

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item 11
Tab Number N/A
Date: 8/30/2010

<u>Date Submitted:</u>	<u>Action:</u>	<u>Subject:</u>
August 27, 2010	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Formal	Resolution Amending Resolution No. 2001-01 for Series 2001A and 2001B Sewer Revenue Bonds

TO: MAYOR AND COUNCIL
FROM: Finance Director Ruth Graham

DISCUSSION:

On January 23, 2001, the Mayor and Council adopted a Bond Resolution to issue City of Willcox Arizona Sewer Revenue Bonds, Series 2001A and 2001B (the "2001 Bonds"). The U.S. Department of Agriculture (USDA) is the owner of all of the outstanding 2001 Bonds.

The Mayor and Council are considering a proposed Water Infrastructure Finance Authority (WIFA) loan in an amount not to exceed One Million Dollars (\$1,000,000) for planning and design services for an Oxidation Ditch wastewater treatment system for the City. As a part of such financing, the City desires to amend Section 2 of the 2001 Bonds Bond Resolution to amend the definition of the term "Maximum Annual Debt Service." Such amendment must be approved by not less than two-thirds (2/3) of the bondholders (USDA), and shall have the effect of amortizing the loan payments on the proposed WIFA loan, with a balloon payment due in three years, by assuming level annual payments of principal and interest over a period of twenty-five (25) years.

The City has also been working with USDA to secure permanent, long-term financing for the construction of the wastewater treatment plant Oxidation Ditch system. The outstanding balance of the WIFA loan will be incorporated into the long-term financing to be provided by USDA.

RECOMMENDATION: Motion to execute Resolution No. 2010-91, a Resolution Amending Resolution No. 2001-01, Authorizing the Issuance and Sale of City of Willcox, Arizona Sewer Revenue Bonds, Series 2001A and 2001B.

FINANCIAL IMPACT: The Amendment is necessary to secure proposed WIFA financing in an amount not to exceed One Million Dollars (\$1,000,000).

Submitted by:

Approved by:



Ruth Graham, Finance Director

Pat McCourt, City Manager

Exhibit B

Technical Terms and Conditions

**Section 1
Budget**

Uses by Budget Item	Amount Budgeted
Planning.....	\$200,000.00
Design & Engineering.....	\$740,000.00
Legal/Debt Authorization.....	\$50,000.00
Financial Advisor.....	\$10,000.00
Land/System Acquisition.....	\$0.00
Equipment/Materials.....	\$0.00
Construction/Installation/Improvement.....	\$0.00
Inspection & Construction Management.....	\$0.00
Project Officer.....	\$0.00
Administration.....	\$0.00
Staff Training.....	\$0.00
Capitalized Interest.....	\$0.00
Refinance Loan.....	\$0.00
Other.....	\$0.00
Total Budget.....	\$1,000,000.00

**Section 2
Project Description**

The Plant will be designed to process an average annual and maximum month wastewater flow of 0.8 MGD and shall be capable of meeting Class B+ Recalimed Water standards.

The following is a summary list of anticipated project requirements which are discussed in detail in Section 5 of the Willcox Preliminary Engineering Report for this project:

1. Headworks modifications,
2. Modifications to existing septage receiving station,
3. Two oxidation ditches with nitrification and de-nitrification configuration,
4. Two circular secondary clarifiers (not covered),
5. RAS/WAS/Blower pump station building with RAS and WAS pumps and multi-stage centrifugal aeration blower equipment,
6. Chlorine disinfection contact basin with de-chlorination chamber,
7. Effluent pump station,

8. Bio-solids drying beds,
9. Equipment automation with SCADA system.

In addition, a new APP, Reuse and AZPDES permits with ADEQ will be required for the project.

Section 3 Requirements Prior To Final Disbursements

Section 3.1 **Design & Engineering Deliverables**. Prior to the release of the withholding, the Local Borrower will submit to the Authority (a) as-built drawings by a professional engineer that document all changes from the original plans and specifications (b) copies of all testing results performed by or under the supervision of a professional engineer as required by the specifications, and (c) Arizona Department of Environmental Quality (ADEQ) approval of construction or an engineer's Certificate of Completion certifying that all construction was completed in accordance with the plans and specifications or that any changes made are in conformance with the Arizona Revised Statutes, ADEQ and Environmental Protection Agency rules, permits and guidelines and are documented in the as-built drawings. Based on a review of the information submitted, the Authority reserves the right, prior to the release of the withholding, to request modifications to the Project, the system, or the materials submitted pursuant to this section.

