

Board of Supervisors

Ann English
Chairman
District 2

Richard R. Searle
Vice-Chairman
District 3

Patrick G. Call
Supervisor
District 1



Michael J. Ortega
County Administrator

James E. Vlahovich
Deputy County Administrator

Katie A. Howard
Clerk

AGENDA FOR REGULAR BOARD MEETING
Tuesday, April 9, 2013 at 10:00 AM
BOARD OF SUPERVISORS HEARING ROOM
1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

PLEDGE OF ALLEGIANCE

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING

ROLL CALL

Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.

Note that some attachments may be updated after the agenda is published. This means that some presentation materials displayed at the Board meeting may differ slightly from the attached version.

CALL TO THE PUBLIC

This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda.

CONSENT

Board of Supervisors

1. Approve the Minutes of the regular meeting of the Board of Supervisors of March 26, 2013.
2. Approve a proclamation to proclaim April 2013 as National County Government Month - "Smart Justice: Creating Safer Communities", in support of the effort to educate and engage residents about the value of available services in Cochise County and the positive impact these services can have on the lives of County residents.

Community Development

3. Adopt Resolution 13-08, abandoning a portion of a No Access Easement adjoining State Route 92 in the Sierra Vista area, as described therein.

4. Adopt Resolution 13-09, abandoning the public right-of-way easement in the Three Triangle Ranch Area as described therein.
5. Adopt Resolution 13-10, authorizing staff to apply for a Planning Assistance for Rural Areas (PARA) grant, through the Arizona Department of Transportation, for technical assistance to complete the Cochise County 2040 Long-Range Transportation Plan.

County Attorney

6. Approve the proposed settlement of the Tax Appeal in James R. Thompson and Audrey M. Thompson v. Cochise County, ST2012-000564 (Assessor parcel No. 202-42-017), now pending in Arizona Tax Court, a division of the Superior Court of and for Maricopa County.
7. Approve the proposed settlement of the Tax Appeal in Mario and Debbie Saldivar v. Cochise County, ST2012-000829 (Assessor parcel No. 02-408-120-30), now pending in Arizona Tax Court, a division of the Superior Court of and for Maricopa County.

County Sheriff

8. Approve the Work and Financial Plan, Agreement Number 13-73-04-0228-RA, between Cochise County and the U.S. Department of Agriculture Animal and Plant Health Inspection Service, Wildlife Services, pursuant to the existing Cooperative Service Agreement No. 09-73-04-0228-RA, to assign a Wildlife Specialist to Cochise County for predator and disease control for the term of July 1, 2013 to June 30, 2014 at a cost of \$39,819.

Finance

9. Approve demands and budget amendments for operating transfers.

Fleet

10. Approve the renewal of Contract 11-34-HFM-04 for Heavy Equipment Rentals to various vendors in the not to exceed amount of \$96,000 for the period of April 1, 2013 through March 31, 2014 for the Fleet Management Department.

PUBLIC HEARINGS

Board of Supervisors

11. Approve the Cable Television License Agreement with Cox Cable effective August 3, 2014 through August 2, 2029.

Facilities

12. Adopt Resolution 13-11 authorizing the submission of application(s) for FY 2013 State Community Development Block Grant Funds.

ACTION

Community Development

13. Approve an increase in the not to exceed dollar amount of Contract No. 10-66-HFP-04 with Western Emulsions, Inc. for CRS-2 and CRS-2P emulsified asphalt products from \$1,350,000 to \$2,050,000.

Indigent Defense

14. Approve the transfer of funds in the amount of \$280,000 from General Fund Contingency Account to Indigent Defense Coordinator (IDC) budget accounts.

STATE & FEDERAL LEGISLATION

15. Discussion and possible action regarding state and federal legislative matters, including but not limited to the items in the attached County Supervisors Association Legislative Policy Committee Agenda and the proposed State budget.

REPORT BY MICHAEL J. ORTEGA, COUNTY ADMINISTRATOR -- RECENT AND PENDING COUNTY MATTERS

SUMMARY OF CURRENT EVENTS

Report by District 1 Supervisor, Patrick Call

Report by District 2 Supervisor, Ann English

Report by District 3 Supervisor, Richard Searle

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.

Cochise County - 1415 Melody Lane, Building G - Bisbee, Arizona 85603
(520) 432-9200 - Fax (520) 432-5016 - Email: board@cochise.az.gov
www.cochise.az.gov

"PUBLIC PROGRAMS, PERSONAL SERVICE"

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

Minutes

Submitted By: Arlethe Rios, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME n/a
of PRESENTER:

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE n/a
of PRESENTER:

**Source of Mandate
or Basis for Support?:**

Information

Agenda Item Text:

Approve the Minutes of the regular meeting of the Board of Supervisors of March 26, 2013.

Background:

Minutes

Department's Next Steps (if approved):

Signed minutes routed for processing and posted on the internet.

Impact of NOT Approving/Alternatives:

n/a

To BOS Staff: Document Disposition/Follow-Up:

Send to the Recorder's Office for microfiche purposes.

Board of Supervisors

Regular Board of Supervisors Meeting**Meeting Date:** 04/09/2013

Proclamation - National County Govt Month

Submitted By: Kim Lemons, Board of Supervisors**Department:** Board of Supervisors**Presentation:** No A/V Presentation**Document Signatures:****NAME** na
of PRESENTER:**Mandated Function?:****Recommendation:****# of ORIGINALS****Submitted for Signature:****TITLE** na
of PRESENTER:**Source of Mandate
or Basis for Support?:****Information****Agenda Item Text:**

Approve a proclamation to proclaim April 2013 as National County Government Month - "Smart Justice: Creating Safer Communities", in support of the effort to educate and engage residents about the value of available services in Cochise County and the positive impact these services can have on the lives of County residents.

Background:

National County Government Month — held each April — is an annual celebration of county government. Since 1991, the National Association of Counties has encouraged counties to actively promote the services and programs they offer.

Counties can schedule activities any time during the month. NCGM is an excellent opportunity for Cochise County to highlight effective county programs and raise public awareness and understanding about the various services provided to the community. This year's theme is "Smart Justice: Creating Safer Communities."

Department's Next Steps (if approved):

Proclamation signed and filed in the Clerk of the Board office

Impact of NOT Approving/Alternatives:

N/A

To BOS Staff: Document Disposition/Follow-Up:

NCGM will not be recognized by the Board of Supervisors

Attachments

Proclamation-CochiseCounty

Proclamation-GovernorBrewer

Board of Supervisors

Ann English
Chairman
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Richard R. Searle
Vice-Chairman
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Patrick G. Call
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District 1



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County Administrator

James E. Vlahovich
Deputy County Administrator

Katie A. Howard
Clerk

PROCLAMATION

National County Government Month April 2013 *"Smart Justice: Creating Safer Communities"*

WHEREAS, the nation's 3,068 counties provide a variety of essential public services to communities serving more than 300 million Americans; and

WHEREAS, Cochise County and all counties take seriously their responsibility to protect and enhance the health, welfare and safety of its residents in sensible and cost-effective ways; and

WHEREAS, county governments are often the entity providing both direct and indirect services to enhance the lives residents and are responsible for maintaining public safety and the efficient use of local tax dollars; and

WHEREAS, currently more than 13 million individuals are booked into county jails each year and more than 700,000 individuals are booked into state and federal prisons; and

WHEREAS, National Association of Counties President Chris Rodgers is encouraging counties to promote effective community corrections programs across the country through his 2012-13 "Smart Justice" presidential initiative; and

WHEREAS, each year since 1991 the National Association of Counties has encouraged counties across the country to actively promote their own programs and services to the public they serve;

NOW, THEREFORE, BE IT RESOLVED THAT WE, the Cochise County Board of Supervisors do hereby proclaim April 2013 as National County Government Month and encourage all County officials, employees, schools and residents to participate in county government celebration activities.

APPROVED AND ADOPTED this 9th day of April 2013.

Ann English, Chairman

Richard Searle, Vice-Chairman

Patrick Call, Supervisor

Janice K. Brewer
Governor

Office of the Governor

*** COUNTY GOVERNMENT MONTH ***

WHEREAS, counties take seriously their responsibility to protect and enhance the health, welfare and safety of its citizens in sensible and cost-effective ways; and

WHEREAS, county governments are often the entity providing both direct and indirect services to enhance the lives of residents and are responsible for maintaining public safety and the efficient use of local tax dollars; and

WHEREAS, counties take a leadership role to protect and enhance the health and welfare of citizens in their community and provide the tools to deliver more effective and higher quality services while containing costs, with the goal to strengthen Arizona's economies; and

WHEREAS, counties take great pride in upholding public safety by providing law enforcement, by conducting criminal investigations, by safely and responsibly housing inmates within the county jail system, and by segregating those federally required in order to maintain security for other inmates and detention officers; and

WHEREAS, counties maintain best practices and policies to seek cost-effective alternatives to incarceration for non-violent and non-sexual offenders, and work hand-in-hand with the justice system, including law enforcement, courts and probation; and

WHEREAS, there are 15 counties in the State of Arizona collectively responsible for and serving the needs of every resident of the State; and

WHEREAS, Arizona counties reflect the wide diversity of people, culture, and landscape in our State; and

WHEREAS, in recognition of the leadership, innovation and valuable service provided by the State's counties, especially in the public safety field.

NOW, THEREFORE, I, Janice K. Brewer, Governor of the State of Arizona, do hereby proclaim April 2013 as

*** COUNTY GOVERNMENT MONTH ***

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona



Janice K. Brewer
GOVERNOR

DONE at the Capitol in Phoenix on this nineteenth day of March in the year Two Thousand and Thirteen, and of the Independence of the United States of America the Two Hundred and Thirty-seventh.

ATTEST:

Ken Blumett

Secretary of State

Regular Board of Supervisors Meeting

Community Development

Meeting Date: 04/09/2013

Abandonment of a portion of a No Access Easement adjoining State Route 92 in the Sierra Vista area.

Submitted By: Terry Couchenour, Community Development

Department:	Community Development	Division:	Highways
Presentation:	No A/V Presentation	Recommendation:	Approve
Document Signatures:	BOS Signature Required	# of ORIGINALS Submitted for Signature:	1
NAME of PRESENTER:	N/A	TITLE of PRESENTER:	N/A
Docket Number (If applicable):	N/A		
Mandated Function?:	Federal or State Mandate	Source of Mandate or Basis for Support?:	ARS 28-7201 thru 28-7215

Information

Agenda Item Text:

Adopt Resolution 13-08, abandoning a portion of a No Access Easement adjoining State Route 92 in the Sierra Vista area, as described therein.

Background:

Recommendation: This department recommends adoption of the accompanying resolution abandoning a portion of a 1 foot wide No Access Easement which is unnecessary for public use.

Background (Brief): In 1981, the Board approved a General Business re-zoning for APN 105-40-035B, D and E. As a condition of this re-zoning, a 1 foot wide No Access Easement (NAE) was dedicated along SR 92 and Ramsey Canyon Rd. The developer then completed a Traffic Impact Analysis (TIA) which identified off-site requirements as part of their proposed project. In 2007, the County approved the TIA and entered into an agreement with the owner and Arizona Department of Transportation (ADOT). As part of the agreement, the owner contributed \$60,578.90 to construct a traffic signal at the intersection of SR 92 and Ramsey Canyon Rd. It was agreed to allow a commercial driveway access onto SR 92, which would require a break in the NAE, once the signalized intersection was in place.

While the NAE controls access onto SR 92, ADOT has determined that the easement is adjacent to, but outside of their right-of-way boundary. Therefore the County has abandonment jurisdiction. The current property owner of APN -035B and D is in the process of constructing a convenience store with a car wash and fuel stations. ADOT has approved the location of the easement break and has issued a commercial driveway permit for this use. Therefore, this portion of the easement is no longer necessary for its public road use and staff recommends abandonment consistent with the County's 2007 agreement with ADOT and the property owner.

Department's Next Steps (if approved):

If abandoned, and once abandonment documents have been executed, no further Board action is required.

Impact of NOT Approving/Alternatives:

If abandonment is not approved, the No Access Easement will remain in place thus creating a legal barrier to the use of the SR 92 driveway access to the commercial site inconsistent with the County's 2007 agreement with ADOT and the property owner.

To BOS Staff: Document Disposition/Follow-Up:

Please return a copy of the recorded resolution to H&F, attn: Right-of-way Division. Right-of-way staff will forward a copy of the recorded resolution to the property owner.

Attachments

[Executive Summary for abandonment of SR92 No Access Easement](#)

[Location Map for abandonment of SR92 No Access Easement](#)

[Map for Executive Summary for abandonment of SR92 No Access Easement](#)

[Resolution for abandonment of SR92 No Access Easement](#)



COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

MEMORANDUM

DATE: March 26, 2013

TO: Board of Supervisors

THRU: Karen Riggs, P.E., Interim Community Development Director/County Engineer

FROM: Terry Couchenour, Right-of-way Agent II

SUBJECT: Resolution 13-___, Abandonment of a portion of a No Access Easement adjoining SR 92 south of Ramsey Canyon Road

Recommendation: This department recommends adoption of the accompanying resolution abandoning a portion of a 1 foot wide No Access Easement which is unnecessary for public use.

Background (Brief): In 1981, the Board approved a General Business re-zoning for APN 105-40-035B, D and E. As a condition of this re-zoning, a 1 foot wide No Access Easement (NAE) was dedicated along SR 92 and Ramsey Canyon Rd. The developer then completed a Traffic Impact Analysis (TIA) which identified off-site requirements as part of their proposed project. In 2007, the County approved the TIA and entered into an agreement with the owner and Arizona Department of Transportation (ADOT). As part of the agreement, the owner contributed \$60,578.90 to construct a traffic signal at the intersection of SR 92 and Ramsey Canyon Rd. It was agreed to allow a commercial driveway access onto SR 92, which would require a break in the NAE, once the signalized intersection was in place.

While the NAE controls access onto SR 92, ADOT has determined that the easement is adjacent to, but outside of their right-of-way boundary. Therefore the County has abandonment jurisdiction. The current property owner of APN -035B and D is in the process of constructing a convenience store with a car wash and fuel stations. ADOT has approved the location of the easement break and has issued a commercial driveway permit for this use. Therefore, this portion of the easement is no longer necessary for its public road use and staff recommends abandonment consistent with the County's 2007 agreement with ADOT and the property owner.

Fiscal Impact & Funding Sources: Not applicable.

Next Steps/Action Items/Follow-up: If abandoned, and once abandonment documents have been executed, no further Board action is required.

Impact of Not Approving: If abandonment is not approved, the No Access Easement will remain in place thus creating a legal barrier to the use of the SR 92 driveway access to the commercial site inconsistent with the County's 2007 agreement with ADOT and the property owner.



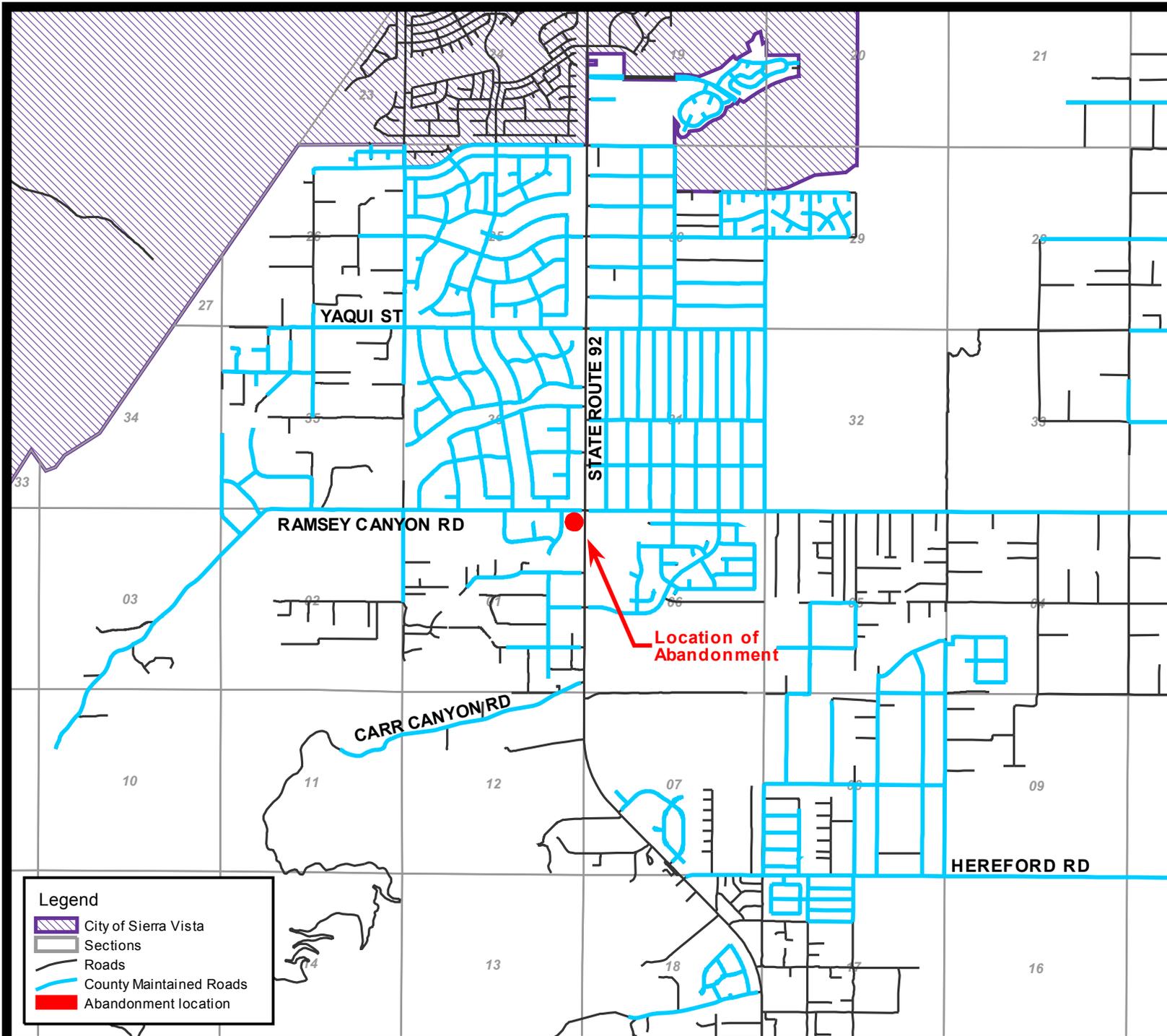
LOCATION MAP

Proposed partial abandonment of a No Access Easement adjoining State Route 92

Located within Section 1 Township 23 South Range 20 East G.&S.R.M.



This document is a graphic representation only, utilizing best available sources. Cochise County assumes no responsibility for any errors.



Legend

- City of Sierra Vista
- Sections
- Roads
- County Maintained Roads
- Abandonment location



**MAP FOR
EXECUTIVE
SUMMARY**

Proposed partial abandonment of a No Access Easement adjoining State Route 92

Located within Section 1 Township 23 South Range 20 East G.&S.R.M.



This document is a graphic representation only, utilizing best available sources. Cochise County assumes no responsibility for any errors.

Legend

- Parcels
- No Access Easement
- Abandonment area

10540034

RESOLUTION 13-__

**AUTHORIZING THE ABANDONMENT OF A PORTION OF A
PUBLIC ONE FOOT NO ACCESS EASEMENT ADJOINING STATE
ROUTE 92 IN THE SIERRA VISTA AREA**

WHEREAS, there has been presented to the Board of Supervisors of Cochise County Arizona, a formal request praying for the abandonment of a portion of that certain public right-of-way, more particularly described as follows:

See attached "EXHIBIT A"

WHEREAS, the Board of Supervisors having considered all comments regarding this request at their meeting held April 9, 2013, and having determined that the public right-of-way described hereinabove is not necessary for the overall public use of the roadway pursuant to A.R.S. § 28-7202; and

WHEREAS, a one foot No Access Easement was granted to the public pursuant to Docket 1555 page 43, as filed in the office of the County Recorder; and

WHEREAS, said easement controls access onto State Route 92 which is maintained by the Arizona Department of Transportation (ADOT); however said easement is outside of State Route 92 right-of-way and is within Cochise County jurisdiction; and

WHEREAS, ADOT has approved the location of the abandonment request and authorized the commercial driveway access onto State Route 92 pursuant to ADOT ROW Encroachment Permit 121-0645; and

WHEREAS, unknown public utilities may exist within said right-of-way,

NOW THEREFORE, IT IS HEREBY RESOLVED that the petition for the abandonment as described and requested herein is hereby granted, and the public easement is hereby vacated, in accordance with A.R.S. § 28-7214.

IT IS FURTHER RESOLVED that any and all rights-of-way or easements for existing sewer, gas, water or similar pipelines and appurtenances and for canals, laterals or ditches and appurtenances and for electric, telephone, and similar lines and appurtenances

RESOLUTION 13-____

RE: Authorizing The Abandonment Of A Portion Of A Public One Foot No Access Easement Adjoining State Route 92 In The Sierra Vista Area

Page 2

shall continue as they existed prior to the disposals or abandonment thereof, pursuant to A.R.S. § 28-7210.

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this ____ day of _____, 2013.

Ann English, Chairman
Cochise County Board of Supervisors

ATTEST:

Katie A. Howard,
Clerk of the Board

APPROVED AS TO FORM:



Britt Hanson,
Chief Civil Deputy County Attorney

EXHIBIT A

NO ACCESS EASEMENT PARTIAL ABANDONMENT

THE NORTH 50.00 FEET OF THE SOUTH 266.00 FEET OF THE EAST 1.00 FOOT OF THE FOLLOWING:

A PORTION OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 23 SOUTH, RANGE 20 EAST OF THE GILA AND SALT RIVER MERIDIAN, COCHISE COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 1;

THENCE SOUTH 00°01'03" WEST COINCIDENT WITH THE EAST LINE OF SAID SECTION 1 A DISTANCE OF 500.66 FEET;

THENCE SOUTH 89°56'00" WEST A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING, ALSO BEING A POINT ON THE WEST RIGHT-OF-WAY OF STATE HIGHWAY 92;

THENCE CONTINUING SOUTH 89°56'00" WEST A DISTANCE OF 261.00 FEET;

THENCE NORTH 00°01'03" EAST PARALLEL WITH AND 361.00 FEET DISTANT FROM SAID EAST LINE OF SECTION 1 A DISTANCE OF 451.01 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF RAMSEY CANYON ROAD;

THENCE NORTH 89°59'18" EAST COINCIDENT WITH SAID SOUTH RIGHT-OF-WAY A DISTANCE OF 261.00 FEET TO A POINT ON THE SAID WEST RIGHT-OF-WAY;

THENCE SOUTH 00°01'03" WEST, COINCIDENT WITH SAID WEST RIGHT-OF-WAY A DISTANCE OF 451.00 FEET TO THE POINT OF BEGINNING.

