

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item: 7
Tab Number: 1
Date: 5-20-2013

Date Submitted:
May 14, 2013

Date Requested:
May 20, 2013

Action:
 Resolution
 Ordinance
 Formal
 Other

Subject: Acquisition of back tax properties for back nine (9) of the Twin Lakes Golf Course

TO: MAYOR AND COUNCIL

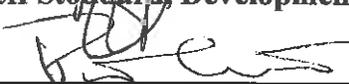
FROM: Jeff Stoddard, Development Services Department

DIRECTION: This department receives notifications from the Cochise County Treasurer on owed Back Tax properties located within the City of Willcox limits. In the past years the City has paid off some of these back taxes properties located around City Waste Treatment Ponds for the expansion of the ponds, and also separation from public properties. The properties that we have received notice from Cochise County are within the area of what was going to be the Back Nine (9) of Twin Lakes Golf Course (see attachment A). This department would like to know if Council wishes this department to proceed with paying off these back taxes on properties located along the proposed Twin Lakes back nine (9) (see attachment A, B, and C) and bring back any future Twin Lakes Back Nine (9) back tax properties to the City Council. There are also two (2) other properties (see attachment A, D, and E) located close to the back nine (9), would Council like to pursue these back tax properties. This department will bring back the back tax pay off amounts to City Council before pursuing this matter any further.

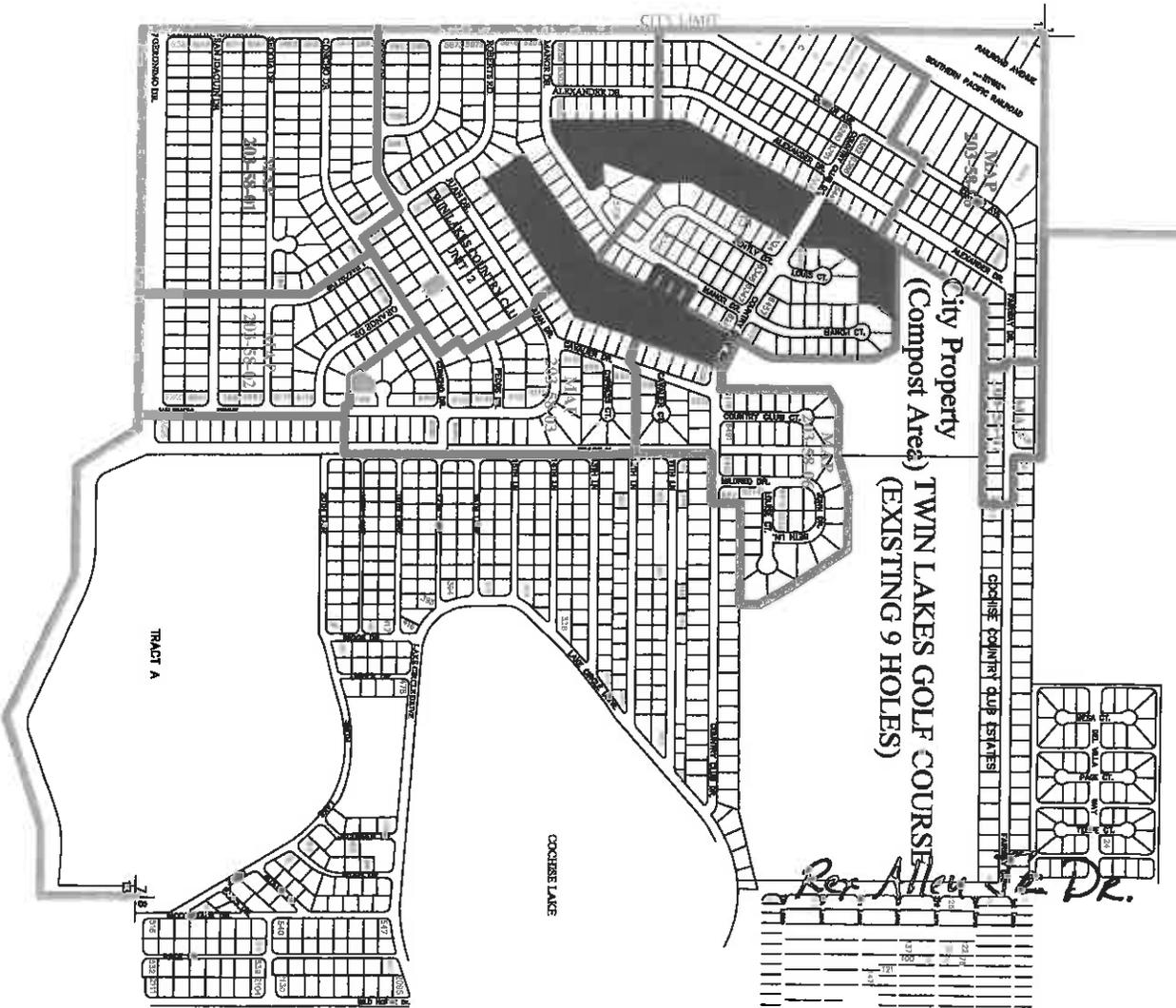
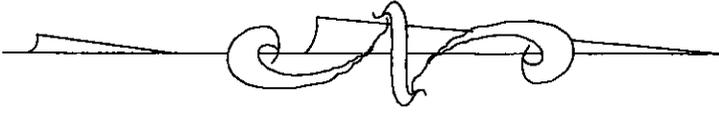
RECOMMENDATION: It is recommendation of this department that we pursue the properties located along proposed Twin Lakes back nine (9) if Council would like to expand the Twin Lakes Golf Course.

FISCAL IMPACT: None at this time.

Prepared by: 
Jeff Stoddard, Development Services

Approved by: 
Pat McCourt, City Manager

A



Proposed Twin Lakes Back Nine (9)

Back Tax properties

B

COUNTY OF COCHISE
OFFICE OF THE TREASURER AND TAX COLLECTOR

Catherine L. Traywick
Treasurer

P.O. Box 1778
Bisbee, AZ 85603

Phone (520) 432-8400
Fax (520) 432-8438

Maria C. Pitzlin
Chief Deputy

Email: trsweb@cochise.az.gov

CERTIFIED MAIL

March 29, 2013

City of Willcox
101 S Railroad Ave
Willcox, AZ 85643

NOTICE IS HEREBY GIVEN THAT:

The State of Arizona has applied for a Treasurer's Deed to the following described real property situated in Cochise County, State of Arizona:

Owner: SEE ATTACHED

Parcel: SEE ATTACHED

Legal: SEE ATTACHED

RECEIVED

APR 01 2013

OFFICE OF CITY MANAGER

Against which a lien for taxes, interest, fees, penalties and charges was sold on February 22, 2007 to the State of Arizona.

I will convey said premises to the State of Arizona if redemption according to law is not made before JULY 1, 2013.

Contact the Back Tax Division of the office in writing for the cost to redeem.

CATHERINE L. TRAYWICK
TREASURER OF COCHISE COUNTY
STATE OF ARIZONA



By: Kevin Pyles

PARCEL

LEGAL DESCRIPTION

203-58-081-6 Twin Lakes Country Club #12 Lot 5946

Owner: Euro-Business Services, Inc.

PARCEL

LEGAL DESCRIPTION

203-58-311-4 Twin Lakes Country Club #12 Lot 6141

Owner: Sam Fazio

PARCEL

LEGAL DESCRIPTION

203-58-540-2 Twin Lakes Country Club #12 Lot 6235

Owner: Euro-Business Services, Inc.

PARCEL

LEGAL DESCRIPTION

203-58-541-5 Twin Lakes Country Club #12 Lot 6236

Owner: William McDonald

PARCEL

LEGAL DESCRIPTION

203-58-542-8 Twin Lakes Country Club #12 Lot 6237

Owner: William McDonald

PARCEL

LEGAL DESCRIPTION

203-58-587-9 Twin Lakes Country Club #12 Lot 6531

Owner: Richard A. Boisselle

- - - - -

PARCEL

LEGAL DESCRIPTION

203-58-588-2 Twin Lakes Country Club #12 Lot 6530

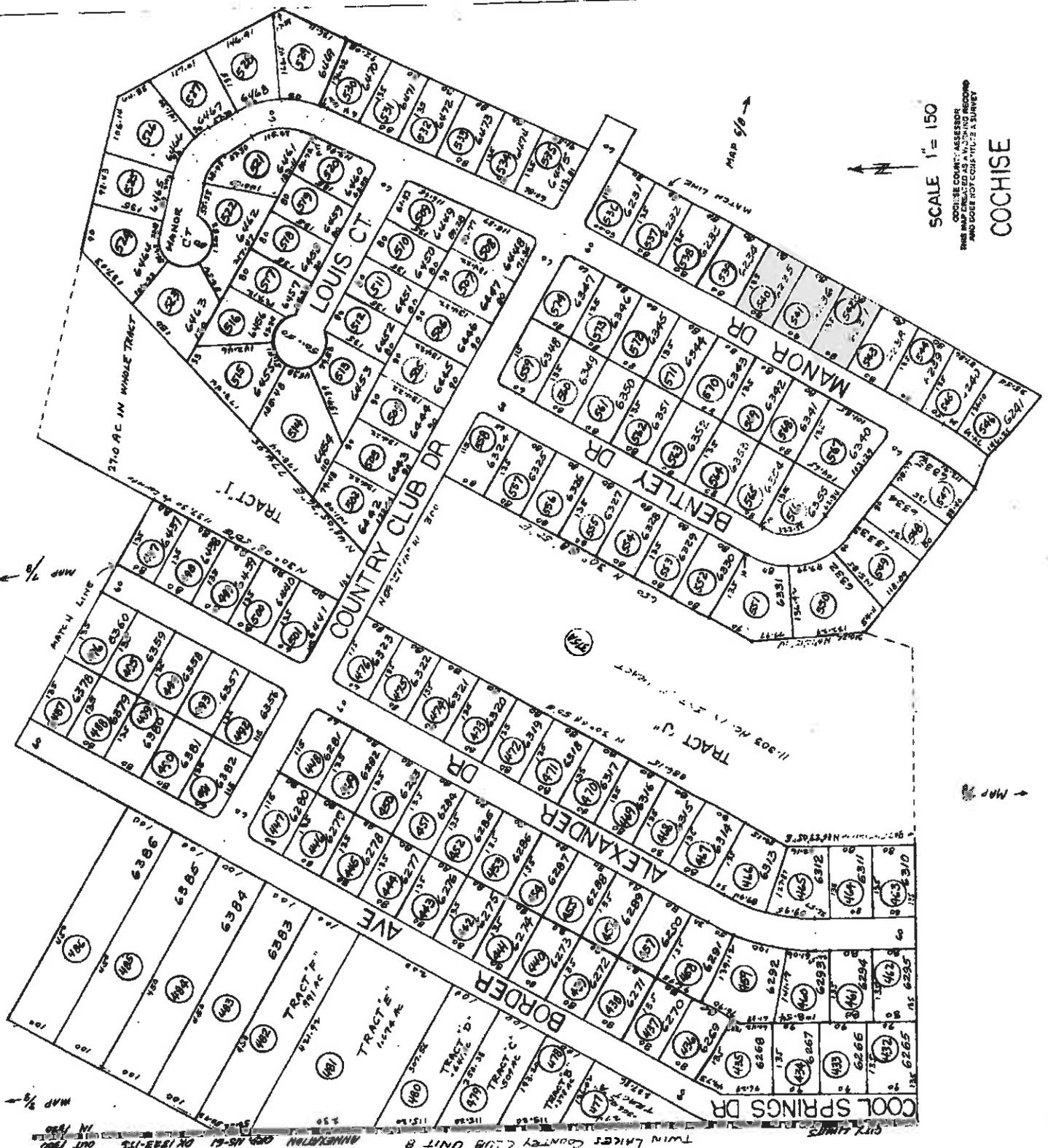
Owner: Richard A. Boisselle

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BOOK 203
MAP 58 5/8
See MAP 4-5

TWIN LAKES COUNTRY CLUB
UNIT TWELVE

SEC 7 TN14 RG25



SCALE 1" = 150
COCHISE COUNTY ASSESSOR
THIS MAP PREPARED AS A FIELD RECORD
AND DOES NOT CONSTITUTE A SURVEY
COCHISE

TWIN LAKES COUNTRY CLUB UNIT 12
AMMUNITION AND GAS EX 1583-155
EX 1583-155
CUT 1980
MAP 7/8

MAP 7/8

CITY LIMITS

C

SEC 7 TN 14 RG 25

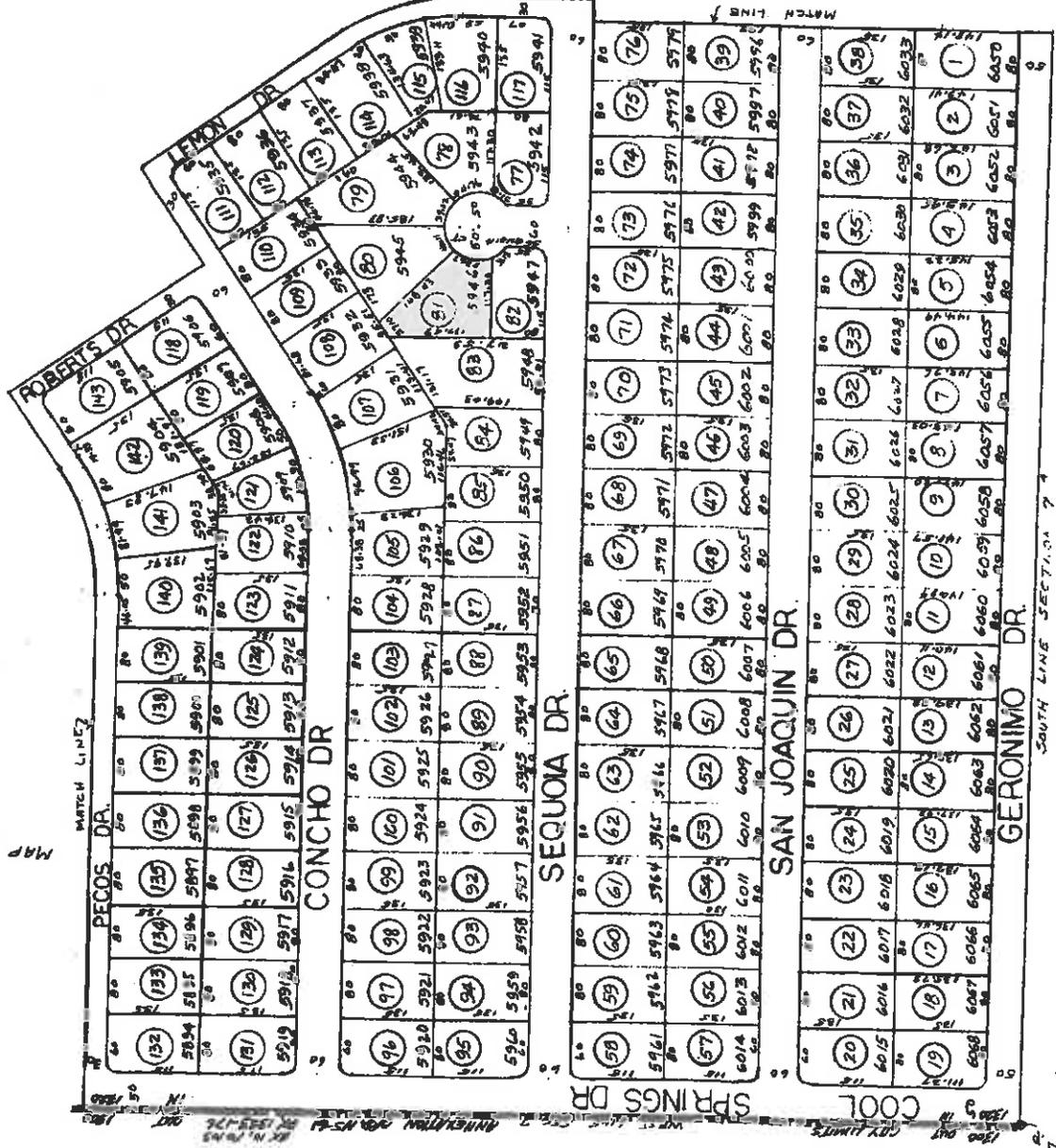
TWIN LAKES COUNTRY CLUB
UNIT TWELVE

BOOK 203
MAP 58 1/8

See MAP 45

Note: Lots 5846 thru 5925
5927 " 5934
5936 " 6240
6242 " 6314
6316 " 6320
6322 " 6353
6355 " 6547
TRACT A " TRACT O
Covers Lots 5926-5935
6026-6035

MAP 1/8



MAP 2/8



SCALE 1" = 150'

COCHISE COUNTY, ARIZONA
THIS MAP CREATED AS A WORKING RECORD
AND DOES NOT CONSTITUTE A SURVEY

COCHISE

SOUTH LINE SECTION 7

TWIN LAKES COUNTRY CLUB

SEC 7

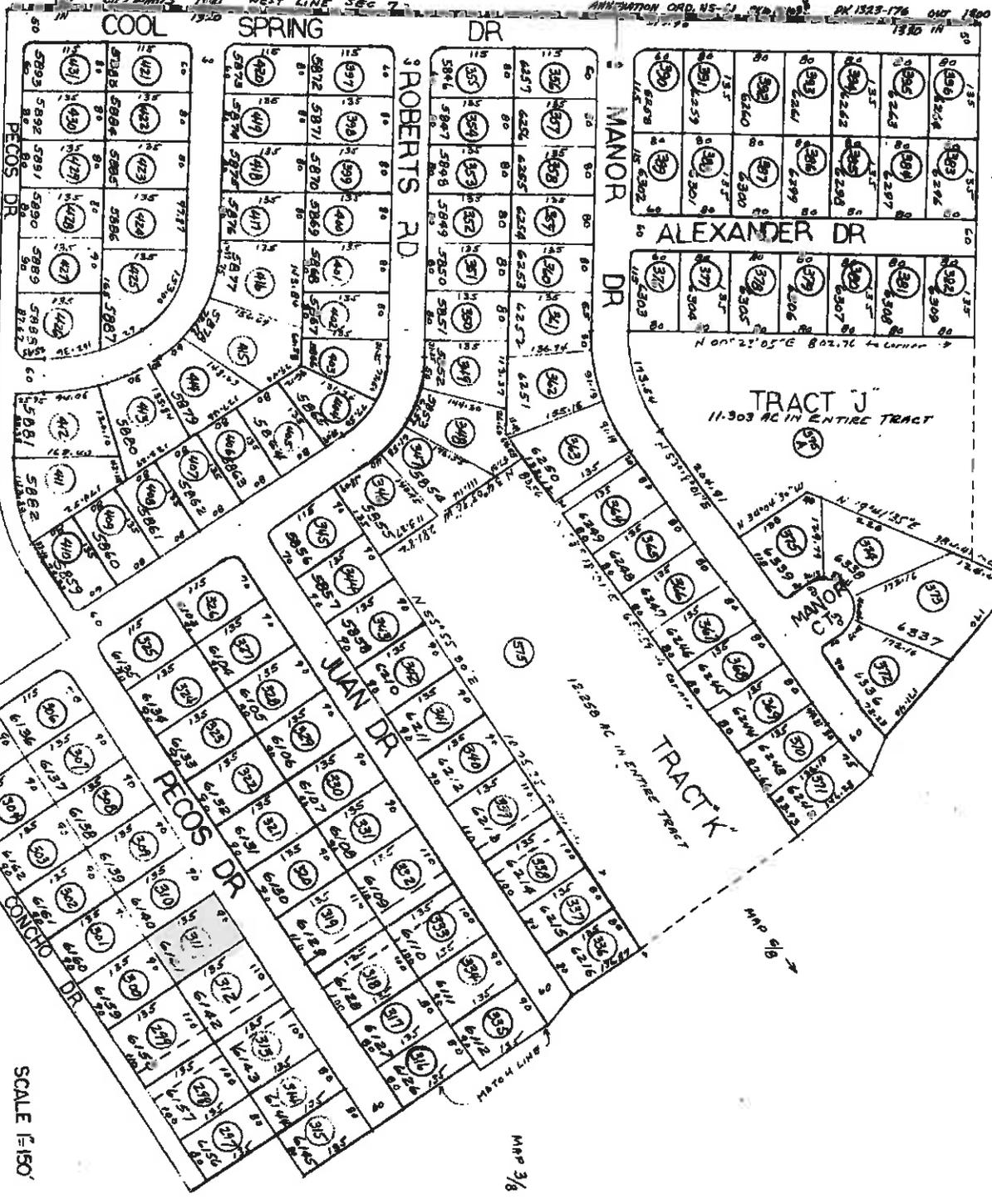
SECT 7N14R625

TWIN LAKES COUNTRY CLUB
UNIT TWELVE

BOOK 203
MAP 58 3/8
See map 45

E

TWIN LAKES COUNTRY CLUB UNIT A
ANNEXATION ORD. 95-21 9/20/95
PX 1523-176 01/19/00



SCALE 1"=150'

COCHISE COUNTY, AZ, 1950
MAG. CLAR. ORIENTED, 1/23/50, 1/23/50, 1/23/50
RECORDS NOT COMPLETED AS SHOWN

COCHISE

**CITY OF WILLCOX
Request for Council Action**

Agenda Item: 8
Tab Number: 2
Date: 5-20-2013

Date Submitted:
May 10, 2013
Date Requested:
May 20, 2013

Action:
 Resolution
 Ordinance
 Formal
 Other

Subject: The Rex
Allen Museum would
like a street closure
between Stewart and
MAley.