Section 3.2 **Federal Clean Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Clean Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

Section 3.3 **Federal Safe Drinking Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Safe Drinking Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

RESOLUTION NO. 2010-91

RESOLUTION AMENDING RESOLUTION NO: 2001-01, AUTHORIZING THE ISSUANCE AND SALE OF CITY OF WILLCOX, ARIZONA SEWER REVENUE BONDS, SERIES 2001A AND 2001B; AUTHORIZING, RATIFYING AND APPROVING ALL ACTIONS IN CONNECTION THEREWITH AND DECLARING AN EMERGENCY TO EXIST.

WHEREAS, pursuant to authority of Resolution No. 2001-01, adopted by the Mayor and Council on January 23, 2001 (the "Bond Resolution"), the City of Willcox, Arizona (the "City") has issued City of Willcox, Arizona Sewer Revenue Bonds, Series 2001A and 2001B collectively, the "2001 Bonds"); and

WHEREAS, the City desires to amend Section 2 of the Bond Resolution in certain respects and as set forth below; and

WHEREAS, Section 18 of the Bond Resolution permits such amendment to be made with the consent of not less than two-thirds (2/3) of the Owners of the 2001 Bonds; and

WHEREAS, the United States of America, Rural Utilities Service, United States Department of Agriculture (the "Bondholder") is the registered Owner of all of the outstanding 2001 Bonds and no other Bonds are outstanding under the Bond Resolution; and

WHEREAS, the Mayor and Council of the City of Willcox have determined that it is in the best interest of the City and its citizens to authorize, ratify and approve Amending Resolution No: 2001-01 as presented; and

WHEREAS, the Mayor and Council desire to have this item presented at its August 30, 2010 Special Council Meeting; and

WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Willcox, Cochise County, Arizona, that an emergency be declared to exist to assure timely amendment of Resolution 2001-01, and that this Resolution be effective immediately upon its passage and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, AS FOLLOWS:

Section 1. Amendment of Section 2 of Bond Resolution No: 2001-01. Section 2 of the Bond Resolution is hereby amended by amending the definition of "Maximum Annual Debt Service" therein to read as follows:

"Maximum Annual Debt Service" shall mean, at the time of computation, the greatest scheduled principal and interest requirement of the Bonds occurring in the then-current, or any subsequent, Fiscal Year. When computing Maximum Annual Debt Service, (a) Bonds subject to mandatory redemption shall be treated as maturing on the date of such mandatory redemption, and (b) .and series of Parity Bonds which has a final maturity within three (3) years following the issuance thereof shall be amortized by assuming level annual payments of

principal and interest over a period of twenty-five (25) years, without regard to actual principal maturities, and interest rates equal to the annual Municipal Market Data (MMD) General Obligation Yields for the corresponding years and credit rating (or if no corresponding rating is reported by MMD, the "Baa" rating) at a date not more than two (2) weeks prior to the date of such computation.

Section 2. Approval of Actions. All actions of the officers and agents of the City which conform to the purposes and intent hereof, whether heretofore or hereafter taken, shall be and are hereby authorized, ratified, confirmed and approved. The proper officers and agents of the City are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the City as may be necessary to carry out the terms and intent hereof.

Section 3. Effective Date of Resolution. This Resolution shall become effective immediately upon adoption and approval, and upon receipt of the written consent of the Bondholder, in the form attached to this Resolution.

Section 4. Emergency. The immediate operation of the provisions hereof is necessary for the preservation of the public peace, health, and safety and an emergency is hereby declared to exist and this Resolution shall be in full force and effect from and after its passage and adoption and is hereby exempt from the referendum provisions of the Constitution and the laws of the State of Arizona.

ADOPTED AND APPROVED on August 30, 2010

CITY OF WILLCOX, ARIZONA

By: _____
Mayor, Gerald W. Lindsey

ATTEST:

By: _____
City Clerk, Cristina G. Whelan, CMC

APPROVED AS TO FORM:

SQUIRE, SANDERS & DEMPSEY L.L.P., Bond Counsel

By: _____
Timothy E. Pickrell

Resolution NO. 2010-91

CERTIFICATE

I, Cristina G. Whelan, the duly appointed and acting City Clerk of the City of Willcox, Arizona, do hereby certify that the above and foregoing Resolution No. 2010-91 was duly passed by the Mayor and Council of the City of Willcox, Arizona, at a regular meeting held on August 30, 2010, and the vote was ___ yes and ___ nays and that the Mayor and all Council Members were present thereat.