Regular Board of Supervisors Meeting

Community Development

Meeting Date: 04/09/2013

Abandonment of An Unnamed Easement

Submitted By: Frances Marinez, Community Development

Department: Community Development

Division: Right of Way

Presentation: No A/V Presentation

Recommendation: Approve

Document Signatures: BOS Signature Required

of ORIGINALS Submitted for Signature: 1

NAME of PRESENTER: Karen Riggs

TITLE of PRESENTER: Interim Director

Docket Number (If applicable):

Mandated Function?: Federal or State Mandate

Source of Mandate or Basis for Support?: ARS 28-7201 thru 28-7215

Information

Agenda Item Text:

Adopt Resolution 13-09, abandoning the public right-of-way easement in the Three Triangle Ranch Area as described therein.

Background:

Eric and Gina Desfachelles, the owners of APN 402-83-009 & -010, requested an abandonment of the 40' wide public easement on the south side of their property, which constitutes one-half of an 80' public easement. Merry Lepper, the owner of APN 402-83-011, is seeking abandonment of the 40' wide public easement on the north side of her property, which is the other half of the 80' easement. By abandoning the easements the property owners will move their fence line to the actual property line. They intend to fence their parcel in an effort to keep cattle off their property. This is a paper-only easement. It has never been used as a public road.

The original abandonment application was received from the Desfachelles in September 2011, but was placed on hold and cancelled January 2012 due to the objection of the adjacent neighbor, Merry Lepper. A refund check was sent to the applicant and the file was closed. However, Ms. Lepper has now withdrawn her objection and has requested abandonment of the 40' easement on her property. Hence, the proposed abandonment has been reopened and the Administrative Active Fee has been paid by Merry Lepper. Please see attached application.

A review of the criteria for the abandonment was conducted as follows:

- The easement is not on a section or mid-section line and does not provide sole legal access to any current parcel.
- The Transportation Planner had no objections to the abandonment and her comments are attached.
- Current access for the neighbors is not part of the abandonment action.

Inasmuch as there are no objections, the easement is unnecessary, this department recommends full abandonment.

Department's Next Steps (if approved):

If abandoned, and once abandonment documents have been executed, no further Board action is required.

Impact of NOT Approving/Alternatives:

If abandonment is not approved, the unused easement will remain a public right-of-way. The applicants will not be able to fence their properties as desired.

To BOS Staff: Document Disposition/Follow-Up:

Please return a copy of the recorded documents to H&F, attn: Pam Hudgins.

Attachments

Map Unnamed Easement S20T18R32

Resolution Unnamed Easement S20T18R32

Abandonment Application Unnamed Easement S20T18R32

Memo from Transp.Planner Unnamed Easement S20T18R32

Location Map Unnamed Easement S20T18R32



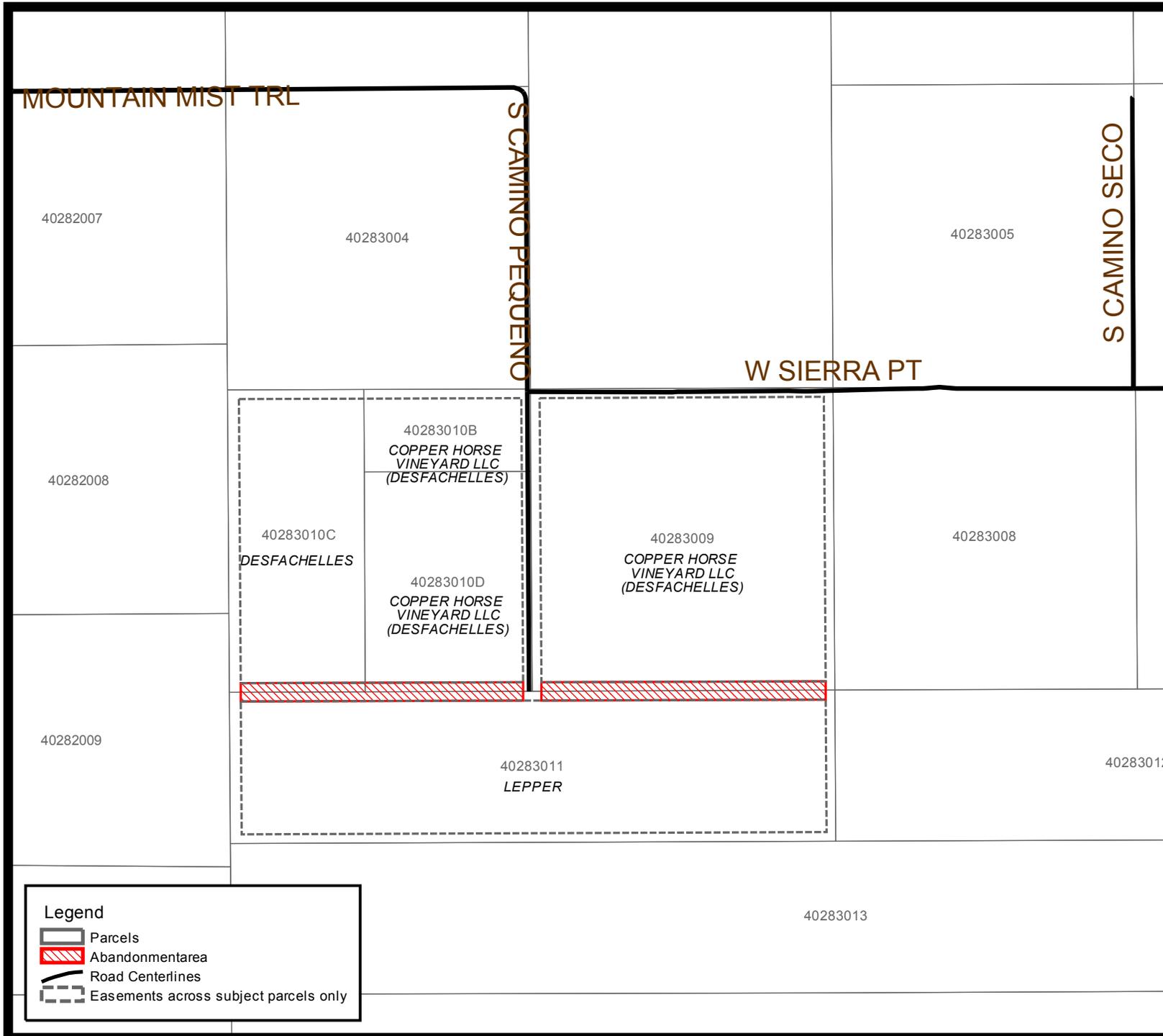
**MAP FOR
EXECUTIVE
SUMMARY**

Proposed
abandonment of
Unnamed
Easement in the
Three Triangle
Ranch area

Located within
Section 20
Township 18 South
Range 32 East
G.&S.R.M.



This document is a graphic representation
only, utilizing best available sources.
Cochise County assumes
no responsibility for any errors.



Legend

-  Parcels
-  Abandonment area
-  Road Centerlines
-  Easements across subject parcels only

RESOLUTION 13-___

**AUTHORIZING THE ABANDONMENT OF PUBLIC RIGHT-OF-WAY
EASEMENTS IN THE THREE TRIANGLE RANCH AREA**

WHEREAS, there has been presented to the Board of Supervisors of Cochise County Arizona, a formal request from Eric and Gina Desfachelles and from Merry Lepper praying for the abandonment of a certain 80' public easement, more particularly described as follows:

See attached **“EXHIBIT A”** and **“EXHIBIT B”**

WHEREAS, the Board of Supervisors having considered all comments regarding this request at their meeting held April 9th, 2013, and having determined that the public rights-of-way described hereinabove are not necessary for public use as a roadway pursuant to A.R.S. § 28-7202; and

WHEREAS, unknown public utilities may exist within said right-of-way,

NOW, THEREFORE, IT IS HEREBY RESOLVED that the petition for the abandonment as described and requested herein is hereby granted, and the public easement is hereby vacated, in accordance with A.R.S. § 28-7214.

IT IS FINALLY RESOLVED that any and all rights-of-way or easements for existing sewer, gas, water or similar pipelines and appurtenances and for canals, laterals or ditches and appurtenances and for electric, telephone, and similar lines and appurtenances shall continue as they existed prior to the disposals or abandonment thereof, pursuant to A.R.S. § 28-7210.

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this _____ day of _____, 2013.

Ann English, Chairman
Cochise County Board of Supervisors

RESOLUTION 13-__

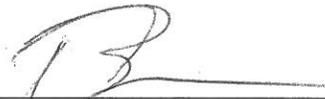
**Re: Authorizing the Abandonment of Public Right-of-Way Easements in the Three
Triangle Ranch Area**

Page 2

ATTEST:

APPROVED AS TO FORM:

Katie A. Howard,
Clerk of the Board



Britt W. Hanson,
Chief Civil Deputy County Attorney

EXHIBIT "A"

Those portions of public right-of-way easements within Record of Survey, known as Three Triangle Ranches, according to Book 2 of Records of Survey at pages 39-39C, Office of the County Recorder, Cochise County, Arizona, and more particularly described as follows:

The Southerly 40.00 feet of Lot 57 of said Three Triangle Ranches;
AND;

The Southerly 40.00 feet of Lot 58 of said Three Triangle Ranches;
AND;

The Northerly 40.00 feet of Lot 59 of said Three Triangle Ranches;

EXCEPTING there from the following:

The Westerly 50.00 feet of Lots 58 and 59 of said Three Triangle Ranches;

AND FURTHER EXCEPTING;

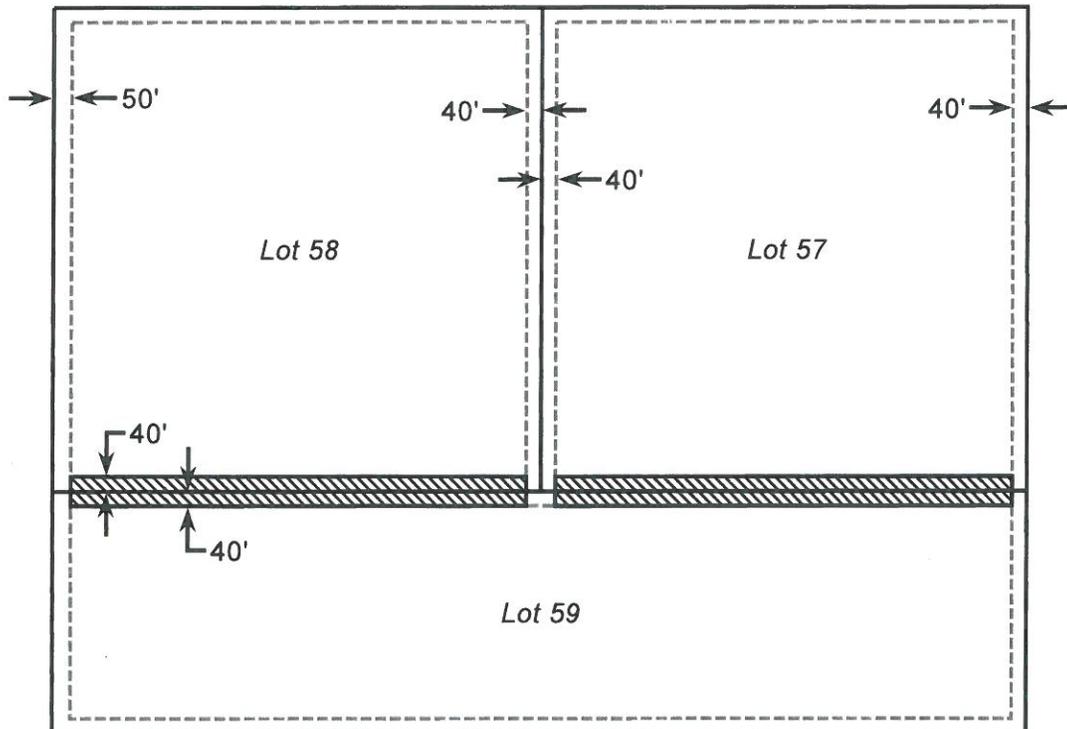
The Easterly 40.00 feet of Lots 57 and 59 of said Three Triangle Ranches;

AND FURTHER EXCEPTING;

The Easterly 40.00 feet of Lot 58 and that portion of Lot 59 being the Southerly extension of the Easterly 40.00 feet of Lot 58 of said Three Triangle Ranches;

AND FURTHER EXCEPTING;

The Westerly 40.00 feet of Lot 57 and that portion of Lot 59 being the Southerly extension of the Westerly 40.00 feet of Lot 57 of said Three Triangle Ranches.



Legend	
	Lot
	Easement
	Abandonment area



EXHIBIT B

Abandonment of Unnamed Easements in Three Triangle Ranches



Telephone: (520) 432-9300
Fax: (520) 432-9337
Fax: (520) 432-9337
Toll Free: 1-(800) 752-3745

COCHISE COUNTY
HIGHWAY AND FLOODPLAIN DEPARTMENT
1415 W. MELODY LANE, BISBEE, AZ 85603



Your County Questions answered: www.cochise.az.gov

ROADWAY ABANDONMENT APPLICATION

Name: ERIC DESFACHELLES
Mailing: 4202 SW 107th Street
Address: City: SEATTLE State: WA ZIP: 98146
Daytime Telephone: (206) 439-8921 FAX: (206) 932-1150
Assessor's Parcel Number: 402-83-009/010/011

1. Physical Description of Request and/or attach Map:

(ex: Abandonment of 30' of Right-of-Way bordering the South side of parcel ___)

Total Abandonment of Easements bordering North of 402-83-011 and South of 402-83-009/010 (See Attached graph and explanations)

2. Reason for Request / Comments / Concerns:

After talking to the owner of Parcel 011, we decided we could save money by fencing only the outer perimeter of the 3 parcels. We save 1.5 miles of fences.

The easement between 009 & 010 will remain open to traffic.

3. List any known utilities located in the requested abandonment area:

None

no change there except a cow guard

4. Attach and include any other information deemed necessary.

Eric T. Desfachelles

Signature of Applicant*

8/31/2011

Date

*Applicant is required to be the current owner (or a legally authorized representative of the owner, proof of which must be submitted with this form) of a property adjacent to the requested roadway.

FOR DEPARTMENTAL USE ONLY				
Application Processing Fee - \$75	Total \$ Received:	Date:	Receipt #:	Received By:

Roadway Abandonment Application – Attachment

2. Reason for Request / Comments / Concern

There are 3 sets of 2x50 ft easements in between the 3 parcels, 009/010/011 as shown in the graph attached and labeled A, B and C.

We share easements A & B with our neighbors, so we talked with them and came to an arrangement.

Reason to abandon easements A & B:

Easements A & B are grazing easements and don't have any primitive road going through.

Actually easement B is crossed by a wash and is hardly usable.

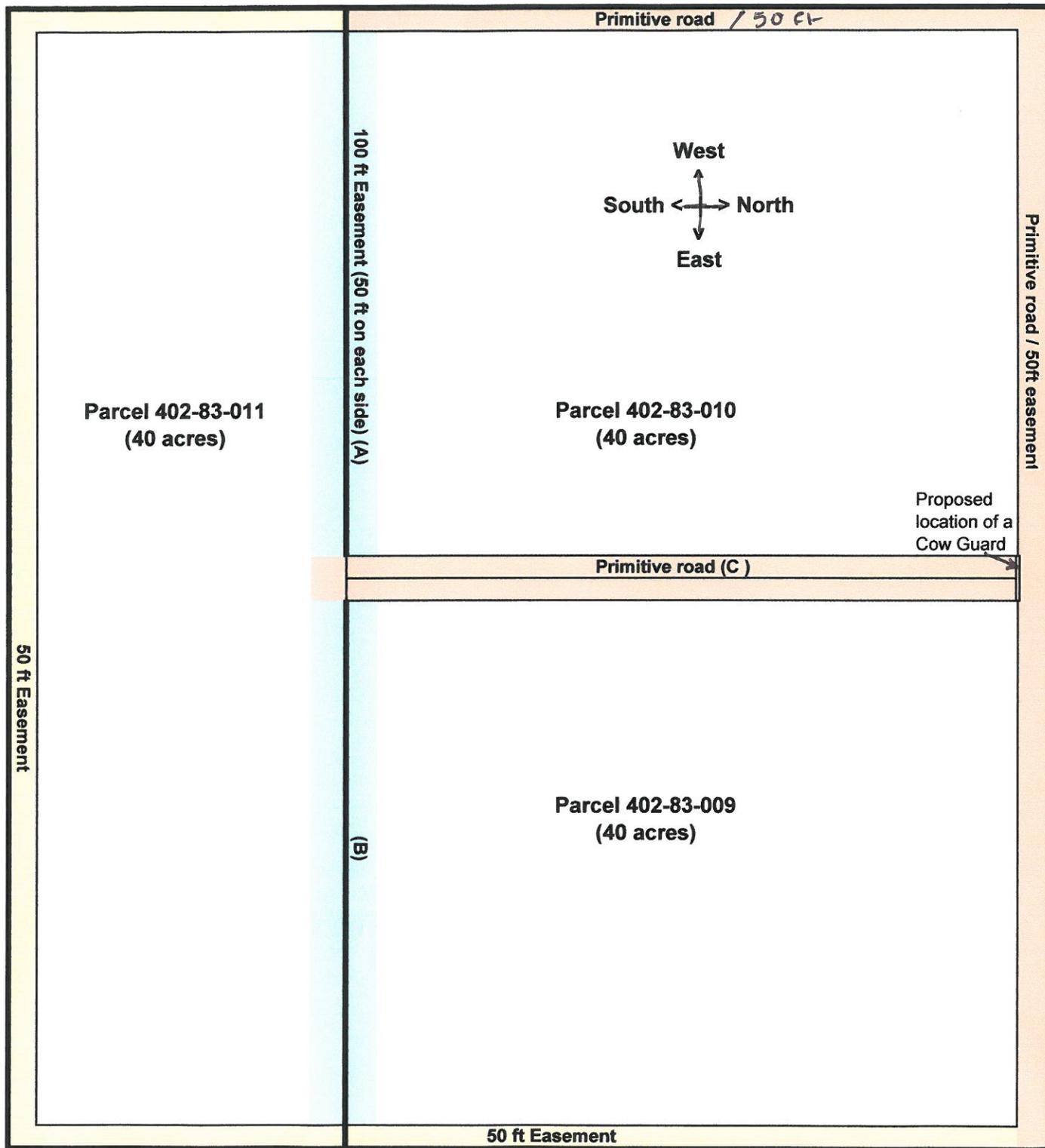
By abandoning easements A & B we save up to 1 mile of fences that would have created a funneled easement of ½ mile long by 100 feet wide when the cattle can easily go around the parcels where the easements still exist and the land is wide open.

No change with Easement C:

Easement C is an access road and will remain. It is a cul-de-sac usable only by the 3 parcels without any way through for the cattle.

Therefore we would like to keep the cattle out of it with a cow guard at the northern entrance.

This will also save us another ½ mile of fences and will make it easier to go from the parcel 010 on the west to the parcel 009 on the east as we own both side.



- Driveable easement
- Undevelopped easement
- Easement to abandon



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240 Fax 432-9278

Carlos de la Torre, P.E., Community Development Director

MEMORANDUM

TO: Pam Hudgins, Right-of-Way Agent I

FROM: Karen L. Lamberton, County Transportation Planner

SUBJECT: Proposed Abandonment of Unnamed Easement/Parcel 402-83-010 &-009

DATE: September 19, 2011

The applicant has requested abandonment of a 80 foot dedicated right-of-way that is currently unnamed and is not located along a section or mid-section line. There is no existing roadway in use at this location and lies within a section of land currently used for grazing livestock.

These easements were created as part of the Three Triangle Ranch; a multi-phased 1980's development with many 40 plus acre sized lots southwest of the Portal area. Quite a few easements have been abandoned within this old land development to date. This request is consistent with the pattern of larger lots being combined and unused easements being absorbed back into parcels in this area.

There is no existing use of this easement by the traveling public and there is not a need for this easement in the foreseeable future.

Recommendation:

Given the factors noted above we have no objection to the abandonment of this easement as requested by the applicant.