To: Honorable Mayor and City Council

From: Public Services and Works, Streets Section

Discussion: The Rex Allen Museum would like to have a street closure between Maley and Stewart Streets on May 25, 2013 from 6:00am until 5:00pm for the 7th annual Willcox Rod and Classic Car Show. All businesses affected by this street closure have signed the street closure request form.

Recommendation: Staff recommends that the Mayor and Council grant permission for the closure of Stewart and Maley Streets for the car show.

Fiscal Impact: 0.00

Prepared By: Kate Schwartz
Kate Schwartz, Public Works

Approved By: John Bowen
John Bowen, Director Public Works

Approved By: Pat McCourt
Pat McCourt, City Manager

Street Closure Request Form

Name of Applicant

Rex Allen Museum

Date of Request

5-10-2013

Address

150 Railroad Ave

Phone Number

507 8330

Event or Event Sponsor for Street Closure

7th Willcox Rod & Classic Car Show

Date(s) Requested for Street Closure

May 25th, 2013

Times for Street Closure

6:00 - 5:00 pm
4:15

Street(s) to be closed - Beginning and ending points.

Stewart - Maleny

The applicant understands that a certificate of liability insurance for \$1,000,000 naming the City of Willcox as additionally insured must be supplied with this application in order for the request to be fully executed and processed. Additionally, the City of Willcox requests that all adjacent property owners be notified of the intent to close the street and offered an opportunity to make comments to the Mayor and City Council. Comments may be submitted to the City Clerk prior to the council meeting or may be stated in the public meeting.

Applicant Signature



Received By



Date

5-10-2013

Date



PETITION TO CLOSE RAILROAD AVENUE, BETWEEN

ON May 25th, 2013
DATE(S)

FROM 6:00 am TO 5:00 pm
START TIME END TIME

FOR THE PURPOSE OF fundraiser
EVENT

~~Willcox Commercial, ok to close~~ closed

1.) ~~Rex Allen Museum, ok to close~~ Gladys Ols

2.) ~~Rex Allen Theater, ok to close~~ Willcox Historic Theater
Gary Ernest

3.) ~~Rodney's, ok to close~~ Rodney's

~~Palace Saloon, ok to close~~ closed

4.) ~~Desert Moon Gifts, ok to close~~ Flying Leap
Closed

5.) ~~Old West Mercantile, ok to close~~ Shaw's

6.) ~~Friends of Marty Robbins, ok to close~~ Juanita Buckley

7.) ~~Keating Schaefer, ok to close~~

8.) ~~Battery 94, ok to close~~

9.) ~~Buffalo Sisters, ok to close~~

10.) ~~Big TX, ok to close~~ [Signature]

CITY OF WILLCOX
Request for Council Action

Agenda Item: 9
Tab Number: 3
Date: 5-20-2013

Date Submitted:

May 14, 2013

Date Requested:

May 20, 2013

Action:

Resolution

Ordinance

Formal

Other

Subject:

Pump Bowl

Replacement for

Irrigation Pump at

Twin Lakes Golf

Course

To: Honorable Mayor and City Council

From: John Bowen, Director Public Services and Works

Discussion:

The pump for the irrigation system at Twin Lakes Golf Course is worn out and no longer providing needed pressure. While troubleshooting, Raymond Osornio, Utility Worker III, and Bills Pump, eliminated various possibilities of the cause of loss of pressure. The consensus was the bowls were worn and need to be replaced to maintain pressure and GPM's necessary to operate the irrigation system.

Staff contacted three (3) pump companies requesting quotes per purchasing policy requirements. Bill's Pump Service quoted \$7,517.10; Farwest Pump quoted \$12,000, and Gilbert Pump contacted Mr. Bowen via phone declining the project.

Recommendation:

Staff recommends hiring Bill's Pump Service to replace the irrigation pump at Twin Lakes Golf Course for a total cost of \$7,517.10.

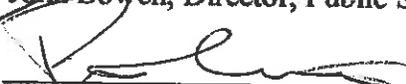
Fiscal Impact:

The replacement of Pump Bowl is an emergency repair which was not budgeted. \$7,517.10 from Sewer Equipment Repair and Maintenance

Prepared By:


John Bowen, Director, Public Services and Works

Approved By:


Pat McCourt, City Manager

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

RESOLUTION 2013-29

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, "CITY", APPROVING A BID FROM BILL'S PUMP SERVICE FOR THE REFURBISHING OF THE IRRIGATION PUMP AT THE TWIN LAKES GOLF COURSE; DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the CITY is empowered pursuant to Arizona Revised Statutes, Title 9, Section 9-240(A) to have control of the finances and property of the corporation; and,

WHEREAS, the CITY has determined that the irrigation pump located at the Twin Lakes Golf Course must be refurbished to maintain pressure and the required gallons per minute necessary to operate the irrigation system; and,

WHEREAS, CITY staff requested quotes from three (3) companies for the parts and labor required and Bill's Pump Services responded with the lowest quote of \$7,517.10; and,

WHEREAS, the Mayor and City Council of the City of Willcox desire to have this Resolution presented at the May 20th, 2013, Regular Council Meeting; and,

WHEREAS, the Mayor and City Council have determined that formal action on this Resolution is in the best interest of the CITY and its citizen.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, as follows:

SECTION 1: The Mayor and City Council hereby authorize and approve the bud for parts and labor to refurbish the irrigation well located at the Twin Lakes Golf Course from Bill's Pump Service in the amount of \$7,517.10; and,

SECTION 2: CITY Officials and Administrators are authorized and directed to take all action required to refurbish the irrigation well located at the Twin Lakes Golf Course from Bill's Pump Services responded with the lowest quote of \$24,837.38; and,

SECTION 3: That the Mayor is authorized and empowered to execute the Resolution as presented.

**PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF
THE CITY OF WILLCOX, ARIZONA, this 20th day of May, 2013.**

APPROVED/EXECUTED:

ROBERT A. IRVIN, MAYOR

ATTEST:

VIRGINIA A. MEFFORD, City Clerk

APPROVED AS TO FORM:

ANN P. ROBERTS, City Attorney

RESOLUTION 2013-29

Quotation

FARWEST PUMP CO.-WILLCOX
P.O. BOX 757
800 E. MALEY
WILLCOX, AZ. 85644

Quote Date: May 8, 2013

Quoted to: **City of Willcox**

Att: John Bowen

Page:1

Customer ID	Good Thru	Payment Terms	Sales Rep

Description	Amount
AS Per your Request we are pleased to provide the following prices on the Golf Course Booster Pump	
Labor to pull and re-install Booster Pump	
Labor to disassemble and change out Bowl Assembly and re-assemble Booster Pump	
1 each Headshaft	\$12,000.00
NOTE: ANY OTHER PARTS ARE EXTRA PLUS APPLICABLE TAXES	

John Bowen

From: Administrative Assistant <aa@farwestwell.com>
Sent: Wednesday, May 08, 2013 10:30 AM
To: John Bowen
Subject: Re: Bid for Replacement of Pump Bowl Assembly at Twin Lakes Golf Course
Attachments: City of Willcox.doc

John,

Please find attached our company's bid for the above referenced project.

Should you have any questions or require further information, please contact Joel at joel@farwestwell.com or you may feel free to call our office.

Janyth Schnick
Administrative Assistant
Farwest Pump Company
800 E. Maley
Willcox, Arizona 85643
520-384-2245 Phone
520-384-2246 Fax

John Bowen, Utility Supervisor
CITY OF WILLCOX
Public Services & Works



250 N. Railroad Ave
Willcox, Arizona 85643-2198
Phone: 520/384-6447 Fax: 520/384-3993
jbowen@willcoxcity.org

May 6, 2013

To Whom It May Concern:

The City of Willcox is accepting bids for the Replacement of Pump Bowl Assembly on the irrigation pump at Twin Lakes Golf Course located in Willcox, AZ. The pump specifications and material list is as follows:

SC12C – 4 stage bowl assembly
1 1/16" x 60" C-1045 head shaft
Graphite packing materiel
Rubber spider bushing
3" bronze pressure relief valve (discharges 400 gpm @ 125 psi)
Miscellaneous plumbing supplies
8" ANSI blind flange with gasket and hardware

All applicable taxes are to be included in the bid.

Motor Specifications:
Total Dynamic Head: 117 psi (272 ft)
Capacity: 550
Pump Speed: 1750 ± RPM
Driver Speed: 1750± RPM
Motor HP: 50
Phase: 3
Cycles: VFD
Volts: 480

- The total down time cannot exceed two (2) days. Work to be completed and operational by May 21, 2013.
- The listed blind flange is to seal the piping so a smaller jockey pump can be utilized during the replacement process.

NOTE: The pump is housed in a building with a 12' roll-up door and a removable roof panel for access.

Bids are due by May 8, 2013 at 3:00 pm. Fax and e-mail bids will be accepted with hard copy to follow.

If you have any questions, please contact me at (520)384-6447 or by cell phone at (520)507-0443.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Bowen', with a long horizontal flourish extending to the right.

John Bowen
c. Pat McCourt, City Manager

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item 10
Tab Number 4
Date: 5-20-2013

Date Submitted:
May 7, 2013
Date Requested:
May 20, 2013

Resolution
 Ordinance
 Formal
 Other

Subject: Lease of City
Billboard Lots

TO: MAYOR AND COUNCIL

FROM: Jeff Stoddard, Supervisor of Development Services

DISCUSSION/DECISION/DIRECTION;

Subject: Request for Proposal (RFP) and Long Term Lease Agreements on Willcox Billboard Permit Areas:

The City of Willcox has three (3) remaining billboard permit areas (see attachment A) located along westbound I-10. This Lease agreement (attachment B) is for Companies/Businesses to lease these areas and to build a billboard to suit for their purpose/use. The Lease agreement will be a long term agreement (ten years with an option of five additional years), when agreement has concluded its term the billboard will then become the property of the City. The Development Services Department is asking Council to extend this standard RFP and Lease agreement for the remaining three Willcox Billboard Permit areas until on billboard areas are leased. Once staff receives a RFP for any of the three (3) remaining billboard areas they will bring to Council for their Discussion/Decision/Direction.

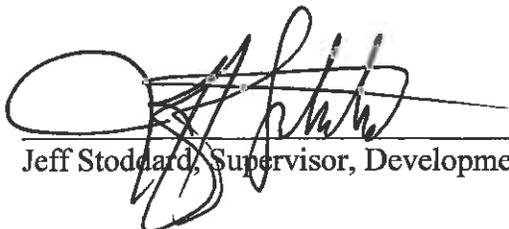
RECOMMENDATION: It is the recommendation of this department to extend this standard Request for Proposal (RFP) and Willcox Billboard Lease Contract.

FISCAL IMPACT: The Billboard Lease Agreement would add to the General Fund per billboard: A minimum of \$2,400.00 per year for the first five years, two hundred (\$200.00) dollars a month. \$3,000.00 per year for the second five years, two hundred and fifty (\$250.00) dollars a month. Renewal see paragraph 4 of Lease agreement.

For one (1) ten (10) year billboard lease agreement, this would bring a minimum of twenty-seven thousand (\$27,000.00) dollars to the General Fund.

Submitted by:

Approved by:


Jeff Stoddard, Supervisor, Development Services


Pat McCourt, City Manager

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

RESOLUTION 2013-30

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, ARIZONA, "CITY", APPROVING THE EXTENSION OF THE REQUEST FOR PROPOSALS FOR THE CITY OF WILLCOX BILLBOARD PERMIT AREAS; DIRECTING AUTHORIZED CITY OFFICERS, AGENTS AND CITY STAFF TO CONTINUE TO RECEIVE PROPOSALS AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION.

WHEREAS, the CITY is empowered pursuant to Arizona Revised Statutes, Title 9, Section §9-240(A), to have control of the finances and the property of the corporation and further, authorized pursuant to Section §9-241, to lease real property of the CITY to carry out the purposes of the corporation; and,

WHEREAS, the CITY continues to have three (3) Billboard locations along westbound Interstate 10 that have been permitted by the State of Arizona and CITY wishes to continue to make such locations available for the construction and lease of Billboards for advertising; and,

WHEREAS, CITY wishes to re-advertise the previous Request for Proposals, which is attached hereto as Exhibit "A" and continue to receive proposals for the construction and lease of Billboards on the remaining CITY locations; and,

WHEREAS, the Mayor and City Council have determined that formal action on this Resolution is in the best interest of the CITY and its citizens and the Mayor and Council desire to have this item presented on May 20, 2013, at the Regular Council Meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, as follows:

Section 1. The Mayor and City Council hereby find and determine that it will be beneficial to the citizens of the City of Willcox to continue to make available for construction and lease, the remaining three (3) Billboard locations permitted by the State of Arizona on westbound Interstate 10; and,

Section 2. The Mayor and City Council hereby approve the previous Request for Proposals, which is attached hereto as Exhibit "A" and direct City staff to re-advertise and to continue to receive proposals for the construction and lease of Billboards on the remaining three (3) CITY locations; and,

Section 3. The Mayor and City staff are hereby authorized and directed to take all actions necessary or reasonably required to carry out the intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, this 20th day of May, 2013.

APPROVED/EXECUTED:

ROBERT A. IRVIN, MAYOR

ATTEST:

VIRGINIA A. MEFFORD, City Clerk

APPROVED AS TO FORM:

ANN P. ROBERTS, City Attorney

RESOLUTION 2013-30

City of Willcox BILLBOARD LEASE

LEASE # _____

This Agreement is made this _____ day of _____, 2013, by and between, the City of Willcox, an Arizona municipal corporation, hereinafter called "LESSOR" and _____, hereinafter called "LESSEE".

DEFINITIONS:

"Line of Sight" shall be defined by an imaginary triangular shaped plane. The starting point of the plane is the lowest and the most distant corner of the face of the billboard. Extend a line the shortest distance to the Right of Way (ROW) of I-10 with the altitude of the line ending at the surface of the pavement of the closest travel lane, this end point will constitute the second point of the triangle. Starting at the second point follow the ROW for 1,000 feet away from the face of the billboard maintaining the elevation of the driving surface of I-10, this end point is the third point of the triangle. From the third point extend a line to the stating point; the resulting triangular shaped plane is the lowest level of the LOS. If the LOS plane extends beyond the City owned Land, the LOS outside of City land is excluded from the LOS as described herein. The Tenant may maintain the area above the LOS and one (1) foot below the LOS free from obstructions.

"Premises" shall be defined as an area of land and its structure.

"Real Property" shall be defined as any property that is attached directly to land, as well as the land itself. Real property not only includes buildings and other structures, but also rights and interests. Real property can be either rental or residential.

TERMS:

1. **PREMISES.** LESSOR does hereby lease to LESSEE space for outdoor advertising purposes a portion of the real property located on Tax Parcel No. 202-72-006, Willcox, Arizona, otherwise known as Billboard _____ site, AZ Permit No. _____, a location mutually agreeable to the parties, such designated area hereinafter being called the "Premises".

2. **TERM.** The term of this Lease shall be ten (10) years beginning on the ____ day of _____, 2013, and end on the ____ day of _____, 2013, subject to the conditions of Paragraph 3 hereof.

Attachment B

3. **RENTAL.** LESSEE shall pay to the LESSOR rental amounts that shall be determined under one the following formulas, **whichever shall produce the greatest rental amount to LESSOR:**

a. **Annual Base Rental Amount:** The base rental amount for Billboard site shall be \$ _____ per year, for the first five (5) years of the ten (10) year rental term. After the first five years of the rental term, the base rental amount shall increase fifty dollars (\$50.00) a month, being \$ _____ per year, for the remaining lease term of years six (6) through ten (10); or,

b. **Annual Subleasing Rental Amount:** In the event that the LESSEE shall sublease the Billboard site subject to the conditions of Paragraph 8, LESSEE'S annual rental payment shall be calculated upon a percentage of the revenue generated by LESSEE'S sublet of the Billboard site. To determining the rental amount due, LESSEE shall be required to provide to LESSOR an annual accounting of all revenues generated by the billboard and LESSEE shall owe to LESSOR a rental payment representing twenty percent (20%) of the annual revenues generated. For example, if one year of revenue generated by the Billboard site for LESSEE totaled seventy five thousand dollars (\$75,000.00), then LESSEE shall be required to pay the City of Willcox, fifteen thousand dollars (\$15,000.00), which would be calculated as twenty percent (20%) of seventy five thousand dollars which equals fifteen thousand dollars (\$15,000.00), as the Annual Subleasing Rental Amount.