Clerk, City of Willcox, Arizona

CONSENT OF BONDHOLDER

CITY OF WILLCOX, ARIZONA
SEWER REVENUE BOND
SERIES 2001A AND 2001B

The undersigned registered Owner of all of the outstanding Bonds described above, does hereby consent to the adoption of the preceding resolution, amending the Bond Resolution described therein.

Dated: _____, 2010

UNITED STATES OF AMERICA, RURAL
UTILITIES SERVICE, UNITED STATES
DEPARTMENT OF AGRICULTURE

By: _____

Title: _____

CERTIFICATE OF BOND REGISTRAR

CITY OF WILLCOX, ARIZONA
SEWER REVENUE BOND
SERIES 2001A AND 2001B

The undersigned serves as Bond Registrar for the above-described Bonds and, in such capacity, certifies that according to the records in my possession, the United States of America, Rural Utilities Service, United States Department of Agriculture is the registered owner of all such Bonds.

Dated: _____, 2010

City Clerk, City of Willcox, Arizona

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item 12
Tab Number N/A
Date: 8/30/2010

<u>Date Submitted:</u>	<u>Action:</u>	<u>Subject:</u>
August 27, 2010	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Formal	Water Infrastructure Finance Authority (WIFA) Financing for Planning and Design Services for a Wastewater Treatment Plant

TO: MAYOR AND COUNCIL
FROM: Finance Director Ruth Graham

DISCUSSION:

The replacement of the wastewater treatment plant has been under consideration by the Mayor and Council for several months. We have been working with TetraTech for engineering services. Several alternatives for the plant replacement were considered, including improvements to the existing lagoon system, a Single Basin Activated Sludge System, a packaged plant system, and an Oxidation Ditch System. On July 6, 2010, the Mayor and Council selected the Oxidation Ditch System as the best alternative.

On April 19, 2010, by Resolution No. 2010-40, the Mayor and Council authorized the application for a CWSRF Loan for planning and design services in an amount not to exceed One Million Dollars (\$1,000,000) from the Water Infrastructure Finance Authority of Arizona (WIFA) to begin the process of replacing the wastewater treatment plant. WIFA has authorized a loan on to the City of Willcox for the Uses and Project Description set out on the attached Exhibit B. The City will draw against the funds as needed, up to a maximum amount of \$1,000,000. The source of funds for repayment of the loan will be revenues from the sewer utility.

The loan will be for a period of three years. The City has also been working with the U.S. Department of Agriculture (USDA) to secure permanent, long-term financing for the construction of the wastewater treatment plant Oxidation Ditch system. The outstanding balance of the WIFA loan will be incorporated into the long-term financing to be provided by USDA.

RECOMMENDATION: Motion to execute Resolution No. 2010-92 Providing for the Financing of Certain Sewer System Improvements and Facilities through a Loan Agreement with the Water Infrastructure Finance Authority in an amount not to exceed One Million Dollars (\$1,000,000).

FINANCIAL IMPACT: Loan to the City of Willcox Sewer Utility in an amount not to exceed One Million Dollars (\$1,000,000).

Submitted by:



Ruth Graham, Finance Director

Approved by:

Pat McCourt, City Manager

Exhibit B

Technical Terms and Conditions

**Section 1
Budget**

Uses by Budget Item	Amount Budgeted
Planning.....	\$200,000.00
Design & Engineering.....	\$740,000.00
Legal/Debt Authorization.....	\$50,000.00
Financial Advisor.....	\$10,000.00
Land/System Acquisition.....	\$0.00
Equipment/Materials.....	\$0.00
Construction/Installation/Improvement.....	\$0.00
Inspection & Construction Management.....	\$0.00
Project Officer.....	\$0.00
Administration.....	\$0.00
Staff Training.....	\$0.00
Capitalized Interest.....	\$0.00
Refinance Loan.....	\$0.00
Other.....	\$0.00
Total Budget.....	\$1,000,000.00

**Section 2
Project Description**

The Plant will be designed to process an average annual and maximum month wastewater flow of 0.8 MGD and shall be capable of meeting Class B+ Recalimed Water standards.

The following is a summary list of anticipated project requirements which are discussed in detail in Section 5 of the Willcox Preliminary Engineering Report for this project:

1. Headworks modifications,
2. Modifications to existing septage receiving station,
3. Two oxidation ditches with nitrification and de-nitrification configuration,
4. Two circular secondary clarifiers (not covered),
5. RAS/WAS/Blower pump station building with RAS and WAS pumps and multi-stage centrifugal aeration blower equipment,
6. Chlorine disinfection contact basin with de-chlorination chamber,
7. Effluent pump station,

8. Bio-solids drying beds,
9. Equipment automation with SCADA system.

In addition, a new APP, Reuse and AZPDES permits with ADEQ will be required for the project.