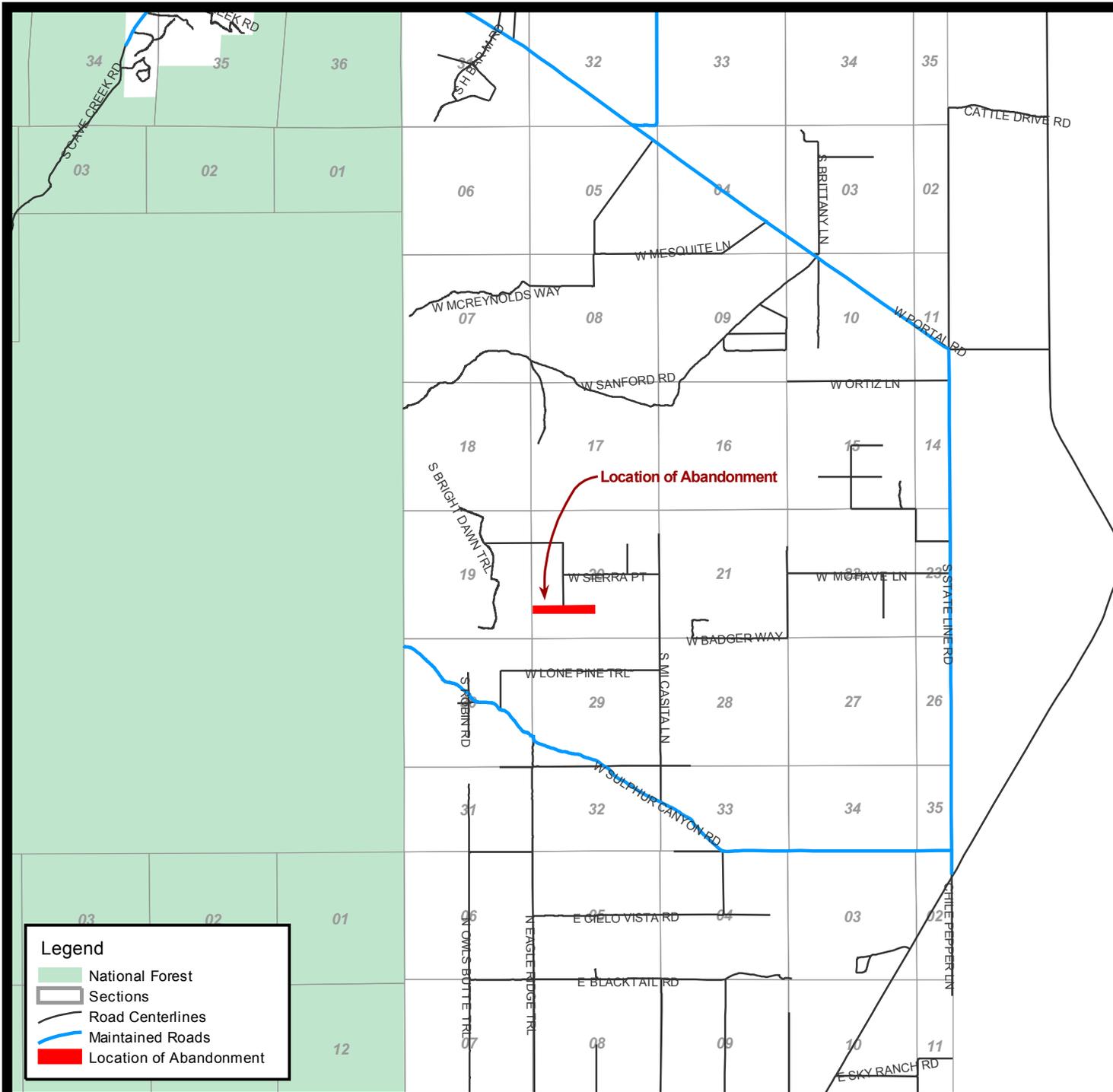
LOCATION MAP

Proposed abandonment of Unnamed Easement in the Three Triangle Ranch area

Located within Section 20 Township 18 South Range 32 East G.&S.R.M.



This document is a graphic representation only, utilizing best available sources. Cochise County assumes no responsibility for any errors.



Legend

- National Forest
- Sections
- Road Centerlines
- Maintained Roads
- Location of Abandonment

Community Development

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

Long-Range Plan PARA Grant Application

Submitted By: Frances Marinez, Community Development

Department: Community Development

Division: Transportation

Presentation: No A/V Presentation

Recommendation: Approve

Document Signatures: BOS Signature Required

of ORIGINALS Submitted for Signature: 1

NAME of PRESENTER: Karen L. Lamberton

TITLE of PRESENTER: County Transportation Planner

Docket Number (If applicable):

Mandated Function?: Federal or State Mandate

Source of Mandate or Basis for Support?: 23 U.S.C 134 Section 3303(a)(2) & A.R.S. § 11-251 (4) & Ordinance 013-94

Information

Agenda Item Text:

Adopt Resolution 13-10, authorizing staff to apply for a Planning Assistance for Rural Areas (PARA) grant, through the Arizona Department of Transportation, for technical assistance to complete the Cochise County 2040 Long-Range Transportation Plan.

Background:

Staff has been developing a long-range transportation plan for Cochise County to identify a set of potential multi-modal projects, polices and strategies to help move people and goods in and through Cochise County now and into the year 2040. This plan has is now about eighty-five percent complete. Preliminary mapping has been done; however, to fully complete the work effort on this plan consultant services for modeling specific corridor options, mapping the existing and potential 2040 plans in both an accurate and graphically pleasing manner and verifying staff assumptions made for existing and future costs would be desired.

PARA grants are offered by the Arizona Department of Transportation to offer specialized technical services to rural areas that might otherwise be beyond in-house capability or resources. In addition, this grant provides for a public outreach component that would assist in obtaining valued input into identified solutions for the County's future transportation needs. The combined efforts of County staff, with the technical assistance of the selected consultant, would result in completion of the long-range transportation plan early in the year 2015.

Staff did apply for these funds in the 2012 PARA grant but that application were not selected for funding. Staff was encouraged to re-submit for the 2013 cycle and have modified the grant application to respond to ADOT staff comments.

Department's Next Steps (if approved):

Staff will complete and submit a PARA grant application for consideration in the next fiscal year funding cycle. If awarded, the work would likely begin next calendar year and be completed within 9 to 12 months.

Impact of NOT Approving/Alternatives:

Staff will not submit a grant application for this proposed technical assistance this year.

To BOS Staff: Document Disposition/Follow-Up:

Please return a copy of the signed document to H&F, attn: Karen L. Lamberton. Grant is due by 4/15 so please return at your earliest convenience.

Attachments

Resolution Long-Range Plan PARA Grant

RESOLUTION 13-___

AUTHORIZING STAFF TO APPLY FOR A PLANNING ASSISTANCE FOR RURAL AREAS GRANT, THROUGH THE ARIZONA DEPARTMENT OF TRANSPORTATION, FOR TECHNICAL ASSISTANCE TO COMPLETE THE COCHISE COUNTY 2040 LONG-RANGE TRANSPORTATION PLAN

WHEREAS, the Board of Supervisors oversees planning and infrastructure management for the County's transportation system including roadways, pathways and bridges; and

WHEREAS, successful rural transportation planning addresses system performance and preservation as well as long-range mobility and access needs for people and goods; and

WHEREAS, a county-wide long-range transportation plan provides for sound decision making for future transportation investments resulting in improved land use planning and builds a foundation for developing policy, prioritizing future projects and identifying appropriate transportation funding sources; and

WHEREAS, the 2011-2015 Long-Range Strategic Plan for Cochise County identifies the development of a long-term transportation infrastructure plan as a specifically desired implementation strategy; and

WHEREAS, the Planning Assistance for Rural Area grant provides one hundred (100) percent funding to assist rural areas with meeting critical technical transportation planning needs,

NOW, THEREFORE, BE IT RESOLVED that the Cochise County Board of Supervisors hereby supports the application to the Planning Assistance for Rural Areas through the Arizona Department of Transportation as described above.

///

RESOLUTION 13-__

Re: Authorizing Staff To Apply For A Planning Assistance For Rural Areas Grant, Through The Arizona Department Of Transportation, For Technical Assistance To Complete The Cochise County 2040 Long-Range Transportation Plan

Page 2

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this ____ day of _____, 2013.

Ann English, Chairman
Cochise County Board of Supervisors

ATTEST:

Katie A. Howard,
Clerk of the Board

APPROVED AS TO FORM:



Britt W. Hanson,
Chief Civil Deputy County Attorney

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

Approve Proposed Settlement of a Tax Appeal

Submitted By: Annette Weems, County Attorney

Department: County Attorney

Presentation: No A/V Presentation

Recommendation: Approve

Document Signatures: BOS Signature NOT Required

of ORIGINALS 0

Submitted for Signature:

NAME N/A

TITLE N/A

of PRESENTER:

of PRESENTER:

Docket Number (If applicable):

Mandated Function?: Not Mandated

**Source of Mandate
or Basis for Support?:**

Information

Agenda Item Text:

Approve the proposed settlement of the Tax Appeal in James R. Thompson and Audrey M. Thompson v. Cochise County, ST2012-000564 (Assessor parcel No. 202-42-017), now pending in Arizona Tax Court, a division of the Superior Court of and for Maricopa County.

Background:

Taxpayer filed a civil action in Arizona Tax Court asking for a reduction in assessed value from \$175,244 to \$98,000 for Tax Year 2012. After inspecting the property, reviewing the taxpayer's documentation and other market factors/comparables, the Assessor agrees that the property assessment for Tax Year 2012 should be lowered, and so recommended a settlement offer that lowers the full cash value to \$98,000. The taxpayer accepted the settlement offer.

Fiscal Impact & Funding Sources: Not applicable, no funding sources are required. Fiscal impact will be a slight reduction in the tax base.

Department's Next Steps (if approved):

Upon approval by the Board, Counsel for the County will sign a stipulation for entry of Judgment that has already been signed by the taxpayer, and will submit a form of Judgment to the Arizona Tax Court disposing of this matter pursuant to the settlement terms.

Impact of NOT Approving/Alternatives:

Additional litigation for the County, with the risk that the Arizona Tax Court would rule in the taxpayer's favor, reducing the assessed value of the subject property and subjecting the County to paying the Plaintiff's fees and expenses.

To BOS Staff: Document Disposition/Follow-Up:

Advise County Attorney's Office - Civil Division upon Board's approval.

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

Approve Proposed Settlement of a Tax Appeal

Submitted By: Annette Weems, County Attorney

Department: County Attorney

Presentation: No A/V Presentation **Recommendation:** Approve

Document Signatures: BOS Signature NOT Required **# of ORIGINALS Submitted for Signature:** 0

NAME of PRESENTER: N/A **TITLE of PRESENTER:** N/A

Docket Number (If applicable):

Mandated Function?: Not Mandated **Source of Mandate or Basis for Support?:**

Information

Agenda Item Text:

Approve the proposed settlement of the Tax Appeal in Mario and Debbie Saldivar v. Cochise County, ST2012-000829 (Assessor parcel No. 02-408-120-30), now pending in Arizona Tax Court, a division of the Superior Court of and for Maricopa County.

Background:

Taxpayer filed a civil action in Arizona Tax Court asking for a reduction in assessed value from \$220,276 to "an appropriate amount" for Tax Year 2012. After inspecting the property, reviewing the taxpayer's documentation and other market factors/comparables, the Assessor agrees that the property assessment for Tax Year 2012 should be lowered, and so recommended a settlement offer that lowers the full cash value to \$85,000. The taxpayer accepted the settlement offer.

Fiscal Impact & Funding Sources: Not applicable, no funding sources are required. Fiscal impact will be a slight reduction in the tax base.

Department's Next Steps (if approved):

Upon approval by the Board, Counsel for the County will sign a stipulation for entry of Judgment that has already been signed by the taxpayer, and will submit a form of Judgment to the Arizona Tax Court disposing of this matter pursuant to the settlement terms.

Impact of NOT Approving/Alternatives:

Additional litigation for the County, with the risk that the Arizona Tax Court would rule in the taxpayer's favor, reducing the assessed value of the subject property and subjecting the County to paying the Plaintiff's fees and expenses.

To BOS Staff: Document Disposition/Follow-Up:

Advise County Attorney's Office - Civil Division upon Board's approval.

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

Work and Financial Plan for Wildlife Services 2013/2014

Submitted By: Mark Genz, County Sheriff

Department: County Sheriff

Presentation: No A/V Presentation

Recommendation: Approve

Document Signatures: BOS Signature Required

of ORIGINALS 2

Submitted for Signature:

NAME N/A

TITLE N/A

of PRESENTER:

of PRESENTER:

Mandated Function?: Not Mandated

**Source of Mandate
or Basis for Support?:**

Docket Number (If applicable):

Information

Agenda Item Text:

Approve the Work and Financial Plan, Agreement Number 13-73-04-0228-RA, between Cochise County and the U.S. Department of Agriculture Animal and Plant Health Inspection Service, Wildlife Services, pursuant to the existing Cooperative Service Agreement No. 09-73-04-0228-RA, to assign a Wildlife Specialist to Cochise County for predator and disease control for the term of July 1, 2013 to June 30, 2014 at a cost of \$39,819.

Background:

This agreement is an annual event between Cochise County and the USDA Animal and Plant Health Inspection Service, Wildlife Services. This agreement provides for a Wildlife Specialist to be assigned to Cochise County to manage damage caused by wild and feral animals to livestock, agriculture commodities, and the public health. The Wildlife Specialist also works with Sheriff's Office Animal Control Officers. The total cost of the position and equipment is \$79,638, half of which is borne by the USDA, thus making the County's portion of the costs \$39,819. This agreement has been budgeted from the General Fund for the past several years.

This agreement has been reviewed and approved as to form by Ms. Terry Bannon, Deputy County Attorney.

Department's Next Steps (if approved):

If approved the Sheriff's Office will continue the working relationship with the USDA Wildlife Specialist to address disease and predatory mitigation in the County.

Impact of NOT Approving/Alternatives:

If not funded, the County will no longer have a Wildlife Specialist assigned to the County, thus leaving no mechanism in place to address predator control, such as coyotes taking livestock, and disease control, such as rabies outbreaks in the skunk population. If this agreement is not approved, it is very likely that the County will be unable to obtain an agreement for these services again in the near future.

To BOS Staff: Document Disposition/Follow-Up:

Please return both (2) original copies to the Sheriff's Office so they can be forwarded to the USDA.

Fiscal Impact

Fiscal Year: 13/14

One-time Fixed Costs? (\$\$\$):

Ongoing Costs? (\$\$\$):

County Match Required? (\$\$\$):

A-87 Overhead Amt? (Co. Cost Allocation \$\$\$):

Source of Funding?:

Fiscal Impact & Funding Sources (if known):

n/a

Attachments

Contract

WORK AND FINANCIAL PLAN
between
COUNTY OF COCHISE
and
UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WILDLIFE SERVICES

Pursuant to Cooperative Service Agreement No. 09-73-04-0228-RA between County of Cochise (Cooperator) and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (APHIS-WS), this Work Plan defines the objectives, plan of action, resources and budget for the Wildlife Damage Management program to be conducted from July 1, 2013 through June 30, 2014.

I. OBJECTIVES/GOALS

During the term of this Plan, WS will direct its efforts toward managing damage caused by wild and feral animals to livestock, other agriculture commodities, the public health and other property within the limitation of the funds provided by the Cooperator, the Arizona Department of Agriculture (ADA), and those allocated by WS to the program within Arizona.

According to Arizona Revised Statutes (ARS) § 3-2401 and § 3-2405, and in cooperation with APHIS-WS and other government agencies, the objectives of the work to be performed by the Wildlife Specialist(s) assigned to the Cooperator are listed below in order of priority:

- a. Direct efforts will be made to reduce the probability of transmission of zoonotic diseases to livestock, poultry, wildlife, and human populations through collection of diagnostic samples, and management of wildlife and feral animal populations that are vectors of zoonotic diseases.
- b. Direct efforts will be made to manage losses to livestock, poultry, and crops from damage and predation caused by wild and feral animals.
- c. Direct efforts will be made for the protection of residential areas and property, other industries, and wildlife from damage and predation by wild and feral animals.

II. PLAN OF ACTION

The funds provided by the Cooperator will pay for approximately one staff year (FTE) of effort by WS employees toward these objectives.

As identified in ARS § 3-2401 and § 3-2405, WS and the Cooperator shall cooperate in the control and destruction or relocation of predatory wildlife, noxious rodents and related animals that are injurious to livestock, poultry, game, agriculture, other industries and the public health in accordance with organized and systematic work plans.

Protection of wildlife (i.e., game) will be in cooperation with the US Fish and Wildlife Service (migratory birds and threatened and endangered species) and/or Arizona Game and Fish Department. Annual work plans are developed through consultations with the US Forest Service, Bureau of Land Management, and Arizona State Land Department with participation by the Arizona Game and Fish Department, and ADA. Additional work plan efforts are in cooperation with the Adaptive Management Oversight Committee for the Mexican wolf reintroduction and the Jaguar Conservation Team. Wildlife Services is also an active participant in the Arizona Livestock Incident Response Team.

Efforts will be made to increase cooperative funding by entering into Cooperative Service Agreements with additional interested counties (ARS § 3-2401) and by entering into cost share agreements with organizations and individuals within the State who require intensive and/or specialized wildlife damage management that is beyond the capability of the existing funding.

III. REPORTS

APHIS-WS will provide a report of activities at the request of the Cooperator.

IV. COST ESTIMATE FOR SERVICES

The cooperator will reimburse APHIS-WS for expenses incurred, not to exceed **\$39,819**. WS shall submit quarterly bills for actual costs incurred to WS for performance of work as delineated in the Work Plan, not to exceed \$15,000.00. Such costs may include, but are not limited to, salary/benefits, vehicle use, supplies/equipment and APHIS overhead. An estimated itemization of expenses is listed below; however funds may be distributed between itemized categories as needed. Any equipment and supplies purchased under the terms of this agreement will remain the property of APHIS-WS.

Annual increases in cost for salary/benefits and vehicle use will be limited to no more than five percent per category, per year for the next fiscal year (through June 30, 2014). The remaining cost categories will remain fixed for this period.

Salary/Benefits	61,032
Travel/Per Diem	3,500
Vehicle Use	14,000
Dog and Horse Hire	2,034
Equipment/Supplies	3,500
Less WS Contribution	-47,200
Total Cost	36,866
APHIS Overhead (16.15%)	5,953
Subtotal	\$42,819
Less AZ Dept of Ag Contribution	-3,000
COCHISE COUNTY TOTAL	\$39,819

NOTE: In accordance with the Debt Collection Improvement Act (DCIA) of 1996, bills issued by WS are due and payable within 30 days of receipt. The DCIA requires that all debts older than 120 days be forwarded to debt collection centers or commercial collection agencies for more aggressive action. Debtors have the option to verify, challenge and compromise claims, and have access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

V. AUTHORIZATION

Pursuant to A.R.S. 38-511, the provisions of which are incorporated herein by reference, all parties are hereby put on notice that this Agreement is subject to cancellation by Cochise County or its departments or agencies, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County or its departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

Changes to this Annual Work/Financial Plan will be accomplished through a written amendment, agreed to by the parties.

APHIS-WS has advised the Cooperator that other private sector service providers may be available to provide wildlife management services and notwithstanding these other options, the Cooperator requests that APHIS-WS provide wildlife management services as stated under the terms of this agreement.

COUNTY OF COCHISE
COCHISE COUNTY BOARD OF SUPERVISORS
1415 W. Melody Lane
BISBEE, AZ 85603
520-432-9200
Tax Identification Number: 86-6000398 B

APPROVED AS TO FORM

Trey B... 3/6/13
Cochise County Attorney Date

Chairman, Cochise County Board of Supervisors

Date

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WILDLIFE SERVICES
Tax Identification Number: 41-0696271

State Director, Arizona

Date

Director, Western Region

Date

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

Demands

Submitted By: Arlethe Rios, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME n/a
of PRESENTER:

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE n/a
of PRESENTER:

**Source of Mandate
or Basis for Support?:**

Information

Agenda Item Text:

Approve demands and budget amendments for operating transfers.

Background:

Auditor-General's requirement for Board of Supervisors to approve.

Department's Next Steps (if approved):

Return to Finance after BOS approval.

Impact of NOT Approving/Alternatives:

Board of Supervisors will not be in compliance with State law.

To BOS Staff: Document Disposition/Follow-Up:

Return to Finance after BOS approval.

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

Renewal of Contract for Heavy Equipment Rentals

Submitted By: Dave Seward, Procurement

Department: Procurement

Presentation: No A/V Presentation

Recommendation: Approve

Document Signatures: BOS Signature NOT Required

of ORIGINALS 0

Submitted for Signature:

NAME N/A

TITLE N/A

of PRESENTER:

of PRESENTER:

Mandated Function?: Federal or State Mandate

**Source of Mandate
or Basis for Support?:**

Docket Number (If applicable):

Information

Agenda Item Text:

Approve the renewal of Contract 11-34-HFM-04 for Heavy Equipment Rentals to various vendors in the not to exceed amount of \$96,000 for the period of April 1, 2013 through March 31, 2014 for the Fleet Management Department.

Background:

On March 15, 2011 the Board of Supervisors approved the award of Invitation for Bids No. 11-34-HFM-04 for the rental of heavy equipment. This will be the second renewal of Contract No. 11-34-HFM-04. Some vendors have agreed to hold their pricing firm or offered slight decreases for the contract renewal period. B&B Equipment Rental and Volvo Rents have requested slight increases in their rental rates. Neff Rentals is offering State contract pricing and H&E Equipment Services has decided not to renew for a second term. The Heavy Fleet Management Department is satisfied with the services provided by the vendors who were awarded contracts as follows:

ECCO Equipment Rental Corp., Tucson, AZ

B&B Equipment Rental, Tucson, AZ

Empire Machinery, Tucson, AZ

Volvo Rents, Tucson, AZ

*Titan Machinery, Tucson, AZ

Sunbelt Rentals, Inc., Fort Mills, SC

*United Rentals, Tucson, AZ

Earhart Equipment Corp., Tucson, AZ

Neff Rentals, Tucson, AZ

*Titan Rentals bought out Tucson Tractor and United Rentals merged with RSC during the previous contract period

Department's Next Steps (if approved):

Process purchase orders. Monitor performance of contracts.

Impact of NOT Approving/Alternatives:

Procurement would be required to obtain quotes every time there was a need for heavy equipment rental which would most likely result in higher rental prices and additional workload for both Procurement and Fleet Management Departments.

To BOS Staff: Document Disposition/Follow-Up:

No action required.

Fiscal Impact

Fiscal Year:

One-time Fixed Costs? (\$\$\$):

Ongoing Costs? (\$\$\$):

County Match Required? (\$\$\$):

A-87 Overhead Amt? (Co. Cost Allocation \$\$\$):

Source of Funding?:

Fiscal Impact & Funding Sources (if known):

Fleet Management Has budgeted \$11,000 in fund line 600-1700-1730-428.900 and \$80,000 in fund line 600-1710-1740-428.900 for these expenditures.

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

Approve the Cable Television License Agreement with Cox communications

Submitted By: Gussie Motter, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME of PRESENTER: Britt Hanson

Recommendation:
of ORIGINALS
Submitted for Signature:

TITLE of PRESENTER: Chief
Civil
Deputy
County
Attorney

Mandated Function?:

**Source of Mandate
or Basis for Support?:**

Information

Agenda Item Text:

Approve the Cable Television License Agreement with Cox Cable effective August 3, 2014 through August 2, 2029.