4. **RENEWAL OPTION.** LESSEE shall have the right to renew this Lease for one (1) additional five (5) year term upon the same terms and conditions as contained herein, except for Rental Amount, which shall be negotiated and agreed upon by LESSOR and LESSEE no less than thirty (30) days prior to the expiration of the original ten (10) year lease term. Failure of the parties to agree on a mutually acceptable Rental Amount shall result in Lease termination.

5. **USE.** The Premises is leased for the sole purpose of construction, operations and maintenance of outdoor advertising display(s). LESSEE, subject to the conditions contained herein, shall have the sole and exclusive right to display advertising copy on the Premises unless otherwise specified in this Lease Agreement. The LESSEE shall have the right to erect, place and maintain advertising sign structures and equipment on the premises to and to post, paint, illuminate and maintain advertisements on such structures. The LESSEE will maintain area for line of sight (LOS). The LESSOR will designate an area for the LESSEE to access to the outdoor advertising structure. All personal property built upon said Premises by the LESSEE shall become part of the real property of LESSOR, and may not be removed by the LESSEE.

6. **CONSTRUCTION.** Construction of the outdoor advertising structures shall be comprised exclusively of approved materials lasting fifty (50) years. The LESSOR will define all utility easements for outdoor advertising structures. All construction shall be performed by LESSEE or LESSEE'S agents, at LESSEE'S sole cost and expense, in strict conformity with all applicable federal, state and local laws, rules and regulations.

7. **INSURANCE and INDEMNIFICATION.** LESSEE shall maintain, at LESSEE'S sole cost and expense, liability insurance for any and all damages resulting in personal injury or property damage in connection with the erection, servicing, maintenance, removal, replacement of the sign structure(s), equipment and other property placed on the Premises by LESSEE and all other occurrences arising out of LESSEE'S use of the Premises. Such insurance shall name LESSOR as an additional insured/loss

Attachment B

payee and shall be in an amount not less than \$ 1,000,000 and shall contain a provision that the policy shall not be terminated, amended or altered except upon thirty (30) days prior written notice to LESSOR. LESSEE shall provide proof of such insurance no less frequently than annually on the anniversary date of this Lease agreement.

LESSEE shall indemnify and hold LESSOR and all of LESSOR'S affiliated companies, officers, directors and employees, all of such entities collectively being included in the term "LESSOR" for the purposes of this Paragraph, from and against any and all liability arising out of LESSEE'S use of, or act or omission in connection with the Premises. Such indemnification shall included but not be limited to reimbursing LESSOR for all damages, costs, fees, including attorneys' fees, expenses and claims made against LESSOR arising out of LESSEE'S use of the Premises.

The obligation of LESSEE to indemnify LESSOR and hold LESSOR harmless shall survive the termination of this Lease Agreement.

8. SUBLEASING. LESSEE shall have the right to sublease the Premises under the terms and conditions contained herein subject to LESSOR'S prior written consent, such consent not to be unreasonably withheld. In the event of such subleasing, LESSEE shall remain fully liable for all obligations under this Lease Agreement, such subleasing having no effect on LESSEE'S obligations hereunder.

9. TERMINATION. LESSEE shall have the right to cancel this Lease Agreement upon thirty (30) days prior written notice to LESSOR if any of the following occur:

a. LESSEE'S signs or structures on the Premises are or become entirely or substantially obscured or destroyed through no fault of LESSEE and LESSEE chooses not to repair said signs, LESSEE to make such determination within thirty (30) days after the event causing the destruction or obscuration. Failure to make such determination shall be deemed a waiver by LESSEE of such right to cancel. In the event a determination has been made to cancel this contract after thirty (30) days it will be the LESSEE'S sole responsibility to remove the sign or structures which have been damaged or obscured on the Premises;

b. The Premises are or become unsafe for maintenance of LESSEE'S signs or structures, through no fault, act or omission of LESSEE;

c. A permanent diversion of change of traffic occurs along the street or streets adjacent to, or leading past the Premises; or,

d. LESSEE is prevented by a present or future law, regulation or ordinance from constructing or maintaining such signs on the Premises.

10. CONDITIONS PRECEDENT TO LEASE'S EFFECTIVENESS. This Lease Agreement shall become effective and rental due hereunder only upon LESSEE'S signing of this contract. LESSEE shall obtain all necessary permits for the erection or maintenance of such signs as LESSEE may desire to construct or maintain on the Premises; provided however, if such permits are not obtained within sixty (60) days following the commencement of this Lease, LESSOR shall have the unconditional

Attachment B

right to terminate this Lease Agreement upon notice to LESSEE. Once such permits have been obtained, if they should subsequently be lost due to a failure of LESSEE or a desired change of use of the sign, structures or Premises by LESSEE, rental shall continue and shall not be abated.

11. LESSOR'S COVENANTS. LESSOR covenants to LESSEE that:

- a. It has the authority to make this Lease;
- b. It will not permit any other billboards to be erected on the Premises; or,
- c. It will not permit any shrubs, trees, vines, buildings, or other signs or billboards to be planted or erected on the Premises which would obstruct or materially impair the visibility of LESSEE'S structure(s).

12. LESSEE'S COVENANTS. LESSEE covenants to LESSOR that it will:

- a. Promptly pay rental as due pursuant under the terms of this Lease Agreement and abide by all of its terms and conditions;
- b. Keep all signs, structures, billboard, equipment and related property placed on the Premises by LESSEE in good repair;
- c. Use reasonableness in its cutting and trimming of trees, bushes, brush or other vegetation upon the Premises;
- d. Use its best efforts to promptly attempt to procure all permits necessary for construction and maintenance of advertising structures on the Premises, all at LESSEE'S sole cost and expense;
- e. Comply with all laws, regulations, ordinances and rules including but not limited to any and all environmental laws, rules and regulations, applicable to the construction, erection, maintenance, replacement and removal of signs, sign structures and equipment used or placed on the Premises;
- f. Not place in or on, nor bring in or on to the Premises, any hazardous substance, as such term is defined under state or federal law (whichever definition being more expansive).
- g. Not accept or place any advertising in or on any structure on the Premises for any entity or activity which competes with LESSOR or any affiliated entity of LESSOR.

13. LESSOR'S RIGHT TO LEASE STRUCTURE(S). LESSOR shall have the unconditional right, but not the obligation to lease the structure(s) which LESSEE is to place on the Premises on the same terms and conditions as any other licensee or tenant of LESSEE, however the rental for the use of such structure(s) shall be fixed at \$ ____/month when and if LESSOR does rent such structure(s).

Attachment B

14. **MISCELLANEOUS.** The use of gender shall include all genders. The singular number shall include the plural, or the plural the singular, as the context may require. This Agreement shall be binding on the respective successors and to the extent assignable on the assigns or nominees of the parties hereto. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. This Agreement may be recorded in any public office or repository. In case any one or more of the provisions contained in this Agreement, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement constitutes the complete, final and exclusive agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties in connection with this subject matter. This Agreement and the terms and conditions herein may not be modified except by a writing and signed by all parties hereto. LESSOR may freely assign, hypothecate, transfer and convey any or all of its rights, privileges, duties and obligations hereunder. LESSEE shall not assign any of its rights, privileges, duties or obligations hereunder however; LESSEE may sublease the Premises provided it is in strict conformity with Paragraph 8 above. This Agreement may be executed in counterparts with each copy having the full force and effect as if it were one agreement as executed. This Agreement may be executed via facsimile with the same force and effect as if one agreement were executed concurrently by all parties in person.

15. **NOTICES.** Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to LESSOR or LESSEE, as the case may be, at the addresses set forth or, in the alternative, via hand delivery or any recognized overnight delivery service.

LESSOR:
City of Willcox
101 S. Railroad Avenue, Suite B
Willcox, Arizona 85643

LESSEE:

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be signed by their duty authorized representatives.

APPROVED: LESSEE

Date

By:

CITY OF WILLCOX
APPROVED: LESSOR

Date

ROBERT A. IRVIN, MAYOR

Attachment B

ATTEST:

APPROVED AS TO FORM:

VIRGINIA A. MEFFORD, City Clerk

ANN P. ROBERTS, City Attorney

Consent to Billboard Lease Given by Record Title Owner:

BY: _____

COORDINATE TABLE

LETTER	NORTHING	EASTING
A	7988.69	3081.35
B	8006.90	3049.80
C	7593.22	2823.36
D	7568.20	2806.82
E	7543.17	2790.27
F	7576.26	2740.22
G	7601.28	2756.76
H	7626.31	2773.31
I	7151.09	2531.09
J	7126.06	2514.55
K	7101.04	2498.01
L	7134.13	2447.95
M	7159.15	2464.50
N	7184.18	2481.04
O	6708.96	2238.83
P	6683.93	2222.28
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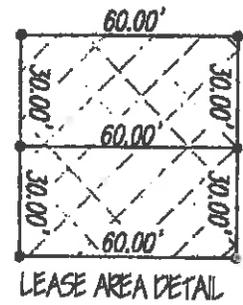
STATION 1833+00
150' LEFT

Billboard
E

EXISTING BILLBOARD

Billboard
F

Billboard
G



Expires 6/30/2013

DRAWN BY: T.M.S.
DATE: 4/25/12
DWG. NO.: 12028T
APPROVED BY: A.W.S.

LEASE EXHIBIT
PROPOSED LEASE PARCELS ALONG THE WESTBOUND RIGHT
OF WAY OF INTERSTATE 10 SOUTH OF FORT GRANT
INTERCHANGE.

SHT. NO.

CITY OF WILLCOX
Request for Council Action

Agenda Item: 11
Tab Number: 5
Date: 5-20-2013

Date Submitted: May 7, 2013	Action: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Formal <input type="checkbox"/> Other	Subject: Discussion/ Decision to accept RFP for Billboard A
---------------------------------------	---	--

To: Honorable Mayor and City Council

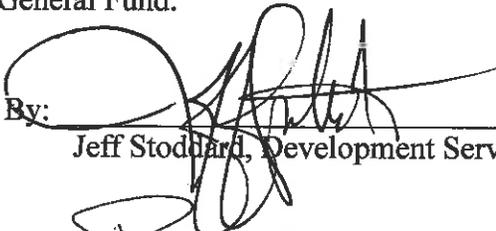
From: Development Services

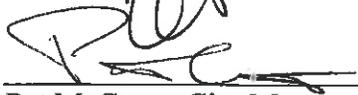
Discussion/ Decision /Direction:

On January 22, 2013, City Council approved going forward with the Request for Proposal (RFP) package for the lease of Billboard properties A, E, F, and G located along west bound I-10. The bid opening was on April 26, 2013 at 3:00 p.m. The City received one bid for Billboard Area A (see attachment A) from John A. & Mary M. Holcomb and Amanda D. Kirkendall for the amount of two hundred (\$200.00) dollars a month or twenty-four hundred \$(2,400.00) dollars a year for first five years and for the second five years you will see a monthly increase of fifty (\$50.00) dollars to bring the monthly amount to two hundred and fifty (\$250.00) dollars per month or three thousand (\$3,000.000) dollars a year, there is an additional option for the extension of five (5) years once the ten (10) year contract is up it is at Councils discretion (see attachment C). All documents were filled out accordingly as requested per the approved RFP package. It is recommendation of staff to accept the bid from John A. & Mary M. Holcomb and Amanda D. Kirkendall and proceed with the lease of Billboard property A. Willcox, AZ 85643.

Recommendation: To accept bid from John A. & Mary M. Holcomb and Amanda D. Kirkendall for Billboard Areas A.

Fiscal Impact: The first five (5) years of the Billboard lease the City will receive twelve thousand (\$12,000.00) dollars and with the increase for the second five (5) years of the contract the City will receive fifteen thousand (\$15,000.00) dollars for a total of twenty-seven thousand (\$27,000.00) dollars for a ten (10) year contract all going to the City of Willcox General Fund.

Prepared By: 
Jeff Stoddard, Development Services Department

Approved By: 
Pat McCourt, City Manager

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

RESOLUTION 2013-31

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, ARIZONA, "CITY", APPROVING BILLBOARD LEASE NUMBER 1-2013, WITH APPLE ANNIE'S ORCHARD, INC., DIRECTING AUTHORIZED CITY OFFICERS, AGENTS AND CITY STAFF TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AS PRESENTED.

WHEREAS, the CITY is empowered pursuant to Arizona Revised Statutes, Title 9, Section §9-240(A), to have control of the finances and the property of the corporation and further, authorized pursuant to Section §9-241, to lease real property of the CITY to carry out the purposes of the corporation; and,

WHEREAS, the CITY presently has four (4) Billboard locations along westbound Interstate 10 that have been permitted by the State of Arizona and CITY wishes to make such locations available for the construction and lease of Billboards for advertising; and,

WHEREAS, Apple Annie's Orchard, Inc., submitted a proposal to CITY to lease from CITY Billboard site A, Arizona State Permit No. 05746, located upon tax parcel No. 202-72-006, under the terms and conditions set forth in City of Willcox Billboard Lease Number 1-2013, presented herewith as Exhibit "A" and incorporated herein; and,

WHEREAS, the Mayor and City Council have determined that formal action on this Resolution is in the best interest of the CITY and its citizens; and,

WHEREAS, the Mayor and City Council desire to have this item presented on the May 20, 2013, Regular Council Meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, as follows:

SECTION 1. The Mayor and City Council hereby find and determine that it is beneficial to the citizens of the City of Willcox to lease CITY Billboard site A, Arizona State Permit No. 05746, located upon tax parcel No. 202-72-006; and,

SECTION 2. The Mayor and City Council hereby approve City of Willcox Billboard Lease Number 1-2013, presented herewith as Exhibit "A", entered into by and between CITY and Apple Annie's Orchard, Inc., said Exhibit being incorporated herein; and,

SECTION 3. The Mayor and City staff are hereby authorized and directed to take all actions necessary or reasonably required to carry out the intent of this Resolution by executing City of Willcox Billboard Lease Number 1-2013, presented herewith as Exhibit "A"; and,

SECTION 4. The Mayor is hereby authorized and directed to execute this Resolution as presented and approved.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, this 20th day of May, 2013.

APPROVED/EXECUTED:

ROBERT A. IRVIN, MAYOR

ATTEST:

VIRGINIA A. MEFFORD, City Clerk

APPROVED AS TO FORM:

ANN P. ROBERTS, City Attorney

RESOLUTION 2013-31

City of Willcox BILLBOARD LEASE

LEASE # 1-2013

This Agreement is made this 20 day of May, 2013, by and between, the City of Willcox, an Arizona municipal corporation, hereinafter called "LESSOR" and Apple Annie's Orchard Inc., hereinafter called "LESSEE".

DEFINITIONS:

"Line of Sight" shall be defined by an imaginary triangular shaped plane. The starting point of the plane is the lowest and the most distant corner of the face of the billboard. Extend a line the shortest distance to the Right of Way (ROW) of I-10 with the altitude of the line ending at the surface of the pavement of the closest travel lane, this end point will constitute the second point of the triangle. Starting at the second point follow the ROW for 1,000 feet away from the face of the billboard maintaining the elevation of the driving surface of I-10, this end point is the third point of the triangle. From the third point extend a line to the stating point; the resulting triangular shaped plane is the lowest level of the LOS. If the LOS plane extends beyond the City owned Land, the LOS outside of City land is excluded from the LOS as described herein. The Tenant may maintain the area above the LOS and one (1) foot below the LOS free from obstructions.

"Premises" shall be defined as an area of land and its structure.

"Real Property" shall be defined as any property that is attached directly to land, as well as the land itself. Real property not only includes buildings and other structures, but also rights and interests. Real property can be either rental or residential.

TERMS:

1. **PREMISES.** LESSOR does hereby lease to LESSEE space for outdoor advertising purposes a portion of the real property located on Tax Parcel No. 202-72-006, Willcox, Arizona, otherwise known as Billboard A site, AZ Permit No. 05746#, a location mutually agreeable to the parties, such designated area hereinafter being called the "Premises".

2. **TERM.** The term of this Lease shall be ten (10) years beginning on the 20 day of May, 2013, and end on the 20 day of May, 2013, subject to the conditions of Paragraph 3 hereof.

3. **RENTAL.** LESSEE shall pay to the LESSOR rental amounts that shall be determined under one the following formulas, **whichever shall produce the greatest rental amount to LESSOR:**

a. **Annual Base Rental Amount:** The base rental amount for Billboard site shall be \$ 200.00 per year, for the first five (5) years of the ten (10) year rental term. After the first five years of the rental term, the base rental amount shall increase fifty dollars (\$50.00) a month, being \$ 250.00 per year, for the remaining lease term of years six (6) through ten (10); or,

b. **Annual Subleasing Rental Amount:** In the event that the LESSEE shall sublease the Billboard site subject to the conditions of Paragraph 8, LESSEE'S annual rental payment shall be calculated upon a percentage of the revenue generated by LESSEE'S sublet of the Billboard site. To determining the rental amount due, LESSEE shall be required to provide to LESSOR an annual accounting of all revenues generated by the billboard and LESSEE shall owe to LESSOR a rental payment representing twenty percent (20%) of the annual revenues generated. For example, if one year of revenue generated by the Billboard site for LESSEE totaled seventy five thousand dollars (\$75,000.00), then LESSEE shall be required to pay the City of Willcox, fifteen thousand dollars (\$15,000.00), which would be calculated as twenty percent (20%) of seventy five thousand dollars which equals fifteen thousand dollars (\$15,000.00), as the Annual Subleasing Rental Amount.

4. **RENEWAL OPTION.** LESSEE shall have the right to renew this Lease for one (1) additional five (5) year term upon the same terms and conditions as contained herein, except for Rental Amount, which shall be negotiated and agreed upon by LESSOR and LESSEE no less than thirty (30) days prior to the expiration of the original ten (10) year lease term. Failure of the parties to agree on a mutually acceptable Rental Amount shall result in Lease termination.

5. **USE.** The Premises is leased for the sole purpose of construction, operations and maintenance of outdoor advertising display(s). LESSEE, subject to the conditions contained herein, shall have the sole and exclusive right to display advertising copy on the Premises unless otherwise specified in this Lease Agreement. The LESSEE shall have the right to erect, place and maintain advertising sign structures and equipment on the premises to and to post, paint, illuminate and maintain advertisements on such structures. The LESSEE will maintain area for line of sight (LOS). The LESSOR will designate an area for the LESSEE to access to the outdoor advertising structure. All personal property built upon said Premises by the LESSEE shall become part of the real property of LESSOR, and may not be removed by the LESSEE.

