

**RESOLUTION NO. 28**  
**PRONGHORN RANCH COMMUNITY FACILITIES DISTRICT**

A RESOLUTION OF THE DISTRICT BOARD OF THE PRONGHORN RANCH COMMUNITY FACILITIES DISTRICT, A COMMUNITY FACILITIES DISTRICT OF ARIZONA, ESTABLISHING A SUCCESSOR-IN-INTEREST STANDBY-CONTRIBUTION CHARGE; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, on May 11, 2000 the Town Council (“Council”) of the Town of Prescott Valley (“Town”) adopted Resolution No. 963 approving an “Amended & Restated Development Agreement” (“Development Agreement”) with Antelope Village, LLC (“Antelope Village”) for a term until May 25, 2015 relating to development of 640 acres in Sections 23 and 26, T15N, R1W, G&SRB&M (Exhibit A attached hereto, “Pronghorn Ranch”); and

WHEREAS, said Development Agreement provided (among other things) conditions for formation by the Town of a community facilities district under ARS §48-701 et seq. (“CFD Article”) to issue bonds to finance certain infrastructure for Pronghorn Ranch; and

WHEREAS, in accordance with the Development Agreement, on January 24, 2002 the Town Council adopted Resolution No. 1067 forming the Pronghorn Ranch Community Facilities District (“PRCFD”) in accordance with the CFD Article; and

WHEREAS, that same day the District Board (“Board”) of PRCFD adopted Resolution No. 1 which (among other things) approved a “District Development, Financing Participation and Intergovernmental Agreement” dated January 1, 2002 (“Financing Agreement”) with First American Title Insurance Agency of Yavapai, Inc., trustee under Trust No. 4751 (“First American”), Brown Family Communities (“Brown Family”), Western Communities Corporation (“Western Communities”), Antelope Village, Coyote Springs LLC (“Coyote Springs”), and Prescott Valley VII LLC (“PV VII”). In turn, the Financing Agreement provided (among other things) that debt service on bonds to be issued by PRCFD to finance construction of certain infrastructure for Pronghorn Ranch would be paid from annual ad valorem tax revenues received by PRCFD from future property owners; and

WHEREAS, said Financing Agreement further provided that, to regulate the tax rate levied to pay debt service on each series of bonds (and as a condition to PRCFD issuing bonds), Brown Family, Antelope Village and PV VII would enter into a (a) Standby Contribution Agreement (“Contribution Agreement”) with PRCFD by which Brown Family, Antelope Village and PV VII would be jointly and severally liable to pay to PRCFD amounts needed to maintain the annual tax rate at no more than \$3.00 per \$100.00 of secondary assessed valuation (“Standby Contributions”), and (b) a Payment Agreement (“Payment Agreement”) with PRCFD whereby Antelope Village would deposit in the name of PRCFD (with the bond trustee under a Depository Agreement (“Depository Agreement”)) an amount equal to ten percent (10%) of any bond principal (“Deposits”); and

WHEREAS, said Financing Agreement also provided that the Depository Agreement would provide that the Deposits be applied towards bond debt service payments if adequate Standby Contributions were not made under the Contribution Agreement. The Payment Agreement would provide that any balances in the Deposits would eventually be paid to Antelope Village at the end of any bond term or when a formula indicated sufficient ad valorem tax revenues were being collected to make bond debt service payments; and

WHEREAS, said Financing Agreement provided that PRCFD would annually levy an additional ad valorem tax on property within Pronghorn Ranch to pay PRCFD expenses to operate and maintain the infrastructure financed through bond revenues (“O&M Tax”) and, to the extent the revenues of the O&M Tax were insufficient to pay said expenses, Brown Family, Western Communities, Antelope Village and PV VII would be jointly and severally liable to pay on July 1 of each fiscal year the amount of any shortfall indicated in the PRCFD budget (not to exceed \$16,200.00 each year until the earlier of July 1, 2017 or the July 1 after the building permit for the 1000<sup>th</sup> density unit in Pronghorn Ranch was issued by the Town) (“O&M Contribution”); and

WHEREAS, said Financing Agreement was effective until January 1, 2052 and provided at Subsection 7.3 that its obligations would be applicable to any successors and assigns of Brown Family, Western Communities, Antelope Village and PV VII; and