Background:

By this License Agreement the County renews the cable television franchise of Cox Communications Arizona, LLC, to serve County residents. The Agreement would take effect on August 3, 2014, the day after the current franchise agreement expires. It would extend for 15 years, through August 2, 2029, replacing the previous 15-year agreement, which took effect August 3, 1999. Cox is one of two County cable television franchisees, the other being Cable One Inc., with which the County also has a 15-year licensing agreement (entered into on August 10, 2004 and due to expire August 10, 2019).

Department's Next Steps (if approved):

Record signed document and send a copy to Cox Cable

Impact of NOT Approving/Alternatives:

The current franchise will expire on August 2, 2014

To BOS Staff: Document Disposition/Follow-Up:

Record document and send copy to Cox

Attachments

Cox Cable Television license

Memo

COX COMMUNICATIONS ARIZONA, LLC
COCHISE COUNTY
CABLE TELEVISION LICENSE AGREEMENT
Effective August 3, 2014

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CABLE TELEVISION LICENSE AGREEMENT

This Cable Television License Agreement (the "License") is made and entered into as of the 3rd day of August, 2014, by and between Cochise County (the "County") and Cox Communications Arizona, LLC, a Delaware limited liability company ("Licensee").

RECITALS

- A. The County is authorized to grant, renew, deny, and terminate Licenses for the installation, operation, and maintenance of Cable Systems and otherwise regulate Cable Services within the County boundaries by virtue of federal and state statutes, by the County's police powers, by its authority over its public rights-of-way, and by other County powers and authority.
- B. Licensee has maintained and operated a Cable System in the County pursuant to the Existing License issued to CoxCom, Inc. d/b/a Cox Communications Desert Valley, a Delaware corporation, effective at midnight on August 2, 1999. Through a series of transactions, CoxCom, Inc. converted into CoxCom, LLC, a Delaware limited liability company as of July 1, 2011, and into Cox Communications Arizona, LLC, a Delaware limited liability company as of December 31, 2011, on which date Cox Communications Arizona, LLC, became the Licensee under the Existing License. The Existing License expires by its terms at 11:59 p.m. on August 2, 2014.
- C. Upon the expiration of the Existing License, Licensee and the County desire to enter into a new license to provide Cable Services within the County.
- D. The County has reviewed Cable Service in the County, including but not limited to a review of Licensee, Licensee's record of service in the County, Licensee's facilities, the cable-related community needs of the County for both the present and future, Licensee's ability to carry out its commitments, and Licensee's overall financial, legal, and technical qualifications to hold a license from the County.
- E. Based on such review, the County hereby finds that it would serve the public interest to grant a license on the terms and conditions hereinafter set forth, and Licensee agrees to obtain a license under these conditions.

AGREEMENT

In consideration of the foregoing recitals, which are incorporated herein by reference, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows.

- Definitions.** For the purposes of this License, the following terms, phrases, words, abbreviations, and their derivations have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory, not merely directory. All references to days are to calendar days, unless otherwise specified.

1.1. "Affiliate" means any Person who owns or controls, is owned by or controlled by, or is under common ownership or control with Licensee.

1.2. "Cable Act" means the Cable Communications Policy Act of 1984, as amended, including the Telecommunications Act of 1996.

1.3. "Cable Service" means the transmission to Subscribers of video programming or other programming services and Subscriber interaction, if any, that is required for the selection or use of the video programming or other programming services.

1.4. "Cable System" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Services, that includes video programming, and that is provided to multiple Subscribers within the County, but such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves Subscribers without using any public right-of-way; (c) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, except that such facility shall be considered a Cable System to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (d) an open video system that complies with 47 U.S.C. § 653; or (e) any facility of an electric utility used solely for operating its electric utility systems. Any reference to Licensee's Cable System refers to the Cable System as a whole or any part thereof. As used above, "interactive on-demand services" means a service providing video programming to Subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.

1.5. "County Building" means a building that is occupied by the County or owned by the County, including any fire station or police station, and is used for public purposes.

1.6. "County Board of Supervisors" means the present governing body of the County or any future body constituting the legislative body of the County.

1.7. "County Administrator" means the County Administrator or the County Administrator's designee.

1.8. "Competitor" means any Person entering into the Public Streets for the purpose of constructing or operating a Cable System, or for the purpose of providing Cable Service or video programming service to any part of the License Area, including by means of an "open video system" (as such term is defined in the Cable Act).

1.9. "Confidential Information" means any and all technical data, materials, reports, and other information owned by or developed by, or on behalf of Licensee and/or its Affiliates, any information that relates to the Cable System, and any and all financial data and information relating to Licensee's business, that Licensee discloses in writing, orally, visually, or through some other media, or that the County learns or obtains through observation, analysis, compilation, or other study of such information, data, or knowledge, except any portion thereof that (a) is known to the County at the time of the disclosure, as evidenced by its written records

and was not acquired by the County on a confidential basis; (b) is disclosed to the County by a third party having a right to make such disclosure; (c) becomes published, or otherwise publicly known through no fault of the County; or (d) is independently developed by or for the County without use of Confidential Information disclosed hereunder as evidenced by its written records.

1.10. "Existing License" means the Cable Television License with the effective date August 2, 1999 by and between CoxCom, Inc. and the County.

1.11. "FCC" means the Federal Communications Commission or its designated representative.

1.12. "Gross Revenues" means all cash, credits, property of any kind or nature, or other consideration, less related bad debt not to exceed one and one-half percent annually, that is received directly or indirectly by Licensee, its affiliates, subsidiaries or parent or any person, firm or corporation in which Licensee has a financial interest or that has a financial interest in Licensee and that is derived from Licensee's operation of its Cable System to provide cable service in the County. Gross revenues include all revenue from charges for Cable Service to Subscribers and all charges for installation, removal, connection or reinstatement of equipment necessary for a Subscriber to receive Cable Service, and any other receipts from Subscribers derived from operating the Cable System to provide Cable Service, including receipts from forfeited deposits, sale or rental of equipment to provide Cable Service, late charges, interest and sale of program guides. Gross revenues also include all income Licensee receives from the lease of its facilities located in the Public Streets, unless services that the lessee provides over the leased facilities are subject to a transaction privilege tax of the County. Gross revenues do not include revenues from commercial advertising on the Cable System, the use or lease of studio facilities of the Cable System, the use or lease of leased access channels or bandwidth, the production of video programming by Licensee, the sale, exchange, use or cablecast of any programming by Licensee in the County, sales to Licensee's Subscribers by programmers of home shopping services, reimbursements paid by programmers for launch fees or marketing expense, License Fees, taxes, or other fees or charges that Licensee collects and pays to any governmental authority, any increase in the value of any stock, security, or asset, or any dividends or other distributions made in respect of any stock or securities.

1.13. "License Area" means the unincorporated areas of the County.

1.14. "License Fee" means the fee set forth in Section 3 of this License.

1.15. "MDU" means any adjacent building(s) such as apartments under common ownership containing more than four dwelling units used as living quarters.

1.16. "Normal Business Hours" means those hours during which most similar businesses in the community are open to serve Subscribers.

1.17. "Normal Operating Conditions" means those service conditions that are within Licensee's control including, but not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System. Those conditions that are not within Licensee's control include, but are not limited to,

natural disasters, civil disturbances, utility company power outages, telephone network outages, and severe or unusual weather conditions.

1.18. "Person" means an individual, partnership, association, joint stock company, trust, corporation, limited liability company, or governmental entity.

1.19. "Public Street" has the same meaning as "publicly maintained right-of-way" as defined in County Ordinance # 035-06 Regulating Obstructions, Excavation, and Use of Publicly Maintained Rights-Of-Way (commonly referred to as the Right-of-Way Ordinance), as it may be amended from time to time.

1.20. "Standard Drop" means a cable connection that requires no more than a 125-foot drop measured from the nearest point of a Subscriber's home or place of business to the nearest existing technically feasible point on the Cable System from which an individual Subscriber can be connected to the Cable System. A Standard Drop involves only one outlet and standard materials. A Standard Drop does not include the following (the cost of which may be assessed directly to the Subscriber): (a) a wall fish; (b) custom installation work, including specific Subscriber-requested work that requires non-standard materials or cable routing that requires construction methods exceeding reasonable underground or aerial work; or (c) the cost of any equipment or construction modifications necessary to provide an adequate signal over the Standard Drop to the Subscriber's residence.

1.21. "Subscriber" means any Person lawfully receiving the Cable Services of Licensee's Cable System.

1.22. "Subscriber Complaint" means any written or oral complaint by a Subscriber to the County that the Subscriber did not receive the Cable Service that the Subscriber requested consistent with the requirements of this License.

2. Grant of Authority to Operate; Term.

2.1. Grant of Authority. The County hereby grants to Licensee the right and authority to operate a Cable System in the County and for that purpose to erect, install, solicit, construct, repair, replace, rebuild, reconstruct, maintain, and retain in, on, over, upon, across, and along any Public Streets such poles, wires, cable fiber optics, conductors, ducts, conduit, vaults, manholes, pedestals, amplifiers, appliances, attachments, power supplies, network reliability units, and other property or equipment as may be necessary or appurtenant to the Cable System; and, in addition, so to use, operate, and provide similar facilities or properties rented or leased from other Persons, including but not limited to any public utility or other entity licensed or permitted to do business in the County. Nothing in this License shall be construed to prohibit Licensee from offering any service over its Cable System that is not prohibited by federal or state law.

2.2. Prior Occupancy. Any privilege claimed under this License by Licensee in any Public Street or other public property is subordinate to any (a) prior or subsequent lawful occupancy or use thereof by the County or any other governmental entity, (b) prior lawful occupancy or use thereof by any other Person, and (c) prior easements therein; provided, however, that nothing herein extinguishes or otherwise interferes with property rights established independently of this License.

2.3. Term. This grant of authority runs for a term of fifteen years, effective as of midnight on August 3, 2014, and ending at 11:59 p.m. on August 2, 2029.

3. License Fee.

3.1. License Fee. Licensee shall pay to the County a License Fee in an amount equal to three percent (3 %) of Licensee's Gross Revenues during the term of this License.

3.2. Licensee is entitled to offset against License Fees due to the County all other charges and assessments as defined in A.R.S. 9-506(C).

3.3. Payment of License Fees. The payment of the License Fee shall be made quarterly by delivery to the County Administrator on or before the thirtieth day of the month following the end of each calendar quarter, with a fifteen-day grace period. Each License Fee payment shall be accompanied by a written report to the County, verified by an authorized Licensee representative, containing an accurate statement in summarized form of Licensee's Gross Revenues and the computation of the payment amount under Sections 3.1 and 3.2.

3.4. Interest. If License Fees are not paid in accordance with Section 3.3 above, the County may impose interest at a rate equal to the annual base rate of interest published in the Wall Street Journal (Western Edition) from time to time as the "prime rate" (or such other similar publication as County may choose if the Wall Street Journal (Western Edition) ceases to publish such rate) plus one percent commencing from the date payment should have been made in accordance with Section 3.3 above and continuing until the payment is made.

3.5. License Fee Audit.

3.5.1. Upon written notice to Licensee, the County may inspect Licensee's records of Gross Revenues, and the County and Licensee each have the right to audit and to recompute any amounts determined to be payable under this License; provided, however, that such audit must take place within thirty-six months following the close of Licensee's fiscal year for which the audit is desired.

3.5.2. Upon completion of an audit, the County shall provide Licensee with written notice including a copy of the audit report and setting forth any additional amounts due to the County identified in the audit. Licensee shall pay any deficiency within thirty days following such written notice; provided, however, that Licensee will not be required to pay such deficiency until thirty days after completion of the administrative hearing process if Licensee commences such process pursuant to Section 17.2. If there is a deficiency in the payment of License Fees to the County of ten percent or more, the County may assess the cost of the audit to Licensee.

3.5.3. Licensee may recover overpayment(s) of License Fees by taking credits of up to one-hundred percent of each subsequent quarterly License Fee payment due to the County until Licensee has recouped the full amount of the overpayment, without interest.

4. **Services to the County.**

4.1. **Service to County Buildings.** Upon written request from the County Administrator or other authorized individual, Licensee shall provide at no charge Licensee's Basic tier of service to County Buildings.

4.2. **Drops to County Buildings.** If making service available to a County Building requires no more than a Standard Drop, Licensee shall make service available without charge to County Buildings. If making service available to a County Building requires more than a Standard Drop, Licensee will not be required to make such service available unless the County entity requesting such service pays to Licensee an amount equal to the actual, reasonable labor and material costs incurred by Licensee for the additional facilities and work, less Licensee's cost for a Standard Drop. Absent a showing by Licensee to the County Administrator or other authorized individual of unusual circumstances, which include without limitation street crossings or plant extensions, any Standard Drop to any County Buildings shall be accomplished within ten days of the written request for service.

5. **Required Service; System Design and Capacity.**

5.1. **System Design.** The Cable System, as installed, uses a hybrid fiber optic/coaxial cable network. The Cable System is built so that fiber is provided to all neighborhood nodes. Extending from each optic site is radio frequency coaxial cable.

5.2. **System Capacity.** The channel capacity of the Cable System is expandable as future needs arise.

6. **Changes in Cable Technology.**

6.1. **Periodic Meetings.** The County and Licensee will meet upon the written request of either to discuss changes in cable television laws, regulations, technology, competing services, the needs of the community, and other factors impacting cable television. As a result of these discussions, this License may be modified by mutual agreement of the County and Licensee to respond to a change in laws, regulations, technology, competing services, the needs of the community, or other factors affecting cable television.

6.2. **Purpose.** The purpose of the meetings set forth in this Section is to use best efforts to reach mutually acceptable agreement for recommendation to the County Board of Supervisors for proposed action on amendments to this License to relieve the County or Licensee from any commercial impracticability that arises during the term of this License. This Section 6 is intended to facilitate a process whereby the parties may reach a mutually acceptable agreement to amend this License, but does not require that this License be amended.

7. **Line Extension.**

7.1. **Residential Service.** Licensee shall extend its Cable System to serve dwelling units within the County as contemplated in this Section 7.1. Each unit in an MDU is counted as a dwelling unit in determining the residential density, provided a mutually acceptable agreement granting Licensee reasonable access to the MDU has been executed and delivered. Licensee is

not required to make service available to residents of an MDU where the owner of the property has not granted Licensee reasonable access to the property.

7.1.1. When requested by a resident or developer in the County, Licensee shall, at Licensee's sole expense, extend the Cable System to any single family residence or dwelling within the County, provided that such extension involves density of thirty-five existing homes per cable plant mile measured from the nearest technically feasible point of connection on the Cable System, determined by Licensee in its sole discretion.

7.1.2. When a resident or developer in the County requests an extension of service to an area that does not meet the minimum density set forth above in Section 7.1.1, Licensee must comply with such request only if the resident or developer agrees to pay to Licensee an amount equal to all incremental costs incurred beyond those for an extension otherwise involving a density of thirty-five existing homes per mile. The incremental costs to be paid will be Licensee's costs (reasonable labor and materials) of extending the Cable System consistently with Licensee's overall system design to the residence, or to and throughout the development, from the nearest technically feasible point of connection on the Cable System, as determined by Licensee in its sole discretion. The costs will include splicing in one or more taps and extending cable.

7.1.3. Where there is a request by a developer for an extension to a development that does not meet the minimum density test set forth in Section 7.1.1 and where, instead of proceeding under Section 7.1.2, the developer agrees to pay Licensee's full costs (reasonable labor and materials) of extending the Cable System from the nearest technically feasible point of connection on the Cable System to the nearest Public Street access to the development, Licensee shall then extend the Cable System within the development, at Licensee's sole cost, if it has a density of thirty-five existing homes per mile measured from the nearest Public Street access to the development to which the developer elected to pay to have the Cable System extended.

7.1.4. Absent a showing by Licensee to the County Administrator of circumstances beyond Licensee's reasonable control, an extension of service pursuant to Sections 7.1.1, 7.1.2, or 7.1.3 must be accomplished within one hundred twenty days after the developer or resident's written request.

7.1.5. To prevent unnecessary disruption and damage to Public Streets, rights-of-way, and other property, the installation of Cable System must be accomplished in new subdivisions at the same time, and in the same trench as other communications, electric, and other permanent services to structures. Except to the extent that federal law grants them other rights, developers of new residential buildings or mobile homes within a new or undeveloped subdivision, new residential units within new multiple occupancy residential developments, and new commercial and industrial buildings and structures shall treat cable television facilities as they treat other communication facilities, utilities, and other underground facilities, in regards to availability and cost of joint trenching for underground installation.

7.2. Commercial Service. Licensee shall make Cable Services available to commercial establishments as set forth below. Licensee will not be required to make service available to commercial establishments where the owner of the property has not granted Licensee reasonable access to the property.

7.2.1. When requested by the owner of a commercial or residential establishment in the County, Licensee shall, at Licensee's sole expense, extend the Cable System to any commercial or industrial establishment within the County, provided that such extension involves density of one hundred hook-ups per cable plant mile measured from the nearest technically feasible point of connection on the Cable System determined by Licensee in its sole discretion.

7.2.2. When the owner of a commercial or industrial establishment within the County requests an extension of service to an area that does not meet the minimum density set forth in Section 7.2.1, Licensee shall be required to comply with such request only if the owner agrees to pay to Licensee an amount equal to all incremental costs incurred beyond those for an extension otherwise involving a density of one hundred hook-ups per cable plant mile. The incremental costs to be paid will be Licensee's costs (reasonable labor and materials) of extending the Cable System consistently with Licensee's overall system design to the establishment from the nearest technically feasible point of connection on the Cable System, as determined by Licensee in its sole discretion. The costs will include splicing in one or more taps and extending cable.

7.2.3. Absent a showing by Licensee to the County Administrator of circumstances beyond Licensee's reasonable control an extension of service pursuant to Sections 7.2.1 or 7.2.2 shall be accomplished within one hundred twenty days after the owner's execution of any necessary easement documents and/or capital contribution agreements.

8. Service Drops.

8.1. Standard Drop. Licensee shall make Cable Service available to any single family residence or any commercial establishment within the County at the standard connection charge if the connection requires a Standard Drop.

8.2. Non-Standard Drop. If making Cable Service available requires more than a Standard Drop, Licensee will not be required to make such Cable Service available unless the Person requesting such Cable Service pays to Licensee the standard connection charge and an amount equal to the reasonable, actual labor and material costs incurred by Licensee for the additional facilities and work beyond the Standard Drop.

8.3. Bulk Billing. Licensee may offer bulk billing service, but may not require a bulk billing agreement as a condition of providing service, when the Person requesting service pays to Licensee the applicable amount(s) set forth in Section 8.2.

8.4. Timing.

8.4.1. Absent a showing by Licensee to the County Manager of unusual circumstances, including without limitation Public Street crossings, (i) any Standard Drop to a single family residence or dwelling shall be accomplished within ten days of the request for service and (ii) any drop that is not a Standard Drop shall be accomplished within twenty days of such request. When a drop requires a line extension to a residence, the extension shall be accomplished in the time provided in Section 7.1 above.

8.4.2. Absent a showing by Licensee to the County Manager of unusual circumstances, including without limitation Public Street crossings, (i) any Standard Drop to a commercial establishment shall be accomplished within ten days after the owner of such commercial establishment executes any necessary easement documents and capital contribution agreements, and (ii) any commercial drop that is not a Standard Drop shall be accomplished within twenty days after the owner's execution of any necessary easement documents and/or capital contribution agreements. When a drop requires a line extension to a commercial establishment, the extension shall be accomplished in the time provided in Section 7.2 above.

9. **Construction Requirements.**

9.1. **Construction and Technical Standards.**

9.1.1. Licensee shall construct, install, operate, and maintain its system in a manner such that it operates at all times consistent with all laws, the construction standards of the County, and the FCC Rules and Regulations, Part 76 SubPart K (Technical Standards), as amended from time to time. In addition, the County may at any time conduct independent measurements of the Cable System.

9.1.2. Construction, installation, and maintenance of a Cable System shall be performed in an orderly and professional manner. All cables and wires shall be installed, where possible, parallel with and in a manner similar to the installation of electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations. Installations shall be in conformance with all applicable codes. Licensee must at all time comply with applicable sections of:

9.1.2.1. National Electrical Safety Code (ANSI)C2-1990;

9.1.2.2. National Electrical Code (National Bureau of Fire Underwriters);

9.1.2.3. the Uniform Building Code as may be adopted and amended by the County, together with applicable portions of all other Uniform Codes, as may be adopted and amended by the County, promulgated by the International Conference of Building Officials;

9.1.2.4. County Zoning Code and Subdivision Regulations, all as from time to time amended and revised, and all other applicable rules and regulations now in effect or hereinafter adopted by the County.

9.2. Utility Locating System. License shall participate in the regional one-call utility locating system (Blue Stake).

9.3. Resident Notification of Construction Activity Required. Licensee shall provide reasonable advance notice to all affected residents before system construction crews enter the right-of-way adjacent to their property; provided that Licensee shall not be required to provide such notice in emergencies or for normal system repair and maintenance work.

10. Emergency Service. In accordance with the provisions of FCC Rules and Regulations Part 11, Subpart D, Section 11.51(h)(1), as they may from time to time be amended, Licensee shall install and maintain an Emergency Alert System and shall transmit all Emergency Act Notifications and Emergency Act Terminations relating to local and state-wide situations as may be designated to be an emergency by the Local Primary, the State Primary and/or the State Emergency Operations Center, as those authorities are identified and defined within FCC Rules and Regulations, Part 11.

11. Use of Public Streets.

11.1. Location of Licensee's Property. Any poles, wires, cable lines, conduits, or other properties of Licensee to be constructed or installed in Public Streets shall be so constructed or installed only at such locations and in such manner approved by the County consistent with the County's technical and permitting regulations. Licensee or its authorized contractors will obtain any required permits before any physical work is done in the County's rights-of-way or on County-owned property.

11.2. Undergrounding.

11.2.1. Unless otherwise provided in this License, all new Licensee facilities in the Public Streets or in any public or private easement shall be located in accordance with the County's subdivision regulations, as they may be amended from time to time. Nothing contained in this Section requires Licensee to construct, operate, and maintain underground any ground-mounted appurtenances such as Subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, stand-by and other power supplies, network reliability units, pedestals, or other related equipment.

