIPATION IN A LEASE-PURCHASE OR INSTALLMENT PURCHASE AGREEMENT.

(c) OBLIGATIONS THAT ARE AUTHORIZED AND ISSUED TO REFUND OR REFINANCE OBLIGATIONS THAT ARE AUTHORIZED AND ISSUED PURSUANT TO THIS ARTICLE.

2. "BOND RELATED EXPENSES" MEANS ANY EXPENSES INCURRED BY THE AUTHORITY FOR ISSUING AND ADMINISTERING ITS BONDS, INCLUDING UNDERWRITING FEES AND COSTS, TRUSTEE FEES, FINANCIAL CONSULTANT FEES, PRINTING AND ADVERTISING COSTS, PAYING AGENT FEES, TRANSFER AGENT FEES, LEGAL, ACCOUNTING, FEASIBILITY CONSULTANT AND OTHER PROFESSIONAL FEES AND EXPENSES, CREDIT ENHANCEMENT FEES, ATTORNEY AND ACCOUNTING FEES AND EXPENSES RELATED TO CREDIT ENHANCEMENT, BOND INSURANCE OR LIQUIDITY ENHANCEMENT, REMARKETING FEES, RATING AGENCY FEES AND COSTS, TRAVEL AND TELEPHONE EXPENSES AND ALL OTHER FEES CONSIDERED NECESSARY BY THE AUTHORITY IN ORDER TO MARKET AND ADMINISTER THE BONDS.

3. "WATER PROJECT PURPOSE" INCLUDES:

(a) THE CAPITAL COSTS OF ACQUIRING, DESIGNING, DEVELOPING, CONSTRUCTING, RECONSTRUCTING, EQUIPPING, FURNISHING, REPAIRING, MAINTAINING AND IMPROVING WATER PROJECTS, DIRECTLY RELATED IMPROVEMENTS AND PUBLIC INFRASTRUCTURE, EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE.

(b) THE COSTS OF ACQUIRING WATER AND WATER RIGHTS.

(c) THE PAYMENT OF BONDS.

(d) BOND RELATED EXPENSES.

45-2942. Obligation for the bonds

BONDS ISSUED UNDER THIS ARTICLE:

1. ARE PAYABLE ONLY ACCORDING TO THEIR TERMS.

2. ARE OBLIGATIONS OF THE AUTHORITY.

3. ARE NOT GENERAL, SPECIAL OR OTHER OBLIGATIONS OF THIS STATE OR ANY AUTHORITY MEMBER, OR OF ANY CITY OR COUNTY IN WHICH THE AUTHORITY IS LOCATED. THE MEMBERS OF THE BOARD AND PERSONS WHO EXECUTE THE BONDS ARE NOT PERSONALLY LIABLE FOR PAYMENT OF THE BONDS.

4. DO NOT CONSTITUTE A DEBT OF THIS STATE OR OF THE CITY OR COUNTY IN WHICH THE AUTHORITY IS LOCATED.

5. ARE NOT ENFORCEABLE AGAINST THIS STATE. PAYMENT OF THE BONDS IS ENFORCEABLE ONLY OUT OF ANY MONIES OR ASSETS OF THE AUTHORITY SPECIFICALLY PLEDGED AND ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS.

45-2943. Authorization of bonds

A. THE AUTHORITY MAY ISSUE BONDS PURSUANT TO THIS ARTICLE IN A PRINCIPAL AMOUNT THAT, IN THE OPINION OF THE BOARD, IS NECESSARY TO:

1. PROVIDE SUFFICIENT MONIES FOR ANY WATER PROJECT PURPOSES.

2. ESTABLISH AND FULLY OR PARTIALLY FUND ANY REQUIRED RESERVES OR SINKING ACCOUNTS.

3. ISSUE REFUNDING BONDS TO REFUND BONDS ISSUED BY THE AUTHORITY IF THE BOARD CONSIDERS REFUNDING TO BE EXPEDIENT. THE BOARD MAY PROVIDE FOR INVESTING AND HOLDING THE PROCEEDS OF THE REFUNDING BONDS IN TRUST FOR THE BENEFIT OF THE HOLDERS OF THE BONDS BEING REFUNDED.

4. PAY ANY REASONABLY NECESSARY BOND RELATED EXPENSES.

B. THE BOARD SHALL AUTHORIZE THE BONDS BY RESOLUTION. THE RESOLUTION SHALL BE CONSIDERED FOR ADOPTION AT A PUBLIC HEARING OF THE BOARD AFTER NOTICE TO THE PUBLIC AND SHALL PRESCRIBE:

1. THE AUTHORITY'S REVENUE SOURCES THAT ARE PLEDGED AND DEDICATED TO SECURE THE BONDS.

2. THE RATE OR RATES OF INTEREST, WHICH MAY BE FIXED OR VARIABLE, THE DATE OR DATES ON WHICH INTEREST IS PAYABLE AND THE DENOMINATIONS OF THE BONDS.

3. THE DATE OR DATES OF THE BONDS AND MATURITY, WHICH SHALL BE WITHIN FIFTY YEARS AFTER THE DATE OF ISSUANCE.

4. THE MANNER OF EXECUTING THE BONDS.

5. THE MEDIUM AND PLACE OF PAYMENT.

6. THE TERMS OF REDEMPTION, WHICH MAY PROVIDE FOR A PREMIUM FOR EARLY REDEMPTION.

C. ANY PUBLICLY OFFERED BONDS MUST BE FULLY INSURED OR GUARANTEED AS TO TIMELY PAYMENT OF PRINCIPAL AND INTEREST BY A FINANCIAL INSTITUTION RATED "AA" OR BETTER BY A NATIONALLY RECOGNIZED RATING AGENCY.

45-2944. Issuance and sale of bonds

A. THE BOARD SHALL ISSUE THE BONDS IN THE NUMBER AND AMOUNT PROVIDED IN THE RESOLUTION. THE BOARD SHALL PROVIDE NOTICE OF ITS INTENTION TO ISSUE BONDS IN A MANNER CONSISTENT WITH MARKET PRACTICE.

B. THE BONDS MAY BE SOLD BY COMPETITIVE PUBLIC SALE, THROUGH AN ONLINE BIDDING PROCESS OR AT NEGOTIATED SALE FOR PUBLIC OR PRIVATE OFFERING AT THE PRICE AND ON THE TERMS PRESCRIBED IN THE RESOLUTION. FOR THE PURPOSES OF THIS SUBSECTION, "ONLINE BIDDING PROCESS" MEANS A PROCUREMENT PROCESS IN WHICH THE BOARD RECEIVES BIDS ELECTRONICALLY OVER THE INTERNET IN A REAL-TIME, COMPETITIVE BIDDING EVENT.

C. THE PROCEEDS FROM THE SALE OF THE BONDS SHALL BE DEPOSITED IN THE BOND PROCEEDS ACCOUNT ESTABLISHED PURSUANT TO SECTION 45-2945.

D. TITLE 35, CHAPTER 3, ARTICLE 7 APPLIES TO THE BOARD AND TO BONDS ISSUED UNDER THIS ARTICLE.

45-2945. Bond proceeds account

A. IF THE AUTHORITY ISSUES BONDS UNDER THIS ARTICLE, THE BOARD SHALL ESTABLISH A BOND PROCEEDS ACCOUNT WITHIN THE GENERAL FUND CONSISTING OF MONIES RECEIVED FROM THE SALE OF THE BONDS.

B. THE AUTHORITY MAY USE MONIES IN THE BOND PROCEEDS ACCOUNT ONLY FOR WATER PROJECT PURPOSES IN THE MANNER PRESCRIBED BY THIS CHAPTER.