6. **CONSTRUCTION.** Construction of the outdoor advertising structures shall be comprised exclusively of approved materials lasting fifty (50) years. The LESSOR will define all utility easements for outdoor advertising structures. All construction shall be performed by LESSEE or LESSEE'S agents, at LESSEE'S sole cost and expense, in strict conformity with all applicable federal, state and local laws, rules and regulations.

7. **INSURANCE and INDEMNIFICATION.** LESSEE shall maintain, at LESSEE'S sole cost and expense, liability insurance for any and all damages resulting in personal injury or property damage in connection with the erection, servicing, maintenance, removal, replacement of the sign structure(s), equipment and other property placed on the Premises by LESSEE and all other occurrences arising out of LESSEE'S use of the Premises. Such insurance shall name LESSOR as an additional insured/loss

payee and shall be in an amount not less than \$ 1,000,000 and shall contain a provision that the policy shall not be terminated, amended or altered except upon thirty (30) days prior written notice to LESSOR. LESSEE shall provide proof of such insurance no less frequently than annually on the anniversary date of this Lease agreement.

LESSEE shall indemnify and hold LESSOR and all of LESSOR'S affiliated companies, officers, directors and employees, all of such entities collectively being included in the term "LESSOR" for the purposes of this Paragraph, from and against any and all liability arising out of LESSEE'S use of, or act or omission in connection with the Premises. Such indemnification shall included but not be limited to reimbursing LESSOR for all damages, costs, fees, including attorneys' fees, expenses and claims made against LESSOR arising out of LESSEE'S use of the Premises.

The obligation of LESSEE to indemnify LESSOR and hold LESSOR harmless shall survive the termination of this Lease Agreement.

8. SUBLEASING. LESSEE shall have the right to sublease the Premises under the terms and conditions contained herein subject to LESSOR'S prior written consent, such consent not to be unreasonably withheld. In the event of such subleasing, LESSEE shall remain fully liable for all obligations under this Lease Agreement, such subleasing having no effect on LESSEE'S obligations hereunder.

9. TERMINATION. LESSEE shall have the right to cancel this Lease Agreement upon thirty (30) days prior written notice to LESSOR if any of the following occur:

a. LESSEE'S signs or structures on the Premises are or become entirely or substantially obscured or destroyed through no fault of LESSEE and LESSEE chooses not to repair said signs, LESSEE to make such determination within thirty (30) days after the event causing the destruction or obscuration. Failure to make such determination shall be deemed a waiver by LESSEE of such right to cancel. In the event a determination has been made to cancel this contract after thirty (30) days it will be the LESSEE'S sole responsibility to remove the sign or structures which have been damaged or obscured on the Premises;

b. The Premises are or become unsafe for maintenance of LESSEE'S signs or structures, through no fault, act or omission of LESSEE;

c. A permanent diversion of change of traffic occurs along the street or streets adjacent to, or leading past the Premises; or,

d. LESSEE is prevented by a present or future law, regulation or ordinance from constructing or maintaining such signs on the Premises.

10. CONDITIONS PRECEDENT TO LEASE'S EFFECTIVENESS. This Lease Agreement shall become effective and rental due hereunder only upon LESSEE'S signing of this contract. LESSEE shall obtain all necessary permits for the erection or maintenance of such signs as LESSEE may desire to construct or maintain on the Premises; provided however, if such permits are not obtained within sixty (60) days following the commencement of this Lease, LESSOR shall have the unconditional

right to terminate this Lease Agreement upon notice to LESSEE. Once such permits have been obtained, if they should subsequently be lost due to a failure of LESSEE or a desired change of use of the sign, structures or Premises by LESSEE, rental shall continue and shall not be abated.

11. LESSOR'S COVENANTS. LESSOR covenants to LESSEE that:

- a. It has the authority to make this Lease;
- b. It will not permit any other billboards to be erected on the Premises; or,
- c. It will not permit any shrubs, trees, vines, buildings, or other signs or billboards to be planted or erected on the Premises which would obstruct or materially impair the visibility of LESSEE'S structure(s).

12. LESSEE'S COVENANTS. LESSEE covenants to LESSOR that it will:

- a. Promptly pay rental as due pursuant under the terms of this Lease Agreement and abide by all of its terms and conditions;
- b. Keep all signs, structures, billboard, equipment and related property placed on the Premises by LESSEE in good repair;
- c. Use reasonableness in its cutting and trimming of trees, bushes, brush or other vegetation upon the Premises;
- d. Use its best efforts to promptly attempt to procure all permits necessary for construction and maintenance of advertising structures on the Premises, all at LESSEE'S sole cost and expense;
- e. Comply with all laws, regulations, ordinances and rules including but not limited to any and all environmental laws, rules and regulations, applicable to the construction, erection, maintenance, replacement and removal of signs, sign structures and equipment used or placed on the Premises;
- f. Not place in or on, nor bring in or on to the Premises, any hazardous substance, as such term is defined under state or federal law (whichever definition being more expansive).
- g. Not accept or place any advertising in or on any structure on the Premises for any entity or activity which competes with LESSOR or any affiliated entity of LESSOR.

13. LESSOR'S RIGHT TO LEASE STRUCTURE(S). LESSOR shall have the unconditional right, but not the obligation to lease the structure(s) which LESSEE is to place on the Premises on the same terms and conditions as any other licensee or tenant of LESSEE, however the rental for the use of such structure(s) shall be fixed at \$_____/month when and if LESSOR does rent such structure(s).

14. **MISCELLANEOUS.** The use of gender shall include all genders. The singular number shall include the plural, or the plural the singular, as the context may require. This Agreement shall be binding on the respective successors and to the extent assignable on the assigns or nominees of the parties hereto. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. This Agreement may be recorded in any public office or repository. In case any one or more of the provisions contained in this Agreement, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement constitutes the complete, final and exclusive agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties in connection with this subject matter. This Agreement and the terms and conditions herein may not be modified except by a writing and signed by all parties hereto. LESSOR may freely assign, hypothecate, transfer and convey any or all of its rights, privileges, duties and obligations hereunder. LESSEE shall not assign any of its rights, privileges, duties or obligations hereunder however; LESSEE may sublease the Premises provided it is in strict conformity with Paragraph 8 above. This Agreement may be executed in counterparts with each copy having the full force and effect as if it were one agreement as executed. This Agreement may be executed via facsimile with the same force and effect as if one agreement were executed concurrently by all parties in person.

15. **NOTICES.** Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to LESSOR or LESSEE, as the case may be, at the addresses set forth or, in the alternative, via hand delivery or any recognized overnight delivery service.

LESSOR:
City of Willcox
101 S. Railroad Avenue, Suite B
Willcox, Arizona 85643

LESSEE:

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be signed by their duty authorized representatives.

APPROVED: LESSEE

Date

By:

CITY OF WILLCOX
APPROVED: LESSOR

Date

ROBERT A. IRVIN, MAYOR

ATTEST:

APPROVED AS TO FORM:

VIRGINIA A. MEFFORD, City Clerk

ANN P. ROBERTS, City Attorney

Consent to Billboard Lease Given by Record Title Owner:

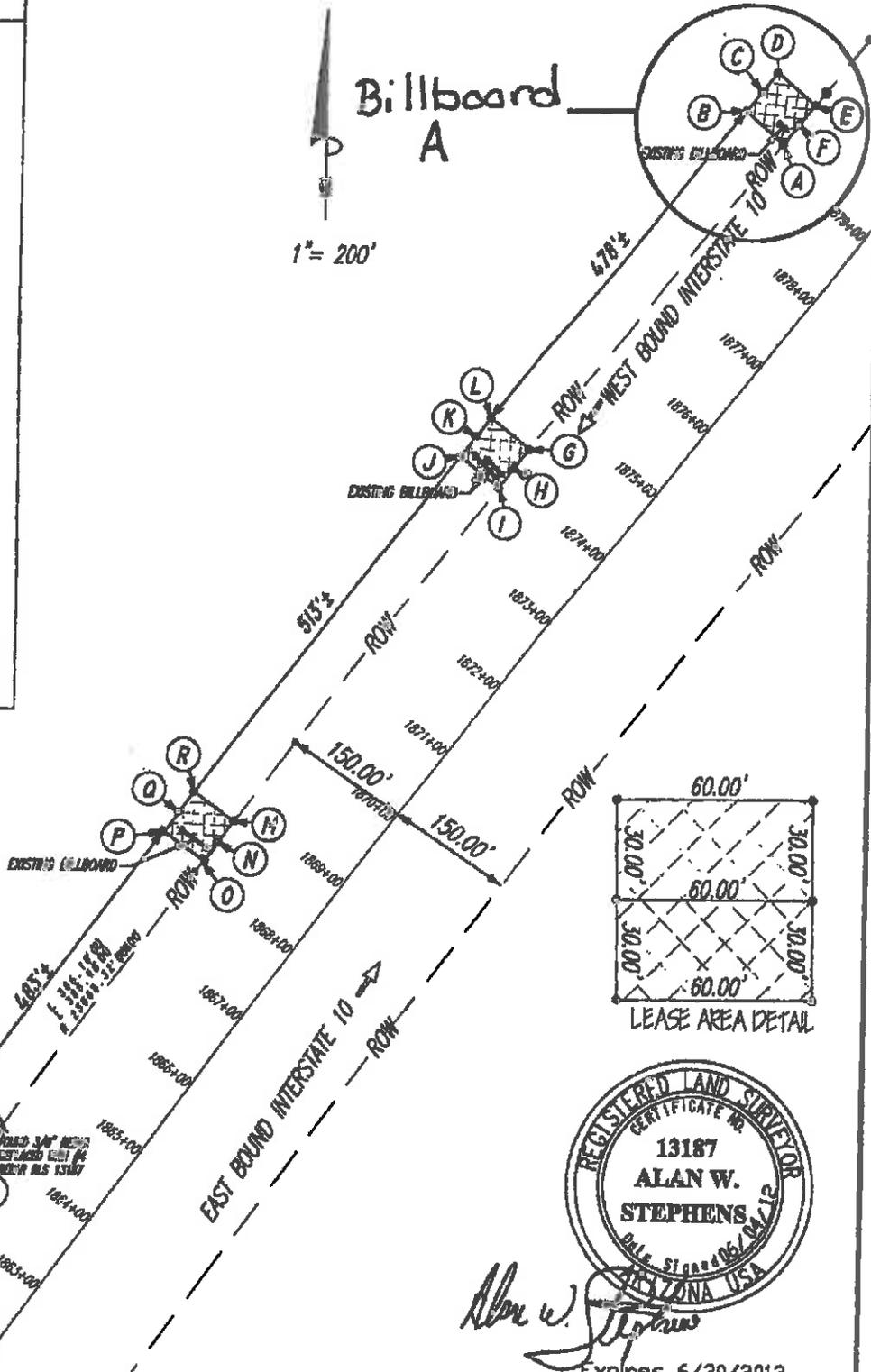
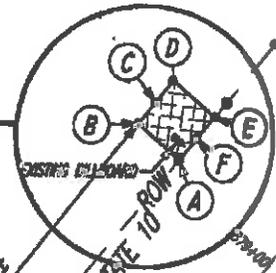
BY: _____

COORDINATE TABLE

LETTER	NORTHING	EASTING
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B	12558.77	6191.85
C	12581.92	6211.01
D	12605.05	6230.20
E	12566.70	6276.34
F	12543.63	6257.20
G	12150.26	5938.39
H	12126.76	5919.79
I	12103.23	5901.22
J	12140.37	5854.10
K	12163.96	5872.71
L	12187.53	5891.36
M	11697.73	5588.82
N	11673.77	5570.81
O	11649.79	5552.83
P	11685.75	5504.80
Q	11709.79	5522.83
R	11733.81	5540.89
S	11262.22	5268.87
T	11237.84	5251.42
U	11213.45	5234.01
V	11248.28	5185.15
W	11272.74	5202.61
X	11297.17	5220.10



Billboard
A



CIRCLE I ROAD

DRAWN BY: T.M.S.
 DATE: 6/4/12
 DWG. NO.: 12029T
 APPROVED BY: A.W.S.

LEASE EXHIBIT
 PROPOSED LEASE PARCELS ALONG THE WESTBOUND RIGHT
 OF WAY OF INTERSTATE 10 NORTH OF FORT GRANT
 INTERCHANGE.

SHT. NO.

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item: 12
Tab Number: 6
Date: 5-20-2013

Date Submitted:
5-14-13
Date Requested:
5-20-13

Action:
 Resolution
 Ordinance
 Formal
 Other

**Subject: City acting as
the Fiscal Agent for
Wings Over Willcox
Heritage grant with AZ
Game & Fish
Department**

TO: MAYOR AND COUNCIL

FROM: City Manager

DISCUSSION: Attached is a proposed Grant from the Arizona Game & Fish Department in the amount of three thousand dollars (\$3000.00). This is Heritage Grant; the amount of the total project is \$55,445 (i.e. \$52,445 match which will be provided by Wings Over Willcox [WOW]). WOW will provide the necessary match and provide the information for filing the necessary reports to the Game & Fish. The Grant is for up to three years (although it is anticipated to be completed during FY 14). The City of Willcox would keep the funds and issue checks as is appropriate.

RECOMMENDATION: Accept the Grant.

FISCAL IMPACT: This will be handled through the City's Fund 16 "Grants" Appropriation is in the FY 14 Budget for both income and expense. There will be some City cost in maintaining the records and filing the reports, this is anticipated to be done with existing staff and resources.

Prepared by: Pat McCourt

Approved by: 

City Manager

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

RESOLUTION 2013-32

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, ARIZONA, "CITY", AUTHORIZING AND APPROVING THE ACCEPTANCE OF HERITAGE GRANT FUNDS IN THE AMOUNT OF \$3,000.00 FROM THE STATE OF ARIZONA GAME AND FISH DEPARTMENT, DIRECTING AUTHORIZED CITY OFFICERS, AGENTS AND CITY STAFF TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AS PRESENTED.

WHEREAS, the CITY is empowered pursuant to Arizona Revised Statutes, Title 9, Section §9-240(A), to have control of the finances and the property of the corporation; and,

WHEREAS, the City of Willcox applied for and received, on behalf of Wings over Willcox, Heritage Grant Funding in the amount of \$3,000.00 from the State of Arizona Department of Game and Fish; and,

WHEREAS, such Grant funds will be used for the Wings over Willcox Birding & Nature Festival project, which will be a celebration of the 20th anniversary of their birding and nature festival, which is projected to bring to the CITY over 500 registrants and another 500 attendees for the 2013 festival; and,

WHEREAS, the Mayor and City Council have determined that it is in the best interest of the CITY and its citizens to authorize and approve the acceptance of the Heritage Grant funds from the State of Arizona Game and Fish Department; and,

WHEREAS, the Mayor and City Council desire to have this item presented on the May 20, 2013, Regular Council Meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, as follows:

SECTION 1. The Mayor and City Council hereby find and determine that it is beneficial to the citizens of the City of Willcox to authorize and approve the acceptance of the Heritage Grant funds from the State of Arizona Game and Fish Department in the amount of \$3,000.00; and,

SECTION 2. The Mayor and City Council hereby approve the Arizona Game and Fish Department Grant-In-Aid Participant Agreement, presented herewith as Exhibit "A", entered into by and between CITY and Arizona Game and Fish Department, said Exhibit being incorporated herein; and,

SECTION 3. The Mayor and City staff are hereby authorized and directed to take all actions necessary or reasonably required to carry out the intent of this Resolution by executing the Arizona Game and Fish Department Grant-In-Aid Participant Agreement, presented herewith as Exhibit "A"; and,

SECTION 4. The Mayor is hereby authorized and directed to execute this Resolution as presented and approved.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, this 20th day of May, 2013.

APPROVED/EXECUTED:

ROBERT A. IRVIN, MAYOR

ATTEST:

VIRGINIA A. MEFFORD, City Clerk

APPROVED AS TO FORM:

ANN P. ROBERTS, City Attorney

RESOLUTION 2013-32

982



THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT

5000 W. CAREFREE HIGHWAY
PHOENIX, AZ 85086-5000
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GOVERNOR
JANICE K. BREWER
COMMISSIONERS
CHAIRMAN, J.W. HARRIS, TUCSON
ROBERT E. MANSSELL, WINSLOW
KURT R. DAVIS, PHOENIX
EDWARD "PAT" MADDELL, FLAGSTAFF
DIRECTOR
LARRY D. VOYLES
DEPUTY DIRECTOR
TY E. GRAY



April 30, 2013

Pat McCourt
Office of City Manager
City of Willcox
101 S. Railroad Ave Ste B
Willcox, Arizona 85643

RECEIVED

MAY 02 2013

OFFICE OF CITY MANAGER

Dear Mr. McCourt:

Congratulations! The project listed below has been awarded Heritage Grant funding. As you are aware, funding of projects is based on how each project is rated compared to all of the other proposed projects. Projects are then funded in their ranked order. The proposal that you submitted is eligible for funding.

Fund dollars requested: \$ 3,000 Funds Awarded: \$ 3,000

Project Number Assigned: U13024

Enclosed are two copies of the Grant-In-Aid Participant Agreement. Please review this Agreement carefully and have both copies signed by the individual authorized to represent your organization. Return both copies of the Agreement to the attention of the Heritage Grants Coordinator. One copy of the Agreement, with original signatures by both parties, will be returned to you.

If you have any questions regarding the enclosed Agreement, please contact the Heritage Grants Coordinator, Robyn Beck at (623) 236-7530.

Congratulations once again. We look forward to working with you on this project.

Sincerely,


Marty Herrera
Heritage Fund Administrator

MH:rb
Enclosures

RECEIVED

MAY 02 2013

Arizona Game and Fish Department
Grant-In-Aid Participant Agreement

OFFICE OF CITY MANAGER

Participant refers to: **City of Willcox**

DEPARTMENT refers to: Arizona Game and Fish Department, acting pursuant to and under authority of the Arizona Game and Fish Commission.

In consideration of the mutual promises and other considerations contained herein, this participant agreement is entered into by and between the DEPARTMENT and PARTICIPANT and becomes effective on the date of signing by the Arizona Game and Fish Department Director.

PROJECT NAME: Wings Over Wilcox Birding & Nature Festival.			
PROJECT DESCRIPTION: 20th anniversary of our birding and nature festival: Tours including sand hill cranes, beginning bird watching, hawks, wildlife photography, botany, geology, farming; seminars including turtles, animal language, nest box building, e bird, bats, and a showing of the movie "Green Fire"; We anticipate over 500 registrants for the 2013 festival and another 500 + attendees.			
PARTICIPANT NAME: City of Willcox	PROJECT NUMBER: U13024		
FUND SOURCE(S): Heritage - Urban Wildlife and Urban Wildlife Habitat	FUND AMOUNT: \$ 3,000		
PROJECT PERIOD: <table><tr><td>From: Date of Signature of Arizona Game and Fish Department Director</td><td>To: Three (3) years from date of signature of Arizona Game and Fish Department Director</td></tr></table>		From: Date of Signature of Arizona Game and Fish Department Director	To: Three (3) years from date of signature of Arizona Game and Fish Department Director
From: Date of Signature of Arizona Game and Fish Department Director	To: Three (3) years from date of signature of Arizona Game and Fish Department Director		
AWARD FISCAL YEAR: 2013			
SPECIFIC SCOPE OF WORK: See Attachment A	SPECIAL CONDITIONS: See Attachment B		
LEGAL AUTHORITY TO ENTER INTO THIS AGREEMENT: ARS § 17-231 (B) and ARS § 17-296, et seq.			