11.2.2. If Licensee extends new service into an area that already has available overhead utility poles, then Licensee may use such poles for its facilities, subject to agreement with the pole owner. No underground facilities may be moved to poles. Licensee may not install any poles. Licensee's existing overhead facilities may remain on poles subject to the requirements of Section 11.2.3 below.

11.2.3. Licensee's aerial facilities shall be placed underground as set forth below.

11.2.3.1. Where aerial facilities of other utilities in the same span are placed underground at the cost of such other utility, Licensee shall concurrently (or earlier) place its existing aerial facilities underground at its own expense.

11.2.3.2 Where aerial facilities of other utilities in the same span are placed underground at the cost of the County or a third party, such as a developer, Licensee shall concurrently (or earlier) place its existing overhead facilities underground only if (a) the cost of such undergrounding is paid by the County or such third party and (b) Licensee receives timely notification of the undergrounding of such other utility lines and opportunity to participate in joint trench with such other utility(ies). In the event that Licensee is not notified and given reasonable opportunity to participate in a joint trench with other utility(ies), Licensee will not be required to place its facilities underground at a later date unless the cost of such undergrounding in excess of the cost to participate in the joint trench is borne by the entity charged with providing Licensee notice of the joint trench opportunity. All new underground wires or cable placed by Licensee after the effective date of this License shall be placed in conduit except for service drops.

11.3. Emergency Work. The County reserves the right to move any portion of Licensee's equipment and facilities as may be required in any emergency as determined by the County without liability for interruption of Cable Service. However, before taking any action pursuant to this Section, the County shall provide, whenever feasible, reasonable notice to Licensee of the emergency to allow Licensee the opportunity to protect and repair Licensee's facilities involved in the emergency.

11.4. Temporary Removal for Building Improvements. Licensee, on the written request of any Person holding a building moving permit issued by the County, shall temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of wires shall be paid to Licensee by the Person requesting the same, and Licensee shall have the authority to require such payment in advance. Licensee shall be given not less than ten (10) days advance notice to arrange for such temporary wire changes.

11.5. Changes Required by Public Improvements. Licensee shall from time to time protect, support, temporarily dislocate, temporarily or permanently, as may be required, remove or relocate, any facilities installed, used, or maintained under this License, if and when (a) made necessary by any lawful change of grade, alignment, or width of any Public Street, by the County or (b) made necessary by any County improvement or alteration in, under, on, upon, or about any Public Street, when such improvement or alteration is being conducted by the County for a governmental purpose or is made necessary by traffic conditions, public safety, Public Street vacation, or any other public project or purpose by the County. Such removal or relocation shall be paid for by Licensee; provided, however, that Licensee shall have substantially the same obligations with respect to the cost of such relocation as all other users of the public rights-of-way. If any portion of the removal or relocation costs of other users of the public rights-of-way is being borne by a third party, the County will use its best efforts to work with Licensee and such third party to ensure that the third party bears the cost of removal or relocation of Licensee's facilities to the same extent that it is covering such costs of removal or relocation of the facilities of other users of the right-of-way. To the extent that public funds are available to compensate utilities and other affected rights-of-way users for the costs of such location, Licensee shall be entitled to receive such funds on an equal basis with all other utilities and users.

11.6. Street Repair. If Licensee causes damage to pavement, sidewalks, driveways, landscaping, or other property during construction, installation, or repair of its facilities, Licensee or its authorized agent shall replace and restore such places as nearly as may be possible to the condition that existed before the damage occurred. All repair and restoration necessary to meet the requirements set forth in this Section shall be at Licensee's expense and in a manner acceptable to the County.

11.7. Permitting.

11.7.1. For all permits applied for by Licensee, the County agrees to act timely and in any event in accordance with any timelines established by the County for permit issuance. Where Licensee identifies changes after the issuance of a permit and during construction, Licensee shall apply for a permit revision as required by County guidelines; provided, however, that upon the approval of the County inspector Licensee may continue construction while waiting for approval of the revised permit.

11.7.2. To facilitate coordination with the County on review, prioritizing and issuance of permits, and any payments therefore, Licensee shall apply for and process permits through a centralized office of Licensee established for that purpose. When this office identifies to the County a non-emergency but atypically time-sensitive permit that requires processing and issuance more surely or swiftly than under County's customary timelines, County agrees to use its best efforts to review and issue the permit on the expedited basis requested by Licensee. Licensee and County agree to coordinate to develop procedures for this expedited process and for regular quarterly, or at other intervals, mutual review of the process, its use and the effects on both parties.

11.7.3. Upon the Effective Date of this License the County shall grant to Licensee a maintenance permit for a period of one year. This maintenance permit shall cover Licensee's access to its existing facilities within the License Area for the performance of work by Licensee where no excavation is involved. Work covered by this annual maintenance permit would include, but not be limited to, splicing in existing vaults, installation of underground cables in existing conduit structure, access to aerial facilities including maintenance, repair, replacement of existing cable, aerial splicing, and the placement of new aerial cable and strand in accordance with the terms of this License. While performing work under this maintenance permit, Licensee shall comply with all requirements of the County regarding traffic control, providing advance notice to the County, and related matters. This annual maintenance permit shall be automatically renewed on each anniversary of the Effective Date of this License.

11.7.4. Upon the Effective Date of this License the County shall grant to Licensee an emergency permit covering Licensee's access to its existing facilities within the License Area in order to perform work necessary for the repair of major outages affecting Cable Services. While performing work under this maintenance permit, Licensee shall comply with all requirements of the County regarding traffic control, providing notice to the County no later than the next business day following the commencement of said work, and related matters. This emergency permit shall be automatically renewed on each anniversary of the Effective Date of this License.

12. **Subscriber Service Provisions.**

12.1. **Subscriber Service Standards.** Licensee shall at all times satisfy FCC customer service standards, as amended from time to time by the FCC.

12.2. **Billing Practices.** Licensee shall bill all Subscribers to its Cable System in a uniform manner, regardless of a Subscriber's level of service. In no case may any Subscriber be billed for service more than thirty days before receipt of such service. Payment may be due no sooner than the fifteenth day of each billing period, and the due date shall be listed on each bill. Bills shall be mailed no later than the first day of the billing period.

12.3. **Subscriber Complaint Procedures.** Licensee shall comply with the following Subscriber Complaint procedures.

12.3.1. Licensee shall ensure that all Subscribers have recourse to a satisfactory process to submit complaints. Licensee shall respond to all Subscriber Complaints within a reasonable time. Licensee shall follow a written internal appeal procedure for disputes over Subscriber Complaints.

12.3.2. Licensee shall establish and maintain a written log listing all Subscriber Complaints. The written log shall include the name and telephone number, if given, of the Subscriber making the complaint and Licensee's action on the complaint. The log shall be maintained by Licensee for three years and, to the extent permitted by federal law, shall be available to the County Administrator and the public for inspection upon request during Licensee's Normal Business Hours.

12.3.3. Licensee shall provide, in writing, upon request of the County Manager, details from its written log relating to any Subscriber Complaint.

12.4. **Subscriber Solicitation Procedures.**

12.4.1. All Licensee personnel, agents, and representatives, including subcontractors, shall wear a cable uniform or clearly display a photo-identification badge when acting on behalf of Licensee in the County.

12.4.2. Licensee shall afford each Subscriber of the Cable System a three-day right of rescission for ordering installation of Cable Service from the Cable System provided that such right of rescission will end when physical installation of Cable System equipment on such Subscriber's premises begins.

12.5. **Disconnection and Termination of Cable Services.** Licensee shall only disconnect or terminate a Subscriber's Cable Service for good and just cause. In no event may Licensee disconnect Cable Service for nonpayment without prior written notification to the affected Subscriber at least seven days before such disconnection or termination. In no event may such disconnection or termination for nonpayment occur in less than thirty days after a Subscriber's failure to pay a bill when due. If Licensee improperly discontinues Cable Service to any such Subscriber, upon request it shall provide free reconnection to the Cable System to such Subscriber.

12.6. Rights of Individuals. Licensee may not deny Cable Service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, sex, age, or disability; provided, however, that Licensee may not be required to provide Cable Services to any Person who does not pay the applicable line extension connection fee, fees for drops in excess of Standard Drops, and/or Cable Service charge(s). Licensee shall comply at all times with all other applicable federal, state, and local laws and regulations, as amended from time to time, relating to nondiscrimination.

13. **Inspection of Records.**

13.1. Inspection of Records. At all reasonable times as related to determination of License compliance, Licensee shall permit any duly authorized representative of the County to examine any and all financial records kept or maintained by Licensee or under its control that reasonably relate to Licensee's accurate payment of License Fees.

13.2. Scope of Information. Unless otherwise specified, all of Licensee's recordkeeping and disclosure obligations include and are limited to information that reasonably relate to Licensee's accurate payment of License Fees. This does not include personally identifiable Subscriber information without the Subscriber's consent in violation of Section 631 of the Cable Communications Policy Act of 1984, as amended, 47 U.S.C. Section 551.

13.3. Maps. Licensee shall at all times make and keep full and complete plans and records showing the exact location of all Cable System. Upon request, Licensee shall provide the County with route maps or sets of maps drawn to scale, showing the location of their respective underground and above ground facilities.

14. **Indemnification.**

14.1. Indemnification. Licensee agrees to defend, indemnify, and hold harmless the County, its officers, boards, and employees, as set forth in County Ordinance # 035-06 Regulating Obstructions, Excavation, and Use of Publicly Maintained Rights-Of-Way (commonly referred to as the Right-of-Way Ordinance), as it may be amended from time to time. Notwithstanding the foregoing, Licensee shall not indemnify the County for any damages, liability, or claims resulting from the willful misconduct or negligence of the County.

14.2. Procedure. In the event that a third-party claim is made or third-party suit is filed for which the County intends to seek indemnification from Licensee pursuant to Section 14.1 above, the County shall promptly notify Licensee of said claim or suit. Licensee shall have the right to control, through counsel of its choosing, the defense of such third-party claim or suit, but may compromise or settle the same only with the consent of the County, which consent shall not be unreasonably withheld. The County shall cooperate with Licensee and its counsel in the defense of any such claim or suit and shall make available to Licensee any books, records or other documents necessary or appropriate for such defense. The County shall have the right to participate at its expense in the defense of any such claim or suit through counsel of its own choosing.

15. **Insurance.** Licensee shall maintain in full force and effect, at no cost and expense to the County, during the term of this License, commercial general liability insurance in the amount of one million dollars combined single limit for bodily injury and property damage. The County shall be designated as an additional insured. Such insurance will not be cancelable except upon thirty days prior written notice to the County. Licensee shall provide a certificate of insurance showing evidence of the coverage required by this Section.

16. **Notice of Violation; Right to Cure or Respond.** In the event that the County believes that Licensee has not complied with the terms of this License, the County shall informally discuss the matter with Licensee. If these discussions do not lead to resolution of the issue, the County shall notify Licensee in writing of the exact nature of the alleged noncompliance. Licensee shall have thirty days from receipt of the notice of violation: (a) to respond to the County, contesting the assertion of noncompliance; (b) to cure such default; or (c) if, by the nature of default, such default cannot be cured within the thirty-day period, initiate reasonable steps to remedy such default and notify the County of the steps being taken and the projected date that they will be completed.

17. **Public Hearing.**

17.1. **Scheduling; Notice.** If Licensee fails to respond to the notice described in Section 16 pursuant to the procedures set forth therein, or if the alleged default is not cured within thirty days after the date projected pursuant to Section 16(c) above, if it intends to continue its assertion of, and investigation into, the alleged default, then the County shall schedule a public hearing to investigate the default. The County shall provide Licensee at least ten days' prior written notice of such hearing, which notice shall specify the time, place and purpose of such hearing. At such hearing, Licensee shall be provided a full and fair opportunity to be heard.

17.2. **Contesting an Audit.** Within fifteen days after notice from Licensee that it contests an audit determination of License Fees under Section 3.5.2, the County Administrator shall schedule an administrative hearing. This shall be a public hearing, and Licensee shall be afforded full due process of law, including, without limitation, an opportunity to be heard, to present evidence, and to cross examine witnesses. Within fifteen days after the conclusion of such hearing, the County shall issue a determination.

18. **Enforcement.** Subject to applicable federal and state law, if, after the hearing set forth in Section 17, the County determines that Licensee is in default of any provision of this License, the County may (a) seek specific performance of any provision that reasonably lends itself to such remedy, as an alternative to damages; (b) commence an action at law for monetary damages or seek other equitable relief; (c) in the case of a substantial default of a material provision of the License, seek to revoke the License in accordance with Section 19. Licensee may appeal such determination of the County to an appropriate court, which shall have the power to review the decision of the County de novo if such review is within the jurisdiction of the court.

19. **Revocation.**

19.1. **Notice; Response.** If the County seeks to revoke this License after complying with the procedures set forth in Sections 16 through 18 above, the County shall give written notice to Licensee of its intent to revoke this License on the basis of a pattern of noncompliance by Licensee, which must include one or more instances of substantial noncompliance with a material provision of this License. The notice shall set forth the exact nature of the noncompliance. Licensee shall have ninety days from such notice to object in writing and to state its reasons for such objection. If the County does not receive a satisfactory response from Licensee, it may then seek termination of this License at a public hearing. The County shall cause to be served upon Licensee, at least thirty days before such public hearing, a written notice setting forth the time and place of such hearing and stating its intent to revoke this License.

19.2. **Hearing.** At the designated hearing, the County shall give Licensee a full and fair opportunity to state its position on the matter, including without limitation the right to introduce evidence, to require the production of evidence, to question witnesses, and to obtain a transcript of the proceeding, after which the County shall determine whether or not this License will be revoked.

19.3. **Other Action.** The County may, at its sole discretion, take any lawful action that it deems appropriate to enforce the County's rights under this License in lieu of revocation of this License.

19.4. **Appeal.** Licensee may appeal any determination of the County to an appropriate court, which shall have the power to review the decision of the County de novo if such review is within the jurisdiction of the court.

20. **Effect of Expiration, Revocation, or Termination of License.**

20.1. **Continuity of Service.** It is the right of all Subscribers to continue receiving Cable Service as long as their financial and other obligations to Licensee are honored. If this License expires or terminates, Licensee shall cooperate with the County to ensure continuity of Cable Service to all Subscribers for a period not to exceed ninety days. Said period may be extended by written agreement between the County and Licensee. During such period, Licensee shall be entitled to the revenues for operating the Cable System.

20.2. **Other Services.** Upon expiration, revocation, or termination of this License for any reason, Licensee shall have one hundred eighty days from the date of expiration, revocation, or termination to enter into good faith negotiations with the County or other governmental authority to obtain a license, permit, or other approval or agreement that may then lawfully be required in order to allow Licensee to continue using Licensee's facilities in the Public Streets for any lawful service other than Cable Service that Licensee may then provide over its facilities in the License Area.

20.3. **Holding Over.** In any circumstance whereby Licensee would continue to occupy the Public Streets after the expiration of this Agreement, such holding over shall be deemed to operate as a renewal or extension of this Agreement on a month-to-month basis that may be

terminated at any time by the County upon sixty days' written notice to Licensee, or by Licensee upon sixty days' written notice to the County.

21. **Transfer.**

21.1. **Prior Consent.**

21.1.1. Except as otherwise set forth below, Licensee's right, title, or interest in this License may not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with Licensee, without the prior consent of the County, such consent not to be unreasonably withheld. No consent is required for (a) a transfer to an entity controlling, controlled by, or under common control with Licensee or (b) a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Licensee in the License or Cable System in order to secure indebtedness.

21.1.2. Within thirty days after receiving request for consent to a transfer for which County consent is required, the County shall notify Licensee in writing of any additional information it reasonably requires to determine the legal, financial, and technical qualifications of the transferee. If the County has not taken action on Licensee's request for transfer within one hundred twenty days after receiving such request, consent by the County will be deemed given.

21.2. **Grant, Rent, or Lease.** As long as a grant, rent, or lease of all or a portion of the Cable System does not amount to a transfer, Licensee in the normal course of providing Cable Services or other services such as telecommunications and information service over the Cable System may grant, rent, or lease use of the Cable System to other Persons. Any use by such persons shall be restricted to and consistent with such uses as Licensee or such person is authorized in this License or under other applicable law. Any such use shall be in compliance with applicable federal and state law. No such grant, rent or lease by Licensee will, however, relieve Licensee of any requirement or obligation under this License as to its use of the Public Streets.

22. **Controlling Authorities.**

22.1. **Local Ordinances.** Licensee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations placed upon Licensee that are contained in this License. In the event of a conflict between any ordinance or County Code provision and this License, this License shall control.

22.2. **Federal and State Laws.** This License is subject to and shall be governed by all requirements of the Cable Act; Arizona Revised Statutes Sections 9-505 through 9-510, as amended; and other federal and state laws and regulations governing cable communications. In a conflict between the terms and conditions of this License and the terms and conditions on which the County can grant a license, federal and state law shall control.

23. **Licensee's Representations and Warranties.**

23.1. Authority. Licensee represents and warrants that it has the power and authority to enter into this License by and through the representative who has signed this License on its behalf, and that it has the power and ability to do all the acts required of it by this License.

23.2. Misrepresentation. Licensee has not misrepresented or omitted material facts, has not accepted this License with intent to act contrary to the provisions herein, and represents and warrants that, as long as it operates the Cable System, it will be bound by the terms and conditions of this License or a subsequently issued license.

23.3. Attorneys. Licensee further acknowledges that it was represented throughout the negotiations of this License by its own attorneys and had opportunity to consult with its own attorneys about its rights and obligations regarding this License.

24. **Confidentiality.**

24.1. Protection of Confidential Information. To the fullest extent permitted by law, the County agrees to treat on a confidential basis any Confidential Information disclosed by Licensee to the County. The County shall not use the Confidential Information for any purpose whatsoever other than in connection with its rights and obligations under this License. The County shall safeguard the Confidential Information using measures that are equal to the measures used to safeguard its own confidential information of comparable value, but in no event less than reasonable care.

24.2. Disclosure to Representatives. Disclosure of Licensee's Confidential Information by the County shall be limited to only those of its employees, representatives, or agents that have a need to know, and that are in a confidential relationship with the County, who are informed by the County of the confidential nature of the Confidential Information, and who agree to act in accordance with the terms and conditions of this Section.

24.3. Disclosure Required by Law. In the event that the County becomes legally compelled to disclose any of the Confidential Information, the County shall provide Licensee with prompt notice so that Licensee may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Section. In the event that such protective order or other remedy is not obtained, or that Licensee waives compliance with the provisions of this Section, the County shall furnish only that portion of the Confidential Information that the County is advised by opinion of counsel is legally required and the County shall exercise its best efforts to obtain reliable assurance that confidential treatment shall be accorded the Confidential Information by the person to whom it is disclosed.

25. **Miscellaneous.**

25.1. Filings. When not otherwise prescribed herein, all matters herein required to be filed with the County shall be filed with the office of the County Clerk.

25.2. Force Majeure.

25.2.1. Licensee shall not be held in default under, or in noncompliance with, the provisions of this License, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation, or revocation of this License) where such alleged noncompliance or default occurred or was caused by an act of God, an act or omission of governmental military or civilian authority, strike or lockout, riot, epidemic or quarantine, war, earthquake, fire, flood, tidal wave, unusually severe rain, wind, or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, terrorist acts, governmental, administrative or judicial order or regulation or other circumstances that could not have been avoided through Licensee's exercise of reasonable care, prudence and diligence. This provision includes work delays caused by waiting for utility providers to service or monitor their own above-ground or underground facilities to which Licensee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

25.2.2. Furthermore, the parties hereby agree that it is not the County's intention to subject Licensee to penalties, fines, forfeitures, or revocation of the License for so-called "technical" breach(es) or violation(s) of this License, which include but are not limited to the following: (i) in instances or for matters where a violation or a breach by Licensee of the License was good faith error that resulted in no or minimal negative impact on the Subscribers within the License Area or (ii) where strict performance with the terms of the License would result in practical difficulties and hardship to Licensee that outweigh the benefit to be derived by the County and/or Subscribers.

25.3. Severability. If any Section, sentence, paragraph, term, or provision of this License or any ordinance, regulation, law, or document incorporated herein by reference is held to be illegal, invalid, unconstitutional, or unenforceable, by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions hereof all of which shall remain in full force and effect for the term of this License.

25.4. Notice. Unless otherwise provided for in this License, all notices to be given hereunder shall be given in writing and may be hand delivered or given by certified first class mail, postage prepaid addressed to the parties at the addresses set forth below. Such notices will be deemed served and effective when delivered to the designated persons listed below during ordinary business hours or on the date of delivery by U.S. Mail registered or certified return receipt requested.

To Licensee:

Cox Communications Arizona, LLC
1550 West Deer Valley Road
Building C
Phoenix, Arizona 85027
Attn: Senior VP & GM

With a copy, which is not notice, to:

Cox Communications, Inc.
1400 Lake Hearn Drive
Atlanta, Georgia 30319
Attn: Legal Department

To the County:

Cochise County Administrator
1415 Melody Lane
Bisbee, Arizona 85603

25.5. Governing Law; Venue. The provisions of this License are subject to applicable federal law, including but not limited to the Cable Act and the rules, regulations, and orders of the FCC, and are also subject to state law not in conflict with such federal law. In the event of any conflict between the provisions of this License and such state or federal law, the provisions of such state or federal law shall prevail. Proper venue is in the Superior Court of Cochise County or the United States District Court for the District of Arizona.

25.6. Headings. The headings contained herein are intended solely to facilitate the reading thereof. Such headings shall not affect the meaning or interpretation of the text herein.

25.7. Integration; Acquired Licenses. This License constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreement, understanding, negotiation, drafts, discussion outlines, correspondence, memoranda, or otherwise regarding the subject matter hereof. This License hereby preempts and cancels any other license agreements granted by the County that are acquired by Licensee through the purchase or acquisition of other Cable Systems and/or cable operators. Upon completion of an acquisition the terms of this License shall govern Licensee's newly acquired Cable System(s) or cable operation(s).

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have affixed their signatures to this nonexclusive license agreement on the dates written below to be effective on the date first set forth above.