C. THE FISCAL AGENT OF THE AUTHORITY SHALL ADMINISTER AND ACCOUNT FOR THE BOND PROCEEDS ACCOUNT.

45-2946. Debt service account

A. IF THE AUTHORITY ISSUES BONDS UNDER THIS ARTICLE, THE BOARD SHALL ESTABLISH A DEBT SERVICE ACCOUNT WITHIN THE GENERAL FUND CONSISTING OF MONIES DESIGNATED AND DEDICATED BY THE BOARD FOR REPAYMENT OF THE BONDS AND PAYMENT OF COSTS AND RELATED EXPENSES ASSOCIATED WITH REDEEMING THE BONDS.

B. MONIES IN THE DEBT SERVICE ACCOUNT MAY BE USED ONLY FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE.

C. THE FISCAL AGENT OF THE AUTHORITY SHALL ADMINISTER AND ACCOUNT FOR THE DEBT SERVICE ACCOUNT.

45-2947. Securing principal and interest

IN CONNECTION WITH ISSUING BONDS AUTHORIZED BY THIS ARTICLE AND TO SECURE THE PRINCIPAL AND INTEREST ON THE BONDS, THE BOARD BY RESOLUTION MAY:

1. PLEDGE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS ALL OR PART OF THE REVENUES AND OTHER MONIES RECEIVED BY THE AUTHORITY AND DEPOSITED IN THE GENERAL FUND OR ANY ACCOUNT OR SUBACCOUNT OF THE GENERAL FUND.

2. PLEDGE AND ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS ALL OR PART OF THE MONIES IN THE DEBT SERVICE ACCOUNT OR ANY OTHER ACCOUNT OR SUBACCOUNT AS NECESSARY TO SECURE AND PAY THE PRINCIPAL, THE INTEREST AND ANY PREMIUM ON THE BONDS AS THEY COME DUE.

3. SEGREGATE THE DEBT SERVICE ACCOUNT INTO ONE OR MORE SUBACCOUNTS AND PROVIDE THAT BONDS ISSUED UNDER THIS ARTICLE MAY BE SECURED BY A LIEN ON ALL

OR PART OF THE MONIES PAID INTO THE DEBT SERVICE ACCOUNT OR INTO ANY SUBACCOUNT IN THE DEBT SERVICE ACCOUNT.

4. ESTABLISH PRIORITIES AMONG BONDHOLDERS BASED ON CRITERIA ADOPTED BY THE BOARD.

5. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING ACCOUNTS.

6. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS THE HOLDERS OF WHICH MUST CONSENT TO AND THE MANNER IN WHICH THE CONSENT MAY BE GIVEN.

7. PROVIDE FOR PAYMENT OF BOND RELATED EXPENSES FROM THE PROCEEDS OF THE SALE OF THE BONDS OR OTHER REVENUES AVAILABLE TO THE BOARD.

8. PROVIDE FOR THE SERVICES OF TRUSTEES, COTRUSTEES, AGENTS AND CONSULTANTS AND OTHER SPECIALIZED SERVICES WITH RESPECT TO THE BONDS.

9. TAKE ANY OTHER ACTION THAT IN ANY WAY MAY ENHANCE THE SECURITY AND PROTECTION OF THE BONDS OR INTEREST ON THE BONDS.

45-2948. Lien of pledge

A. ANY PLEDGE MADE UNDER THIS ARTICLE IS VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE.

B. THE MONIES PLEDGED TO THE HOLDERS OF THE BONDS AND RECEIVED BY THE AUTHORITY FOR PLACEMENT IN THE DEBT SERVICE ACCOUNT ARE IMMEDIATELY SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY FURTHER ACT. ANY LIEN OF ANY PLEDGE IS VALID AND BINDING AGAINST ALL PARTIES WHO HAVE CLAIMS OF ANY KIND AGAINST THE AUTHORITY, REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN. THE OFFICIAL RESOLUTION OR ANY INSTRUMENT BY WHICH THIS PLEDGE IS CREATED, WHEN ADOPTED BY THE BOARD, IS NOTICE TO ALL CONCERNED OF THE CREATION OF THE PLEDGE, AND THOSE INSTRUMENTS NEED NOT BE RECORDED IN ANY OTHER PLACE TO PERFECT THE PLEDGE.

45-2949. Bond purchase for cancellation

THE BOARD MAY PURCHASE BONDS FOR CANCELLATION, USING ANY AVAILABLE MONIES, AT A PRICE NOT EXCEEDING THE FOLLOWING:

1. IF THE BONDS ARE REDEEMABLE AT THE TIME OF PURCHASE, THE APPLICABLE REDEMPTION PRICE PLUS ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE.

2. IF THE BONDS ARE NOT REDEEMABLE AT THE TIME OF PURCHASE, THE APPLICABLE REDEMPTION PRICE ON THE FIRST DATE AFTER PURCHASE ON WHICH THE BONDS BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

45-2950. Payment of bonds

A. THE BONDS SHALL BE PAID SOLELY FROM MONIES IN THE DEBT SERVICE ACCOUNT.

B. THE MEMBERS OF THE BOARD AND ANY PERSONS WHO EXECUTE THE BONDS ARE NOT PERSONALLY LIABLE FOR THE PAYMENT OF THE BONDS.

C. THE FISCAL AGENT OF THE AUTHORITY SHALL CANCEL ALL BONDS WHEN PAID.

45-2951. Use of surplus monies

A. IF A BALANCE REMAINS IN THE BOND PROCEEDS ACCOUNT AFTER ALL ACQUISITION, CONSTRUCTION AND RELATED COSTS HAVE BEEN PAID:

1. THE BOARD SHALL CREDIT THE BALANCE TO REPAY ANY OTHER OUTSTANDING INDEBTEDNESS OF THE AUTHORITY.

2. IF THE AUTHORITY HAS NO OUTSTANDING INDEBTEDNESS, THE BOARD SHALL CREDIT THE REMAINING BALANCE TO THE AUTHORITY'S GENERAL FUND.

B. IF A BALANCE REMAINS IN THE DEBT SERVICE ACCOUNT AFTER PAYMENT OF ALL BONDS, INTEREST AND OTHER CHARGES RELATED TO BONDS ISSUED UNDER THIS ARTICLE, THE BOARD SHALL CREDIT THE BALANCE TO THE GENERAL FUND.

45-2952. Investment of monies in the bond proceeds account

A. THE BOARD MAY AUTHORIZE THE AUTHORITY FISCAL AGENT TO INVEST MONIES IN THE BOND PROCEEDS ACCOUNT IN THE MANNER PRESCRIBED BY SECTION 45-2954.

B. THE ORDER DIRECTING AN INVESTMENT SHALL STATE A DATE ON WHICH THE PROCEEDS FROM THE SALE OF THE BONDS WILL BE NEEDED FOR USE, AND THE FISCAL AGENT SHALL MAKE THE INVESTMENT IN SUCH A WAY AS TO MATURE ON OR BEFORE THE SPECIFIED DATE.

C. ALL MONIES EARNED AS INTEREST OR OTHERWISE DERIVED FROM THE INVESTMENT OF THE MONIES IN THE BOND PROCEEDS ACCOUNT SHALL BE CREDITED TO THE BOND PROCEEDS ACCOUNT.

45-2953. Investment of monies in the debt service account

A. THE BOARD MAY AUTHORIZE THE AUTHORITY FISCAL AGENT TO INVEST AND REINVEST ANY MONIES IN THE DEBT SERVICE ACCOUNT AS PROVIDED BY SECTION 45-2954.

B. THE ORDER DIRECTING AN INVESTMENT SHALL STATE A DATE ON WHICH THE MONIES AND OTHER RESOURCES IN THE DEBT SERVICE ACCOUNT WILL BE NEEDED FOR USE, AND THE FISCAL AGENT SHALL MAKE THE INVESTMENT IN SUCH A WAY AS TO MATURE ON OR BEFORE THE SPECIFIED DATE.

C. ALL MONIES EARNED AS INTEREST OR OTHERWISE DERIVED FROM THE INVESTMENT OF THE MONIES IN THE DEBT SERVICE ACCOUNT SHALL BE CREDITED TO THE AUTHORITY'S GENERAL FUND.