HERITAGE GRANT PROGRAM
GRANT-IN-AID PARTICIPANT AGREEMENT

BETWEEN THE ARIZONA GAME AND FISH COMMISSION
AND **City of Willcox**

This Heritage Fund Grant-in-Aid Participant Agreement (“Agreement”) is entered into between the Arizona Game and Fish Commission (“Commission”) and City of Tucson (“Grantee”) (collectively “Parties” and singularly “Party”) pursuant to A.R.S. § 17-231 (B)(7). The terms “Department” and “Director” refer to the Arizona Game and Fish Department and its Director, acting as administrative agent for the Commission.

WHEREAS, the Commission believes it is important to collaborate with other agencies or organizations in conserving Arizona’s wildlife and preserving Arizona’s wildlife heritage;

WHEREAS, the Commission wishes to foster this valuable relationship by granting funds to the Grantee to carry out the project(s) set forth in the Grantee’s approved grant application (“Application”), which is incorporated herein and attached as Exhibit A, in accordance with the terms of this Agreement;

NOW, THEREFORE, in consideration of the above premises, the Parties hereto agree as follows:

I. The Commission agrees that the Department shall:

1. Provide to the Grantee \$ 3,000 to carry out the project(s) set forth in the Grantee’s Application. The Grantee shall place all grant monies received in a non-interest bearing account.

Payment shall be made as follows:

- a. 90 percent payable upon execution of this Agreement.
 - b. 10 percent, less any adjustment for actual expenditures, upon receipt of a written request and a certification of project completion from the Grantee.
2. Not reimburse the Grantee for items other than those defined in this Agreement.
 3. Not make any grant payment on the remaining 10 percent until the Grantee has submitted all past due project status reports.

II. Grantee shall:

1. Deposit all amounts received under the terms of this Agreement to appropriate accounts for each project under the name and number of the project and use such non-interest bearing funds to fulfill the purposes set forth in the Grantee’s

Application. Should the Grantee use funds provided to it under this Agreement for purpose(s) other than those set forth in the Grantee's Application, this Agreement shall terminate automatically and the Grantee shall return to the Department all misappropriated and unused funds. The Grantee shall not use grant funds for the purpose of producing income. The Grantee shall not use grant funds to pay compensation in excess of the established salary for any permanent public employee. The funds shall be expended only for grant work as authorized under the terms of this agreement

2. Maintain full accounting of all actual expenses associated with completing this project and provide copies to the Department as requested.
3. Publicly acknowledge that Commission funds were used to assist project accomplishments. All materials prepared in the performance of this Agreement shall be acknowledged as having been funded by the Arizona Game and Fish Department and the Arizona Wildlife Conservation Fund.
4. Install a permanent sign that credits the Fund and contains the official Department logo and states that funding for the project(s) has been provided by the Commission at the project site, if a project involves acquisition of property, development of public access or renovation of a habitat site.
5. Submit semi-annual project status reports that include the following information: 1) Progress toward completing approved work; 2) An itemized, cumulative project expenditure sheet; 3) Any anticipated delays or other problems that may prevent on-time completion of the project; 4) Any additional information that the Department requests in accordance with this Agreement.
6. Operate and maintain grant-assisted capital improvements, provide reasonable protection of any project improvements, and ensure that reasonable public access is maintained as specified in this Agreement.
7. Return to the Department any unused monies upon completion of the awarded project. The Grantee may make a written request that the Department award the unused monies for an additional project that is consistent with the original scope of work.

III. The Commission and the Grantee mutually agree and understood that:

1. At its discretion, the Department may conduct periodic on-site inspections of the project(s) at all reasonable times. Before final payment is released, the Department may perform a completion inspection and review of an awarded project.
2. In the event of a conflict between the terms of this Agreement and the Grantee's Application, the terms of this Agreement shall govern.

3. This Agreement shall become effective upon the date of final signature and shall continue for a period not to exceed three (3) years. This Agreement may be amended at any time by mutual agreement of the parties in writing. It may be terminated by either party upon thirty 30 days written notice to the other Party. Upon termination, the Grantee shall cease all work performed pursuant to this Agreement and return any unused funds to the Department.
4. The Parties may amend the terms of this Agreement by mutual written consent. The Department shall prepare any approved amendment in writing, and both the Department and the Grantee shall sign the amendment. An amendment lacking a required signature is invalid.
5. The DEPARTMENT may temporarily suspend grant assistance under the project pending required corrective action by the GRANTEE or pending a decision to terminate the grant by the DEPARTMENT by notifying the GRANTEE in writing. Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he or she may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within ten (10) days, the demanding party may treat this failure as an anticipatory repudiation of the contract
6. The DEPARTMENT may terminate the project in whole or in part at any time before the date of completion, whenever it is determined that the GRANTEE has failed to comply with the terms or conditions of the grant. In case of default, the DEPARTMENT will provide written notification. The GRANTEE will have ten days to correct the default or show cause. The DEPARTMENT will promptly notify the GRANTEE in writing of the determination and the reasons for the termination, together with the effective date. All payments made to the GRANTEE shall be recoverable by the DEPARTMENT under the project terminated for cause.
7. The DEPARTMENT or GRANTEE may terminate grants in whole, or in part, at any time before the date of completion, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date of the termination and, in the case of partial termination, the portion to be terminated. The GRANTEE shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The DEPARTMENT may allow full credit to the GRANTEE for the grant share of noncancelable obligations properly incurred by the GRANTEE before termination.
8. The GRANTEE may require specific performance of the terms of this agreement or take legal steps necessary to recover the funds granted if the GRANTEE fails to comply with the terms of the grant or breaches any condition or special condition of the grant agreement.

9. The remedies expressed in this agreement are not intended to limit the rights of the DEPARTMENT. This agreement shall not in any way abridge, defer, or limit the DEPARTMENT'S right or remedy under law or equity that might otherwise be available to the DEPARTMENT.
10. If the GRANTEE violates state law or this agreement, the DEPARTMENT may seek recovery of all funds granted and classify the GRANTEE as ineligible for heritage Funds grants for a period not to exceed five (5) years.
11. Remedies may include repayment of the grant if the GRANTEE fails to provide for operation and maintenance of the equipment, facilities or product of any Heritage grant funded project during the Term of Public Use. The GRANTEE shall reimburse the Heritage Fund as follows:

<u>Years maintained within term of Public Use</u>	<u>Grant Repayment Required</u>
0-20%	100%
21-40%	75%
41-60%	50%
61-80%	25%
81-100%	0%

12. All written notices concerning this Agreement shall be delivered in person or sent by certified mail, return receipt requested, to the Parties as follows:
 - A. For the Commission and Department:
 Grants Coordinator
 Directors Office Funds/Planning Section
 Arizona Game and Fish Department
 5000 W. Carefree Highway
 Phoenix, Arizona 85086
 - B. For the Grantee:
 City of Willcox
 Office of City Manager
 101 S. Railroad Ave Ste B
 Willcox, Arizona 85643
13. In carrying out the terms of this Agreement, the Parties agree to comply with Executive Order 2009-09 prohibiting discrimination in employment, the provisions of which are incorporated herein by reference.

14. Pursuant to A.R.S. § 35-214, all books, accounts, reports, files, electronic data, and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the State of Arizona for five (5) years after completion of this Agreement.
15. The GRANTEE shall use equipment purchased with grant funds for a public purpose for the useful life of the equipment, or surrender the equipment to the DEPARTMENT upon completion of the project, whichever comes first, if the equipment purchased with grant funds has an acquisition cost of greater than \$500. If the equipment is sold, the GRANTEE shall pay the DEPARTMENT the amount of any resulting proceeds in the ratio equivalent to the funds provided for the purchase.
16. To the extent required under A.R.S. § 12-1518, the Parties agree to use arbitration to resolve any dispute arising under this Agreement, with each Party to bear its own attorneys' fees and costs.
17. Unless the GRANTEE is a State agency, or an agency of the United States of America, the GRANTEE shall indemnify, save and hold harmless the DEPARTMENT, and the State of Arizona, its agents, departments, officers and employees from all claims, loss, damage, liability, expense, costs, and charges incident to or resulting in any way from any injuries or damage to any person or any damage to any property caused by or resulting from the issuance of or the performance of services rendered as part of this agreement
18. Assignment-Delegation: No right or interest in this contract shall be assigned by the GRANTEE without the prior written permission of the DEPARTMENT, and no delegation of any duty of the GRANTEE shall be made without the prior written permission of the DEPARTMENT.
19. This Agreement is subject to termination for conflict of interest pursuant to A.R.S. § 38-511.
20. This Agreement shall terminate automatically if funds necessary to carry out this Agreement are not allocated or available to the Commission or the Department. In the event of such termination, the Commission and the Department shall incur no obligation or liability to the Grantee under this Agreement.
21. This Agreement in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, or individuals.
22. All work performed pursuant to this Agreement shall be in compliance with all applicable state and federal laws and regulations. If Grantee violates state or federal law or this Agreement, the Department shall seek recovery of all monies awarded and classify the Grantee as ineligible for grant monies for a period not to exceed five (5) years.

23. The attached Application and estimated cost sheet is hereby incorporated and becomes a part of this Agreement.
24. It is understood by the Parties that the Grantee is an independent contractor with respect to Arizona and not an employee of the Department. The Department will not provide fringe benefits, including health insurance benefits, paid vacation, or any other employee benefits to the Grantee.
25. Grantee's employees, if any, who perform services for the Department under this Agreement are bound by the provisions of this Agreement. At the request of the Department, the Grantee shall provide adequate evidence that such persons are the Grantee's employees.
26. Grantee acknowledges its obligation to obtain appropriate insurance coverage for the benefit of the Grantee (and Grantee's employees, if any). The Grantee waives any rights to recovery from the State of Arizona, the Commission or the Department for any injuries or property damage that the Grantee (and/or Grantee's employees) may sustain while performing services under this Agreement and that are a result of the negligence of the Grantee or Grantee's employees.
27. If Grantee contracts with a third party or subcontractor, the Grantee shall be responsible for ensuring said third party's or subcontractor's compliance with the terms of this Agreement, and Grantee shall be responsible to the state of Arizona, the Commission and the Department if the third party or subcontractor defaults or violates any terms or conditions of this Agreement.
28. If applicable, Grantee shall ensure that the value of real property purchased with grant assistance is appraised by a state certified appraiser within six (6) months before its acquisition, in accordance with the Uniform Standards of Professional Appraisal Practice. The Department reserves the right to select an appraiser for an independent evaluation if the Department has evidence that the participant's appraised value of the real property is not accurate.
29. The Parties agree to comply with Executive Order 2005-30, "Ensuring Compliance with Federal Immigration Laws by State Employers and Contractors," the provisions of which are hereby incorporated by reference.
30. Any special terms and conditions attached hereto as Exhibit B are hereby incorporated into this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date below:

City of Willcox

[Name] Robert A. Irvin
[Title] Mayor

[Date]

ARIZONA GAME AND FISH COMMISSION

Larry D. Voyles
Secretary to the Commission
Director, Arizona Game and Fish Department

[Date]

Arizona Game and Fish Department
GRANT-IN-AID PARTICIPANT AGREEMENT
Approved Project Scope
Exhibit B

Project Name: **Wings Over Wilcox Birding & Nature Festival.**
Project Number: **U13024**

Listed below are the funding categories, as approved by the DEPARTMENT, for activities to be undertaken with grant funds, match and donations.

Grant Funds Awarded For:	
Pre-agreement	\$0
Development	\$3,000
Acquisition	\$0
Personnel	\$0
Other	\$0
Total Grant Funds Awarded:	\$ 3,000
Match	\$52,445
Total Project Costs:	\$55,445

Special Conditions

All materials produced must give credit to the Department's Heritage Fund.

The draft text, final text and artwork shall be submitted to the Department for review for completeness and accuracy at least sixty (60) days prior to printing or manufacture.

CITY OF WILLCOX
Request for Council Action

Agenda Item: 13 .
Tab Number: 7
Date: 5-20-2013.

<hr/> Date Submitted: May 2, 2013 Date Requested: May 20, 2013	<hr/> Action: <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Formal <input type="checkbox"/> Other	<hr/> Request to purchase In-car camera video system for new patrol unit. <hr/>
<hr/> To: Honorable Mayor and City Council From: Sgt. Glenn Childers, Interim Chief		

Discussion: The Willcox Department of Public Safety is requesting approval to purchase (1) one in-car video camera system for the new 2007 Crown Victoria purchased from Arizona Emergency Products (AEP). This purchase is in compliance with the Fy 12-13 approved budget for Capital Purchase for the Patrol Division. It is requested to purchase this unit from Watch Guard Video to be recognized as a "Sole Provider" due to the technological capabilities currently in place. This unit is also consistent with all other in-car video systems which are currently in use in the WDPS patrol fleet.

Recommendation: Approval to purchase (1) one In-car video camera system from Watch Guard Video for the new 2007 Crown Victoria patrol vehicle. Copy of this camera system/price quote attached.

Motion:

Fiscal Impact: \$5,319.70 from Expenditure line #10-425-9901 (Capital Purchase)

Prepared By: Penney L. Bell, Administrative Assistant

Sgt. Glenn Childers #956
Glenn Childers, Sgt. / Interim Chief
Pat McCourt
Pat McCourt, City Manager



415 Century Parkway, Allen, TX 75013
 (972) 423-9777 Fax: (972) 423-9778
 National Toll-Free 1-800-605-MPEG (6734)
 www.watchguardvideo.com

CAMERA QUOTE

Quote #: QUO-12418-261W Rev #: 0

Customer	
Willcox Police Department	
Attn: Penney L. Bell	
101 S Railroad Ave Suite B, Willcox, AZ, 85643	
Telephone Number	Fax Number
520-384-4673	
Email Address	
pbell@willcoxcity.org	

Quote Information		
Quote Valid From:	5/1/2013	To: 7/30/2013
Quote Presented By:	Fran Judge	
Presenter Contact:	FJudge@WatchGuardVideo.com	
Est. Ship Date	Ship Via	Payment Terms
30 days	UPS Ground	Net-30

#	Part Number	Description	Unit Price	Qty	Ext Price
1	DV1-EOH-GPS	DV-1E, Overhead Console, w/GPS	\$4,995.00	1	\$4,995.00
2	BRK-VPM-100-005	Visor Post Bracket, Ford Crown Victoria 2005(B)-2011	Included	1	Included
3	WGA00461	Assy, Combo Camera, DV-1, Sony Camera	Included	1	Included
4	CAB-CMB-101-11I	Combination (Front) Camera Cable - 11"	Included	1	Included
5	MIC-WRL-KIT-3v2	Hi-Fi Microphone Kit 3 v.2 (Transmitter, Cradle, Belt clip, Pivot clip, 3' antenna)	Included	1	Included
6	MIC-CBN-100-07F	Cabin Microphone - 7'	Included	1	Included
7	CAB-WRL-300-02F	Wireless Microphone Cable - DV-1 (WatchGuard) 2'	Included	1	Included
8	BRK-WRL-MIC-401	Bracket, Hi-Fi Microphone, DV-1 Overhead(+SUV Interceptor)	Included	1	Included
9	WGP01506-KIT	Cable Assembly, DV-1C/4RE, Power/Input, R/A, 24'	Included	1	Included
10	SFW-DV1-PKG-100	DV-1 Software Package(Fleet Manager Utility,DVD Manager Utility,Crossover Cable, Manuals)	Included	1	Included
11	DVD-EVI-MED-001	Serialized DVD+RW Red Evidence Label Disc Media	Included	10	Included
12	DVD-EVI-SLV-001	Protective Disc Sleeve - Paper	Included	10	Included
13	GPS-ANT-MGN-16F	GPS Antenna, Magnetic Mount	Included	1	Included
14	BRK-CAM-GLS-100	Glass Adhesive - Loctite	Included	1	Included
15	WGA00315-KIT	DV-1, Overhead User Manual, Keys, Mounting Screws Kit	Included	1	Included
16	BRK-TLE-100-000	Ticket Light Extension Bracket - Crown Victoria/Charger/Durango	Included	1	Included
17	WAR-STD-PUR-1YR	1st Year Factory Warranty (Months 1 to 12)	Included	1	Included

Comments:

Subtotal	\$4,995.00
Shipping	\$25.00
Taxes	\$299.70
Total	\$5,319.70

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

RESOLUTION 2013-33

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, "CITY", APPROVING THE PURCHASE OF ONE (1) IN CAR VIDEO CAMERA SYSTEM FOR THE 2007 CROWN VICTORIA FROM WATCH GUARD DIGITAL IN CAR VIDEO, AND DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the CITY is empowered pursuant to A.R.S., Title 9, Section §9-240(A) to have control of the finances and property of the corporation; and,

WHEREAS, the CITY is authorized and empowered pursuant to the CITY Procurement Ordinance, Section 3-1-3.L, entitled "Sole Source" to procure equipment from one source when such source is the best available source for specialized equipment; and,

WHEREAS, the CITY has determined that purchasing an in-car video camera system for the new 2007 Crown Victoria for the Willcox Department of Public Safety for a total purchase price of \$5,319.70 from Watch Guard Digital In Car Video is a fiscally responsible purchase and the Mayor and City Council have determined that formal action on this Resolution is in the best interest of the CITY and its citizens; and,

WHEREAS, it is the desire of the Mayor and City Council that this item be presented for consideration at the Regular Council Meeting on May 20, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, as follows:

SECTION 1: The Mayor and City Council hereby authorize and approve the purchase of an in-car video camera system for the new 2007 Crown Victoria for the Willcox Department of Public Safety for a total purchase price of \$5,319.70; and,

SECTION 2: CITY Officials and Administrators are authorized and directed to take all action required to purchase the in-car video camera system from Watch Guard Digital In Car Video; and,

SECTION 3: That the Mayor is authorized and empowered to execute the Resolution as presented.

**PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF
THE CITY OF WILLCOX, ARIZONA, this 20th day of May, 2013.**

APPROVED/EXECUTED:

ROBERT A. IRVIN, MAYOR

ATTEST:

VIRGINIA A. MEFFORD, City Clerk

APPROVED AS TO FORM:

ANN P. ROBERTS, City Attorney

RESOLUTION 2013-33

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item: 14
Tab Number: 8
Date: 05/20/2013

Date Submitted:
05/10/13
Date Requested:
05/20/13

Action:
 Resolution
 Ordinance
 Formal
 Other

Subject: Appointment of Virginia Mefford as City Clerk.