COCHISE COUNTY:

LICENSEE:

Chair, Board of Supervisors

Date

VP and System Manager, Southern Arizona

Cox Communications Arizona, LLC

Date

ATTEST:

Clerk of the Board of Supervisors

Date

APPROVED AS TO FORM:

Deputy County Attorney

Date

OFFICE OF THE
COCHISE COUNTY ATTORNEY
CIVIL DIVISION
P.O. Drawer CA
Bisbee, Arizona 85603



EDWARD G. RHEINHEIMER
COCHISE COUNTY ATTORNEY
Telephone No.: (520) 432-8700
Fax No.: (520) 432-8778

Interoffice Memorandum

To: Michael Ortega, County Administrator
From: Adam Ambrose, Civil Deputy County Attorney
Date: March 29, 2013
Subject: Cox Communications cable television franchise renewal

Introduction

The cable franchise licensing agreement Cox Communications Arizona LLC expires August 2, 2014, and the franchisee has requested renewal, pursuant to terms contained in a proposed new Cable Television License Agreement, attached hereto. A summary of significant changes negotiated by the parties is included in the "Discussion" section, below.

Background

By this License Agreement the County renews the cable television franchise of Cox Communications Arizona, LLC, to serve County residents. The Agreement would take effect on August 3, 2014, the day after the current franchise agreement expires. It would extend for 15 years, through August 2, 2029, replacing the previous 15-year agreement, which took effect August 3, 1999. Cox is one of two County cable television franchisees, the other being Cable One Inc., with which the County also has a 15-year licensing agreement (entered into on August 10, 2004 and due to expire August 10, 2019).

Authority

The Telecommunications Act of 1996, 47 U.S.C. § 253, *et seq.*, grants state and local government agencies authority to regulate public safety and welfare aspects of cable television service, including terms governing quality of service and safeguards for consumers, provided that any such regulation is not over-burdensome and is not applied

in such a way as to discriminate among competitors seeking to provide such services to local jurisdictions. This means, *inter alia*, that the County may require cable franchisees to comply with local zoning laws and requirements for access to County rights of way. However, even within those parameters, if the County's regulations are too onerous they may be found to be pre-empted by federal law, which encourages free competition among service providers. *TCG New York, Inc. v. City of White Plains*, 305 F.3d 67 (2nd Cir. 2002), *cert. denied*, 538 U.S. 923 (2003) (local reporting and service requirements found to be too onerous).

Discussion

This proposed License Agreement is substantially the same in its terms as the current agreement with Cox, with some modifications to reflect changes in state law, discussed below, and a proposed increase in the basic franchise fee that the County charges the franchisee (from 2 percent of gross revenues to 3 percent of gross revenues). The franchise fee is the only source of revenue for the County from this Agreement. The cost of such fees is passed on to Cox customers in Cochise County, however, so in considering any fee increase the Board should be cognizant of the adverse economic impact it will have on its constituents, as well as the possibility that the amount of gross revenue to Cox could decline if it becomes less competitive and loses customers to satellite television providers, thereby reducing the amount the County receives.

Other changes (1) expand the definition of the "license area," also commonly referred to as the "service area"; (2) eliminate the right of the County to collect from Cox right of way permit fees in addition to the basic franchise fee; and (3) reduce "in-kind" services provided by Cox to government facilities, principally by eliminating free cable television service to schools. Most of these changes were precipitated by changes in state law enacted in 2006 by the Arizona State Legislature.

That legislation, codified in significant part at A.R.S. § 9-506, prohibits the County from charging separate fees "for the use of public streets, roads or alleys to provide cable service," A.R.S. § 9-506(C), or, if they do, they must offset against the franchise fee. A.R.S. § 9-506(E). Staff, in negotiating this contract, elected to go with the latter approach, requiring the franchisee to go through the normal right-of-way permit process, but entitling them to offset any such charges that they pay against the franchise fee. See Section 3.2 of the proposed Licensing Agreement).

In addition, that same legislation modified terms under which the County may demand "in-kind" services (i.e., basic cable television service to government installations). Local jurisdictions may still ask that "in kind" cable service be provided to their facilities, in

addition to the franchise fee, A.R.S. § 9-506(D)(3), but if they demand that in-kind services be provided to any other government entities which are not parties to the licensing agreement, then the value of that service may be offset against the franchise fee. A.R.S. § 9-506(E). Under the current agreement with Cox, at Section 3.11, the franchisee agrees to provide basic cable service to County offices, and to fire stations, police stations and public schools in the County. Cox has taken the position that, “as a part of our ongoing commitment to the communities that we serve,” Cox will continue to provide such service to other local government entities, but that it will offset the value of such service if it is included in the proposed Licensing Agreement renewing their franchise. Accordingly, rather than agreeing to offset the value of such in-kind programming service, the requirement to serve those local jurisdictions is eliminated from this Agreement. See Section 4.1.

Lastly, the “license area” that Cox is allowed to serve has been expanded from locations it currently serves to all “unincorporated areas of the County.” Section 1.13. This is consistent with the service area granted to Cable One in its franchise agreement, entered into in 2004. This is important because under the Telecommunications Act of 1996, at 47 U.S.C. §§ 253, and 541, local jurisdictions may not discriminate against one service provider in favor of another. Hence, if Cable One is entitled to serve all unincorporated areas of the County under its licensing agreement, then the county should grant the same privilege to the same extent to Cox. Fortunately, federal law does allow for new franchise agreements to be negotiated under current law without need to re-open and amend existing contracts with other carriers until those contracts expire. 47 U.S.C. § 557. So, although Cable One is entitled to the benefit of any contractual gain obtained by Cox, it has no right to such benefit until its contract is renewed in 2019. Also, as a general matter, competitors do not have to be treated identically by local licensing authorities, but should not be treated in a manner that is discriminatory in effect. *XO Missouri, Inc. v. City of Maryland Heights*, 256 F.Supp.2d 966 (.E.D. Mo. 2002).

AA:sml-b

Attach.

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

FY 2013 Community Development Block Grant

Submitted By: Lisa Marra, Facilities

Department: Facilities

Presentation: PowerPoint

Recommendation: Approve

Document Signatures: BOS Signature Required

of ORIGINALS 0

Submitted for Signature:

NAME Lisa M. Marra

TITLE Grants

of PRESENTER:

of PRESENTER: Administrator

Mandated Function?: Federal or State Mandate

**Source of Mandate
or Basis for Support?:**

Docket Number (If applicable):

Information

Agenda Item Text:

Adopt Resolution 13-11 authorizing the submission of application(s) for FY 2013 State Community Development Block Grant Funds.

Background:

Cochise County is expected to receive approximately \$170,000 in State Community Development Block Grant (CDBG) funds from the Arizona Department of Housing.

Two Public Hearings and one Work Session have been held to discuss eligible projects for the upcoming grant cycle. Three projects qualify as high priority for funding based on CDBG and HUD criteria. Each of the projects could use all or partial funding. The County can submit up to three applications although HUD guidelines encourage funding projects fully to provide for a minimum five year life span. The grant provides for up to 18% administrative costs to oversee the projects.

1. Emergency Home Repair Program \$144,080 + \$25,920 admin cost = \$170,000
2. Elfrida Water District \$120,000 + \$12,000 admin cost = \$132,000
3. Bowie Water District \$117,000 + \$12,000 admin cost = \$129,000

Department's Next Steps (if approved):

Approve Resolution and required documentation for the CDBG applications that are due to SEAGO on 5/1/13.

Impact of NOT Approving/Alternatives:

CDBG applications will not be authorized for submission and FY13 CDBG funding to the County will be forfeited. Grant applications cannot be prepared or completed until the projects and funding levels are determined at this Hearing.

To BOS Staff: Document Disposition/Follow-Up:

After formal BOS adoption please provide a copy of the signed Resolution to the grants office. This is a draft Resolution. Grant applications will need signature after they are prepared.

Attachments

Resolution

Project Costs

Project Requests

Presentation

RESOLUTION 13-___

A RESOLUTION OF THE BOARD OF SUPERVISORS OF COCHISE COUNTY, ARIZONA, AUTHORIZING THE SUBMISSION OF APPLICATIONS FOR FY 2013 STATE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS, CERTIFYING THAT SAID APPLICATIONS MEET THE COMMUNITY'S PREVIOUSLY IDENTIFIED HOUSING AND COMMUNITY DEVELOPMENT NEEDS AND THE REQUIREMENTS OF THE STATE CDBG PROGRAM, AND AUTHORIZING ALL ACTIONS NECESSARY TO IMPLEMENT AND COMPLETE THE ACTIVITIES OUTLINED IN SAID APPLICATIONS.

WHEREAS, the County of Cochise is desirous of undertaking community development activities; and

WHEREAS, the State of Arizona is administering the Community Development Block Grant Program; and

WHEREAS, the State CDBG Program requires that CDBG funds requested address one of the three Congressional mandated National Objectives; and

WHEREAS, the activities within these applications address the community's identified housing and community development needs, including the needs of low and moderate income persons; and

WHEREAS, the projects that have been requested that meet at least one of the three Congressional mandated National Objectives are: i) Cochise County Housing Authority Emergency Home Repair Program, \$170,000; ii) Elfrida Water District Improvements, \$120,000; iii) Bowie Water District Improvements, \$117,000; and

WHEREAS, it is estimated that the total amount of CDBG funds that will be available is \$161,000, of which Cochise County intends to apply for 18% in Administration Funds to administer the grant, leaving an estimated total available of \$132,020; and

WHEREAS, a grantee of State CDBG funds is required to comply with the program guidelines and Federal Statutes and regulations.

NOW, THEREFORE, BE IT RESOLVED THAT the Cochise County Board of Supervisors authorize applications to be made to the State of Arizona, Department of Housing for FY 2013 CDBG funds, and authorize the Chairman of the Board of Supervisors to sign applications and contracts or grant documents for receipt and use of these funds for an [insert the programs chosen by the Board and amounts], and authorize the Chairman of the Board of

Supervisors to take all actions necessary to implement and complete the activities submitted in said applications; and

BE IT FURTHER RESOLVED THAT these applications for State CDBG funds meet the requirements of low- and moderate-income benefit for activities justified as benefiting low- and moderate-income persons, aids in the prevention or elimination of slum and blight or addresses an urgent need which poses a threat to health; and

BE IT FINALLY RESOLVED THAT Cochise County will comply with all State CDBG Program guidelines, Federal Statutes and regulations applicable to the State CDBG Program and the certifications contained in these applications.

PASSED, APPROVED AND ADOPTED THIS __ DAY OF 2013 BY THE BOARD OF SUPERVISORS OF COCHISE COUNTY.

ANN ENGLISH, CHAIR
COCHISE COUNTY BOARD OF SUPERVISORS

ATTEST:

KATIE HOWARD, CLERK

APPROVED AS TO FORM:

BRITT HANSON, CHIEF CIVIL
DEPUTY COUNTY ATTORNEY

FY 2013 CDBG

Final Projects for Consideration and Submittal

PROJECTS TO MOVE FORWARD for BOS CONSIDERATION:

1. Cochise County Housing Authority – Owner Occupied Repairs \$144,080
 Minimum of 5 homes – up to \$25,000 on each. Very successful program since 1998. (+ Admin cost \$ 25,920)

*This would be the only emergency housing repair funding currently available for the Housing Authority as no other rehab grants have currently being awarded.

2. Elfrida Water District - (equipment is from 50/60's) \$120,000
 Clean the existing well and deepen \$23,000 750 residents
 New 50,000g tank \$72,000 (+ Admin cost \$12,000)
 Generator \$25,000 \$132,000

*Could use full funding if awarded – items listed in order of priority need

3. Bowie Water District - (equipment is from 50/60's) \$ 117,000
 Electrical repairs on compressor and relays 333 customers
 And motor \$18,000 (+ admin cost \$12,000)
 Replace 1060 ft of 3" main line \$33,000 \$129,000
 Pvc pipe to replace galvanized and saddles
 For connecting main lines \$ 3,000
 Waste water pump bearing \$ 3,000 or
 Replace water pump \$25,000
 Replacement meters/hydrants \$20,000
 Excavator/utility truck \$15,000

*Could use full funding if awarded – items listed in order of priority need



Housing Authority of Cochise County

100 Clawson Avenue Old Bisbee High School – First Floor

P O Box 167
Bisbee, AZ 85603

Anita M. Baca
Executive Director

TEL (520) 432-8880
FAX (520) 432-8890
TTD (520) 432-8360

February 12, 2013

Cochise County Government
1415 Melody Lane, Building G
Bisbee, Arizona 85603

RE: Community Development Block Grant Funds (CDBG)

Dear Cochise County Board of Supervisors:

The Housing Authority of Cochise County (HACC) has been conducting Emergency Home Repairs for low-income households since 1998. Through the considerations of the Cochise County Government and the Board of Supervisors of Cochise County, we have been able to assist over 50 low-income families in creating a healthy and safe environment for them to live through the use of CDBG funds.

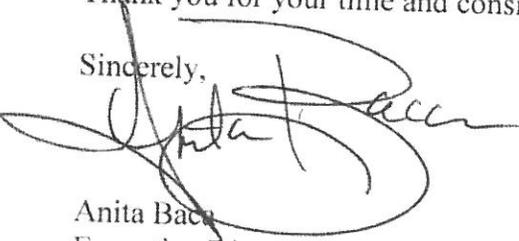
The Housing Authority of Cochise County is respectfully requesting \$170,000.00 from the Cochise County Government Community Development Block Grant funds to conduct owner-occupied Emergency Home Repairs on a minimum of 5 residences. Preferences are given to the elderly, disabled or families with children under 18 years of age. A maximum of \$25,000.00 will be expended on each residence to correct immediate health and safety issues for low-income residents. Examples of these repairs would be roofing, plumbing, heating and cooling, foundations, health and sanitation issues.

The Housing Authority of Cochise County teamed up with the Planning and Zoning Department will be responsible for all aspects of these projects and ensure that all work meets current code. Our involvement includes application intake, scope of work, out to bid documents, bid award and contracts; progress inspections, final inspection, and pay requests. We are respectfully requesting \$25,920.00 in Administration fees to cover Grant related expenses such as accounting services, office supplies and payroll for the Administrative Coordinator and Executive Director. The total amount of funds we are requesting is \$170,000.00.

On behalf of our Board of Commissioners, staff, and most importantly, families served, I offer my heartfelt thanks for your past and present support. We hope to continue our partnership so together we can make a difference in the lives of those who need us the most.

Thank you for your time and consideration.

Sincerely,


Anita M. Baca
Executive Director

Board of Commissioners

Chair: Jennifer "Ginger" Ryan Vice Chair: R. Keith Newlon
Melissa Herrera-DiPeso Sarah Montoya-Lewis Kathleen A. Calabrese

.....

Elfrida Water Improvement District

January 22, 2013

Lisa Marra, Grants Administrator

Dear Ms. Marra:

Attached please find supporting documents regarding our application for the CDBG funds.

Elfrida Domestic Water Users was established in 1952 and has operated continuously since that time. In 2010 the department became a water district, serving approximately 750 residents. Many of the residents are elderly, living principally on Social Security, and many others are living below the poverty line. Elfrida has been established as a Colonia.

The department obtained a WIFA loan to drill a new well in 2002 and payments are being made on that. However, the original storage tank, which is rusting out, the lines and most of the meters have been in use since 1952/1960. These meters do not accurately measure the water usage and the district loses approximately 25% of the water pumped each month. This district cannot afford to upgrade this equipment without assistance.

Your consideration in funding these projects will be greatly appreciated.

Sincerely,

Michael J Coyle, Jr
Manager.

.....

February 12, 2013

Bowie Water Department
113 S. Eisenhower Avenue
Bowie, AZ 85605
520-847-2422

Subject: Community Development Block Grant
request for project funding.

Presented to: Cochise County Board Of Supervisors
Work Session

Project: Critical needs for Bowie Water Department.

Dear Cochise County Board Of Supervisors,

On behalf and with the permission of the Bowie Water Company Board I have been given the liberty to present to you the water departments need of equipment and upgrades to the utility. As well as provide information as needed to present to the Cochise County Board at the February 12th workshop. I believe you will agree Bowie is in desperate need of this funding.

Demographics:

Bowie water is a non-profit, unincorporated utility located in the Northeastern corridor of Cochise County. As of this writing there are currently 265 water customers who depend on the safe and regular delivery of Bowie water. There are approximately 333 potential customers in total. Bowie water customers do not have a sewer system.

As the utility ages into almost 75 years of providing water, old galvanized pipes continue to be a constant repair nightmare for the one man repair team Bowie has on -call. Manual digging is the only form of equipment the utility has in getting to these blow outs and they are more and more frequent as the utility ages. Regular daily maintenance is required to manually operate the pump that fills the supply tank.

Project Needs:

Bowie water is asking for this grant to help the utility with the funds for some much needed replacement parts and repairs to its main water tank as well as some upgrades. Modern excavating equipment and a utility truck. Air compressor, inverter style generator, wastewater pump and a self-priming pump, new schedule 40 pipe and connection saddles. Bowie water has many non-working meters that need replaced and all of its customer meters need to be upgraded. Also needed are 5 new hydrants.

Bowie water realizes this is a huge request, but are hopeful that this grant request be considered as a high priority.

Accompanying this request is a breakdown of the approximate costs involved.

Respectfully,

Modestina Frascella

Arizona Department of Housing FY 2013 Community Development Block Grant Funding Cycle (CDBG)



For
Cochise County
Final Public Hearing – Adopt Resolution

April 9, 2013



CDBG Overview

- Cochise County is expected to receive approximately \$170,000 in State Community Development Block Grant (CDBG) funds from the Arizona Department of Housing.
- Two Public Hearings and one Work Session have been held to discuss eligible projects for the upcoming grant cycle.
- Three projects qualify as high priority for funding based on CDBG and HUD criteria. Each of the projects could use all or partial funding. The County can submit up to three applications although HUD guidelines encourage funding projects fully to provide for a minimum five year life span.
- The grant provides for up to 18% administrative costs to oversee the projects.



Projects for Consideration

- **Emergency Home Repair Program - \$170,000**
\$144,080 + \$25,920 admin cost

Home repair grants managed through the Cochise County Housing Authority in amounts up to \$25,000 for a minimum of 5 owner occupied homes in the unincorporated areas of the County. Program in existence since 1998.



Projects for Consideration

- **Elfrida Water District Improvements \$132,000**
120,000 + \$12,000 admin cost

Upgrades to water district equipment that is over 60 years old. Improvements could include cleaning and deepening an existing well, installing a new 50,000g water tank, and providing a back up generator.



Projects for Consideration

- **Bowie Water District Improvements \$129,000**
\$117,000 + \$12,000 admin cost

Upgrades to the water district equipment that is over 75 years old. Improvements could include electrical repairs, replacement of mainline, pvc piping, a utility truck, waste water pump and replacement of meters and hydrants.



Project Breakdowns

Emergency Home Repair

5 + homes

Up to \$25,000 in repairs each home

\$144,080

+ 18% in admin costs

Elfrida Water Dst.

Clean Existing well/deepen

\$23,000

50G Tank

\$72,000

Generator

\$25,000

\$120,000

Bowie Water Dst.

Electrical Repairs

\$18,000

Main line \$33,000

Pvc \$3,000

Replace pump \$28,000

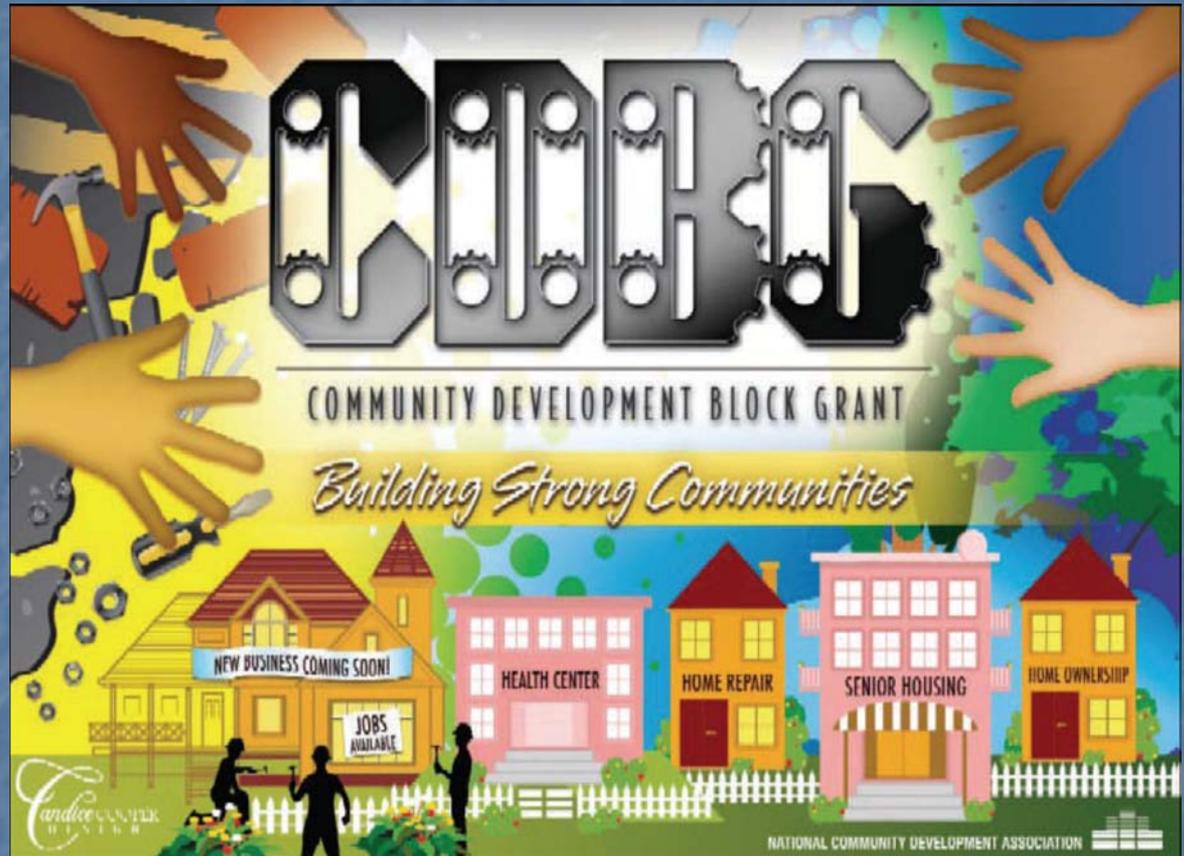
Hydrants/Meters \$20,000

Utility Truck \$15,000

\$117,000



Public Input



QUESTIONS ? ? ? ? ?