45-2954. Authorized investments of monies

A. THE MONIES IN EITHER THE BOND PROCEEDS ACCOUNT OR THE DEBT SERVICE ACCOUNT MAY BE INVESTED AND REINVESTED AT THE DIRECTION OF THE BOARD IN ANY OF THE FOLLOWING:

1. UNITED STATES TREASURY OBLIGATIONS.

2. CONSOLIDATED FARM LOAN BONDS.

3. OBLIGATIONS ISSUED BY THE FEDERAL INTERMEDIATE CREDIT BANKS OR BONDS FOR COOPERATIVES ON AUTHORITY OF THE FARM CREDIT ACT OF 1933.

4. ANY OTHER OBLIGATIONS GUARANTEED BY THE UNITED STATES GOVERNMENT.

5. ANY INVESTMENTS THAT ARE AUTHORIZED BY ANY OTHER AGENCIES OF THE UNITED STATES GOVERNMENT AND THAT ARE AUTHORIZED TO SECURE PUBLIC DEPOSITS.

6. STATE AND LOCAL GOVERNMENT SERIES UNITED STATES TREASURY SECURITIES.

7. STATE, COUNTY OR MUNICIPAL BONDS ISSUED IN THIS STATE AND ON WHICH THE PAYMENTS OF INTEREST HAVE NOT BEEN DEFERRED.

8. INVESTMENT AGREEMENTS AND REPURCHASE AGREEMENTS COLLATERALIZED BY INVESTMENTS DESCRIBED IN PARAGRAPHS 1 THROUGH 5.

B. THE PURCHASE OF THE SECURITIES SHALL BE MADE BY THE AUTHORITY FISCAL AGENT ON AUTHORITY OF A RESOLUTION OF THE BOARD. THE FISCAL AGENT SHALL ACT AS CUSTODIAN OF ALL SECURITIES PURCHASED.

C. THE BOARD MAY PLACE ANY RESTRICTIONS ON REINVESTMENT YIELD ON BOND PROCEEDS OR ON ANY MONIES PLEDGED TO PAY THE BONDS IF NECESSARY TO COMPLY WITH FEDERAL INCOME TAX LAWS AND REGULATIONS TO GAIN ANY FEDERAL TAX BENEFITS AVAILABLE WITH RESPECT TO THE BONDS.

45-2955. Deposit and disbursement of monies

A. MONIES DERIVED FROM SELLING BONDS UNDER THIS ARTICLE OR PLEDGED OR ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS SHALL BE DEPOSITED BY THE AUTHORITY FISCAL AGENT IN FINANCIAL INSTITUTIONS THAT THE BOARD DESIGNATES AND THAT ARE INSURED BY AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES. THE MONIES SHALL BE DISBURSED AS THE BOARD DIRECTS AND ACCORDING TO THE TERMS OF ANY AGREEMENTS WITH THE HOLDER OR HOLDERS OF THE BONDS.

B. THIS SECTION DOES NOT LIMIT THE POWER OF THE BOARD TO AGREE IN CONNECTION WITH THE ISSUANCE OF ANY OF ITS BONDS AS TO THE CUSTODY AND DISPOSITION OF THE MONIES RECEIVED FROM SELLING BONDS OR FROM THE INCOME AND REVENUES PLEDGED OR ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS.

45-2956. Characteristics of bonds; negotiability; legal investments; exemption from taxation

A. BONDS ISSUED UNDER THIS ARTICLE ARE FULLY NEGOTIABLE WITHIN THE MEANING AND FOR ALL PURPOSES OF THE UNIFORM COMMERCIAL CODE, SUBJECT ONLY TO ANY PROVISIONS FOR REGISTRATION, REGARDLESS OF WHETHER THE BONDS ACTUALLY CONSTITUTE NEGOTIABLE INSTRUMENTS UNDER THE UNIFORM COMMERCIAL CODE.

B. THE BONDS, THEIR TRANSFER AND THE INCOME FROM THE BONDS ARE AT ALL TIMES FREE FROM TAXATION IN THIS STATE.

C. BONDS ISSUED UNDER THIS ARTICLE:

1. ARE SECURITIES IN WHICH PUBLIC OFFICERS AND BODIES OF THIS STATE AND OF MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE, ALL COMPANIES, ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS, ALL FINANCIAL INSTITUTIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON A BANKING BUSINESS, ALL FIDUCIARIES AND ALL OTHER PERSONS WHO ARE AUTHORIZED TO INVEST IN GOVERNMENT OBLIGATIONS MAY PROPERLY AND LEGALLY INVEST.

2. ARE SECURITIES THAT MAY BE DEPOSITED WITH PUBLIC OFFICERS OR BODIES OF THIS STATE AND MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE FOR PURPOSES THAT REQUIRE THE DEPOSIT OF GOVERNMENT BONDS OR OBLIGATIONS.

45-2957. Effect of changing circumstances on bonds; agreement of state

A. BONDS ISSUED UNDER THIS ARTICLE REMAIN VALID AND BINDING OBLIGATIONS OF THE AUTHORITY NOTWITHSTANDING THAT BEFORE THE DELIVERY OF THE BONDS ANY PERSON WHOSE SIGNATURE APPEARS ON THE BONDS CEASES TO BE AN OFFICER OF THE AUTHORITY.

B. AN AMENDMENT OF ANY PROVISION IN THIS CHAPTER DOES NOT DIMINISH OR IMPAIR THE VALIDITY OF BONDS ISSUED UNDER THIS ARTICLE OR THE REMEDIES AND RIGHTS OF BONDHOLDERS.

C. THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE BONDS AUTHORIZED BY THIS ARTICLE THAT THIS STATE WILL NOT LIMIT, ALTER OR IMPAIR THE RIGHTS VESTED IN THE AUTHORITY TO RECEIVE THE MONIES NECESSARY TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF THE BONDS, OR IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF THE BONDHOLDERS, UNTIL ALL BONDS ISSUED UNDER THIS ARTICLE, TOGETHER WITH INTEREST ON THE BONDS, INTEREST ON ANY UNPAID INSTALLMENTS OF PRINCIPAL OR INTEREST AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE BONDHOLDERS, ARE FULLY MET AND DISCHARGED. THE BOARD, AS AGENT FOR THIS STATE, MAY INCLUDE THIS PLEDGE AND UNDERTAKING IN ITS RESOLUTIONS AND INDENTURES AUTHORIZING AND SECURING ITS BONDS.

45-2958. Validity of bonds; legal opinion

A. THIS ARTICLE CONSTITUTES FULL AUTHORITY FOR AUTHORIZING AND ISSUING BONDS WITHOUT REFERENCE TO ANY OTHER LAW OF THIS STATE. NO OTHER LAW WITH REGARD TO AUTHORIZING OR ISSUING OBLIGATIONS OR THAT IN ANY WAY IMPEDES OR RESTRICTS PERFORMING THE ACTS AUTHORIZED BY THIS ARTICLE MAY BE CONSTRUED TO APPLY TO ANY PROCEEDINGS TAKEN OR ACTS DONE PURSUANT TO THIS ARTICLE.

B. THE VALIDITY OF BONDS ISSUED UNDER THIS ARTICLE DOES NOT DEPEND ON AND IS NOT AFFECTED BY THE LEGALITY OF ANY PROCEEDING RELATING TO THE ACQUISITION, CONSTRUCTION, IMPROVEMENT, OPERATION OR MAINTENANCE OF A WATER PROJECT FOR WHICH THE BONDS ARE ISSUED.