TO: MAYOR AND COUNCIL

FROM: Sherry Lynn Van Allen, Human Resources

DISCUSSION: Ms. Mefford has completed her introductory period with the City of Willcox and successfully completed one City Clerk Institute. She has demonstrated a good knowledge of the City Clerk position.

The City Clerk is a required position in the City structure as per the State law ARS 9-271. The City Council makes the appointment of the City Clerk.

RECOMMENDATION: Appoint Ms. Virginia A. Mefford as City Clerk.

FISCAL IMPACT: The cost for this position is budgeted in the City's General fund.

Prepared by:


Human Resources

Approved by:


City Manager

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

RESOLUTION 2013-34

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, "CITY", FOR THE PURPOSE OF APPROVING THE APPOINTMENT OF VIRGINIA A. MEFFORD TO THE APPOINTED POSITION OF CITY CLERK AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION.

WHEREAS, the CITY is empowered pursuant to Title 9, A.R.S. §9-271(3) and §9-499.01, et seq. and the Willcox City Code, Title 1, Chapter 7, Article B, Section 1-7B to appoint a City Clerk; and,

WHEREAS, the CITY desires to appoint Virginia A. Mefford as City Clerk; and,

WHEREAS, the Mayor and City Council of the City of Willcox desire to have this Resolution presented at its May 20th, 2013 Council Meeting for the purpose of approving the appointment; and,

WHEREAS, the Mayor and Council have determined that formal action on this Resolution is in the best interest of the CITY, its citizens and its municipal system.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, as follows:

SECTION 1: The Mayor and City Council hereby appoint Virginia A. Mefford as City Clerk;

SECTION 2: CITY Officials and Administrators are authorized and directed to take all action required to fulfill said appointment; and,

SECTION 3: That the Mayor is authorized and empowered to execute the Resolution as presented.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, this 20th day of May, 2013.

APPROVED/EXECUTED:

ROBERT A. IRVIN, MAYOR

ATTEST:

APPROVED AS TO FORM:

VIRGINIA A. MEFFORD, City Clerk

ANN P. ROBERTS, City Attorney

RESOLUTION 2013-34

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item 15
Tab Number 9
Date: 5/20/2013

<u>DATE SUBMITTED:</u> MAY 14, 2013	<u>ACTION:</u> <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Formal	<u>SUBJECT:</u> APPROVAL OF ESG CORP. EMPLOYEE BENEFIT ADVOCATE SERVICE APPLICATION AND ADMINISTRATION SERVICES RENEWAL AGREEMENT FOR FY 2013-14.
TO: MAYOR AND COUNCIL	FROM: Ruth Graham, Finance Director	

DISCUSSION:

Staff recommends entering into an Employee Benefit Advocate Service Application and Administration Services Renewal Agreement with ESG Corp, (Employee Services Group) to secure its services as Health Insurance Agent and Administrator of the employee benefit plans offered by the City of Willcox for the 2013-2014 fiscal year. The employee benefits plans offered by the City include a Health Reimbursement Arrangement (HRA) plan, a Flexible Spending Account (FSA) plan, and COBRA administration.

ESG Corp. has been working with the City's current health insurance carrier, HealthNet, to secure a renewal contract for the upcoming year. The City's employee health insurance coverage has been through HealthNet since FY2006-2007; however, it appears that the City may change carriers for FY 2013-14 due to a dramatic increase in premiums quoted by HealthNet. Al Thunberg and Jon Stewart with ESG Corp. have been actively seeking alternatives for the City. The implementation of the Affordable Care Act (ACA) nationwide has made the health insurance issues even more complex this year.

The City initiated a Health Reimbursement Arrangement plan in FY09-10 to protect its employees from high deductible costs. Prior to FY09-10, the City's HMO plan did not have a requirement for an out-of-pocket deductible. For FY11-12, the plan called for an increase from \$2500 to a \$5,000 deductible. The City elected to hold the employee responsible for the first \$500, and reimburse for costs up to the full deductible if such medical costs were incurred. This year the out of pocket deductible costs are unknown; staff anticipates that it will remain at \$5,000.

The Flexible Spending Account is funded with employee contributions. Each employee can elect an amount to set aside pre-tax to be used for medical expenses including deductibles, dental, eye, chiropractic, prescription drugs or drug co-payments, or other types of allowable expenses under IRS regulations.

The COBRA administration plan will be an efficient way for the City to meet its COBRA requirements under regulations that change rapidly.

As stated on the attached contract ESG charges the City \$6.50 per employee per month for administration of the HRA plan, \$6.60 per employee per month for those employees participating in the voluntary FSA plan, and \$1.50 per month per employee for the administration of the COBRA requirements. The prices are the same as they were for in FY2012-13. ESG has again issued the City a "Rate Pass" on the administrative fees. This is the fourth year that ESG has not increased administrative fees to the City of Wilcox.

RECOMMENDATION:

Approval of ESG Corp. Employee Benefit Advocate Service Application and Administration Services Renewal Agreement for FY 2013-14.

FISCAL IMPACT: Estimated employee benefit plan administration costs of \$10,716.

Submitted by:

Approved:



Ruth Graham, Finance Director



Pat McCourt, City Manager

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

RESOLUTION 2013-35

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA APPROVING AND ADOPTING EMPLOYEE BENEFIT ADVOCATE SERVICE APPLICATION AND THE ADMINISTRATION SERVICES RENEWAL AGREEMENT BETWEEN THE CITY OF WILLCOX AND EMPLOYEE SOLUTIONS GROUP TO ACT AS HEALTH INSURANCE AGENT AND ADMINISTRATOR OF EMPLOYEE BENEFIT PLANS, AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION.

WHEREAS, the Mayor and City Council shall have control of the finances and property of the corporation pursuant to A.R.S. § 9-240 et seq.; and,

WHEREAS, the CITY provides a Health Reimbursement Arrangement (HRA) Plan, a Flexible Spending Account (FSA) Plan and COBRA administration for its employees and contracts with Employee Services Group for that purpose; and,

WHEREAS, Employee Solutions Group, "ESG", proposes to provide the employee benefit packages subject to the terms and conditions of the Employee Benefit Advocate Service Application, Exhibit "A" attached hereto, and the Administration Services Renewal Agreement, Exhibit "B" attached hereto; and,

WHEREAS, CITY staff desires to present the formal ESG contract documents to Mayor and Council for final consideration, approval and adoption; and,

WHEREAS, the Mayor and Council of the City of Willcox, have determined that it is in the best interest of the CITY, its employees and the citizens of the CITY to provide employee benefit packages in the form of a Health Reimbursement Agreement Plan (HRA), an expanded Flexible Spending Account Plan (FSA) and third party administration of COBRA; and,

WHEREAS, the CITY and the ESG desire to have the Employee Benefit Advocate Service Application and Administration Services Renewal Agreement with Employee Solutions Group "ESG" presented at the Regular Council Meeting on May 20, 2012 for consideration and approval of the Agreements for the Contract period of July 1, 2013 to June 30, 2014.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, as follows:

SECTION 1: The Mayor and City Council hereby authorize, approve and adopt the Employee Benefit Advocate Service Application, Exhibit "A" attached hereto, and the Administration Services Renewal Agreement, Exhibit "B" attached hereto, wherein ESG shall act as Health Insurance Agent and Administrator for the CITY'S HRA, FSA and COBRA benefits for the 2013-2014 fiscal year;

SECTION 2: CITY Officials and Administrators are authorized and directed to take all action required to execute the Employee Benefit Advocate Service Application, Exhibit "A" as presented, and the Administration Services Renewal Agreement, Exhibit "B" as presented; and,

SECTION 3: That the Mayor is authorized and empowered to execute the Resolution as presented.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, this 20th day of May, 2013.

APPROVED/EXECUTED:

ROBERT A. IRVIN, MAYOR

ATTEST:

VIRGINIA A. MEFFORD, City Clerk

APPROVED AS TO FORM:

ANN P. ROBERTS, City Attorney

RESOLUTION 2013-35



EMPLOYEE BENEFIT ADVOCATE SERVICE APPLICATION

(1) EMPLOYER / LICENSEE INFORMATION

Contact Name Ruth Graham	Business Federal ID # 86-6000270	Date of Application 03/06/2013
Company Name City of Willcox		Telephone Number (520)384-4271
Address (Street – No P.O. Boxes, City, State & Zip Code) 101 S. Railroad Ave., Suite B, Willcox, AZ 85643		
Email rgraham@willcoxcity.org	SIC Code	Fax Number (520)384-2590

Type of entity: C-Corp S-Corp Partnership Sole Proprietor Non-Profit LLC Other Municipality

Do you own interest in any other business? No Yes If yes, Name _____

Address if different _____ Federal ID # _____

Affiliated Co. included in plan? Yes No (Please provide a separate sheet for information on additional affiliated companies.)

Number of employee Health Insurance Participants: 54 Total number of employees: 60

Do you currently have an HRA Plan? Yes No If yes, original plan effective date _____

Do you have a Flexible Spending Plan (FSA)? Yes No

Do you have a Premium Only Plan (FSA)? Yes No

Do you have a union? Yes No

If less than 20, do you offer COBRA benefits? Yes No N/A - > 20 EE

Do you have a Employee Web Portal or Intranet? Yes No No Web Portal Currently – See Exhibit 1 Attached

Have you filed all Form 5500 Health & Welfare filings? Yes No (Please furnish copy of prior year returns) N/A

(2) AVAILABLE BENEFITS AND QUALIFIED PLANS

ESG, and its affiliate Insight Risk Advisors, Inc. will provide all brokerage services including but not limited to, selection of carrier, negotiation, employee enrollment support, claims support, employee advocacy and employer advisory services. The current benefit plans include:

Benefit (Check all in force plans currently):

- Medical Plan (named health insurance plan): **HealthNet**
- Dental Plan (named health insurance plan): **United Health Care | AFLAC**
- Vision Plan (named health insurance plan): **HealthNet | VSP**
- EAP Plan (named health insurance plan): **HealthNet**
- HRA / FSA / HSA Plan (named administrator): **Employee Solutions Group**
- Discount or Other Rx / Vision / GAP/ ADD Plan (named plan): **AFLAC**
- HR Online (Web Based HR Resource): **See Exhibit 1 Attached - By Agreement**
- ESG | WBD Web Design (employee web portal): **See Exhibit 1 Attached – By Agreement**

(3) PAYMENT

ESG, will initiate debit entries from the checking account and financial institution named below (This option must be chosen for ESG administration). Attach a copy of a voided check to this Application.

Bank Name AGREEMENT ON FILE Routing Number: AGREEMENT ON FILE Account #: AGREEMENT ON FILE

Setup Fee: \$0 Minimum Monthly Brokerage Service Fee: \$1,200 Per Participant Fee Over Current Headcount: \$20 per month

(4) AUTHORIZATION

I have read, understand and agree to the ESG Terms and Conditions stated on page 2 of this document as attested by the signature below, effective on the date of the signature.

Employer (sign here) _____ Title _____ Date _____

Exhibit 1

**PROPOSER COVER SHEET & BUDGET NARRATIVE
GENERAL INFORMATION**

Vendor Name:	ESG CORP d/b/a Employee Solutions Group		
Mailing Address:	60 E. Rio Salado Parkway - Suite 900		
City:	Tempe	State:	AZ Zip Code: 85281
Name & Title of Contact Person:	Al Thunberg - Managing Director		
Telephone Number:	877.668.8522	Fax Number:	866.668.1592
Email Address:	athunberg@esgcorp.biz		

BUDGET NARRATIVE

Service Category:	City of Willcox Insurance Broker Services
Proposed Hourly Rate:	See Discussion in Proposed Remuneration Below
Proposed Monthly Rate:	\$ 1,200.00
Initials:	AT

Proposed Remuneration Associated With Brokerage Services:

Employee Solutions Group respectfully submits the proposed cost for all brokerage services at a flat monthly rate of \$1,200. The rate will be honored, without exception for the duration of the stated contract period, running from July 1, 2013 to June 30, 2014.

ESG also proposes establishment of an Employee Benefit Web Site, referred to as the "Employee Advocate" Web Portal at "no additional charge".

ESG includes at "no additional charge", a complete benefit interpretation process designed to coordinate enrollment meetings, one on one counseling sessions, and other publications necessary to deliver the entire employee benefit election process.

EMPLOYEE ADVOCATE SERVICE AGREEMENT

ESG is an organization devoted solely to eliminating the confusion of employee benefits for the employees we serve, while adding financial value to the companies we serve. Employee Benefit Advocate Service (EBAS) is a comprehensive and innovative approach which integrates web tools, human resource advocacy, and benefits information into a unique employee advocate model.

ESG is an industry innovator providing covered employees with fast, personal and unrestricted access to benefit information and provider contact in the delivery of employee benefit solutions. This is because our streamlined and highly experienced program administration team allows us to devote more of our clients' resources directly to program services for covered employees. We have devoted years of experience in training, building and delivering a cost-effective brand of high-touch benefit advocacy program services.

EBAS will provide clients with the following services, which are generally recognized as the keys for improved employee benefit satisfaction:

1. Provide tools to support information and recommendations of employee benefit plans, designed to motivate and retain best in class employees at all levels of the organization.
2. Secure annual quotes and advise management of industry trends, options and other information needed to make an informed decision regarding employee benefits programs, costs, and limitations.
3. Technical guidance on HIPAA, PHI and tax advisory services, web based tools, direct employee advocate counseling, support information, claims processing, claims support, and resolutions.
4. Employee education of benefit plans, using internet and live-person base enrollment meetings to guide and counsel employees, assisting employees achieve their best benefit solutions.
5. Advise and counsel management, in the strategies, product options, tax advice, ERISA, and non discriminatory testing of benefit decisions.
6. Quarterly, update management on the feedback of employees regarding benefit plans, and recommend, advise, and plan strategies to consider in future renewals.
7. Offer client a protected status relating to Health Insurance Portability and Accountability Act of 1996 (HIPAA), and Protected Healthcare Information (PHI), the intent to reduce liability and exposure on management while counseling and advising employees of their protected right to unbiased and accurate benefit advice.

ESG, and its assigned service teams, will direct employees to appropriate resources, provide expertise and guidance for medical claims, adjudication, and education / carrier resources. These support tools will be delivered, thru direct employee contact, counseling, benefit advocacy and coaching instructions to reach timely and efficient solutions to employee benefit challenges.

ESG will complete an optimization review to balance size and requirements of the advocacy plan with costs, and recommend the optimal combination of tools, size, experience, responsiveness, efficiency, satisfaction, positive employee outcomes, affordability and return on investment. The EBAS service solution will recommend the right decision for your employees balanced with your financial objectives.

EMPLOYER RESPONSIBILITIES

The Employer shall provide to the EBAS information necessary to administer the Plans in a timely manner. This information should include the employee census data. The Employer agrees to EBAS's procedures related to the operation of the Benefit Plan, including but not limited to enrollment, claims, account maintenance, disputes, error corrections, reporting, eligibility, and any other processes involved in supporting the EBAS.

TERMINATION

This Plan may be terminated by proper notice of one party to the other. The term of this agreement is for 12 months. Following the termination of the Plan, this agreement shall automatically terminate, and all benefits shall be paid and final reports prepared. Terms by which this Plan can be terminated are by written notice sixty (60) days in advance from either party or by written notice fifteen (15) days in advance to the Employer for failure to forward to the EBAS funds service fees. Upon this sooner termination, EBAS shall use any funds in its possession for the payment of benefits, for its own fees and expenses. EBAS has no responsibility to enforce the Employer's funding of benefits required under the Plan. Upon and after the expiration or termination of this Application, the rights granted to the employer pursuant to this Agreement shall revert to EBAS. Within 20 days after termination or expiration of this Application, the employer shall return to all manuals, brochures, computer programs, customer and vendor databases, and any other documents regarding the programs and systems and any copies thereof. In addition, the employer shall refrain from any further direct or indirect use of or reference to the EBAS systems, publications, manuals, brochures, documents, computer programs and computer databases. Finally, the termination of this Application shall not affect the duty of the employer not to infringe on EBAS's trademarks and copyrights and not to disclose and keep confidential all said Confidential Information supplied to the employer by EBAS.

LIMITATION OF WARRANTIES AND LIABILITIES

Except as expressly set forth in this Agreement, EBAS disclaims any and all express warranties, warranties of fitness for a particular purpose and implied warranties of merchantability. EBAS will not be liable for any loss of business or profits, or for any consequential, incidental, punitive, or similar damages, or, other than as set forth in this Agreement, for claims of damages made by any third party for any cause whatsoever, regardless of the form of action, whether in contract or in tort, including negligence, even if it has been advised of the possibility of such damages. Each party acknowledges that this limitation of liability reflects an informed, voluntary allocation between the parties of the risks (known and unknown) that may exist in connection with this Agreement. In no event will the EBAS's liability exceed the payments by Plan Sponsor to EBAS within the previous six months for services provided under this Agreement. This shall be the Plan Sponsor's exclusive remedy. No action, regardless of form, arising out of the services provided under this Agreement, may be brought by the Plan Sponsor more than two years after the date the last services are provided under this Agreement.

EMPLOYEE WEB BENEFIT TERMS OF USE AGREEMENT

1. Permitted Use

Under this Terms and Use Agreement (herein referred to as "the Agreement"), ESG CORP & Web Benefits Design Corporation, (herein referred to as 'ESG or WBD'), agrees to provide an Employee Benefits Internet Service Application (herein referred to as 'EBISA') hosted by WBD, and set up a private employee benefits information system for the exclusive use by the broker/consultant and/or employer (herein referred to as 'Client').

The EBISA is to be used only by the Client and users authorized by the Client. The Client will have the ability to assign user logins and passwords to selected individuals. The Client will have full control over who is authorized to access / use this EBISA. All use of the EBISA is provided via the Internet through a standard Internet browser and/or email client. In order to use the EBISA, the Client and Client authorized users (herein referred to as 'Users') are responsible, at their own expense, to acquire access to the Internet and to provide all equipment and software needed.

2. Client Responsibilities and Warranty

By entering data (herein referred to as 'Data') into the employee benefits information system, the Client warrants that: (1) the Client is authorized to submit the Data to the EBISA; and, (2) the storage of such Data by WBD and its affiliates will neither infringe on nor misappropriate the property rights of or otherwise violate the rights of any third party.

3. Client Proprietary Data Rights

The Data submitted to the EBISA is for the exclusive use of the Client. ESG & WBD agrees not to use, distribute or disclose any of the data maintained as a result of the Client using this EBISA. The Client agrees to evaluate and bear all risks associated with the use of any Data, including any reliance on the accuracy and usefulness of such data.