WHEREAS, in accordance with the CFD Article a special election was held on February 26, 2002 whereby the qualified elector voted to authorize (a) issuance of \$7,000,000.00 aggregate principal amount of PRCFD general obligation bonds for infrastructure purposes (payable from annual ad valorem taxes levied within Pronghorn Ranch), and (b) levy and collection of an O&M Tax at a rate not to exceed \$0.30 per \$100.00 secondary assessed valuation; and

WHEREAS, on February 28, 2002, the PRCFD Board adopted Resolution No. 3 which (among other things) authorized issuance of \$7,000,000.00 in general obligation bonds (“2002 Bonds”) and approved a Feasibility Report which identified infrastructure to be financed by the 2002 Bonds (“2002 Feasibility Report”); and

WHEREAS, the 2002 Feasibility Report provided in Subsections 4-1 and 4-2 that the PRCFD tax rate was “targeted” to be \$3.30 per \$100.00 secondary assessed value and that Brown Family, Western Communities, Antelope Village and PV VII would enter into a Contribution Agreement to make Standby Contributions “given the then current tax base”; and

WHEREAS, Subsection 2(b) of Resolution No. 3 committed the PRCFD Board to take such reasonable actions as may be necessary to cause the results contemplated by and set forth in the 2002 Feasibility Report (including the level of Standby Contributions anticipated in Table Two thereof (modified by actual absorption amounts)); and

WHEREAS, Resolution No. 3 further approved a (a) Contribution Agreement dated April 1, 2002 (“2002 Contribution Agreement”) with Wells Fargo Bank Arizona, N.A. (“Trustee”), Brown Family, Western Communities, Antelope Village and PV VII, (b) Payment Agreement dated April 1, 2002 (“2002 Payment Agreement”) with Brown Family, Western Communities, Antelope

Village and PV VII, and (c) Depository Agreement dated April 1, 2002 (“2002 Depository Agreement”) with the Trustee; and

WHEREAS, Subsections 2.01(B) and 2.01(C) of the 2002 Contribution Agreement set forth how PRCFD would work with the Trustee to determine (based on actual ad valorem tax collections) whether the Trustee must request that Antelope Village make Standby Contributions (for which Brown Family, Western Communities, Antelope Village and PV VII would be jointly and severally liable) in (a) October and/or December (for bond debt service payments due on January 15<sup>th</sup>), or (b) April and/or June (for bond debt service payments due on July 15<sup>th</sup>); and

WHEREAS, in accordance with the 2002 Payment Agreement and 2002 Depository Agreement, Antelope Village was to make the Deposits and (if any draw were to actually be made on the Deposits) Brown Family, Western Communities, Antelope Village and PV VII were jointly and severally obligated to pay the amount of any such draws back into the Deposits at the request of the Trustee; and

WHEREAS, although said Deposits were irrevocable and absolute, Subsection 2.02(C) of the 2002 Depository Agreement and Subsections 2.02 and 2.03 of the 2002 Payment Agreement provided for any balance remaining in the Deposits (once said Agreements were terminated) to be paid to Antelope Village (and receipt of such payment could be assigned by Antelope Village per Subsection 1.06 of the 2002 Depository Agreement); and

WHEREAS, per Subsection 1.04 the covenants and agreements in the 2002 Contribution Agreement were binding on the successors and assigns of Brown Family, Western Communities, Antelope Village and PV VII (among others); and

WHEREAS, per Subsection 1.04 the covenants and agreements in the 2002 Payment Agreement were binding on the successors and assigns of Brown Family, Western Communities, Antelope Village and PV VII (among others); and

WHEREAS, under Subsections 1.06, 1.13 and 2.02(G), PRCFD (among others) was expressly authorized to enforce performance and observance of the 2002 Contribution Agreement to the same extent provided for enforcement of remedies under any subsequent bond indenture; and

WHEREAS, Subsections 3.01(F), 3.02(F), 3.03(F) and 3.04(F) provided for enforcement of the 2002 Payment Agreement against Brown Family, Western Communities, Antelope Village and PV VII (respectively) by other parties; and

WHEREAS, Subsection 1.06 of the 2002 Depository Agreement indicated that PRCFD had remedies to enforce the 2002 Depository Agreement; and