C. THE BOARD MAY SUBMIT ANY BONDS TO BE ISSUED UNDER THIS ARTICLE TO LEGAL COUNSEL AFTER ALL PROCEEDINGS FOR AUTHORIZING THE BONDS HAVE BEEN COMPLETED. ON SUBMISSION THE COUNSEL SHALL EXAMINE AND PASS ON THE VALIDITY OF THE BONDS AND THE REGULARITY OF THE PROCEEDINGS. IF THE PROCEEDINGS COMPLY WITH THIS ARTICLE, AND IF THE BONDS WHEN DELIVERED AND PAID FOR WILL CONSTITUTE BINDING AND LEGAL OBLIGATIONS OF THE AUTHORITY, THE COUNSEL SHALL CERTIFY ON THE BACK OF EACH BOND, IN SUBSTANCE, THAT IT IS ISSUED ACCORDING TO THE CONSTITUTION AND LAWS OF THIS STATE AND THAT THE INTEREST ON THE BONDS WILL BE EXEMPT FROM STATE TAXES AS PROVIDED BY LAW.

D. THE BONDS SHALL RECITE THAT THEY ARE REGULARLY ISSUED PURSUANT TO THIS ARTICLE. THAT RECITAL, TOGETHER WITH THE LEGAL OPINION UNDER SUBSECTION C, CONSTITUTES PRIMA FACIE EVIDENCE OF THE LEGALITY AND VALIDITY OF THE BONDS. FROM AND AFTER THE SALE AND DELIVERY OF THE BONDS, THEY ARE INCONTESTABLE BY THIS STATE OR THE DISTRICT.

Sec. 2. Section 48-6415, Arizona Revised Statutes, is amended to read:

48-6415. District and municipal water delivery systems in district eligible to receive financial assistance from water supply development revolving trust fund

The district is deemed to be a water provider for the purposes of title 49, chapter 8. The district and municipal water delivery systems serving water in the district are eligible to apply for and receive financial assistance from monies in the water supply development revolving TRUST fund established under section 49-1271 notwithstanding section 49-1273, subsection C.

Sec. 3. Section 49-1201, Arizona Revised Statutes, is amended to read:

49-1201. Definitions

In this chapter, unless the context otherwise requires:

1. "Authority" means the water infrastructure finance authority of Arizona.

2. "Board" means the board of directors of the authority.

3. "Bonds of a political subdivision" means bonds issued by a political subdivision as authorized by law.

4. "Clean water act" means the federal water pollution control act amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the water quality act of 1987 (P.L. 100-4; 101 Stat. 7).

5. "Committee" means the water supply development fund committee established by section 49-1202, subsection B.

6. "Drinking water facility" means a community water system or a nonprofit noncommunity water system as defined in the safe drinking water act (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that is located in this state. For purposes of this ~~article~~ CHAPTER, drinking water facility does not include water systems owned by federal agencies.

7. "Financial assistance loan repayment agreement" means an agreement to repay a loan provided to design, construct, acquire, rehabilitate or improve water or wastewater infrastructure, related property and appurtenances or a loan provided to finance a water supply development project.

8. "Indian tribe" means any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

9. "Nonpoint source project" means a project designed to implement a certified water quality management plan.

10. "Political subdivision" means a county, city, town or special taxing district authorized by law to construct wastewater treatment facilities, drinking water facilities or nonpoint source projects, AND INCLUDES A REGIONAL WATER AUGMENTATION AUTHORITY.

11. "REGIONAL WATER AUGMENTATION AUTHORITY" MEANS AN AUTHORITY ESTABLISHED PURSUANT TO TITLE 45, CHAPTER 17.

~~11.~~ 12. "Safe drinking water act" means the federal safe drinking water act (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613), as amended in 1996.

~~12.~~ 13. "Technical assistance loan repayment agreement" means either of the following:

(a) An agreement to repay a loan provided to develop, plan and design water or wastewater infrastructure, related property and appurtenances. The agreement shall be for a term of not more than three years and the maximum amount that may be borrowed is limited to not more than five hundred thousand dollars.

(b) An agreement to repay a loan provided to develop, plan or design a water supply development project.

~~13.~~ 14. "Wastewater treatment facility" means a treatment works, as defined in section 212 of the clean water act, that is located in this state and that is designed to hold, cleanse or purify or to prevent the discharge of untreated or inadequately treated sewage or other polluted waters for purposes of complying with the clean water act.

~~14.~~ 15. "Water provider" means any of the following:

(a) A municipal water delivery system as defined in section 42-5301, paragraphs 1 and 3.

(b) A municipal water delivery system as defined in section 42-5301, paragraph 2, which has entered into a partnership with a city, town or county for a water supply augmentation plan.

(c) A county water augmentation authority established under title 45, chapter 11.

(d) A county water authority established under title 45, chapter 13.

(e) An Indian tribe.

(f) A community facilities district as established by title 48, chapter 4.

~~15.~~ 16. "Water supply development" means either of the following:

(a) The acquisition of water or rights to or contracts for water to augment the water supply of a water provider, INCLUDING ANY ENVIRONMENTAL OR OTHER REVIEWS, PERMITS OR PLANS REASONABLY NECESSARY FOR THAT ACQUISITION.

(b) The development of facilities, INCLUDING ANY ENVIRONMENTAL OR OTHER REVIEWS, PERMITS OR PLANS REASONABLY NECESSARY FOR THOSE FACILITIES, for any of the following purposes:

(i) Conveyance, storage or recovery of water.

(ii) Reclamation and reuse of water.

(iii) Replenishment of groundwater.

Sec. 4. Section 49-1202, Arizona Revised Statutes, is amended to read:

49-1202. Water infrastructure finance authority of Arizona; board; water supply development fund committee; violation; classification

A. The water infrastructure finance authority of Arizona is established. A board of directors shall govern the authority. The board of directors consists of:

1. The director of environmental quality, or the director's representative, who serves as chairman.

2. The chief executive officer of the Arizona commerce authority or the chief executive officer's representative.

3. The state treasurer or the treasurer's representative.

4. One member who is appointed by the governor to represent municipalities with populations of fifty thousand persons or more.

5. One member who is appointed by the governor to represent municipalities with populations of less than fifty thousand persons from a county with a population of less than five hundred thousand persons.

6. One member who is appointed by the governor to represent counties with populations of five hundred thousand persons or more.

7. One member who is appointed by the governor to represent sanitary districts in counties with populations of less than five hundred thousand persons.

8. The director of water resources or the director's representative.

9. The chairman of the Arizona corporation commission or the chairman's representative.

10. One member who is appointed by the governor from a public water system that serves five hundred persons or more.

11. One member who is appointed by the governor from a public water system that serves fewer than five hundred persons.

12. One member who is appointed by the governor to represent Indian tribes.

B. The water supply development fund committee of the authority is established. The committee consists of:

1. The director of water resources, or the director's representative, who serves as chairperson of the committee.

2. The director of environmental quality, or the director's representative, who serves as vice-chairperson of the committee.

3. The chairman of the ARIZONA corporation commission or the chairman's representative.

4. The state treasurer or the treasurer's representative.

5. One member who is appointed by the governor to represent municipalities with populations of fifty thousand persons or more but less than one hundred thousand persons.

6. One member who is appointed by the governor to represent municipalities with populations of less than fifty thousand persons from a county with a population of less than five hundred thousand persons.

7. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO REPRESENT MUNICIPALITIES WITH POPULATIONS OF MORE THAN ONE HUNDRED THOUSAND PERSONS IN A COUNTY WITH A POPULATION OF EIGHT HUNDRED THOUSAND PERSONS OR MORE AND LESS THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS.

~~7.~~ 8. One member who is appointed by the governor to represent counties with populations of less than eight hundred thousand persons.

~~8.~~ 9. One member who is appointed by the governor to represent counties with populations of eight hundred thousand persons or more but less than one million five hundred thousand persons.

~~9.~~ 10. One member who is appointed by the governor to represent counties with populations of one million five hundred thousand persons or more.

~~10.~~ 11. One member who is appointed by the governor to represent cities with populations of more than one hundred thousand persons in counties with populations of more than one million persons.

~~11.~~ 12. One member who is appointed by the governor from a public service corporation that serves one thousand eight hundred fifty persons or more.