Regular Board of Supervisors Meeting**Meeting Date:** 04/09/2013

Contract Increase for Emulsified Asphalt Products in the Amount of \$700,000.

Submitted By: Dave Seward, Procurement**Department:** Procurement**Presentation:** No A/V Presentation **Recommendation:** Approve**Document Signatures:** BOS Signature Required **# of ORIGINALS Submitted for Signature:** 2**NAME of PRESENTER:** Karen Riggs **TITLE of PRESENTER:** Interim Director Community Development**Mandated Function?:** Federal or State Mandate **Source of Mandate or Basis for Support?:****Docket Number (If applicable):****Information****Agenda Item Text:**

Approve an increase in the not to exceed dollar amount of Contract No. 10-66-HFP-04 with Western Emulsions, Inc. for CRS-2 and CRS-2P emulsified asphalt products from \$1,350,000 to \$2,050,000.

Background:

On July 10, 2012, The Board of Supervisors approved the renewal of Contract No. 10-66-HFP-04 in the amount of \$1,350,000 for the purchase of CRS-2 and CRS-2P emulsified asphalt product for the period of August 1, 2012 through July 31, 2013. An additional amount of \$700,000 is required due to unanticipated projects not included in the annual work plan to include Foothills, San Simon, Bowie, and Gleeson roads/areas as well as IGA projects bringing the total not to exceed dollar amount to \$2,050,000.

Department's Next Steps (if approved):

Process a change order to the existing contract and monitor contract performance.

Impact of NOT Approving/Alternatives:

The unanticipated projects will not be completed.

To BOS Staff: Document Disposition/Follow-Up:

No action required.

Fiscal Impact**Fiscal Year:****One-time Fixed Costs? (\$\$\$):****Ongoing Costs? (\$\$\$):****County Match Required? (\$\$\$):****A-87 Overhead Amt? (Co. Cost Allocation \$\$\$):**

Source of Funding?:

Fiscal Impact & Funding Sources (if known):

Community Development has budgeted for this expenditure.

Attachments

Change Order Request



COCHISE COUNTY PROCUREMENT DEPARTMENT

1415 Melody Lane, Building C, Bisbee, AZ 85603

Phone: (520) 432-8394 Fax: (520) 432-8397

Website: www.cochise.az.gov

REQUEST FOR PURCHASE ORDER CHANGE OR CONTRACT MODIFICATION

To: Dave Seward
(Buyer or Contract Administrator)

Date: 3/27/2013

Re: Purchase Order Number or Contract No. 2013-125 Vendor: Western Emulsion

Changes are desired in above Purchase Order or Contract as follows:

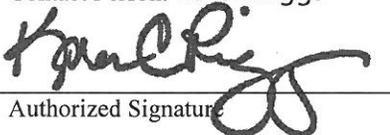
- Cancel Order
- Cancel undelivered balance of order
- Return damaged goods to vendor w/out replacement.
- Accept increase of cost by less than 10% or \$500 whichever is less, due to over shipment, freight or taxes.
- Change quantity, price or specifications of minor nature.
- Incorrect fund number
- Increase Blanket – Provide detail explanation below
- Other (Explain) Due to un-anticipated work on Foothills, San Simon, Bowie, Gleeson and IGA projects additional funds are needed to cover costs for additional oil.

Describe or itemize changes desired and reason for changes (including reason for cancellation if requested):

Department: Highways Dept

Contact Person: Karen Riggs

Extension No. 9318


Authorized Signature

To Submit the form:

1. Print out the completed form and e-mail to the appropriate Buyer or Contracts Administrator

200 tons	Foothills
400 tons	Bowie
200 tons	San Simon
300 tons	Gleason
300 tons	IGA
<hr/>	
<hr/>	
1400 tons	@ \$500 = \$700,000.00

PO#2013-125 needs to amended and increased by \$700,000

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

Request for General Fund Contingency Funds

Submitted By: Amy Hunley, Indigent Defense

Department: Indigent Defense

Presentation: No A/V Presentation **Recommendation:** Approve

Document Signatures: BOS Signature NOT Required **# of ORIGINALS Submitted for Signature:** 0

NAME of PRESENTER: Michael Ortega **TITLE of PRESENTER:** County Administrator

Mandated Function?: Federal or State Mandate **Source of Mandate or Basis for Support?:**

Docket Number (If applicable):

Information

Agenda Item Text:

Approve the transfer of funds in the amount of \$280,000 from General Fund Contingency Account to Indigent Defense Coordinator (IDC) budget accounts.

Background:

IDC is requesting contingency funds in the amount of \$280,000 for its projected FY12/13 budget shortfall. This shortfall is attributable to expenses incurred in capital cases. Please see the attached Memorandum for additional explanation.

Department's Next Steps (if approved):

If approved, IDC will be able to pay court-appointed attorneys' fees and case-related costs for the remainder of FY12/13.

Impact of NOT Approving/Alternatives:

If approved, IDC will be unable to pay court-appointed attorneys' fees and case-related costs for the remainder of FY12/13.

To BOS Staff: Document Disposition/Follow-Up:

If approved, please notify Mike McGinnis, Budget Manager, so the funds can be transferred to the IDC budget.

Fiscal Impact

Fiscal Year:

One-time Fixed Costs? (\$\$\$): 280,000

Ongoing Costs? (\$\$\$):

County Match Required? (\$\$\$):

A-87 Overhead Amt? (Co. Cost Allocation \$\$\$):

Source of Funding?: General Fund Contingency

Fiscal Impact & Funding Sources (if known):

This is a request for a one-time transfer of \$280,000 from the General Fund Contingency to the IDC budget to cover the FY12/13 IDC budget shortfall caused by capital case expenses.

Attachments

IDC Contingency Fund Request



IDC

Indigent Defense Coordinator

Old Bisbee High School, 1st Floor
(Mailing Address: 1415 Melody Lane)

Bisbee, AZ 85603

(520)432-8458 FAX: (520)432-8461

www.cochise.az.gov/IDC

MEMORANDUM

To: Board of Supervisors

Cc: Michael Ortega, County Administrator
James Vlahovich, Deputy County Administrator

From: Amy Hunley, Indigent Defense Coordinator

Date: March 29, 2013

Re: IDC Request for General Fund Contingency Transfer

IDC is requesting contingency funds in the amount of \$280,000 for its projected FY12/13 budget shortfall. IDC anticipates a total shortfall of \$346,779; however, the Public Defender's office has approximately \$68,000 in vacancy savings to help offset that deficit. Although the Legal Defender's office has \$12,254 in vacancy savings, those funds will be used for other Legal Defender expenses and will not be available to transfer to IDC. Attachment A contains FY12/13 projections for the IDC, PD and LD budgets, and Attachment B contains IDC's FY12/13 budget projection. Revenue figures in Attachment A are provided for informational purposes only as those monies are deposited to the General Fund and are not available for use by the departments.

IDC's budget shortfall is attributable to expenses incurred for three capital cases assigned to private contract attorneys. Two of the cases have been completed; the one remaining case is scheduled for trial in August 2013.

Attachments

INDIGENT DEFENSE BUDGET

FY12/13 BUDGET PROJECTED THROUGH JUNE 2013								
<i>Description</i>	<i>Amended Budget</i>	<i>Actual Expenses through 3/30/13</i>	<i>Projected Expenses through 6/30/13</i>	<i>Budget Less Projected Expenses</i>	<i>FY11/12 Adopted Budget</i>	<i>FY11/12 Total Expenses</i>	<i>FY10/11 Adopted Budget</i>	<i>FY10/11 Total Expenses</i>
Indigent Defense Coordinator	\$1,002,709	\$895,922	\$1,349,488	-\$346,779	\$994,761	\$1,393,745	\$986,055	\$1,184,537
Public Defender	\$1,418,864	\$945,641	\$1,345,301	\$73,563	\$1,400,726	\$1,380,753	\$1,402,500	\$1,356,904
Legal Defender	\$887,348	\$674,970	\$887,348	\$0	\$874,406	\$858,438	\$876,602	\$862,532
TOTALS	\$3,308,921	\$2,516,533	\$3,582,137	-\$273,216	\$3,269,893	\$3,632,936	\$3,265,157	\$3,403,973
TOTAL FY11/12 & FY10/11 INDIGENT DEFENSE BUDGET LESS EXPENSES					-\$363,043		-\$138,816	

FY12/13 SALARY/VACANCY SAVINGS (Included in IDC/PD/LD Budget Projections)		
	Salary Savings	Vacancy Savings
Indigent Defense Coordinator	\$ -	\$ -
Public Defender	\$ 3,921	\$ 68,360
Legal Defender	\$ -	\$ 12,254
TOTALS	\$ 3,921	\$ 80,614

FY12/13 REVENUE (General Fund Deposits not Included in IDC/PD/LD Budgets)	
PROJECTED Attorneys' Fees Collected by Courts <i>Actual July 2012-February 2013 Amount: \$41,046 (PD Revenue)</i>	\$78,000
PROJECTED Salary Reimbursement from FTG Grant funds <i>PD Paralegal Amount: \$24,730 (PD Revenue)</i> <i>LD Investigator Amount: \$32,883 (Paid directly from Grant)</i>	\$57,613
TOTAL PROJECTED REVENUE	\$135,613

Outstanding Reimbursement <u>State v. Sharp</u> Capital Rule 32 Case	\$333,449										
<p>Pursuant to A.R.S. § 13-4041(I), the State pays the County 50% of the expenses incurred in capital Rule 32 post-conviction relief proceedings. The State typically reimburses counties for these expenses until the annual funding is depleted and carries forward any additional amount due until funds are available.</p> <p>This case is no longer pending. Rule 32 PCR proceedings concluded in June 2012, and the defendant was sentenced in September 2012.</p>	<table style="width: 100%; border: none;"> <tr><td style="width: 30%;">FY11/12</td><td style="text-align: right;">\$95,613</td></tr> <tr><td>FY10/11</td><td style="text-align: right;">\$96,475</td></tr> <tr><td>FY09/10</td><td style="text-align: right;">\$45,446</td></tr> <tr><td>FY08/09</td><td style="text-align: right;">\$8,055</td></tr> <tr><td>FY07/08</td><td style="text-align: right;">\$87,860</td></tr> </table>	FY11/12	\$95,613	FY10/11	\$96,475	FY09/10	\$45,446	FY08/09	\$8,055	FY07/08	\$87,860
FY11/12	\$95,613										
FY10/11	\$96,475										
FY09/10	\$45,446										
FY08/09	\$8,055										
FY07/08	\$87,860										

FY12/13 BUDGET INDIGENT DEFENSE COORDINATOR

Description	Amended Budget	Actual Expenses 3/30/13	Projected Expenses through 6/30/13	Amended Budget Less Projected Expenses	FY11/12		FY10/11	
					Budget	Expenses	Budget	Expenses
Administrative Expenses (including Salaries/Benefits)	\$ 122,638	\$ 80,851	\$116,788	\$5,850	\$ 114,690	\$ 101,659	\$105,984	\$106,228
Psychological Evaluations	\$ 4,071	\$ 4,425	\$6,700	-\$2,629	\$ 4,071	\$ 14,121	\$4,071	\$3,500
Rule 11 Costs	\$ 14,000	\$ 19,130	\$35,000	-\$21,000	\$ 14,000	\$ 40,735	\$14,000	\$28,475
Court Investigation	\$ 5,000	\$ 14,499	\$23,000	-\$18,000	\$ 5,000	\$ 52,772	\$5,000	\$14,182
Witness Fees & Charges	\$ 10,000	\$ 65,767	\$98,000	-\$88,000	\$ 10,000	\$ 68,184	\$10,000	\$5,998
Juvenile Indigent Defense*	\$ 228,500	\$ 238,791	\$360,000	-\$131,500	\$228,500	\$ 300,430	\$228,500	\$295,230
Adult Indigent Defense*	\$ 618,500	\$ 489,060	\$710,000	-\$91,500	\$618,500	\$ 815,844	\$618,500	\$730,925
TOTAL	\$1,002,709	\$ 912,522	\$1,349,488	-\$346,779	\$994,761	\$1,393,745	\$986,055	\$1,184,537
TOTAL IDC BUDGET SHORTFALL				-\$346,779	-\$398,984		-\$198,482	
Transfers from PD/LD and Contingency Funds (FY12/13 Projected: \$68,360 PD) (FY11/12: \$500,000 contingency funds) (FY10/11: \$150,000 contingency funds, \$29,600 PD, \$13,230 LD)					\$500,000		\$192,830	

*Actual expenses do not include attorneys' fees & costs for March

Adult Indigent Defense/Court Investigator Fees/Witness Fees These expenses include over \$200,000 incurred in capital cases assigned to IDC contract attorneys. Two of the cases have been resolved; the one remaining case is scheduled for trial in August 2013.

Psychological Evaluations These expenses include \$1,925 for Rule 26.5 evaluations. Rule 26.5 evaluations are court-ordered evaluations of defendants conducted after conviction but before sentencing. Prior to FY10/11, these evaluations were paid by Court Administration.

Court Investigation/Witness Fees In addition to investigator and expert expenses for capital and non-capital murder cases, IDC has paid \$7,340 in court-ordered expenses requested by privately retained attorneys. A.R.S. 13-4013(B) allows a defendant to request court-appointed experts and investigators upon a showing that the defendant is financially unable to pay for those services.

Juvenile Indigent Defense This budget consists mainly of attorneys' fees and costs for dependency cases, which typically remain open and active for several years before they are resolved. On July 1, 2012, IDC implemented flat fee contracts for these cases. The attorney is paid \$1,200 at the time of assignment; for each additional year of the case the attorney is paid \$500 on the anniversary of the assignment. In addition to the flat fees paid for cases assigned after 7/1/12, FY12/13 expenses include pre-contract cases paid at \$50/hour plus costs.

Regular Board of Supervisors Meeting

Meeting Date: 04/09/2013

State and Federal Legislation Discussion

Submitted By: Arlethe Rios, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME na
of PRESENTER:

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE na
of PRESENTER:

**Source of Mandate
or Basis for Support?:**

Information

Agenda Item Text:

Discussion and possible action regarding state and federal legislative matters, including but not limited to the items in the attached County Supervisors Association Legislative Policy Committee Agenda and the proposed State budget.

Background:

na

Department's Next Steps (if approved):

na

Impact of NOT Approving/Alternatives:

na

To BOS Staff: Document Disposition/Follow-Up:

na

Attachments

Agenda

Minutes



County Supervisors

A S S O C I A T I O N
o f a r i z o n a

1905 W. Washington St., Ste. 100, Phoenix, AZ 85009
(602) 252-5521 fax: (602) 253-3227

COUNTY SUPERVISORS ASSOCIATION LEGISLATIVE POLICY COMMITTEE

AGENDA

March 29, 2013

Teleconference 1-866-228-9900

Access Code 326208#

[Web Link](#)

County Supervisors Association

1905 W. Washington St.

Phoenix, AZ

9:00 a.m. Call to Order ~ *President Lenore Stuart*

- A) State Budget Update
- B) TPT Proposal
 1. [HB 2657](#) transaction privilege tax changes (*Lesko*)
 2. [HB 2111](#) S/E transaction privilege tax changes (*Lesko*)
- C) Legislative Bills / Issues for Discussion and Possible Consideration
 - Structural Pest Control Commission
 1. [SB 1290](#) office of pest management (*Griffin*)
 - Regulatory Reform
 1. [HB 2443](#) cities; counties; regulatory review (*Olson*)
 2. [HB 2463](#) NOW: rules; counties; flood control districts (*Gowan*)
 3. [HB 2527](#) NOW: flood control districts; counties; rules (*Ugenti*)
 4. [SB 1463](#) counties; flood control districts; rules (*Griffin*)
- D) Update of CSA-sponsored Bills
 1. [HB 2124](#) fire districts reorganization elections (*Ugenti*)
 2. [HB 2138](#) municipalities; rights-of-way; transfer (*Pratt*)
 3. [HB 2175](#) special districts; use fees (*Fann*)
 4. [SB 1098](#) medical marijuana; zoning authority (*Pierce*)
 5. [SB 1284](#) county general excise tax rate (*Crandell*)
- E) Other Business
- F) Next Meeting Date and Time (*Friday, April 5, at 9:00 a.m.*)
- G) Adjourn

March 29th LPC

51st Legislature - 1st Regular Session, 2013

Wednesday, Mar 27 2013 11:52 AM

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TPT Proposal

Posted Calendars and Committee Hearings

No hearings, calendars, or amendments posted.

Bill Summaries

H2111: INVESTMENTS; PUBLIC MONIES

The list of eligible investments for public monies invested by the State Treasurer is modified to include bonds of special taxing districts, and to allow investment in any evidences of indebtedness that are denominated in U.S. dollars and that carry at least an "A" rating from two or more nationally recognized rating agencies. Previously, investments in evidences of indebtedness were limited to bonds, debentures and notes issued by corporations organized and doing business in the U.S. that were rated within the top three ratings by one rating agency.

First sponsor: Rep. Lesko

H2111 Daily History

Date Action

INVESTMENTS; PUBLIC MONIES 3/26 Senate appro amended; report awaited.

INVESTMENTS; PUBLIC MONIES 3/25 from Senate fin with amend [#4873](#).

INVESTMENTS; PUBLIC MONIES 3/21 further referred to Senate appro.

INVESTMENTS; PUBLIC MONIES 3/20 Senate fin amended; report awaited.

INVESTMENTS; PUBLIC MONIES 3/12 referred to Senate fin.

INVESTMENTS; PUBLIC MONIES 3/11 House COW approved. Passed House [55-3](#); ready for Senate.

INVESTMENTS; PUBLIC MONIES 3/7 from House rules okay.

INVESTMENTS; PUBLIC MONIES 1/28 from House ways-means do pass.

INVESTMENTS; PUBLIC MONIES 1/24 House ways-means do pass; report awaited.

INVESTMENTS; PUBLIC MONIES 1/17 referred to House ways-means.

H2657: TRANSACTION PRIVILEGE TAX CHANGES

Numerous changes related to transaction privilege taxes (TPT) and affiliated excise taxes. Requirements for the sourcing of transactions are established, effective January 1, 2014. Retail sales of tangible personal property must be sourced to the seller's business location if the seller receives the order at a business location in Arizona, or to the purchaser's location in Arizona if the seller receives the order at a business location outside of Arizona. For the purposes of municipal excise taxes, the jurisdiction with the right to tax a sale of tangible personal property is the municipality where the order is received (defined), or where the stock is located from which the property is taken, or where the transfer of title or possession of the property occurred. The gross receipts from leasing or renting tangible personal property must be sourced to the lessor's business location in Arizona or to the lessee's address if the lessor does not have a business location in Arizona. The list of exemptions from the retail TPT classification is modified to remove sales to nonresidents for use outside the state if the vendor ships or delivers the property out of the state, and sales of property that is shipped or delivered directly to a destination outside the U.S. for use in a foreign country. Effective January 1, 2015, the

prime contracting and owner builder sales transaction privilege tax classifications are eliminated and replaced with a manufactured building dealer classification. The sale of tangible personal property to a "contractor" (defined), regardless of whether it will be incorporated into a building or structure, is considered to be a retail sale and is subject to retail TPT unless otherwise exempt. Prime contracting TPT distributions to political subdivisions are deleted. Tangible personal property sold to a manufactured building dealer is only exempt from the retail TPT classification only if the property is to be incorporated or fabricated into a manufactured building. Numerous items are removed from the list of deductions from the tax base for the manufactured building dealer classification (formerly prime contracting). Once the distribution of revenues for municipal or county infrastructure improvements related to manufacturing facilities has reached the maximum amount, 40 percent of the remaining TPT revenues from the retail classification are designated as the distribution base for state shared revenues, increased from 20 percent. The Department of Revenue is required, rather than permitted, to collect and administer TPT and use taxes imposed by municipalities and to enter into intergovernmental agreements with municipalities to provide a uniform method of administration, collection, audit and licensing of TPT and affiliated excise taxes. Municipalities are prohibited from employing auditors and entering into contracts with a party other than the state for the collection, administration and processing of TPT or affiliated taxes. Municipalities are prohibited from levying a TPT or use tax on construction contracting, owner builder sales or speculative building. Municipalities are no longer prohibited from levying a TPT or use tax on sales of motor vehicles to nonresidents for use outside the state or on any amount attributable to development fees incurred in relation to construction. Effective January 1, 2014, if a county or special taxing district levies one or more excise taxes on the effective date of this legislation, and if approved by the voters at a county-wide or district-wide election, a county or district is authorized to levy an excise tax on the storage, use or consumption in the county of tangible personal property purchased from a retailer, as a percentage of the sales price. The tax must be at a rate equal to the sum of the rates of all the excise taxes levied on the effective date. The Department of Revenue is required to collect the tax. Session law provides that this legislation does not apply to or affect the tax liability of contracts entered into before January 1, 2015 by a person engaged in business under the prime contracting classification or the construction contracting, owner builder or speculative builder classification of the model city tax code, or to the sale of tangible personal property to a contractor for incorporation into a project that was subject to a tax deduction.

First sponsor: Rep. Lesko

Others: Sen. Ableser, Rep. Allen, Sen. Barto, Rep. Barton, Sen. Biggs, Rep. Boyer, Rep. Brophy McGee, Sen. Burges, Rep. Cardenas, Rep. Carter, Rep. Coleman, Sen. Crandall, Sen. Crandell, Sen. Driggs, Rep. Fann, Sen. Farley, Rep. Forese, Rep. Gallego, Rep. Gowan, Rep. Gray, Rep. Kwasman, Rep. Livingston, Rep. Lovas, Sen. McComish, Rep. Mesnard, Sen. Meza, Rep. Miranda, Rep. Mitchell, Rep. Montenegro, Sen. Murphy, Rep. Olson, Rep. Orr, Rep. Petersen, Rep. J. Pierce, Sen. S. Pierce, Rep. Pratt, Sen. Reagan, Sen. Shooter, Rep. Shope, Rep. Thorpe, Rep. Tobin, Rep. Townsend, Sen. Ward, Rep. Wheeler, Sen. Worsley, Sen. Yarbrough, Sen. Yee

H2657 Daily History

Date Action

TRANSACTION PRIVILEGE TAX CHANGES 2/19 from House ways-means with amend [#4199](#).

