

**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: /S/ GERALD W. LINDSEY .  
Mayor, Gerald W. Lindsey

ATTEST:

Signed: 08-31-2010

By: /s/ Cristina G. Whelan, CMC .

City Clerk, Cristina G. Whelan, CMC

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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 special meeting held on August 30, 2010, and the vote was 7 yes and Ø nays and that the Mayor and all Council Members were present thereat.

/s/ Cristina G. Whelan, CMC  
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.