~~12.~~ 13. One member who is appointed by the governor from a public water system that serves fewer than one thousand eight hundred fifty persons.

~~13.~~ 14. One member who is appointed by the governor to represent Indian tribes.

C. Members of the board and the committee who are appointed by the governor serve at the governor's pleasure and serve staggered five year terms. Members of the board and the committee are not eligible to receive compensation for their services but are eligible for reimbursement for travel and other expenses pursuant to title 38, chapter 4, article 2. Members of the board and the committee are public officers for purposes of title 38, and the authority and the committee are public bodies for purposes of title 38, chapter 3, article 3.1.

D. Members of the board shall not have any direct or indirect personal financial interest in any clean water or drinking water project financed under this article. Members of the committee shall not have any direct or indirect personal financial interest in any water supply development project financed under this article. For the purposes of this subsection, a member of the board or the committee who is a full-time employee of a participant in or applicant for a loan does not have a direct or indirect personal financial interest in a project. A violation of this subsection is a class 1 misdemeanor.

E. The department of environmental quality shall provide clerical support and office and meeting space to the board.

F. The department of water resources shall provide technical assistance to the committee as requested by the committee.

Sec. 5. Section 49-1203, Arizona Revised Statutes, is amended to read:

49-1203. Powers and duties of authority; definition

A. The authority is a corporate and politic body and shall have an official seal that shall be judicially noticed. The authority may sue and be sued, contract and acquire, hold, operate and dispose of property.

B. The authority, through its board, may:

1. Issue negotiable water quality bonds pursuant to section 49-1261 for the following purposes:

(a) To generate the state match required by the clean water act for the clean water revolving fund and to generate the match required by the safe drinking water act for the drinking water revolving fund.

(b) To provide financial assistance to political subdivisions, Indian tribes and eligible drinking water facilities for constructing, acquiring or improving wastewater treatment facilities, drinking water facilities, nonpoint source projects and other related water quality facilities and projects.

2. Issue water supply development bonds for the purpose of providing financial assistance to water providers for water supply development purposes pursuant to sections 49-1274 and 49-1275.

3. Provide financial assistance to political subdivisions and Indian tribes from monies in the clean water revolving fund to finance wastewater treatment projects.

4. Provide financial assistance to drinking water facilities from monies in the drinking water revolving fund to finance these facilities.

5. Provide financial assistance to water providers from monies in the water supply development revolving TRUST fund to finance water supply development.

6. Guarantee debt obligations of, and provide linked deposit guarantees through third party lenders to:

(a) Political subdivisions that are issued to finance wastewater treatment projects.

(b) Drinking water facilities that are issued to finance these facilities.

(c) Water providers that are issued to finance water supply development projects.

7. Provide linked deposit guarantees through third party lenders to political subdivisions, drinking water facilities and water providers.

8. Apply for, accept and administer grants and other financial assistance from the United States government and from other public and private sources.

9. Enter into capitalization grant agreements with the United States environmental protection agency.

10. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of wastewater treatment facility, drinking water facility and nonpoint source project financial assistance under this chapter, the administration of the clean water revolving fund and the drinking water revolving fund and the issuance of water quality bonds.

11. Subject to title 41, chapter 4, article 4, hire a director and staff for the authority.

12. Contract for the services of outside advisors, attorneys, consultants and aides reasonably necessary or desirable to allow the authority to adequately perform its duties.

13. Contract and incur obligations as reasonably necessary or desirable within the general scope of authority activities and operations to allow the authority to adequately perform its duties.

14. Assess financial assistance origination fees and annual fees to cover the reasonable costs of administering the authority and the monies administered by the authority. Any fees collected pursuant to this paragraph constitute governmental revenue and may be used for any purpose consistent with the mission and objectives of the authority.

15. Perform any function of a fund manager under the CERCLA Brownfields cleanup revolving loan fund program as requested by the department. The board shall perform any action authorized under this article on behalf of the Brownfields cleanup revolving loan fund program established pursuant to chapter 2, article 1.1 of this title at the request of the department. In order to perform these functions, the board shall enter into a written agreement with the department.

16. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to political subdivisions, any county with a population of less than five hundred thousand persons, Indian tribes and community water systems in connection with the development or financing of wastewater, drinking water, water reclamation or related water infrastructure. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the authority and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority does not create any liability for the authority or this state regarding the design, construction or operation of any infrastructure project.

17. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to water providers in connection with the planning or design of water supply development projects as determined by the committee pursuant to section 49-1274. A single grant shall not exceed one hundred thousand dollars. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the committee and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority or the committee does not create any liability for the authority, the committee or this state regarding the design, construction or operation of any water supply development project.

C. The authority, in consultation with the committee, may:

1. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of water supply development fund project financial assistance under this chapter and the administration of the water supply development revolving TRUST fund.

2. Appoint a technical advisory subcommittee of not more than five persons with expertise in water resource planning and development to advise the committee regarding the technical feasibility of water supply development projects.

D. The board shall deposit, pursuant to sections 35-146 and 35-147, any monies received pursuant to subsection B, paragraph 8 of this section in the appropriate fund as prescribed by the grant or other financial assistance agreement.

E. Disbursements of monies by the water infrastructure finance authority pursuant to a financial assistance agreement are not subject to title 41, chapter 23.

F. For the purposes of the safe drinking water act, the department of environmental quality is the state agency with primary responsibility for administration of this state's public water system supervision program and, in consultation with other appropriate state agencies, is the lead agency in establishing assistance priorities as prescribed by section 49-1243, subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

G. For the purposes of this section, "CERCLA" has the same meaning prescribed in section 49-201.

Sec. 6. Section 49-1271, Arizona Revised Statutes, is amended to read:

49-1271. Water supply development revolving trust fund; legislative intent

A. The water supply development revolving TRUST fund is established FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE FINDINGS ESTABLISHED IN SUBSECTION E OF THIS SECTION, AND ALL MONIES COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE AND TITLE 45, CHAPTER 17 SHALL BE DEPOSITED IN THE TRUST FUND. THE WATER SUPPLY DEVELOPMENT REVOLVING TRUST FUND IS to be maintained in perpetuity consisting of:

1. Monies received from the issuance and sale of water supply development bonds under section 49-1278.

2. Monies appropriated by the legislature to the water supply development revolving TRUST fund.

3. Monies received for water supply development purposes from the United States government.

4. Monies received from water providers AND REGIONAL WATER AUGMENTATION AUTHORITIES as loan repayments, interest and penalties.

5. Interest and other income received from investing monies in the fund.

6. Gifts, grants and donations received for water supply development purposes from any public or private source.

~~B. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.~~

B. THE EXECUTIVE DIRECTOR OF THE AUTHORITY SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE EXECUTIVE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND 35-314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE TRUST FUND.

C. THE BENEFICIARIES OF THE TRUST ARE THE PROGRAMS ESTABLISHED BY THIS ARTICLE AND BY TITLE 45, CHAPTER 17. THE TRUST FUND SHALL BE USED SOLELY FOR THE PURPOSES OF THIS ARTICLE AND TITLE 45, CHAPTER 17 ON THE ORDER OF THE EXECUTIVE DIRECTOR.

D. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

~~C.~~ E. The legislature finds that many ~~water providers~~ ENTITIES THAT PROVIDE WATER in this state, particularly in rural areas, lack access to sufficient water supplies to meet their long-term water demands and need financial assistance to construct water supply projects and obtain additional water supplies. It is the intent of the legislature that the water supply development revolving TRUST fund established by this section be used to provide financial assistance to ~~these water providers~~ ELIGIBLE ENTITIES under the terms set forth in this article.

Sec. 7. Repeal

Section 49-1272, Arizona Revised Statutes, is repealed.