WHEREAS, Subsection 1.12 in each of the 2002 Contribution Agreement, 2002 Payment Agreement and 2002 Depository Agreement provided that said Agreements would each terminate upon full payment of any bonds issued thereunder (or, upon an earlier determination by the PRCFD Manager that enough tax revenues were being collected to fully pay bond debt service), and upon written approval of the PRCFD Board; and

WHEREAS, on April 1, 2002, PRCFD issued just \$3,000,000.00 of the \$7,000,000.00 authorized 2002 Bonds (resulting in a payment of \$300,000.00 towards the Deposits by Antelope Village under the 2002 Payment Agreement), with a payment term until July 15, 2027; and

WHEREAS, the Series 2002 Indenture of Trust and Security Agreement (April 1, 2002) related to said 2002 Bonds (“2002 Indenture”) between PRCFD and the Trustee provided (among other things) in Article 7 for various rights and remedies thereunder, and indicated at Subsection 7.07 that the rights and remedies conferred therein were not exclusive of other rights or remedies and all available rights and remedies were cumulative (to the extent permitted by law). The 2002 Indenture further provided that, except for certain rights or remedies available to bondholders, assertion or employment of any right or remedy thereunder “or otherwise” would not prevent concurrent assertion or employment of any other appropriate right or remedy; and

WHEREAS, on February 13, 2003, the PRCFD Board approved an intergovernmental agreement with the Town in accordance with ARS §11-951 et seq. (“IGA”) for an initial term through June 30, 2008 (and automatically renewing for subsequent five-year terms unless timely canceled by either party) which (among other things) retained the Town as agent on behalf of PRCFD and authorized the Town to provide all administration and legal services needed to administer PRCFD (consistent with and subject to the powers vested in PRCFD under the CFD Article). Said services included conducting day-to-day PRCFD operations such as administration, finance, reimbursement, credit, collection, and contract administration, and establishing and administering accounting procedures and controls (in accordance with sound industry practice); and

WHEREAS, the PRCFD Board adopted Resolution No. 11 on August 12, 2004 which (among other things) authorized issuance of the remaining \$4,000,000.00 aggregate principal amount of general obligation bonds (“2004 Bonds”); and

WHEREAS, said Resolution No. 11 also approved a second Feasibility Report which identified additional infrastructure to be financed by the 2004 Bonds (“2004 Feasibility Report”); and

WHEREAS, the 2004 Feasibility Report again provided in Subsections 4-1 and 4-2 that the PRCFD tax rate was “targeted” to be \$3.30 per \$100.00 secondary assessed value and that Brown Family, Western Communities and Antelope Village would enter into an amended Contribution Agreement to make Standby Contributions “given the then current tax base”; and

WHEREAS, Subsection 2(c) of Resolution No. 11 committed the PRCFD Board to take such reasonable actions as may be necessary to cause the results contemplated by and set forth in the 2004 Feasibility Report (including the level of Standby Contributions anticipated in Table Two thereof (modified by actual absorption amounts)); and

WHEREAS, Resolution No. 11 further approved a (a) Combined First Amendment to District Development, Financing Participation and Intergovernmental Agreement and Series 2004 Standby Contribution Agreement dated September 1, 2004 (“2004 Financing & Contribution

Agreement”) with Trustee, Brown Family, Western Communities, Coyote Springs, PV VII, First American and Antelope Village, (b) Payment Agreement dated September 1, 2004 (“2004 Payment Agreement”) with Brown Family, Western Communities, and Antelope Village, and (c) Depository Agreement dated September 1, 2004 (“2004 Depository Agreement”) with the Trustee; and

WHEREAS, said 2004 Financing & Contribution Agreement amended the original Financing Agreement to (among other things) indicate that PV VII would not be obligated by the agreements related to the 2004 Bonds; and

WHEREAS, Subsections 2.01(B) and 2.01(C) of the 2004 Financing & Contribution Agreement continued to set forth how PRCFD would work with the Trustee to determine (based on actual ad valorem tax collections) whether the Trustee must make Standby Contributions (for which Brown Family, Western Communities, and Antelope Village would be jointly and severally liable) in (a) October and/or December (for the bond debt service payment due on January 15<sup>th</sup>), or (b) April and/or June (for the bond debt service payment due on July 15<sup>th</sup>); and