4. ESG / WBD Account Information and Data

ESG & WBD does not own or have any rights to any Data that the Client submits as a result of using this EBISA. WBD will not monitor, edit, or disclose any information regarding the Client or Client's database without the Client's express written permission except in accordance with this Agreement or as may be required by law. ESG & WBD may access the Client database in order to respond to service or technical problems when requested to do so by the Client.

5. ESG / WBD Proprietary Rights

The Client acknowledges and agrees that the EBISA contains proprietary and confidential methods and information that is protected by applicable intellectual property and other laws, and agrees not to disclose such information to any third party without ESG & WBD's prior permission. The Client agrees not to copy, sell, rent, license or to redistribute any portion of the EBISA, use of the EBISA, or access to the EBISA to any individual or group. Standard ESG & WBD website Terms and Conditions for unauthorized use and access penalties apply to this EBISA.

6. Availability of EBISA

WBD will make commercially reasonable efforts to ensure that the quality of the service we provide is of at least prevailing industry standards, and that access to the EBISA is available 24 hours a day, 7 days a week. However, although ESG & WBD will use all reasonable efforts in good faith to avoid interruption of the EBISA, the Client acknowledges and agrees that access to the EBISA may be unavailable from time to time for any reason, including without limitation, interruption of major network connectivity, network and server outages, and backup and regular maintenance by WBD and any operators of our servers.

7. Client Assigned Administrator(s)

The Client will select one or more WBD primary Administrators to manage the Client's use of the EBISA, to authorize users to access the EBISA, to access employee data records, and to serve as the primary technical Interface with ESG & WBD Client Service Representatives.

8. Client Support Services

ESG & WBD will provide quality technical support to the Client. ESG / WBD's Client Support Representatives will be available to assist Clients Monday through Friday on a best efforts basis. While it is often our business practice to assist, support and resolve client requirements, often times technical support is required available on normal business hours Monday thru Friday. We will make every effort to resolve these matters in a timely and normal business response timeline.

9. User Conduct

The Client agrees not to use the EBISA or information from the EBISA to (a) transmit any material that may infringe the intellectual property rights or other proprietary rights of third parties, including trademark, copyright or right of publicity; (b) interfere with or disrupt the integrity of any data or computer-based information or any servers or networks connected to the EBISA or violate the regulations, policies or procedures of such networks; (c) attempt to gain unauthorized access to the EBISA, other accounts, computer systems or networks connected to the EBISA, through password mining or any other means.

10. Employee Information Confidentiality

ESG & WBD follows and agrees to continue to follow as set forth herein policies and procedures to protect the confidentiality of member information. It is important to note that all records containing confidential medical and insurance data are handled and discarded in a way that is designed to protect the privacy and security of the information. ESG & WBD respects the need for security regarding your personal information. Whenever you provide personal information, your information will be protected using Secure Sockets Layer (SSL) technology. SSL is an industry standard that encrypts the information you provide, to avoid the decoding of that information by anyone other than ESG & WBD. Information you submit directly to us will remain on our servers, secured by various industry approved technologies to prevent unauthorized access to your personal information.

11. Information Security, Integrity, and Reliability Disclosure

ESG & WBD uses and agrees to continue to use as set forth herein multi-layered security architecture to prevent unauthorized access to the building and data center. Formal security measures are in place to protect access to WBD systems and the corporate network. Users of networks and applications are provided a unique use name, and the use of a password is required for both network and application access. ESG & WBD employs a firewall, which control and limits access to the internal network. Logical access to the firewall is limited to authorized system administrators. All network access to WBD internal network is restricted to only specific ports that are necessary for application usage. Outbound access is also managed via the firewall. All Client data is stored behind the firewall on protected network segments.

ESG & WBD uses a multi-tiered approach for information Back-up and Recovery. Full server backups occur weekly with differential backups occurring nightly between each weekly backup session. Full backups of critical databases containing client data are executed on a nightly basis. Database transaction logs are backed up hourly to facilitate targeted rollback in the event of processing or database errors.

ESG & WBD uses McAfee VirusScan Enterprise protection as the corporate standard for protection against viruses, worms and Trojan software. Updates are acquired nightly and are distributed across the network with no interaction from our end users. Authorized personnel monitor potential virus outbreaks and have monitoring software in place to accommodate any virus or security threat. ESG & WBD employs regular desktop operating systems updates and security patches at regular intervals to ensure all systems are protected.

12. Service Fees

The Client agrees to pay all applicable fees as specified in the Client's signed Service Agreement. Fees are invoiced on the first of the month for the current month use. ESG & WBD reserves the right to suspend the EBISA of Clients who fail to make timely payments for their customized EBISA package. Payments will be considered past due if not received within thirty (30) days from the day the payment is due.

13. Renewal / Termination of EBISA

The Agreement and Invoicing will remain in place unless ESG & WBD is notified by Client to terminate the EBISA. Unless terminated for cause by ESG & WBD or Client pursuant to Section 14. of the Agreement. This Agreement will continue for the duration of the

annual term as set forth in the Agreement. The Term of Service shall continue on an annual basis, renewing a new 12 month contract on the annual renewal date, unless a thirty (30) day written notification of intent to terminate service is given by either party, or until terminated as specified.

The Client acknowledges and agrees that ESG & WBD, in its sole discretion, may suspend or terminate the EBISA and/or deny the Client access to, use of, or submission of Data for all or part of the EBISA, without prior written notice for the following reasons: (a) violation of the letter or spirit of any term or provision of the AGREEMENT; or (b) violation of the rights of ESG, WBD or third parties. Upon termination, WBD will allow Client's files to be downloaded and, after this point, will bar any further access to the EBISA. Furthermore, the Client agrees that ESG & WBD shall not be liable to the Client or any third party for any termination of the Client's access to the EBISA pursuant to this section.

14. Termination for Cause

Any unauthorized access, copying, disclosure, distribution, or sublicensing by Client or with Client's aid or consent of the EBISA or Data or any related methods, techniques, or processes will be deemed a material breach of this Agreement. ESG & WBD in its sole discretion may terminate the password, account or use of the EBISA if Client breaches or otherwise fails to comply with this Agreement.

ESG & WBD will not share, rent, sell, or trade personal information (including email addresses) that identifies our Clients or users to third parties. Any disclosure or distribution of the Data outside of the above exceptions to a third party by ESG & WBD will be deemed a material breach of this contract and constitute grounds for Client to terminate the Agreement for cause.

15. Warranties, Disclaimers, and Representations

Subject to the terms set forth in the "Availability of EBISA" section, the Client expressly agrees that: (a) The use of the EBISA is at the sole risk of the Client and is provided on an 'as is' and 'as available' basis. ESG, WBD and its affiliates expressly disclaim all warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement, (b) ESG & WBD makes no warranty that:

(1) the EBISA will meet the Client's requirements or result in revenues or profits; (2) the EBISA will be uninterrupted or error-free; and (3) the results that may be obtained from the use of the EBISA will be accurate or reliable. While ESG & WBD will use commercially reasonable efforts to prevent unauthorized access to data entered into the EBISA, ESG & WBD makes no warranty that such fields will be secure against such unauthorized access or other security breaches. ESG & WBD makes no representations or warranties of any kind whatsoever, express or implied, in connection with the Agreement or the EBISA, including but not limited to, warranties of merchantability, fitness for a particular purpose and non-infringement.

16. Indemnity

The Client agrees to indemnify and hold harmless ESG & WBD, its subsidiaries and affiliates, and its and their directors, officers, agents, and employees ("Indemnitees") from any claim or demand, including reasonable attorneys' fees, made by any third party to whom the Client has allowed access (either inadvertently or wittingly) to the EBISA due to or arising out of the Data; the Client's use of the EBISA; the Client's connection to the EBISA, the Client's violation of the Agreement; or, the Client's violation of any proprietary or other rights of another. The Client further agrees and acknowledges that the Indemnitees are not liable or responsible in any way for any errors, omissions or any other action arising out of or related to the use of the EBISA. The Client further agrees to indemnify, defend and hold harmless the Indemnitees from and against any and all claims, damages liabilities, costs and expenses (including reasonable legal expenses) arising out of, or related to, the Client's use of the EBISA or the placement or transmission of any message, information, software, or other materials through the EBISA by the Client or user of the Client's account or related to any violation of any term of the Agreement by the Client or users of the Client's account.

ESG & WBD agrees to indemnify and hold harmless Client, its subsidiaries and affiliates, and its and their directors, officers, agents and employees from any claim or demand, including reasonable attorneys' fees, made by any third party arising out of any disclosure or distribution of the Data as described in Section 14 of the Agreement.

17. Limitation of Liability

In no event shall ESG or WBD be liable for any direct and/or indirect, incidental, special, consequential or exemplary damages, including but not limited to damages for loss of profits, goodwill, use, data or other intangible losses incurred resulting from: (a) the use or the inability to use the EBISA; (b) transactions entered into through or from the EBISA; (c) unauthorized access to or alteration of the Client's transmissions or data; (d) statements or conduct of any third party on the EBISA; or, (e) any other matter relating to the EBISA.

The Client agrees that ESG & WBD will not be liable for any: (a) interruption of business; (b) access delays or access interruptions to the EBISA; (c) data non-delivery, corruption, destruction or other modification; (d) unauthorized access to data entered in, or breach of any security mechanisms utilized in, the EBISA or in any field or file therein; or, (e) events beyond ESG & WBD's reasonable control. ESG & WBD's aggregate liability for damages hereunder shall in no event exceed the amount of fees paid by the

Client under this Agreement for the relevant service, up to a maximum amount equal to service charges for six (6) months of the EBISA.

18. Nondisclosure

By virtue of this Agreement, Client, ESG and WBD may have access to information that is confidential ("Confidential Information"). Client, ESG and WBD agree not to make each other's Confidential Information available in any form to any third party or to use each other's Confidential Information for any purpose other than the implementation of the EBISA. Client, ESG and WBD agree to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of the provision of this Agreement.

19. Governing Law

Except as otherwise provided herein, this Agreement shall be governed by the laws of the State of Arizona.

20. Notices

Notices to the Client may be made either via email, regular mail, overnight courier or facsimile at the contact address of record for the EBISA. If the Client provides notice to ESG & WBD, such notice should be sent to: ESG CORP, 60 E. Rio Salado Parkway, #900, Tempe, AZ 85281 and Web Benefit Design Corporation, P.O. Box 1568, Windermere, FL 34786.

21. Entire Agreement

This Agreement constitutes the complete Agreement between the parties and, except as provided, supersedes all previous agreements or representations, written or oral, with respect to the Services described herein.

22. General

The Agreement does not limit any rights that ESG & WBD may have under trade secret, copyright, patent, trademark, or other laws. The failure of ESG & WBD to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give meaning to the parties' intentions as reflected in the provision, and the other provisions of the Agreement shall remain in full force and effect. The Client agrees that any claim or cause of action arising out of or related to the use of the EBISA or the Agreement must be filed within three months after such claim or cause of action became known or should have become known or be forever barred. The Agreement will inure to the benefit of ESG & WBD and its successors and assigns. All representations, warranties, terms, disclaimers, and limitations in the Agreement shall survive the termination of the Client's account or access to the EBISA.

HR GENIUS TERMS OF USE AGREEMENT

HR Genius is designed to provide business managers, employees, and their advisors—attorneys, accountants, insurance agents, consultants and others—with the practical and legal information they need to effectively and efficiently deal with the many compliance and other issues they encounter on a day-to-day basis, in their business and personal lives. ***By using HR Genius, you agree to respect all Copyrights and abide by these Terms of Use.***

Terms & Conditions

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You, and not HR Genius or ESG, are responsible for the applicability and accuracy of information as it relates to your company, employees or clients. Your use of information does not relieve you of responsibility, including those to any third party, for matters involving your company, employees or clients (e.g., preparation of tax returns, etc.) and you may not rely upon HR Genius or ESG for advice regarding same. The provision of information by HR Genius and ESG is not intended to create, and your use does not constitute, any form of relationship between HR Genius, ESG or the author(s) and you.

The parties hereby agree as follows:

License

1. Licensor hereby grants, and Licensee hereby accepts, a non-exclusive and nontransferable license to access and use Licensed Content. Licensee acknowledges that Licensed Content may be used only by clients and prospects that have been provided a unique username and password by Licensee to access the Licensed Content.
2. Licensor agrees to and grants to the Licensee a license to access the Licensed Content on the terms and conditions set forth in this Agreement.
3. If Licensee requires more than one Admin System due to multiple branches or separate databases, additional costs will be incurred.
4. Licensee may not resell the licensor's content without the express written permission of Licensor.
5. Licensee shall not distribute subscriptions to any company which is not a part of the Licensee's business units or branches.
6. Licensee shall not distribute subscriptions to General Agents, Brokers or Benefits Consultants.
7. Licensee shall submit to Licensor an approximate number of clients and prospects who will access the Licensed Content within two weeks of signing this Agreement.
8. Licensee shall have the right to make available Licensed Content as part of its normal business process. Licensee agrees that its use of the Licensed Content will be of such style, appearance and quality as to protect the Licensed Content and the goodwill pertaining thereto. Licensee shall not modify or otherwise create derivative works of the Licensed Content, except with the express written permission of Licensor.
9. Licensor maintains the copyright in and to the Licensed Content at all times.
10. Licensee shall be permitted to display the Licensed Content with a button on the Home Page.
11. Licensor may, from time to time, develop enhancements to Licensed Content. Any new product or service offerings and/or product modules that may be developed, may be made available to Licensee for additional fee(s).
12. Licensed Content Price. The "Ask an Expert" service is limited to 3 free requests per subscription per year. Each additional "Ask an Expert" question is billed at \$125.00.

Term and Termination.

1. This Agreement shall commence on the Effective Date and shall continue in full force and effect for 12 months, unless terminated earlier in accordance with this Agreement. This Agreement will be automatically renewed for successive one year periods. This Agreement may be terminated by either party upon 60 days notice to the other party.
2. If either party materially breaches any provision of this Agreement, the other party may give written notice to the breaching party that if the default is not cured within 30 days of the date of such notice, the Agreement may be terminated. If the non-breaching party gives such notice and the breach is not cured during such 30-day period, then this Agreement may be terminated by such other party immediately upon written notice.
3. Upon the termination of this Agreement and any extension beyond termination, all rights to the Licensed Content granted to Licensee under this Agreement will cease.
4. Termination of this Agreement, for any cause whatsoever, will in no manner interfere with, affect or prevent the collection by Licensor of any and all sums of money due to it under this Agreement. Upon termination, any unpaid amounts become due and payable immediately.

Title.

Licensee recognizes that Licensor retains all right, title and interest in the Licensed Content, as well as any and all tangible and intangible rights, copyrights, moral rights, trademark, trade secret rights, patents, industrial property rights, and all other proprietary rights of every kind as well as all registrations, applications, renewals, extensions, continuations, divisions, or reissues of the foregoing now or hereafter in force with respect thereto. Licensee agrees that it shall not claim any title to or right to the

Licensed Content except pursuant to this Agreement, and it shall not at any time attack or challenge the right of Licensor or its licensor(s) in and to the Licensed Content. Licensor shall display the copyright information where it currently exists now at the bottom of the page.

Confidentiality.

1. Licensee acknowledges that Licensed Content is valuable intellectual property of Licensor containing trade secrets and proprietary information developed by Licensor. Licensee will not modify or attempt to modify Licensed Content in any manner.
2. Licensee acknowledges that Licensee intends to use Licensed Content services. Except as necessary to conduct such efforts, Licensee agrees to serve confidentially with regard to all non-public aspects of Licensed Content. Licensee agrees that it will not download, decompile, disassemble or reverse engineer Licensed Content or any of its component parts unless with the express permission of the Licensor.
3. Licensee acknowledges that the breach by it of any provision of this Section will give rise to irreparable injury to Licensor, that the remedy at law for such breach will be inadequate and that monetary damages resulting from such breach will not be readily susceptible to measurement. Licensee acknowledges that, upon Licensee's violation of any provision of this Section Licensor will be entitled to immediate injunctive relief and a temporary order restraining any threatened or future breach of this Section. Nothing in this Section will be deemed to limit Licensor's remedy at law or in equity for any breach by Licensee of any provision of this Section.
4. Licensor acknowledges that all information created as a result of Licensee's use of Licensed Content including all names and all related information of individual companies in Licensee's customer base who are using Licensed Content (and the names of any associated participants, beneficiaries or trustees) is confidential and Licensor will not disclose such information to any party or organization other than Licensee.
5. The obligations of Licensor and Licensee under this Section will survive the termination of this Agreement.

Warranty.

1. Subject to the limitations set forth in this Section, Licensor warrants that it has the full right and authority to grant the license as provided in this Agreement.
2. Parties stipulate and agree that the information and materials provided on this site and the information provided through the 'Ask the Experts' service are for general information purposes only and are not intended to constitute legal or other advice or opinions on any specific matters. A competent attorney or other appropriate professional should be consulted on all legal compliance matters. The information provided and the opinions expressed are not necessarily those of HR & Benefits Essentials, its officers, partners or owners. Laws and regulations change frequently and their application can vary widely based upon the specific facts and circumstances involved. A particular reader, subscriber or member's situation may involve Federal, State or local laws, and/or application of company Plan documents, Employee Handbook or other company policies. As such, Licensor does not warrant or guarantee the accuracy of any statement or other information and materials provided in the Licensed Content or through the 'Ask the Experts' service. We provide references and links to websites not affiliated with HR & Benefits Essentials as a service to our readers. While we believe these sites to contain valuable information, we cannot guarantee their accuracy. All site visitors are cautioned to refer to the Terms of Use, Privacy, Copyright and other information on this and all sites visited.
3. This warranty (a) constitutes the sole and exclusive warranty of Licensor with respect to Licensed Content. Except for such warranty, Licensor makes no express or implied warranties or representations with respect to any software or services to be provided to Licensee under this Agreement, including, without limitation, any express or implied warranty of merchantability or fitness for a particular purpose or intended use. The remedies set forth in this Section, subject to the limitations set forth in this Section, are the sole remedies available to Licensee in the event that Licensed Content does not perform in accordance with specifications.
4. In no event, other than for trademark or copyright infringement, will Licensor be liable for any consequential, exemplary, incidental or punitive damages, including, without limitation, lost profits, even if Licensee has been advised of the possibility of such damages. In no event will the cumulative liability of Licensor for any breach of this Agreement exceed the Annual Licensing Fee paid to Licensor by Licensee under this Agreement.
5. Licensee further acknowledges that any Internet encryption technology employed in connection with Licensed Content may be defeatable. Licensor assumes no liability under this Agreement to Licensee or any third party as a result of a violation or failure, for any reason, of any such encryption.
6. Licensee further acknowledges that any Internet encryption, anti-spam, anti-virus technology, and the like, employed in connection with Licensed Content may be defeatable. Licensor assumes no liability under this Agreement to Licensee or any third party as a result of a violation or failure, for any reason, of any such encryption.