Section 3 Requirements Prior To Final Disbursements

Section 3.1 **Design & Engineering Deliverables**. Prior to the release of the withholding, the Local Borrower will submit to the Authority (a) as-built drawings by a professional engineer that document all changes from the original plans and specifications (b) copies of all testing results performed by or under the supervision of a professional engineer as required by the specifications, and (c) Arizona Department of Environmental Quality (ADEQ) approval of construction or an engineer's Certificate of Completion certifying that all construction was completed in accordance with the plans and specifications or that any changes made are in conformance with the Arizona Revised Statutes, ADEQ and Environmental Protection Agency rules, permits and guidelines and are documented in the as-built drawings. Based on a review of the information submitted, the Authority reserves the right, prior to the release of the withholding, to request modifications to the Project, the system, or the materials submitted pursuant to this section.

Section 3.2 **Federal Clean Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Clean Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

Section 3.3 **Federal Safe Drinking Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Safe Drinking Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

RESOLUTION NO. 2010-92

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, ARIZONA, PROVIDING FOR THE FINANCING OF CERTAIN SEWER SYSTEM IMPROVEMENTS AND FACILITIES THROUGH A LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA; APPROVING AND DIRECTING THE EXECUTION AND DELIVERY OF SUCH LOAN AGREEMENT AND THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR OTHER RELATED MATTERS; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to authority of Title 9, Article 5, Arizona Revised Statutes, the City of Willcox, Arizona (the “City”) operates a sewer system (the “System”); and

WHEREAS, pursuant to authority of Resolution No. 2001-01, adopted by the Mayor and Council on January 23, 2001, as amended (collectively, the “Bond Resolution”), the City has issued City of Willcox, Arizona Sewer Revenue Bonds, Series 2001A and 2001B (collectively, the “2001 Bonds”) which are payable from the “Net Revenues” (as defined in the Bond Resolution) of the System; and

WHEREAS, the City now wishes to finance one or more additional improvements and facilities for the System, as generally described on Exhibit A hereto attached (collectively, the “Projects”); and

WHEREAS, the City has determined that the Projects can be financed on advantageous terms through a loan from the Water Infrastructure Finance Authority of Arizona (the “Authority”) pursuant to Section 9-571, Arizona Revised Statutes; and

WHEREAS, such loan would be evidenced by the execution and delivery of a loan agreement (the “Loan Agreement”) between the City and the Authority; and

WHEREAS, there has been placed on file with the City Clerk a proposed form of the Loan Agreement:

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, AS FOLLOWS:

Section 1. This Mayor and Council hereby find and determine that it will be beneficial to the citizens of the City of Willcox for the City to enter into and perform the Loan Agreement and other associated agreements with the Authority whereby the City will borrow not to exceed \$1,000,000 from the Authority to provide for financing the Projects and authorizes the payment of all costs, necessary premiums and commissions, legal, financial, and contingent costs of the City and to pay certain costs of the Authority pursuant to the Loan Agreement, all of which is found in furtherance of the purposes of the City and its citizens and in the public interest.

Section 2. The form, terms and provisions of the Loan Agreement, in substantially the form of such document (including exhibits thereto) presented at this meeting, and with such insertions, omissions and changes, including any changes required by the Authority or its bond insurer (or any other party providing credit enhancement for the Authority's bonds), not inconsistent with the prior resolutions of this Mayor and Council providing for the issuance of its sewer revenue bonds, the requirements of the federal government, the requirements of the Authority and this Resolution, as such shall be approved by the Mayor of the City. The execution of such document or documents shall be conclusive evidence of such approval, and the Mayor of the City and the City Clerk of the City are hereby authorized and directed, for and on behalf of the City, to sign and attest, respectively, the Loan Agreement. Additionally, the Mayor and City Clerk are hereby authorized and directed for and on behalf of the City, to sign and attest all other agreements, documents or certificates made in connection with the financing of sewer system improvements and facilities. The Mayor is further authorized and directed to complete all exhibits attached to the Loan Agreement or the related documents heretofore authorized to be executed and delivered on behalf of the City, to insert all needed data to complete in full all such documents in order to complete the loan or loans from the Authority; provided, however, that the total "eligible project costs" and the principal amount of the loan or loans shall not exceed, in the aggregate, \$1,000,000, the loan repayment schedule with respect to the Loan Agreement shall end on a date not later than three (3) years from its date, and delivery of the Loan Agreement shall be structured to be consistent with the expected Net Revenues of the System, and the stated interest rate shall not exceed 7.00% per annum.