WHEREAS, in accordance with the 2004 Payment Agreement and 2004 Depository Agreement, Antelope Village was to make the Deposits and (if any draw were to actually be made on the Deposits) Brown Family, Western Communities and Antelope Village were jointly and severally obligated to pay the amount of any such draws back into the Deposits at the request of the Trustee; and

WHEREAS, although said Deposits were irrevocable and absolute, Subsection 2.02(C) of the 2004 Depository Agreement and Subsections 2.02 and 2.03 of the 2004 Payment Agreement provided for any balance remaining in the Deposits (once said Agreements were terminated) to be paid to Antelope Village (and receipt of such payment could be assigned by Antelope Village per Subsection 1.06 of the 2004 Depository Agreement); and

WHEREAS, per Subsection 1.04 the covenants and agreements in the 2004 Financing & Contribution Agreement were binding on the successors and assigns of Brown Family, Western Communities, and Antelope Village (among others); and

WHEREAS, per Subsection 1.04 the covenants and agreements in the 2004 Payment Agreement were binding on the successors and assigns of Brown Family, Western Communities, and Antelope Village (among others); and

WHEREAS, under Subsections 1.06, 1.13 and 2.02(G), PRCFD (among others) was expressly authorized to enforce performance and observance of the 2004 Financing & Contribution Agreement to the same extent provided for enforcement of remedies under any bond indenture; and

WHEREAS, Subsections 3.01(F), 3.02(F), and 3.03(F) provided for enforcement of the 2004 Payment Agreement against Brown Family, Western Communities and Antelope Village (respectively) by other parties; and

WHEREAS, Subsection 1.06 of the 2004 Depository Agreement indicated that PRCFD had remedies to enforce the 2004 Depository Agreement; and

WHEREAS, Subsection 1.12 in each of the 2004 Financing & Contribution Agreement, 2004 Payment Agreement and 2004 Depository Agreement provided that said Agreements would each terminate upon full payment of any bonds issued thereunder (or, upon an earlier determination by the PRCFD Manager that enough tax revenues were being collected to fully pay bond debt service), and upon written approval of the PRCFD Board; and

WHEREAS, on September 1, 2004, PRCFD issued \$4,000,000.00 of 2004 Bonds (resulting in a payment of an additional \$400,000.00 towards the Deposits by Antelope Village under the 2004 Payment Agreement), with a payment term until July 15, 2029; and

WHEREAS, the Series 2004 Indenture of Trust and Security Agreement (September 1, 2004) related to said 2004 Bonds (“2004 Indenture”) between PRCFD and the Trustee provided (among other things) in Article 7 for various rights and remedies thereunder, and indicated at Subsection 7.07 that the rights and remedies conferred therein were not exclusive of other rights or remedies and all available rights and remedies were cumulative (to the extent permitted by law). The 2004 Indenture further provided that, except for certain rights or remedies available to bondholders, assertion or employment of any right or remedy thereunder “or otherwise” would not prevent concurrent assertion or employment of any other appropriate right or remedy; and

WHEREAS, after considerable initial success Pronghorn Ranch began to suffer the ill effects of the worldwide recession; and

WHEREAS, on October 15, 2008 Brown Family conveyed back to Antelope Village (which presumably still included Brown Family at the time) Unit 14 (vacant) and certain un-platted tracts; and

WHEREAS, on December 18, 2008 Antelope Village conveyed its interests in certain property to First American (which then conveyed Unit 14 back to Antelope Village); and

WHEREAS, on December 19, 2008 Brown Family’s interests in all property in Pronghorn Ranch were assigned to First American (as trustee) for Am Trust Bank (formerly Ohio Savings Bank) as beneficiary; and

WHEREAS, Brown Family eventually dropped out of Antelope Village, leaving Antelope Village to include Robeki Holdings LLC and PV VII; and

WHEREAS, Brown Family had earlier submitted to the Town applications for final development Plans (“FDPs”) for un-platted units XVII – XX, but no action had been taken by the Town in relation to them; and

WHEREAS, at the beginning of 2009 PRCFD/Town staff were informed that no bankruptcy was planned by Brown Family but foreclosure by one or more banks against Brown Family was expected; and

WHEREAS, at this time unused funds previously deposited with the Town for building permits were returned to Brown Family; and

WHEREAS, at this time it was determined that Shelly Construction and Brown Family owed the Town certain transaction privilege taxes on the sale of 11 houses built from October to December 2008; and