TRANSACTION PRIVILEGE TAX CHANGES 2/12 referred to House ways-means, appro.

March 29th LPC

51st Legislature - 1st Regular Session, 2013

Wednesday, Mar 27 2013 11:54 AM

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Structural Pest Control Commission

Bill Summaries

S1290: OFFICE OF PEST MANAGEMENT

Numerous changes to statutes regulating structural pest management. The powers and duties of the acting director of the Office of Pest Management are transferred to the Director of the Department of Agriculture. The Dept is required to provide management and administrative services to the Office through an interagency agreement, and the Office must reimburse the Dept in an agreed on amount. Session law provides for continuing fee authority for the Office. The Director is required to establish by rule a Pest Management Advisory Committee and appoint five members to the Committee, including one public member. The Director is required to adopt rules for licensure and registration, including application, registration and renewal fees, training requirements, and financial security standards. The Director is authorized to enter into consent agreements and provide for certain exemptions from licensure or registration. Establishes provisions for disciplinary action and civil penalties. The regulation of pest management is of statewide concern and not subject to further regulation by political subdivisions. The list of persons exempt from structural pest management licensure and registration is modified. Political subdivisions and their employees that use pesticides on property owned, leased or managed by the political subdivision are not required to be licensed. Various pest management-related regulations and reports are repealed. AS PASSED SENATE.

First sponsor: Sen. Griffin

Others: Rep. Barton, Sen. Crandall, Rep. Gowan, Sen. McGuire, Sen. Melvin, Sen. Pancrazi, Sen. S. Pierce, Rep. Pratt, Sen. Shooter, Rep. Stevens

S1290 Daily History

Date Action

OFFICE OF PEST MANAGEMENT 3/12 from House rules okay.

OFFICE OF PEST MANAGEMENT 3/11 to House consent calendar.

OFFICE OF PEST MANAGEMENT 3/5 from House energy-env do pass.

OFFICE OF PEST MANAGEMENT 3/4 withdrawn from House agri-water.

OFFICE OF PEST MANAGEMENT 2/27 referred to House energy-env, agri-water.

OFFICE OF PEST MANAGEMENT 2/25 passed Senate [21-7](#); ready for House.OFFICE OF PEST MANAGEMENT 2/21 Senate COW approved with amend [#4115](#) and floor amend [#4299](#).

OFFICE OF PEST MANAGEMENT 2/19 from Senate rules okay.

OFFICE OF PEST MANAGEMENT 2/12 from Senate gov-env with amend [#4115](#).

OFFICE OF PEST MANAGEMENT 2/6 from Senate com-energy-mil do pass.

OFFICE OF PEST MANAGEMENT 1/30 referred to Senate gov-env, com-energy-mil.

March 29th LPC

51st Legislature - 1st Regular Session, 2013

Wednesday, Mar 27 2013 11:55 AM

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Regulatory Reform

Bill Summaries

H2443: CITIES; COUNTIES; REGULATORY REVIEW

Various changes to the regulatory bill of rights for municipalities, counties and county flood control districts. Municipalities, counties and county flood control districts are permitted to make one comprehensive written or electronic "request for corrections" (defined) to license applications. If the municipality, county or county flood control district identifies legal requirements that were not included in the request, a municipality, county or county flood control district may amend comprehensive request for corrections once to include the legal requirements. If an applicant requests significant changes to an application that are in response to the request for corrections, the municipality, county or county flood control district is permitted to make one additional comprehensive request for corrections and may have no more than an additional 50 percent of the substantive review time frame to grant or deny the license. If an applicant submits another application for the same purposes with only revisions or corrections to the original application, a municipality or county is prohibited from assessing any additional application fees that exceed the cost of processing the resubmitted revisions or corrections, and a county flood control district is prohibited from assessing any additional fees that exceed 50 percent of the original permit fee that has not been refunded, with some exceptions. Municipalities, counties and county flood control districts may consider an application withdrawn if the applicant does not supply requested documentation or information by established deadlines. When establishing licensing time frames, municipalities, counties and county flood control districts are required to consider that the time frames do not include the time required for an applicant to obtain other licenses or to participate in required meetings. Licensing time frames must be posted on a municipality's or county's website or the website of an association of municipalities or counties if the municipality or county does not have a website. A "fire and life safety inspection" (defined) of areas accessible to the general public is exempt from the requirement that a representative of the regulated person have the opportunity to accompany the inspector or regulator on the premises. The list of exemptions from the municipal regulatory bill of rights is expanded to include the function or operation of a municipal airport, public safety or police department, town marshal's office, fire department, ambulance service or zoning adjustment process, and the definition of "license" is modified to exclude a transaction privilege tax license. AS PASSED HOUSE.

First sponsor: Rep. Olson

H2443 Daily History

Date Action

CITIES; COUNTIES; REGULATORY REVIEW 3/26 passed Senate [27-0](#); ready for House action on Senate amendments.CITIES; COUNTIES; REGULATORY REVIEW 3/25 Senate COW approved with amend [#4702](#).

CITIES; COUNTIES; REGULATORY REVIEW 3/19 from Senate rules okay.

CITIES; COUNTIES; REGULATORY REVIEW 3/12 from Senate gov-env with amend [#4702](#).

CITIES; COUNTIES; REGULATORY REVIEW 2/27 referred to Senate gov-env.

CITIES; COUNTIES; REGULATORY REVIEW 2/25 passed House [60-0](#); ready for Senate.CITIES; COUNTIES; REGULATORY REVIEW 2/21 House COW approved with amend [#4053](#) and floor amend [#4303](#).

CITIES; COUNTIES; REGULATORY REVIEW 2/18 from House rules okay.

CITIES; COUNTIES; REGULATORY REVIEW 2/6 from House gov with amend [#4053](#).

CITIES; COUNTIES; REGULATORY REVIEW 1/23 referred to House gov.

H2463: APPEARANCE BONDS; EXONERATION

A surety is required to be relieved from liability on the appearance bond on which the defendant is released if one of several circumstances applies, including if the surety surrenders the defendant into the custody of the sheriff on or before the date they are ordered to appear in court or the defendant is released or transferred to the custody of another government agency, preventing them from appearing in court.

First sponsor: Rep. Gowan

H2463 Daily History	Date	Action
APPEARANCE BONDS; EXONERATION	3/26	from Senate rules okay.
APPEARANCE BONDS; EXONERATION	3/25	from Senate gov-env with amend #4866.
APPEARANCE BONDS; EXONERATION	3/21	Senate gov-env amended; report awaited.
APPEARANCE BONDS; EXONERATION	3/19	Further referred to Senate gov-env. From Senate jud do pass.
APPEARANCE BONDS; EXONERATION	2/20	referred to Senate jud.
APPEARANCE BONDS; EXONERATION	2/18	passed House 58-0; ready for Senate.
APPEARANCE BONDS; EXONERATION	2/11	from House rules okay.
APPEARANCE BONDS; EXONERATION	2/11	to House consent calendar.
APPEARANCE BONDS; EXONERATION	1/31	from House jud do pass.
APPEARANCE BONDS; EXONERATION	1/23	referred to House jud.

H2527: ELECTIONS; REVISIONS

Various changes relating to elections. Counties are required to prohibit electioneering at certain polling places in cases of an emergency if either an act of God renders a previously set polling place as unusable, or a county recorder or other officer has exhausted all options and there are no suitable facilities in a precinct that are willing to be a polling places unless a facility can be given an emergency designation. Counties that designate emergency polling places are required to post on their website the number of attempts that were made to find a polling place before granting an emergency designation. Condominium associations cannot prohibit the indoor or outdoor display of a "political sign" (defined) by a unit owner on the owner's property, except earlier than 71 days before election day and later than 3 days after election day. In order to comply with legislation passed in 2012 providing for consolidated election dates, municipalities are permitted to shorten or lengthen the term of office for municipal elected officials. For any municipality whose alternate expenditure limit expires in the spring of 2014, the statutory penalties do not apply in FY2015 provided the municipality seeks voter approval of an alternative expenditure limit in the fall of 2014. AS PASSED HOUSE.

First sponsor: Rep. Ugenti

H2527 Daily History	Date	Action
ELECTIONS; REVISIONS	3/20	from Senate elect with amend #4809.
ELECTIONS; REVISIONS	3/5	referred to Senate elect.
ELECTIONS; REVISIONS	2/28	House COW approved with amend #4240. Passed House 52-3; ready for Senate.
ELECTIONS; REVISIONS	2/25	from House rules okay.
ELECTIONS; REVISIONS	2/20	from House gov with amend #4240.
ELECTIONS; REVISIONS	2/14	from House jud do pass.
ELECTIONS; REVISIONS	2/4	referred to House jud, gov.

S1463: COUNTIES; FLOOD CONTROL DISTRICTS; RULES

County boards of supervisors and county flood control district boards are required to adopt procedures for the adoption, amendment, repeal and enforcement of rules that contain at least specified provisions, including public notice at various stages and a public meeting at which the public is able to provide comments on the proposed rule. Some exceptions. Except for rules approved before the effective date of this legislation, a county or district rule cannot be enforced without substantial compliance with this legislation. Effective January 1, 2014 for a county with a population of 375,000 or more, and January 1, 2015 for a county with a population of less than 375,000. AS PASSED SENATE.

First sponsor: Sen. Griffin

Others: Sen. Ableser, Rep. Allen, Sen. Barto, Rep. Barton, Sen. Biggs, Rep. Borrelli, Rep. Boyer, Sen. Bradley, Rep. Brophy McGee, Sen. Burges, Sen. Cajero Bedford, Rep. Cardenas, Rep. Carter, Sen. Crandall, Sen. Crandell, Rep. Dial, Sen. Driggs, Rep. Fann, Sen. Farley, Sen. Gallardo, Rep. Gowan, Sen. Hobbs, Sen. Landrum Taylor, Sen. Lopez, Sen. McComish, Sen. McGuire, Sen. Melvin, Rep. Mesnard, Sen. Meza, Rep. Mitchell, Rep. Montenegro, Sen. Murphy, Rep. Olson, Rep. Orr, Sen. Pancrazi, Rep. Petersen, Rep. J. Pierce, Sen. S. Pierce, Rep. Pratt, Rep. Quezada, Sen. Reagan, Rep. Robson, Rep. Saldate, Rep. Seel, Sen. Shooter, Rep. Shope, Rep. Smith, Rep. Stevens, Rep. Thorpe, Sen. Tovar, Rep. Townsend, Sen. Ward, Sen. Worsley, Sen. Yarbrough, Sen. Yee

S1463 Daily History

Date Action

COUNTIES; FLOOD CONTROL DISTRICTS; RULES 3/5 referred to House gov.
 COUNTIES; FLOOD CONTROL DISTRICTS; RULES 2/28 Senate COW approved with amend [#4221](#) and the rules tech amendment. Passed Senate [19-9](#); ready for House.
 COUNTIES; FLOOD CONTROL DISTRICTS; RULES 2/28 retained on Senate COW calendar.
 COUNTIES; FLOOD CONTROL DISTRICTS; RULES 2/26 from Senate rules with a technical amendment.
 COUNTIES; FLOOD CONTROL DISTRICTS; RULES 2/19 from Senate gov-env with amend [#4221](#).
 COUNTIES; FLOOD CONTROL DISTRICTS; RULES 2/6 referred to Senate gov-env.

March 29th LPC

51st Legislature - 1st Regular Session, 2013

Wednesday, Mar 27 2013 11:55 AM

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Legislative Agenda

Bill Summaries

H2124: FIRE DIST REORGANIZATION ELECTIONS

Various changes to statues governing elections to reorganize a fire district, including requiring any person seeking election to the governing body that would be formed or expanded upon reorganization to comply with the nomination requirements for a candidate prescribed in state statute, including filing a nomination paper and nomination petitions.

First sponsor: Rep. Ugenti

H2124 Daily History

Date Action

FIRE DIST REORGANIZATION ELECTIONS 3/19 from Senate rules with a technical amendment.
 FIRE DIST REORGANIZATION ELECTIONS 3/13 from Senate elect with amend [#4732](#).
 FIRE DIST REORGANIZATION ELECTIONS 3/12 Senate elect amended; report awaited.
 FIRE DIST REORGANIZATION ELECTIONS 2/19 referred to Senate elect.
 FIRE DIST REORGANIZATION ELECTIONS 2/12 passed House [59-0](#); ready for Senate.
 FIRE DIST REORGANIZATION ELECTIONS 2/4 to House consent calendar. From House rules okay.
 FIRE DIST REORGANIZATION ELECTIONS 1/30 from House gov do pass.
 FIRE DIST REORGANIZATION ELECTIONS 1/22 referred to House gov.

H2138: MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER

As an alternative to municipal annexation, a county right-of-way or roadway may be transferred to an adjacent city or town by mutual consent of the governing bodies. Previously, a county right-of-way or roadway could be annexed to an adjacent city or town by mutual consent of the governing bodies.

First sponsor: Rep. Pratt

H2138 Daily History

Date Action

MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER 3/19 from Senate gov-env do pass.
 MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER 3/5 further referred to Senate gov-env.
 MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER 2/25 referred to Senate rules only.
 MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER 2/20 passed House [58-0](#); ready for Senate.
 MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER 2/11 from House rules okay.
 MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER 2/11 to House consent calendar.
 MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER 2/6 from House gov do pass.
 MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER 2/5 House gov do pass; report awaited.
 MUNICIPALITIES; RIGHT-OF-WAY; TRANSFER 1/22 referred to House gov.

H2175: WATER IMPROVEMENT, SANITARY DISTRICTS; LIENS

Domestic water improvement districts are authorized to charge an availability fee of up to 50 percent of the user fee on all property in the district that is not connected to the existing water system. Water improvement districts and sanitary districts are authorized to file a lien on property for the nonpayment of availability fees.

First sponsor: Rep. Fann

H2175 Daily History	Date	Action
WATER IMPROVEMENT, SANITARY DISTRICTS; LIENS	2/27	referred to Senate gov-env, appro.
WATER IMPROVEMENT, SANITARY DISTRICTS; LIENS	2/26	passed House <u>41-18</u> ; ready for Senate.
WATER IMPROVEMENT, SANITARY DISTRICTS; LIENS	2/18	to House consent calendar. From House rules okay.
WATER IMPROVEMENT, SANITARY DISTRICTS; LIENS	2/12	from House agri-water do pass.
WATER IMPROVEMENT, SANITARY DISTRICTS; LIENS	1/22	referred to House agri-water.

S1098: MARIJUANA; CULTIVATION; COUNTY ZONING

The restriction on county zoning regulations for general agricultural purposes does not include the cultivation of cannabis.

First sponsor: Sen. S. Pierce
 Others: Rep. Borrelli, Rep. Fann, Rep. Goodale, Sen. Yee

S1098 Daily History	Date	Action
MARIJUANA; CULTIVATION; COUNTY ZONING	3/12	from House rules okay.
MARIJUANA; CULTIVATION; COUNTY ZONING	3/11	to House consent calendar.
MARIJUANA; CULTIVATION; COUNTY ZONING	2/26	from House agri-water do pass.
MARIJUANA; CULTIVATION; COUNTY ZONING	2/26	House agri-water do pass; report awaited.
MARIJUANA; CULTIVATION; COUNTY ZONING	2/18	referred to House agri-water.
MARIJUANA; CULTIVATION; COUNTY ZONING	2/6	passed Senate <u>28-0</u> ; ready for House.
MARIJUANA; CULTIVATION; COUNTY ZONING	2/4	to Senate consent calendar. From Senate rules okay.
MARIJUANA; CULTIVATION; COUNTY ZONING	1/30	from Senate nat res-rural do pass.
MARIJUANA; CULTIVATION; COUNTY ZONING	1/22	referred to Senate nat res-rural.

S1284: COUNTY GENERAL EXCISE TAX RATE

The county general excise tax that counties with a population of less than 1.5 million (all but Maricopa County) may levy may be levied by a majority of the voters voting at a countywide election, in addition to by a unanimous vote of the board of supervisors. In counties with a population of 150,000 or fewer where the primary property tax rate for the county is less than 85 cents per \$100 of assessed value, if the voters approve the tax at an election held within 10 years after the effective date of this legislation, the percentage of the state transaction privilege tax and use tax rates used as the excise tax rate may be set at greater than 10 percent but cannot exceed 20 percent for a period of 5 years and one renewal period of 5 years. AS PASSED SENATE.

First sponsor: Sen. Crandell
 Others: Rep. Barton, Rep. Fann, Sen. Jackson, Jr., Rep. Thorpe

S1284 Daily History	Date	Action
COUNTY GENERAL EXCISE TAX RATE	3/19	House agri-water no action.
COUNTY GENERAL EXCISE TAX RATE	3/13	passed Senate <u>24-5</u> ; ready for House. Referred to House ways-means, agri-water.
COUNTY GENERAL EXCISE TAX RATE	3/11	Senate COW approved with floor amend <u>#4694</u> .
COUNTY GENERAL EXCISE TAX RATE	3/6	retained on Senate COW calendar.
COUNTY GENERAL EXCISE TAX RATE	3/5	from Senate rules okay. Stricken from Senate consent calendar by Crandell.
COUNTY GENERAL EXCISE TAX RATE	3/4	to Senate consen calendar.
COUNTY GENERAL EXCISE TAX RATE	2/21	from Senate fin do pass.
COUNTY GENERAL EXCISE TAX RATE	2/20	Senate fin do pass; report awaited.
COUNTY GENERAL EXCISE TAX RATE	1/30	referred to Senate fin.

**COUNTY SUPERVISORS ASSOCIATION
LEGISLATIVE POLICY COMMITTEE**

County Supervisors Association
1905 West Washington
Phoenix, Arizona

**MINUTES
March 29, 2013**

Call to Order: Lenore Stuart 9:00 a.m.

Present in Person: Tom Thurman Yavapai County

Present Telephonically:

Mandy Metzger	Coconino County
Tommie Martin	Gila County
Jim Palmer	Graham County
Gary Watson	Mohave County
Pete Rios	Pinal County
Lenore Stuart	Yuma County

Absent: Barry Weller (Apache), Ann English (Cochise), David Gomez (Greenlee), Holly Irwin (La Paz), Steve Chucri (Maricopa), David Tenney (Navajo), Sharon Bronson (Pima), Manny Ruiz (Santa Cruz)

Others present telephonically: John Marcanti, Mike Pastor, Buster Johnson, Russ Clark, Joanne Keene, Matt Rudig, Terry Cooper, Kay Gale, Laura Magnus, Beth Lewallen, Ana Wayman-Trujillo, Robert Pickels, Jacque Griffin, Heather Murphy, Mark Barnes

Others present in person: Craig Sullivan, Penny Adams, Todd Madeksza, Kristin Cipolla, Dan Bogert, Yvonne Ortega

State Budget Update

Craig Sullivan reported that the House and Senate leadership have been convening small meetings with caucuses to brief them on where the budget dialogue is. Legislators looked at the JLBC baseline budget and compared it with the Governor's proposal. The big issues in the budget, Medicaid, TPT and others, will drive the timeframe of the budget discussions. CSA will continue to report out.

TPT Proposal

[HB 2657](#) transaction privilege tax changes and [HB 2111](#) S/E transaction privilege tax changes. Mark Barnes reported that the legislation went through Senate Appropriations this week and is now moving as a Senate bill. There is still concern with the fiscal impact to entities. Mark noted that the contracting piece could be pulled out of the bill and handled at a later date, but the Governor continues to push for it. CSA has been meeting with the Governor's Office, Department of Revenue and the County Managers Association (CMA). The CMA is trying to determine what fiscal measures can be put in the legislation to make it palatable to counties, particularly to rural counties.

Legislative Bills / Issues for Discussion and Possible Consideration

Structural Pest Control Commission

1. [SB 1290](#) office of pest management. Todd Madeksza reported that the bill sponsor has asked the Office of Pest Management for a letter to clarify that the Office of Pest Management would not enforce the provisions requiring a political subdivision to utilize a licensed, qualified person to handle duties, whether on public or private land. Todd explained that a veto would be sought should the letter not be issued and urged counties to look for a possible action alert from CSA. Todd explained that the bill was in Final Read in the House so there's not a place to amend it.

Regulatory Reform

1. [HB 2443](#) cities; counties; regulatory review. Awaiting House Final Read.
2. [HB 2463](#) NOW: rules; counties; flood control districts. Todd explained that this is the bill to follow out of these three regulatory reform bills. It is awaiting a hearing in Senate Committee of the

Whole. He suggested counties contact their legislators and Governor's office to express their opinion.

3. [HB 2527](#) NOW: flood control districts; counties; rules. Awaiting Senate Rules; basically dead.
4. [SB 1463](#) counties; flood control districts; rules. Dead in House Government.

Update of CSA-sponsored Bills

Todd reviewed the status of CSA's agenda bills.

1. [HB 2124](#) fire districts reorganization elections. Awaiting hearing in Senate Committee of the Whole.
2. [HB 2138](#) municipalities; rights-of-way; transfer. On Senate Consent Calendar.
3. [HB 2175](#) special districts; use fees. Dead for this session.
4. [SB 1098](#) medical marijuana; zoning authority. Transmitted to the Governor.
5. [SB 1284](#) county general excise tax rate. Held in House Ways and Means Committee; basically dead.

Next Meeting Date and Time

Due to most of the bills having already been processed and waiting on budget negotiations, the LPC discussed suspending LPC meetings until an actionable timeframe, but would continue to issue weekly Friday LPC reports and report out to the County Managers Association and the board. The consensus was to continue with the weekly LPC meetings. The next LPC meeting will be held on Friday, April 5, at 9:00 a.m.

Other Business and Adjournment

President Stuart wished everyone Happy Easter. There being no further business, President Stuart adjourned the meeting at 9:19 a.m.