Sec. 8. Section 49-1273, Arizona Revised Statutes, is amended to read:

49-1273. Water supply development revolving trust fund; purposes; limitation

A. Monies in the water supply development revolving TRUST fund may be used for the following purposes:

1. Making water supply development loans to water providers AND REGIONAL WATER AUGMENTATION AUTHORITIES in this state under section 49-1274 for water supply development purposes.

2. Making loans or grants to water providers AND REGIONAL WATER AUGMENTATION AUTHORITIES for the planning or design of water supply development projects. A single grant shall not exceed one hundred thousand dollars.

3. Purchasing or refinancing debt obligations of water providers AND REGIONAL WATER AUGMENTATION AUTHORITIES at or below market rate if the debt obligation was issued for a water supply development purpose.

4. Providing financial assistance to water providers AND REGIONAL WATER AUGMENTATION AUTHORITIES with bonding authority to purchase insurance for local bond obligations incurred by them for water supply development purposes.

5. Paying the costs to administer the fund.

6. Providing linked deposit guarantees through third party lenders by depositing monies with the lender on the condition that the lender make a loan on terms approved by the committee, at a rate of return on the deposit approved by the committee and the state treasurer and by giving the lender recourse against the deposit of loan repayments that are not made when due.

B. If the monies pledged to secure water supply development bonds issued pursuant to section 49-1278 become insufficient to pay the principal and interest on the water supply development bonds guaranteed by the water supply development revolving TRUST fund, the authority shall direct the state treasurer to liquidate securities in the fund as may be necessary and shall apply those proceeds to make current all payments then due on the bonds. The state treasurer shall immediately notify the attorney general and auditor general of the insufficiency. The auditor general shall audit the circumstances surrounding the depletion of the fund and report the findings to the attorney general. The attorney general shall conduct an investigation and report those findings to the governor and the legislature.

C. EXCEPT AS PROVIDED IN SECTION 45-2925, monies in the water supply development revolving TRUST fund shall not be used to provide financial assistance to a water provider, other than an Indian tribe, unless one of the following applies:

1. The board of supervisors of the county in which the water provider is located has adopted the provision authorized by section 11-823, subsection A.

2. The water provider is located in a city or town and the legislative body of the city or town has enacted the ordinance authorized by section 9-463.01, subsection O.

3. The water provider is located in an active management area established pursuant to title 45, chapter 2, article 2.

Sec. 9. Section 49-1274, Arizona Revised Statutes, is amended to read:

49-1274. Water supply development revolving trust fund financial assistance; procedures

A. In compliance with any applicable requirements, a water provider OR A REGIONAL WATER AUGMENTATION AUTHORITY may apply to the authority for and accept and incur indebtedness as a result of a loan or any other financial assistance pursuant to section 49-1273 from the water supply development revolving TRUST fund for water supply development purposes. In compliance with any applicable requirements, a water provider OR A REGIONAL WATER AUGMENTATION AUTHORITY may also apply to the authority for and accept grants, staff assistance or technical assistance for the planning or design of a water supply development project. A water provider that applies for and accepts a loan or other financial assistance under this article is not precluded from applying for and accepting a loan or other financial assistance under article 2 of this chapter or under any other law.

B. The authority, in consultation with the committee, shall:

1. Prescribe a simplified form and procedure to apply for and approve assistance.

2. Establish by rule criteria by which assistance will be awarded, including requirements for local participation in project costs, if deemed advisable. The criteria shall include:

(a) A determination of the ability of the applicant to repay a loan according to the terms and conditions established by this section. At the option of the committee, the existence of a current investment grade rating on existing debt of the applicant that is secured by the same revenues to be pledged to secure repayment under the loan repayment agreement constitutes evidence regarding ability to repay a loan.

(b) A determination of the applicant's legal capability to enter into a loan repayment agreement.

(c) A determination of the applicant's financial ability to construct, operate and maintain the project if it receives the financial assistance.

(d) A determination of the applicant's ability to manage the project.

(e) A determination of the applicant's ability to meet any applicable environmental requirements imposed by federal or state agencies.

(f) A determination of the applicant's ability to acquire any necessary regulatory permits.

(g) FOR PROJECTS INVOLVING A REGIONAL WATER AUGMENTATION AUTHORITY, A DETERMINATION OF THE APPLICANT'S ABILITY TO COMPLY WITH SECTION 45-2925.

3. Determine the order and priority of projects assisted under this section based on the merits of the application with respect to water supply development issues, including the following:

(a) Existing, near-term and long-term water demands of the water provider OR REGIONAL WATER AUGMENTATION AUTHORITY compared to the existing water supplies of the water provider OR REGIONAL WATER AUGMENTATION AUTHORITY.

(b) Existing and planned conservation and water management programs of the water provider OR REGIONAL WATER AUGMENTATION AUTHORITY.

(c) Benefits of the project.

(d) The sustainability of the water supply to be developed through the project.

(e) The water provider's OR REGIONAL WATER AUGMENTATION AUTHORITY'S need for financial assistance.

(f) The cost-effectiveness of the project.

C. The committee shall review on its merits each application received and shall inform the applicant of the committee's determination within ninety days after receipt of a complete and correct application. If the application is not approved, the committee shall notify the applicant, stating the reasons. If the application is approved, the committee may condition the approval on assurances the committee deems necessary to ensure that the financial assistance will be used according to law and the terms of the application.

D. On approval of an application under this section by the committee, the authority shall use monies in the water supply development revolving TRUST fund to finance the project.

Sec. 10. Section 49-1275, Arizona Revised Statutes, is amended to read:

49-1275. Water supply development revolving trust fund financial assistance; terms

A. A loan from the water supply development revolving TRUST fund shall be evidenced by bonds, if the water provider OR REGIONAL WATER AUGMENTATION AUTHORITY has bonding authority, or by a financial assistance agreement, delivered to and held by the authority.

B. A loan under this section shall:

1. Be repaid not more than ~~thirty~~ FIFTY years after the date incurred.

2. Require that interest payments begin not later than the next date that either principal or interest must be paid by the authority to the holders of any of the authority's bonds that provided funding for the loan. If the loan is for construction of water supply development facilities, the authority may provide that loan interest accruing during construction and one year after completion of the construction be capitalized in the loan.

3. Be conditioned on the establishment of a dedicated revenue source for repaying the loan.

C. The authority, in consultation with the committee, shall prescribe the rate of interest on loans made under this section, but the rate shall not exceed the prevailing market rate for similar types of loans. The authority, ~~upon~~ ON recommendations from the committee, may adopt rules ~~which~~ THAT provide for flexible interest rates and interest free loans. All financial assistance agreements or bonds of a water provider OR REGIONAL WATER AUGMENTATION AUTHORITY shall clearly specify the amount of principal and interest and any redemption premium that is due on any payment date.

D. The approval of a loan is conditioned on a written commitment by the ~~water provider~~ BORROWER to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

E. A loan made to a ~~water provider~~ BORROWER under this section may be secured additionally by an irrevocable pledge of any shared state revenues due to the ~~water provider~~ BORROWER for the duration of the loan as prescribed by a resolution of the committee. If the committee requires an irrevocable pledge of the shared state revenues for financial assistance loan repayment agreements, the authority shall enter into an intercreditor agreement with the greater Arizona development authority to define the allocation of shared state revenues in relation to individual borrowers. If a pledge is required and a ~~water provider~~ BORROWER fails to make any payment due to the authority under its loan repayment agreement or bonds, the authority shall certify to the state treasurer and notify the governing body of the defaulting ~~water~~

~~provider~~ BORROWER that the ~~water provider~~ BORROWER has failed to make the required payment and shall direct a withholding of state shared revenues as prescribed in subsection F of this section. The certificate of default shall be in the form determined by the authority, except that the certificate shall specify the amount required to satisfy the unpaid payment obligation of the ~~water provider~~ BORROWER.