Indemnity.

Each party agrees to indemnify, save and hold harmless the other from and against any and all loss, claim, liability; cost, damage or expense, including, without limitation, costs of litigation and reasonable attorney's fees, arising out of or by reason of any breach of warranty, representation or agreement made to the other party hereunder. If either party asserts a claim with respect to which it is

entitled to indemnification hereunder, the indemnified party shall promptly notify the indemnifying party and the indemnifying party shall be entitled at its expense to participate in the defense of any claim, lawsuit or proceeding. No claim asserted by a third party for which indemnification is sought shall be settled without first obtaining the written consent of the indemnifying party, which consent shall not be unreasonably withheld.

Miscellaneous.

Neither this Agreement nor the license granted hereunder may be assigned (by operation of law or otherwise), sublicensed or otherwise transferred by Licensee without the prior written consent successors and permitted assigns.

Complete Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between Licensee and Licensor with respect to a license to use Licensed Content and supersedes all proposals, oral or written, and all other communications or agreements between the parties relating to the subject matter of this Agreement.

Amendments. This Agreement may not be altered, amended or modified except in a writing signed by both parties.

Notices. Any notice or other communication required under this Agreement will be given in writing by certified or registered mail, return receipt requested, by personal delivery, or by facsimile transmission (with confirmation of receipt) to such addresses and facsimile numbers as are provided by each party to the other in writing. Any notice will be deemed given upon receipt, if personally delivered or delivered by facsimile, or three days after mailing, if delivered by certified or registered mail.

Governing Law; Venue. This Agreement will be governed by and interpreted in accordance with the laws of the State of Arizona without regard to principles of conflicts of law. The Licensee agrees and consents to the exclusive jurisdiction of the courts of the State of Arizona for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the State of Arizona.

Severability. If any term of this Agreement is invalid or unenforceable under any statute, regulation, ordinance or other rule of law, such term will be deemed reformed or deleted and the remaining provisions will remain in full force and effect.

No Implied Waiver. The failure of either party at any time to require performance by the other party of any provision, or to deliver notice of a default by the other party of any provision, of this Agreement will in no way affect the right to require such performance or deliver such notice of default at any time thereafter, nor will the waiver by either party of a breach of any provision of this Agreement constitute a waiver of any succeeding breach of the same or any other provision.



**City Of Willcox
Administration Services Renewal Agreement**

ESG offers City of Willcox a rate pass – No Increases in Fees for Fiscal 2013 | 2014

Administration of Selected Benefit Plans HRA, FSA and COBRA

The renewal of services and related charges are presented, which serves to amend our service fee agreement for Fiscal year 2013 / 2014. Fees reflect the appropriate suite pricing discount (23%), representing three administration engagements summarized below.

The undersigned authorized representatives agree to provide for the City of Willcox, and the City of Willcox agrees to compensate ESG CORP, based on the following list of solutions, billed on a monthly basis:

- A. HRA Administration: \$6.50 per participant per month
Annual Renewal Fee: \$ Waived
Manual Check Disbursement Fee: \$ 1.00 per participant per month

- B. FSA Administration: \$6.60 per participant per month
One Time Renewal Fee: \$ Waived

- C. COBRA Administration: \$ 1.50 per participant per month
One Time Renewal Fee: \$ 0
Additional Costs: \$ 0 per occurrence.
Flat Fee Charges: \$ 0 per month.

Other COBRA Fee Information:

The law requires annual "notification of rights" under COBRA. ESG charges a flat \$125 to offer a customized letter for City of Willcox distribution internally. The client will be responsible for distribution and proof of process. A second option, ESG processes all activity, the letter preparation, mailing and distribution for \$3.00 per Employee. This notification covers the required annual documentation requirement, preparation, mail cost, materials and handling.

Any additional charges and/or options or features not listed above:

New Employees joining the any plan midyear incur a one-time \$25 setup fee in the month in which they join the plan. This fee covers the cost of the system setup, new employee kit preparation and postage cost, personal coaching as required, Summary Plan Description (required by ERISA), and handling to complete this requirement.

From time to time, HRA, FSA and/or COBRA plan designs are mandated by law. Events causing plan design changes may require IRS or ERISA compliance updates. This does not require a complete drafting of a new plan document, but an amendment of Adoption Agreement (IRS requirement); Summary Plan Description (ERISA requirement); or Summary of Material Modification (ERISA requirement). While these are rare occurrences, each change in these compliance documents incurs a one-time charge of \$250. This may occur this year, the pending PPACA reforms may impose a limit on FSA plans, which may require formal amendment.



Business Services Provider: **ESG CORP**
Employee Solutions Group
Address: 60 E. Rio Salado Parkway
Suite 900
Tempe, AZ 85281

Business Telephone: 877.668.8522
Business Fax: 866.668.1592
Email Address: athunberg@esgcorp.biz

Alan W. Thunberg
Alan W. Thunberg
Practice Manager
ESG CORP

April 30, 2013
Date

City of Willcox - Signature / Title

Date



**City Of Willcox
Administration Services Renewal Agreement**

ESG offers City of Willcox a rate pass – No Increases in Fees for Fiscal 2013 | 2014

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Business Services Provider: **ESG CORP**
Employee Solutions Group
Address: 60 E. Rio Salado Parkway
Suite 900
Tempe, AZ 85281

Business Telephone: 877.668.8522
Business Fax: 866.668.1592
Email Address: athunberg@esocorp.biz

Alan W. Thunberg
Alan W. Thunberg
Practice Manager
ESG CORP

April 30, 2013
Date

City of Willcox - Signature / Title

Date

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item: 16
Tab Number: 10
Date: 5-20-2013

Date Submitted:
05-16-13
Date Requested:
05-20-13

Action:
 Resolution
 Ordinance
 Formal
 Other

Subject:
Revised Draft of
Proposed City Attorney
Employment Contract

TO: MAYOR AND COUNCIL

FROM: City Attorney

DISCUSSION:

I have provided for you a revised employment agreement based upon the comments that I receive at the last City Council meeting. This agreement is being provided solely for the purpose of review and additional comment by the Mayor and City Council.

In the event that Council should wish to proceed with formal consideration of the employment of the City Attorney as an employee, I would need direction from the Council to revise to the City Code to permit such employment of the City Attorney as either an employee or an independent contractor. This can be presented along with the City Attorney employment agreement at the first regular City Council meeting in June.

Prepared and Approved by: Ann P. Roberts, City Attorney

<p>CITY OF WILLCOX</p> <p>CONTRACT: CITY ATTORNEY</p> <p>APPOINTEE: ANN P. ROBERTS</p> <p>AMOUNT: \$ _____ per year</p> <p>CONTRACT PERIOD: 7/01/13 – 6/30/14</p>	<p>(STAMP HERE)</p>
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EMPLOYMENT AGREEMENT

This Agreement is entered into this ____ day of June, 2013, by and between the **CITY OF WILLCOX**, an Arizona body politic, hereinafter referred to as “**CITY**,” and **ANN P. ROBERTS**, hereinafter referred to as “**ROBERTS**”.

RECITALS:

WHEREAS, **CITY** is empowered pursuant to the Willcox City Code, Title 1, Chapter 7, Article C, Section 1-7C-1 and Title 9, A.R.S. §9-271(B)(3), to appoint a person, for a definite term, to serve as City Attorney and to compensate such appointee for the services provided by the **ROBERTS**.

WHEREAS, **CITY** requires certain legal services on a continuing basis and **ROBERTS** is willing and licensed by the State of Arizona to provide legal services to **CITY** in the position of City Attorney and **ROBERTS** accepts employment to serve as City Attorney.

WHEREAS, **CITY** and **ROBERTS** desire to set forth the conditions of employment, compensation, and benefits in this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I — TERM AND EXTENSION/RENEWAL/CHANGES

This Contract, as approved by the Mayor and City Council of the City of Willcox, shall commence on July 1, 2013 and shall terminate on June 30, 2014 in accordance with the appointment of **ROBERTS** to serve as City Attorney or unless sooner terminated or further extended pursuant to the provisions of this Agreement. The parties may renew this Agreement upon mutual consent or may terminate the Agreement without any expectation of required renewal.

ROBERTS understands that she is an employee at will and nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the **CITY** to terminate the services of the **ROBERTS**, subject to the provisions set forth in this Agreement.

In the event the **ROBERTS** voluntarily resigns her position with the **CITY** at any time during the term of this Agreement, then **ROBERTS** shall provide the **CITY** with sixty (60) days written notice in advance, unless the parties otherwise agree.

Any modification, or extension of the Agreement and/or renewal, shall be with formal approval of Mayor and City Council and upon written amendment executed by the parties hereto.

ARTICLE II — SCOPE OF WORK

ROBERTS shall serve as City Attorney as provided by Title 1, Chapter 7, Article C, Section 1-7C-1 wherein, under the terms of this Agreement, the City Attorney will provide **CITY** with Municipal Legal Services to include, but not be limited to:

- Drafting all ordinances, resolutions and legal documents required;
- Reviewing, revising and approving as to form all contracts, memorandums of understandings, intergovernmental agreements, resolutions and ordinances as required by law and city policies;
- Drafting reviewing and approving as to form all revisions to the City Code and Personnel Policies;
- Prosecutorial responsibilities for all City Code Notice of Violations and citations issued by the Building Official/Code Enforcement Officer;
- Litigation support to assigned Arizona Municipal Risk Retention Pool (AMRRP) legal counsel retained to represent the City in litigation covered by Arizona Municipal Risk Retention Pool (AMRRP) policy;
- In-service training for city staff/elected officials/appointed officials and advisory committees on open meeting laws and other legal matters;
- Attendance and advise to Mayor and Council at council meetings and executive sessions;
- Preparation of agenda items as authorized by the City Code and state statutes;
- Preparation of legal opinions and auditor opinions;
- Any other regular legal assignments or required legal work that arises while acting in the official capacity as City Attorney.

ROBERTS shall be responsible for the designation of another attorney to cover her scope of work duties in her absence as City Attorney.

ROBERTS shall render services as the City Attorney in a professional manner and shall perform the functions and duties as directed by Mayor and Council and existing City Code and Ordinances or as they may be amended from time to time.

ROBERTS will serve the CITY diligently and faithfully according to her best ability in all respects and will use her utmost endeavors to promote the best interests of the CITY.

The annual salary rate as set forth hereinabove for **ROBERTS** shall not apply to any matter requiring a trial or appeal in the Superior Court of the State of Arizona or an appeal to a higher court and the hourly rate for all such matters shall be undertaken at an hourly rate of not less than FIFTY PERCENT (50%) of the then current hourly rate charged non-municipal clients of **ROBERTS**, presently Two Hundred Fifty Dollars (\$250.00) per hour. Any matters to be billed in accordance with this paragraph shall be preapproved by the Mayor and City Council prior to **ROBERTS** beginning any work on such matter and **ROBERTS** shall provide detailed documentation in support of the requested payment such documentation shall be submitted monthly to the Mayor and City Manager by the fifth (5th) day of each month.

ARTICLE III — COMPENSATION/PAYMENT/OTHER BENEFITS

In consideration for the City Attorney Services specified in this Agreement, the CITY agrees to pay **ROBERTS**, as an employee of the CITY, at an annual rate of \$ _____ payable in installments pursuant to regular payroll schedules used by the CITY.

The annual salary set forth hereinabove for **ROBERTS** shall automatically be amended to reflect any cost of living salary adjustments granted annually to other employees.

ROBERTS employment classification as an employee of CITY shall commence July 1, 2013, and **ROBERTS** will be available to perform legal work on behalf of CITY for up to twenty (20) hours per week and as such, **ROBERTS** will be entitled to participate in the Arizona State Retirement System in the same manner as any other employee of the CITY.

Although **ROBERTS** will be entitled to participate in the Arizona State Retirement System in the same manner as any other employee of the CITY, **ROBERTS** employment classification as an employee shall not entitle her to receive holiday pay, vacation and sick leave, and health insurance benefits.

ARTICLE IV — PERFORMANCE EVALUATION

ROBERTS' performance shall be evaluated during the month of May of each year unless the parties mutually agree to some other time frame. After each evaluation, the parties shall schedule a meeting to review the evaluation and determine, if necessary, any adjustments in compensation, benefits, terms and/or conditions of the continued employment of **ROBERTS**.

ARTICLE V — INSURANCE AND INDEMNIFICATION

CITY shall provide liability insurance coverage through the Arizona Municipal Risk Retention Pool (AMRRP) or another carrier to cover City Attorney in litigation arising out of carrying out the contracted scope of work that is related to the performance of the services provided by **ROBERTS**.

The **CITY** shall defend, save harmless and indemnify **ROBERTS** against any tort, professional liability claim or other legal action, arising out of an alleged act or omission occurring in the course and scope of the performance of her duties as City Attorney on the same basis as other employees of the **CITY** and to the extent permitted by law and the City's insurance carrier coverage.

ROBERTS shall indemnify, defend, and hold harmless **CITY**, its officers, employees and agents from and against any and all malpractice suits, actions, legal administrative proceedings, claims and costs attended thereto, arising out of any willful act, omission, fault or gross negligence by **ROBERTS** in connection with performance of this Agreement.

ARTICLE VI — “AT WILL” STATUS

The status of **ROBERTS** shall be that of an “at will employee” pursuant to the terms and conditions enumerated in this Agreement.

ARTICLE VII — ASSIGNMENT

ROBERTS shall not assign her rights to this Agreement, in whole or in part.

ARTICLE VIII — AUTHORITY TO CONTRACT

ROBERTS warrants her right and power to enter into this Agreement. If any Court or Administrative Agency determines that **CITY** does not have authority to enter into this Agreement, **CITY** shall not be liable to **ROBERTS** or any third party by reason of such determination or by reason of Contract.

ARTICLE IX— TERMINATION AND SEVERANCE PAY

ROBERTS reserves the right to voluntarily terminate her employment in compliance with the notice requirement enumerated in Article I above. In the event of such action, **ROBERTS** shall not be entitled to severance payment.

In the event that **ROBERTS** is terminated by a majority of votes of the governing body at a duly authorized public meeting, **CITY** shall provide a severance payment equal to three (3) months' salary at the current rate of pay.

ARTICLE X — NOTICE

Any Notice required or permitted to be given under this Agreement shall be in writing and shall be served by personal delivery or by certified mail upon the other party as follows:

CITY:
Willcox City Clerk
101 S. Railroad Ave., Suite B
Willcox, Arizona 85643

ROBERTS:
Ann P. Roberts
P.O. Box 2315
Benson, Arizona 85602

ARTICLE XI — REMEDIES

Either party may pursue any remedies provided by law for breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract. This Agreement will be governed by the laws of the State of Arizona.

ARTICLE XII — SEVERABILITY

Each provision of this Agreement stands alone, and if any provision of this Agreement is held, in whole or in part, to be unenforceable for any reason, the remainder of the provision and of the entire Agreement will be severable and remain in effect.

ARTICLE XIII — ENTIRE AGREEMENT

This document constitutes the entire Agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Agreement may be modified, amended or extended only by a written amendment approved by Mayor and Council and executed thereby.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on this _____ day of June, 2013.

CITY OF WILLCOX:

ROBERTS:

ROBERT A. IRVIN, MAYOR
Authorized City Official

ANN P. ROBERTS

ATTESTED:

VIRGINIA A. MEFFORD, City Clerk

**CITY OF WILLCOX
EXECUTIVE SESSION**

AGENDA

MONDAY, MAY 20, 2013

7:00 p.m.

300 W. REX ALLEN DRIVE

Willcox, Arizona

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **CONSIDERATION PURSUANT TO ARIZONA REVISED STATUTES §38-431.03(A) (1) AND (A)(3) DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC FOR THE PURPOSE OF DISCUSSION OR CONSIDERATION OF EMPLOYMENT.**
Consideration and/or discussion pursuant to Arizona Revised Statutes §38-431.03(A) (1) and (A)(3), as stated relating to consultation for legal advice with the attorney(s) of the public for the purpose of discussion or consideration of employment.
4. **ADJOURN**



NOTICE OF EXECUTIVE SESSION

CITY COUNCIL

In accordance with Resolution No. 370 of the City of Willcox, and Section 38-431.01 of the Arizona Revised Statutes **NOTICE IS HEREBY GIVEN** that the **MAYOR AND COUNCIL** of the City of Willcox, County of Cochise, Arizona, will hold an **EXECUTIVE SESSION**, if approved, during the **REGULAR** meeting on **MONDAY**, the **20th** day of **May 2013** at **7:00 p.m.**, in the **CITY COUNCIL CHAMBERS, 300 W. REX ALLEN DRIVE, WILLCOX, AZ**

Item for Consideration and Discussion are:

A.R.S §38-431.03(A) (1) AND (A)(3) DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY FOR THE PURPOSE OF DISCUSSION OR CONSIDERATION OF EMPLOYMENT

Consideration and/or discussion regarding consultation for legal advice with the Attorney or Attorney's of the public body, for the purpose of discussion or consideration of employment.

DATED AND POSTED this 16nd day of May 2013, at 12:00 P.M.

CITY OF WILLCOX, ARIZONA

/s/ Virginia A. Mefford
City Clerk Virginia A. Mefford

Memo

To: Mayor and Council

From: Sherry Lynn Van Allen – Human Resources

Date: 05/15/2013

Re: Update City Manager

Please find an update on the status of the City Manager hiring process.

I have revised the time frame for the City Manager hiring process based on information I received regarding conflicts for Council members. Any feedback would be appreciated.

If you have any questions please give me a call.
520-766-4204 – Direct Line

svanallen@willcoxcity.org

REVISED**City Manager Selection Process:**

- ~~Applications Close – April 19, 2013~~
- ~~Applications to Council – Monday April 22, 2013~~
- ~~Application Review – Monday April 29th~~
- ~~Supplemental Questions Requested – Tuesday, May 7th~~
- Supplemental Questions Due back to HR– Friday, May 17th
- Council Review Supplemental Questions– Monday, May 20th
- Scheduling Phone Interviews begins week of May 21st
- Council Conduct Phone Interviews – Monday, June 10th 4:30-9:00pm
- In Person Candidates Selected by Friday, June 14th
- Scheduling In person interviews begins week of June 17th
- Interview Final Candidates – Monday, July 08th
- Decide and negotiate contract by Monday, July 15th
- Start Date – Sept 01, 2013

In Person Interview Schedule:

- Candidates arrive – Sunday, July 07th
- Interview Day – Monday, July 08th
 - Candidates arrive at City Hall 8:30 a.m.
 - Tour of Community 9:00 – 10:30 am
 - Lunch with Council – Noon -1:30 pm
 - Community and staff meet and greet 2:00 – 4:00 pm
 - Council Interviews 5:00 – 10:00 pm
- Candidates depart – Tuesday, July 09th

All times are tentative depending on Council direction.