

RESOLUTION NO. 14
ENTERTAINMENT CENTER COMMUNITY FACILITIES DISTRICT

A RESOLUTION OF THE DISTRICT BOARD OF THE ENTERTAINMENT CENTER COMMUNITY FACILITIES DISTRICT, A COMMUNITY FACILITIES DISTRICT OF ARIZONA, APPROVING A FINAL BUDGET FOR FISCAL YEAR 2012-2013 PURSUANT TO ARS §48-716 FOR THE OPERATION EXPENSES OF THE DISTRICT AND THE AMOUNT OF ALL OTHER EXPENDITURES FOR MUNICIPAL SERVICES; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, by Resolution No. 1477 (December 21, 2006), the Prescott Valley Town Council formed the Entertainment Center Community Facilities District (ECCFD) pursuant to ARS §48-701 et seq. in accordance with the Pre-annexation Development Agreement dated May 12, 2005 (and amended October 6, 2005) (Agreement) provided for development of the Prescott Valley Convention and Entertainment Center (PVCEC) within the Prescott Valley Town Center (see Exhibit "A" attached hereto and expressly made a part hereof); and

WHEREAS, under the Agreement (and the ECCFD General Plan), Prescott Valley Entertainment Center, LLC (PVEC) constructed the PVCEC, then conveyed it to ECCFD for the purpose of helping ensure that the PVCEC would not be subject to ad valorem taxation and thereby assist the financial position of the PVCEC; and

WHEREAS, on December 21, 2006, the ECCFD Board adopted its Resolution No. 1 which (among other things) accepted title to the PVCEC and approved a long-term lease whereby PVEC would be solely responsible for operation of the PVCEC (Lease), and adopted its Resolution No. 2 establishing certain interim regulations to govern its operations; and

WHEREAS, on December 21, 2006 the ECCFD Board and the Town Council approved an intergovernmental agreement (IGA) whereby the Town would provide general operation and administration of ECCFD (including, but not be limited to, ongoing office administration, engineering services, legal services, accounting services and management services), subject to Town reimbursement "to the extent any funds are received by ECCFD under [the Agreement]"; and

WHEREAS, the Agreement and the Lease required payment out of PVCEC net operating revenue all ECCFD expenses specifically relating to the PVCEC, with payments to be made within forty-five (45) days after the end of the fiscal year; and

WHEREAS, legal actions were subsequently filed by a number of plaintiffs against a number of defendants (including the Town), alleging that defendants collectively misrepresented and/or failed to disclose material facts in bond documents that would show the PVCEC, constructed with proceeds from a thirty-five million dollar (\$35,000,000) bond issue by the Industrial Development Authority of the County of Yavapai, could not generate sufficient operating revenues which, together with committed Town transaction privilege tax revenues, would be sufficient to repay the bonds. The legal actions are Ronald Covin, et al. v. Robert W.

Baird & Co, Inc., 3:09 cv 08174-GMS (consolidated; Wells Fargo Bank, N.A. v. Robert W. Baird & Co., Inc., et al. CV2009-030148; and Allstate Life Insurance Co. v. Robert W. Baird & Co., Inc., et al. 3:09 cv 08162-GMS (consolidated). Because of its limited role, ECCFD was not named as a party in any of the actions; and

WHEREAS, in accordance with ARS §48-716, the ECCFD Treasurer has submitted to the ECCFD Board a proposed budget for Fiscal Year 2012-2013, which includes statements and estimates of the operation and maintenance expenses of the ECCFD and the amount of all other expenditures for municipal services; and

WHEREAS, by Resolution No. 13, dated May 24, 2012, the ECCFD Board adopted a Tentative Budget for Fiscal Year 2012-2013, and set a public hearing date of July 12, 2012 to consider the same; and

WHEREAS, at the conclusion of the public hearing , the ECCFD Board voted to adopt the Final Budget by this Resolution No. 14;

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

1. That that certain proposed ECCFD budget prepared by the ECCFD Treasurer for Fiscal Year 2012-2013, attached hereto and expressly made a part hereof as Exhibit “B”, is hereby approved.
2. That if any provision in this Resolution is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected, but shall continue in full force and effect.
3. That this Resolution shall be effective after its passage and approval according to law.

RESOLVED by the District Board of the Entertainment Center Community Facilities District this 12th day of July 2012.

Harvey Skoog, Chairman, District Board
Entertainment Center Community Facilities District

ATTEST:

Diane Russell, District Clerk
Entertainment Center Community Facilities District

APPROVED AS TO FORM:

Ivan Legler, Legal Counsel
Entertainment Center Community Facilities District

EXHIBIT "A"

ECCFD Map and Legal Description

EXHIBIT "B"

FY 2012-2013 ECCFD Budget