F. On receipt of a certificate of default from the authority, the state treasurer, to the extent not expressly prohibited by law, shall withhold any monies due to the defaulting ~~water provider~~ BORROWER from the next succeeding distribution of monies pursuant to section 42-5029. In the case of a city or town, the state treasurer shall also withhold from the monies due to the defaulting city or town from the next succeeding distribution of monies pursuant to section 43-206 the amount specified in the certificate of default and shall immediately deposit the monies in the water supply development revolving TRUST fund. The state treasurer shall continue to withhold and deposit monies until the authority certifies to the state treasurer that the default has been cured. The state treasurer shall not withhold any amount that is necessary to make any required deposits then due for the payment of principal and interest on bonds of the ~~water provider~~ BORROWER if so certified by the defaulting ~~water provider~~ BORROWER to the state treasurer and the authority. The ~~water provider~~ BORROWER shall not certify deposits as necessary for payment for bonds unless the bonds were issued before the date of the loan repayment agreement and the bonds were secured by a pledge of distribution made pursuant to sections 42-5029 and 43-206.

Sec. 11. Section 49-1278, Arizona Revised Statutes, is amended to read:

49-1278. Water supply development bonds; purpose

A. Water supply development bonds may be issued to provide financial assistance under this article and to increase the capitalization of the water supply development revolving TRUST fund to accomplish the purposes stated in section 49-1273. These bonds may be secured by any monies received or to be received in the water supply development revolving TRUST fund. Amounts in the water supply development revolving TRUST fund may be used to cure defaults on loans made from the water supply development revolving TRUST fund to the extent otherwise permitted by law.

B. Any pledge made under this article is valid and binding from the time when the pledge is made. The monies pledged and received to be placed in the appropriate fund are immediately subject to the lien of the pledge without any future physical delivery or further act, and any such lien of any pledge is valid or binding against all parties having claims of any kind in tort, contract or otherwise against the board regardless of whether the parties have notice of the lien. The official resolution or trust indenture or any instrument by which this pledge is created, when placed in the board's records, is notice to all concerned of the creation of the pledge, and those instruments need not be recorded in any other place.

C. The bonds issued under this section, their transfer and the income they produce are exempt from taxation by this state or by any political subdivision of this state.

Sec. 12. Appropriation; water supply development revolving trust fund; purpose; exemption from lapsing

A. The sum of $30,000,000 is appropriated from the state general fund in fiscal year 2013-2014 to the water supply development revolving trust fund established pursuant to section 49-1271, Arizona Revised Statutes, as amended by this act, for the purposes provided in this act.

B. The appropriation made in this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

REGIONAL WATER AUGMENTATION AUTHORITIES
Questions and Answers

What is a Regional Water Augmentation Authority (RWAA)? A RWAA is a voluntary organization to assist local communities in developing future water supplies and water supply infrastructure to meet growing water needs.

Who Supports Legislation to Allow for RWAAs? The members of the Water Resources Development Commission that was established by the Legislature in 2010 to assess Arizona's demand for water and the supplies available to meet that demand over the next 100 years. The 17 Commission members represented all major water-using sectors, including agriculture, municipal water providers, counties, water agencies, and industries.

Why Are Regional Water Augmentation Authorities Necessary? The Water Resources Development Commission found that there will be future water supply-demand imbalances statewide and that infrastructure to meet those demands will be needed. The Commission further found that RWAAs would provide a needed mechanism to allow local water users to pool their common resources to develop necessary water supply projects.

Why Should We Care About This Issue? Aside from ensuring that Arizona's growing population has a reliable water supply, economic growth in all parts of Arizona will stall if Arizona is unable to demonstrate to industries, businesses, and lenders that it is planning for and investing in future water supplies.

Will Water Providers and Other Entities Be Forced to Join a RWAA? No. Membership in a RWAA is voluntary. No entity can be forced to join.

Will RWAAs Have Taxing Authority? No. RWAAs are not taxing districts and will have no authority to tax.

How Will RWAAs Be Financed? A RWAA may use revenue bonds, user fees, membership dues, and grants and loans. These financing tools will not affect any entity that is not a member.

How Will Rate Payers Be Protected? Water users of a municipal member of a RWAA will be protected by the elected officials of that municipal member. Water users served by a private water company that is a member of an RWAA will be protected by the Arizona Corporation Commission's rate-increase approval process.

How Will Existing Water Rights Be Protected? A RWAA may acquire a water supply only in accordance with existing state and federal law. The protections for vested water rights will continue to apply. The prohibitions on transportation of groundwater across basin boundaries will continue to apply. A RWAA would not be able to condemn water, water rights, wells, existing water systems, or land for purposes of drilling a well.

May a RWAA Be Formed Solely to Provide Water For a Non-Public Entity? No. At least one member of a RWAA must be a public agency (such as a city, town or county) and the RWAA must have a clear public purpose.

How Will Non-Members of a RWAA Be Able to Monitor Its Activities? A RWAA will be a political subdivision of the State and must follow the requirements governing political subdivisions. It will be subject to the open meeting laws and public records statutes.

RESOLUTION NO. 1824

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PRESCOTT VALLEY, YAVAPAI COUNTY, ARIZONA, SUPPORTING ARIZONA HOUSE BILL 2338 AND THE CREATION OF REGIONAL WATER AUGMENTATION AUTHORITIES.

WHEREAS, the Legislature created the Water Resources Development Commission (WRDC) in 2010 to examine Arizona's future water needs and to develop recommendations to fill those needs; and

WHEREAS, the 17 Commission members of the WRDC represented all major water-using sectors, including agriculture, municipal water providers, counties, water agencies, and industries; and

WHEREAS, the WRDC determined that Arizona communities and other water users will need an additional 1.5 million acre-feet of water in the next 50 years; and

WHEREAS, the WRDC also determined that Arizona communities and other water users will need substantial financial investments to acquire and deliver those water supplies; and

WHEREAS, the WRDC recommended that the Arizona Legislature enact certain measures contained within the language of HB 2338 to address the water supply needs and financial needs of Arizona Communities in order to ensure a sound economic future; and

WHEREAS, one of the recommended measures was the creation of Regional Water Augmentation Authorities (RWAA), voluntary organizations to assist local communities in developing future water supplies and water supply infrastructure to meet growing water needs; and

WHEREAS, these regional authorities would provide a needed mechanism to allow local water users to pool their common resources to develop necessary water supply projects.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF PRESCOTT VALLEY AS FOLLOWS:

SECTION 1. That the Town Council of the Town of Prescott Valley hereby supports the passage of HB 2338 in its entirety and encourages the legislature to pass this bill and forward to the Governor for her signature and implementation.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the Town of Prescott Valley this 7th day of February, 2013.

____

HARVEY C. SKOOG, Mayor

ATTEST:

____
Diane Russell, Town Clerk

APPROVED AS TO FORM:

____
Ivan Legler, Town Attorney

Northern Arizona Municipal Water Users Association

NAMWUA Members:

Town of Chino Valley

Town of Clarkdale

City of Cottonwood

City of Flagstaff

Town of Payson

City of Prescott

Town of Prescott Valley

City of Sedona

City of Williams

February 7, 2013

The Honorable Brenda Barton
Arizona House of Representatives
1700 W. Washington, Room 111
Phoenix, AZ 85007-2890

Subject: HB 2338 Regional Water Augmentation Authorities

Dear Representative Barton,

I am writing specifically to ask you to support HB 2338, which allows local communities and other public and private entities to voluntarily establish regional water augmentation authorities. The bill also stipulates an appropriation to the water supply development revolving trust fund. Features of the bill can serve to assist all Arizona water providers in meeting their future water demands.

Many urban and rural areas throughout the State are faced with projected unmet water demands over the next 25 years that could have serious undesirable effects on Arizona's economy. Continued use of currently available supplies to meet those projected unmet water demands may also result in unacceptable impacts to the environment. Water can be expected to be more expensive as regional water projects move water from where it is available to where it is needed; yet creating the necessary infrastructure to provide reliable water supplies is the only way to ensure a sustainable economy and our quality of life. Regional water augmentation authorities offer an opportunity for water providers to pool their resources, pursue water supply augmentation alternatives regionally, and reduce the impact of future water costs. The appropriation to the water supply development revolving trust fund will serve to "seed" this source of loans and avoid new taxes.