Section 3. For the payment of the principal, premium, if any, and the interest on the loan represented by the Loan Agreement, the City agrees to transfer the loan repayments as provided for in the Loan Agreement. The City further agrees to pay all other amounts required to be paid by the City pursuant to the provisions of the Loan Agreement and related documents as additional interest on the Loan Agreement.

Section 4. The obligation of the City to make the loan repayments provided for in the Loan Agreement is limited to payment from the sources of revenues pledged therefor, the Net Revenues of the System and further such payments shall be made on a parity with the obligations of the City to its outstanding and future sewer revenue bond holders, as provided in the Bond Resolution. The Loan Agreement shall not constitute nor give rise to a general obligation of the City or any claim against its general or special taxing powers, or constitute an indebtedness within the meaning of any statutory or constitutional debt limit applicable to the City.

Section 5. The appropriate officials and officers of City are hereby authorized and directed to take all actions necessary or reasonably required by the parties to the Loan Agreement or any other agreement or related document necessary to carry out, give effect to and to consummate the transactions contemplated herein and in such agreements, including, without limitation, the execution and delivery of any closing and other documents reasonably required to be delivered in connection therewith or in connection with bonds issued by the Authority to fund the Authority's obligations under the Loan Agreement.

Section 6. After the execution and delivery of the Loan Agreement and upon receipt of the full amount of each loan represented thereby, this Resolution shall be and remain irrevocable until such loan and the Loan Agreement and interest thereon shall have been fully paid, cancelled

and discharged. Except as provided in the Loan Agreement, no obligation of the City shall survive the full payment and discharge of the Loan Agreement.

Section 7. If any section, paragraph, clause or provision of this Resolution shall be for any reason invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions hereof.

Section 8. All ordinances and resolutions or parts thereof, except the Bond Resolution, are hereby waived to the extent of any inconsistency. This waiver shall not be construed as reviving any ordinance or resolution or any part thereof which was amended or repealed by any ordinance or resolution the provisions of which are hereby waived.

Section 9. Emergency. It is necessary to utilize an emergency clause with this Resolution in order to complete the loan represented by the Loan Agreement at the earliest practicable date, thereby committing the Authority and transferring the market risk of changes in interest rate levels from the City to the Authority.

WHEREAS, the immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety of the City, an emergency is hereby declared to exist, and this Resolution is enacted as an emergency measure and will be in full force and effect from and after its passage, adoption and approval by the Mayor and Council of the City, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City, on August 30, 2010.

By: _____
Mayor, Gerald W. Lindsey

ATTEST:

By: _____

City Clerk, Cristina G. Whelan, CMC

RESOLUTION NO. 2010-92

APPROVED AS TO FORM:

SQUIRE, SANDERS AND DEMPSEY L.L.P.,
Bond Counsel

By: _____
Timothy E. Pickrell, Esq.

CERTIFICATE

I, Cristina G. Whelan, the duly appointed and acting City Clerk of the City of Willcox, Arizona, do hereby certify that the above and foregoing Resolution No. 2010-92 was duly passed by the Mayor and Council of the City of Willcox, Arizona, at a regular meeting held on August 30, 2010, and the vote was ___ yes and ___ nays and that the Mayor and all Council Members were present thereat.

Clerk, City of Willcox, Arizona

EXHIBIT A

Tetra Tech proposes the following Phase I improvements be considered to achieve the City of Willcox's goal of Class B wastewater, and provide an overall improvement of plant operations:

Project Description

The Plant will be designed to process an average annual and maximum month wastewater flow of 0.8 MGD and shall be capable of meeting Class B+ Reclaimed Water standards.

The following is a summary list of anticipated project requirements which are discussed in detail in Section 5 of the Willcox Preliminary Engineering Report for this project:

1. Headworks modifications,
2. Modifications to existing septage receiving station,
3. Two oxidation ditches with nitrification and de-nitrification configuration,
4. Two circular secondary clarifiers (not covered),
5. RAS/WAS/Blower pump station building with RAS and WAS pumps and multi-stage centrifugal aeration blower equipment,
6. Chlorine disinfection contact basin with de-chlorination chamber,
7. Effluent pump station,
8. Bio-solids drying beds,
9. Equipment automation with SCADA system.

In addition, a new APP, Reuse and AZPDES permits with ADEQ will be required for the project.