WHEREAS, on January 06, 2009 Brown Family conveyed 10 platted residential lots to STO Investments LLC; and

WHEREAS, on February 06, 2009 a Notice of foreclosure sale was issued against Brown Family; and

WHEREAS, on March 06, 2009 AmTrust Bank assigned attorney Kevin Blakely (Gammage & Burnham) as the successor trustee; and

WHEREAS, on March 26, 2009 Attorney Blakely informed PRCFD/Town staff that Am Trust Bank had appointed Eagle Commercial Realty Services (“Eagle”) as a Receiver for the Bank’s collateral, but the Bank’s deed of trust did not cover all of Pronghorn Ranch; and

WHEREAS, on June 12, 2009 a trustee’s sale was held on Am Trust Bank’s collateral and a subsequent deed listed IOTA Brown LLC (an entity created by Am Trust Bank) as purchaser for \$6,500,000.00; and

WHEREAS, on June 15, 2009 IOTA Brown LLC entered into an option agreement with Mandalay Communities Inc. for purchase of 9 residential lots in Units XI, XII, XIII & XV of Pronghorn Ranch; and

WHEREAS, on June 22, 2009 Am Trust Bank assigned its property interests in Pronghorn Ranch to IOTA Brown LLC; and

WHEREAS, on July 15, 2009 the bond Trustee found it necessary to make an unscheduled draw of \$93,558.91 from the \$700,000.00 in Deposits in order to make the bond debt service payment due that day (no Standby Contribution having been paid by Brown Family, Western Communities, Antelope Village or PV VII); and

WHEREAS, the Trustee (as depository under the 2002 and 2004 Depository Agreements) did not request from Brown Family, Western Communities, Antelope Village or PV VII any reimbursement to this draw on the Deposits (as permitted in Subsection 2.01(B) of the 2002 and 2004 Payment Agreements); and

WHEREAS, on August 23, 2009 a judgment was issued in Maricopa Superior Court (CV2009-003416) in favor of Am Trust Bank against Brown Family and Western Communities for \$4,351,684.11 (along with permission to enforce security agreements and deeds of trust); and

WHEREAS, on November 03, 2009 it was reported that 9 deeds conveying 10 single-family lots had been issued since July 14, 2009 from IOTA Brown LLC to Mandalay Communities Inc; and

WHEREAS, sufficient ad valorem tax revenues were collected to make the January 15, 2010 bond debt service payment (removing the need for any Standby Contribution or draw from the Deposits); and

WHEREAS, on February 11, 2010 the bond Trustee issued a Material Event Notice to bondholders with regard to the unscheduled draw on the Deposits for the July 15, 2009 bond debt service payment; and

WHEREAS, on June 18, 2010 120 residential lots were conveyed in bulk from IOTA Brown LLC to Lexin Pronghorn LLC; and

WHEREAS, on July 15, 2010 the bond Trustee found it necessary to make an unscheduled draw of \$46,211.81 from the Deposits in order to make the bond debt service payment due that day (no Standby Contribution having been made by Brown Family, Western Communities, Antelope Village or PV VII); and

WHEREAS, the Trustee (as depository under the 2002 and 2004 Depository Agreements) did not request from Brown Family, Western Communities, Antelope Village or PV VII any reimbursement to this draw on the Deposits (as permitted in Subsection 2.01(B) of the 2002 and 2004 Payment Agreements); and

WHEREAS, the bond Trustee subsequently issued a Material Event Notice to bondholders with regard to this additional unscheduled draw on the Deposits; and

WHEREAS, on November 03, 2010 Lexin Pronghorn LLC conveyed 4 residential lots to Mandalay Communities Inc.; and

WHEREAS, sufficient ad valorem tax revenues were collected to make the January 15, 2011 bond debt service payment (removing the need for any Standby Contribution or draw from the Deposits); and