We recognize and respect your interest in our State's growing water concerns and appreciate your support for HB 2338. We need your help in ensuring that this important piece of legislation is enacted into law. Thank you for your efforts.

Sincerely,

Mayor Kenny Evans
Chairman of the Board of Directors
Northern Arizona Municipal Water Users Association

Mailing Address: Northern Arizona Municipal Water Users Association
3624 E. Mesquite Street, Gilbert, AZ 85296-1832
Telephone: 480-299-5764, E-Mail: rdoba@cox.net

TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 7. f.**

Meeting Date: 02/26/2013
Contact Person: Jami Lewis
Department: Council
Item Type: Action
Estimated length of staff presentation: None
Physical location of item: State Wide

AGENDA ITEM TITLE:

Consideration and possible action to authorize the Mayor to sign a letter on behalf of the Council to the State Legislature with regard to the recommendations made in the final report by the Governor's TPT Simplification Task Force.

RECOMMENDED ACTION:

To be determined per Council discussion.

SITUATION AND ANALYSIS:

On January 22, 2013, Council approved sending a letter to the Town's legislators regarding its opposition to three particular recommendations in the Governor's TPT Simplification Task Force final report. Vice-Mayor Tenney is recommending that the Mayor send the letter again to the legislators to reinforce the Town's position.

Fiscal Impact

Fiscal Impact?: No
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Letter to Legislators, Tax Matters

MAYOR'S OFFICE
202 N. STATE ROUTE 89
CHINO VALLEY, ARIZONA 86323

TELEPHONE (928) 636-2646
FAX (928) 636-2144
www.chinoaz.net

February 27, 2013

The Honorable Steve Pierce
State Senator
1700 West Washington Street – Senate
Phoenix, AZ 85007

The Honorable Karen Fann
State Representative
1700 West Washington Street – House
Phoenix, AZ 85007

The Honorable Andy Tobin
State Representative
1700 West Washington Street – House
Phoenix, AZ 85007

Dear State Legislators:

The Town of Chino Valley Town Council would like to go on record as being strongly opposed to three of the recommendations included in the final report by the Governor's TPT Simplification Task Force. These recommendations are:

1. Require state administration of sales tax for all municipalities.
2. Require the Department of Revenue (DOR) to conduct all sales tax audits.
3. Eliminate the construction sales tax to be replaced by a retail sales tax at the point-of-sale of construction materials.

The Chino Valley Council opposes state administration of sales tax for all municipalities as DOR does not have the resources necessary to absorb the responsibilities of the cities that currently collect their own sales taxes. It would take a significant budget increase to DOR in order to ensure proper administration; funds that could be used for other budget priorities the state is facing. This issue equally harms program and non-program cities; if DOR is tasked with administering the entire state, all participants will receive subpar services. As a program town, our staff has found that DOR already struggles with providing program cities / towns with timely information. Adding the non-program cities to their workload will only make their job more difficult.

Instead of this requirement, proper utilization of the online portal for the remittance of sales taxes and licensing approved last year, will solve the very issues that the proponents would like to see addressed, with none of the costs or negative consequences associated with DOR administration.

The Town Council also opposes DOR conducting all sales tax audits, as efficient and timely auditing is a win-win for those involved. It protects those law-abiding businesses that are already paying their taxes, allows the Town to educate small business owners in order to help them comply with the law, and ensures that municipalities receive the revenue they need to provide services to those same taxpayers. Budget cuts have harmed the auditing capacity of DOR and it does not have the resources necessary to properly administer a program of this magnitude.

As the Multi-Jurisdictional Audit Coordinator (MJAC) program, which is already in place, allows a business to choose that just one audit to be done on behalf of all applicable jurisdictions, and as DOR is focused on large, statewide taxpayers, not small, local businesses, moving to statewide auditing will make it difficult for cities and towns to have their individualized needs met. As a town that uses the service of a private auditor, this change will eliminate a private enterprise in rural areas and create more state jobs at the Capitol.

The Town Council also strongly opposes the Task Force's recommendation with regard to retail sales on construction materials as it shifts money away from the areas impacted by growth. Moving to such a system means that unless a city or town has regional retail centers that sell construction materials, the sales tax collected from those construction projects will go outside that community to areas that have such centers, including retail centers out of state. In the Town's case, we would not be able to utilize this revenue to offset the increased demands on town services brought about by the construction. This equates to yet another tax reduction for not only the Town and other local governments, but to the state as well.

This recommendation also represents a significant tax policy shift: a new way of dealing with manufacturers that has not been given serious discussion and analysis and should not be done in haste or in a piecemeal fashion. Based on available data, there is no way to estimate the impact to local sales tax revenue. Any errors in the Task Force's assumptions may result in significant budget losses at the state level that it cannot afford to risk. Overall, this change will lead to huge budget losses to rural and small town municipalities, including the Town of Chino Valley, as it will send that revenue to urban Arizona or out of state.

In conclusion, the first two recommendations from the Task force would be detrimental to rural Arizona, and recommendation #3 would be absolutely devastating. The Chino Valley Town Council strongly urges you to oppose these measures which would undermine the financial stability of rural Arizona cities and towns.

Respectfully,

Chris Marley, Mayor
Town of Chino Valley
On Behalf of the Chino Valley Town Council

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TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 7. g.**

Meeting Date:	02/26/2013
Contact Person:	Jami Lewis, Town Clerk Phone: 928-636-2646 x-1208
Department:	Council
Item Type:	Action
Estimated length of staff presentation:	None
Physical location of item:	Heritage Middle School

AGENDA ITEM TITLE:

Consideration and possible action regarding Council sponsorship of a booth in the amount of $200, and participation in the annual Chino Valley Area Chamber of Commerce Health and Business Expo on April 20, 2013.

RECOMMENDED ACTION:

To be determined per Council discussion.

SITUATION AND ANALYSIS:

Staff has received an invitation from the Chamber for booth-sponsorship at the annual business expo on March 20, 2013. Council has sponsored a booth at this event in the past and needs to determine whether or not to submit an application for the event this year and who will man the booth. The event is from 10:00 a.m. to 3:00 p.m.

Fiscal Impact

Fiscal Impact?:	Yes
If Yes, Budget Code:	01-50-5225
Available:	200.00

Funding Source:

Mayor and Council public relations line.

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TOWN OF CHINO VALLEY
COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting **Item No. 7. h.**

Meeting Date:	02/26/2013
Contact Person:	Jami Lewis, Town Clerk Phone: 928-636-2646 x-1208
Department:	Council
Item Type:	Action
Estimated length of staff presentation:	None
Physical location of item:	N/A

AGENDA ITEM TITLE:

Consideration and possible action with regard to the Town obtaining a Platinum Sponsorship with the Chino Valley Area Chamber of Commerce in the amount of $2,500.

RECOMMENDED ACTION:

To be determined per Council discussion.

SITUATION AND ANALYSIS:

Mayor Marley has requested that Council discuss the possibility of obtaining a Platinum Sponsorship with the Chino Valley Area Chamber of Commerce.

On February 14, 2012, Council voted to approve the $2,500 expenditure for the Town to obtain the sponsorship as a way to support local businesses. Such sponsors were: (i) recognized at Chamber business luncheons, mixers, and business and educator's breakfasts, on the first page of the Chamber's website and in the Chamber newsletter; (ii) afforded premier sponsorship of all Chamber events; and (iii) granted a complementary table for 8 at Winter Wonderland or a foursome at the Golf Tournament—all for an estimated value of $7,500. Due to the gifting clause in state statute, the Town is not able to accept the gifts under item (iii).

Other Pertinent Documents Available Upon Request:

February 12, 2012 minutes: http://www.chinoaz.net/clerk/townagenda.shtml