WHEREAS, on June 22, 2011 (in accordance with its obligations under Subsection 3(g) of Resolution No. 3, Subsection 3(g) of Resolution No. 11, and Subsection 10.01 of the 2002 and 2004 Indentures, and in an effort to fulfill its commitment to take reasonable actions to cause the results contemplated by and set forth in the 2002 and 2004 Feasibility Reports (i.e. to keep the level of any required Standby Contributions or draws from the Deposits roughly equivalent to the numbers in Table Two of each (as modified by actual absorption amounts) in response to precipitous drops in secondary assessed valuations of real and personal property in Pronghorn Ranch)), the PRCFD Board adopted Resolution No. 25 setting a tax rate of approximately \$3.90 per \$100.00 secondary assessed valuation as part of its FY 2011-2012 budget process; and

WHEREAS, on July 15, 2011 the bond Trustee found it necessary to make an unscheduled draw of \$117,302.08 from the Deposits in order to make the bond debt service payment due that day (no Standby Contribution having been made by Brown Family, Western Communities, Antelope Village or PV VII); and

WHEREAS, the Trustee (as depository under the 2002 and 2004 Depository Agreements) did not request from Brown Family, Western Communities, Antelope Village or PV VII any reimbursement to the Deposits in the amount of this draw (as permitted in Subsection 2.01(B) of the 2002 and 2004 Payment Agreements); and

WHEREAS, the bond Trustee subsequently issued a Material Event Notice to bondholders with regard to this additional unscheduled draw on the Deposits; and

WHEREAS, sufficient ad valorem tax revenues were collected to make the January 15, 2012 bond debt service payment (removing the need for any Standby Contribution or draw from the Deposits); and

WHEREAS, on July 10, 2012 it was reported by Town staff that 25 single-family homes had been built in Pronghorn Ranch since January 1, 2009 (as opposed to approximately no new homes during the same period in the comparable community facilities district of StoneRidge); and

WHEREAS, as of July 11, 2012 Town staff reported that in Pronghorn Ranch some (a) 1,310 single-family units and 130 multi-family units had been approved, (b) 986 single-family lots had been platted, and (c) 720 single-family homes had been built on platted lots (leaving 266 platted lots still to be developed and occupied); and

WHEREAS, as of July 11, 2012 Town staff reported the private ownership of property in Pronghorn Ranch to be (a) 699 individual owners of homes, (b) 12 individual owners of vacant lots, (c) 131 vacant lots and 9 un-platted commercial tracts owned by Antelope Village, (d) 110 vacant lots and 10 homes owned by Lexin Pronghorn LLC, (e) 8 vacant lots and 6 homes owned by Mandalay Communities Inc., (f) 5 vacant lots and 5 homes owned by STO Investments LLC, and (g) various un-platted open-space tracts owned by the Pronghorn Ranch HOA; and

WHEREAS, on July 12, 2012 (in accordance with its obligations under Subsection 3(g) of Resolution No. 3, Subsection 3(g) of Resolution No. 11, and Subsection 10.01 of the 2002 and 2004 Indentures, and in an effort to fulfill its commitment to take reasonable actions to cause the results contemplated by and set forth in the 2002 and 2004 Feasibility Reports (i.e. to keep the level of any required Standby Contributions or draws from the Deposits roughly equivalent to the numbers in Table Two of each (as modified by actual absorption amounts) in response to precipitous drops in secondary assessed valuations of real and personal property in Pronghorn Ranch)), the PRCFD Board adopted Resolution No. 27 setting a tax rate of approximately \$4.80 per \$100.00 secondary assessed valuation as part of its FY 2012-2013 budget process; and

WHEREAS, on July 15, 2012 the bond Trustee found it necessary to make an unscheduled draw of \$192,459.06 from the Deposits (leaving a balance of \$250,470.37) in order to make the

bond debt service payment due that day (no Standby Contribution having been made by Brown Family, Western Communities, Antelope Village or PV VII); and

WHEREAS, the Trustee (as depository under the 2002 and 2004 Depository Agreements) did not request from Brown Family, Western Communities, Antelope Village or PV VII any reimbursement to the Deposits in the amount of this draw (as permitted in Subsection 2.01(B) of the 2002 and 2004 Payment Agreements); and

WHEREAS, the bond Trustee subsequently issued a Material Event Notice to bondholders with regard to this additional unscheduled draw on the Deposits; and

WHEREAS, on August 14, 2012 (in response to a query from the PRCFD Manager), the PRCFD Treasurer reported that total draws from the Deposits had been \$449,529.63 and total non-payments of the O&M Contributions (not including FY2012-13) had been \$48,600.00, for a total of \$498,129.63 (or \$1,872.67 per undeveloped platted lot); and

WHEREAS, the PRCFD Treasurer has indicated that sufficient ad valorem tax revenues are expected to be collected to make the January 15, 2013 bond debt service payment (removing the need for any Standby Contribution or draw from the Deposits); and

WHEREAS, the PRCFD Treasurer also estimates that either a Standby Contribution or a draw from the Deposits of approximately \$125,000.00 will be needed for the July 15, 2013 bond debt service payment (notwithstanding the recent adjustments in tax rates by the PRCFD Board); and

WHEREAS, as part of its budget hearings the PRCFD Board and staff have indicated that the lack of just one (or even a related few) remaining developer(s) of the undeveloped lots in Pronghorn Ranch (plus a desire to avoid adding serious road blocks to the steady, though limited, number of new housing starts in Pronghorn Ranch) have heretofore hindered finding a balanced solution to the issues related to payment of the PRCFD bonds (in contrast to the solutions which have recently been reached or are in progress with regard to payment of bonds issued by the Quailwood Meadows and StoneRidge community facilities districts); and

WHEREAS, in addition to the remedies authorized in the Financing, Contribution, Payment and Depository Agreements, ARS §§48-709(A)(6)&(10) and 48-717(7) authorize PRCFD to (a) establish, charge and collect user fees and charges for use of financed infrastructure, (b) enter into agreements with the municipality for the collection of fees and charges from landowners for infrastructure purposes, and (c) finance infrastructure from user, landowner and “other” fees and charges; and

WHEREAS, the PRCFD Board has determined that, in order to meet its obligations with regard to the 2002 and 2004 Bonds, it must take steps to provide for Standby Contributions in order to at least reduce the need for future draws on the Deposits and keep actual PRCFD ad valorem tax collections at a reasonable level so that development of Pronghorn Ranch may reasonably continue and the 2002 and 2004 Bond debt service payments ultimately be made;

NOW, THEREFORE, BE IT RESOLVED BY THE DISTRICT BOARD OF THE PRONGHORN RANCH COMMUNITY FACILITIES DISTRICT, AS FOLLOWS:

1. That, as successors-in-interest to Brown Family, Western Communities, Antelope Village, and/or PV VII, any owner(s) of currently-platted (or subsequently-platted) lots in Pronghorn Ranch for which building or other development permits issued by the Town have not been applied for as of the date of this Resolution shall, upon application to the Town, pay to PRCFD a “Successor-in-Interest Standby-Contribution Charge” per lot (or, in the case of multi-family housing, per dwelling unit) as set forth herein.

2. That, the requirement to pay this Successor-in-Interest Standby-Contribution Charge” shall continue until the 2002 Bonds and 2004 Bonds (including any refinancing bonds related thereto (unless the documents underlying any such refinancing bonds expressly provide that no Successor-in-Interest Standby-Contribution Charge is needed)) have been paid in full.

3. That, the amount of the Successor-in-Interest Standby-Contribution Charge shall be established each year as part of the PRCFD budget process, as follows:

- a. Determine total amounts drawn from the Deposits as of May 1
- b. Add total amounts of unpaid O&M Contributions as of May 1
- c. Subtract total payments of Successor-in-Interest Standby-Contribution Charges received as of May 1
- d. Subtract any Standby Contributions actually received under the Contribution Agreements
- e. Subtract any O&M Contributions actually received under the Financing Agreements
- f. Divide by 266 (regardless of the number of undeveloped, platted lots actually remaining at any given time)

4. In accordance with the IGA, the Town is hereby directed (subject to the notice requirement of the IGA) that payment of the Successor-in-Interest Standby Contribution Charge adopted herein shall be a pre-requisite to issuance of any Building Permit by the Town within Pronghorn Ranch, in accordance with Town Code §7-01-140(C). To that end, the Successor-in-Interest Standby Contribution Charge shall be considered one of the fees required for payment prior to issuance of a Building Permit in accordance with Town Code §7-01-160(A) (notwithstanding it is not listed as a fee in Town Code §7-01-170). [Note: it is expressly understood that this Successor-in-Interest Standby-Contribution Fee is NOT a Development Impact Fee under ARS §9-463.05, and none of the procedural requirements applicable thereto shall apply.]

5. That the PRCFD Treasurer is hereby directed that revenues from the Successor-in-Interest Standby-Contribution Charge shall irrevocably be deposited into the Series 2002 and 2004 Tax Account (per §5.01(A)(1)(f) of the 2002 Indenture and 2004 Indenture), or into any related account in the case of refinancing bonds, on a quarterly basis in order to reduce the amount (a) the Trustee may request as a Standby Contribution from Brown Family, Western Communities, Antelope Village, PV VII, or any of their respective successors-in-interest under

the 2002 Contribution Agreement and/or the 2004 Financing & Contribution Agreement, (b) of any draw the Trustee may find it necessary to make on the Deposits, and/or (c) of ad valorem taxes required to be levied by the Board on real and personal property within Pronghorn Ranch.

6. That, in the course of recommending ad valorem tax rates as part of the annual budget process in accordance with PRCFD's obligations under Subsection 3(g) of Resolution No. 3, Subsection 3(g) of Resolution No. 11, and Subsection 10.01 of the 2002 and 2004 Indentures, the PRCFD Treasurer is hereby directed to ensure that a reasonable and fiscally-responsible amount remains in the Deposits over the term of the 2002 and 2004 Bonds (including the term of any refinancing bonds). However, consistent with responsible management the PRCFD Treasurer shall endeavor to leave as little in the Deposits as possible by the end of the described terms so as to minimize any payment to Antelope Village (or any successors-in-interest) in accordance with §2.02 of the 2002 and 2004 Depository Agreements, and §§2.02 and 2.03 of the 2002 and 2004 Payment Agreements. [Note: nothing herein is intended to preclude using any remaining balance in the Deposits as part of any bond refinancing.]

7. That, nothing herein is intended to be (nor is it) a settlement, compromise or satisfaction of any security, payment, or other obligation owed by Brown Family, Western Securities, Antelope Village, PV VII or any of their successors-in-interest to any person under the Financing Agreement, the 2002 Contribution Agreement, the 2004 Financing & Contribution Agreement, the 2002 Payment Agreement, the 2004 Payment Agreement, the 2002 Depository Agreement, the 2004 Depository Agreement, or the 2002 and 2004 Bonds. Such persons include (but are not limited to) the Trustee and the bondholders.

Further, it should be understood that nothing herein is intended to constitute in any fashion an amendment to or rescission of the above-listed documents, the 2002 Indenture, the 2004 Indenture, Resolution No. 3 or Resolution No. 11.

Finally, nothing herein is intended to constitute in any fashion an amendment to or rescission of any other agreement or commitment by Brown Family, Western Communities, Antelope Village, PV VII, the Trustee or PRCFD with regard to the 2002 Bonds and/or the 2004 Bonds. Specifically, nothing herein amends the covenants and commitments of PRCFD under Resolution No. 3 and Resolution No. 11. Rather, the provisions herein should be considered supplemental thereto.

8. That, in accordance with the IGA, the Town is hereby directed and authorized to collect the Successor-in-Interest Standby-Contribution Charge as it administers its technical codes adopted in Chapter 7 of the Town Code. Notice of this direction and authorization shall be provided in accordance with Section 16 of the IGA.

Furthermore, solely in relation to the directions and authorizations in this Resolution, PRCFD does hereby agree to indemnify the Town to the same extent of the Town's indemnification obligation in Section 17 of the IGA (to the extent it may do so by law).

**Finally, in accordance with Subsections 3(h) of Resolution No. 3 and Resolution No. 11 (respectively), nothing herein shall be construed as obligating the Town**

**or as incurring a charge upon the general credit or any other credit or revenues of the Town, nor shall the breach of any implied agreement by the Town herein impose any charge upon the general credit or any other credit or revenues of the Town.**

9. That this Resolution shall be effective after its passage and approval according to law.

RESOLVED by the District Board of the Pronghorn Ranch Community Facilities District this 24<sup>th</sup> day of January, 2013.

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Harvey C. Skoog  
Chairman, District Board,  
Pronghorn Ranch Community Facilities District

ATTEST:

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Diane Russell  
District Clerk, Pronghorn Ranch  
Community Facilities District

APPROVED AS TO FORM:

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Ivan Legler  
District Counsel, Pronghorn Ranch  
Community Facilities District

EXHIBIT "A"

Pronghorn Ranch