

RESOLUTION NO. 2009-01

RESOLUTION OF I.C.R. SANITARY DISTRICT
YAVAPAI COUNTY, ARIZONA
MORATORIUM ON SEWER HOOKUPS

WHEREAS, the I.C.R. Sanitary District (the "District") was established under Chapter 14 of Title 48 of the *Arizona Revised Statutes* as a body corporate with the powers, privileges and immunities generally granted to municipal corporations by the constitution and laws of Arizona for the purposes prescribed in such chapter, pursuant to *Arizona Revised Statutes* § 48-2001 (D); and

WHEREAS, the District, acting through its Board of Directors (the "Board"), was formed for the purposes of regulating, purchasing, establishing, constructing and operating a sewerage system which is owned by the District or any person which provides for sewage collection, treatment and disposal in the District, pursuant to *Arizona Revised Statutes* § 48-2001 (B) (1); and

WHEREAS, the Board has the fiduciary responsibilities for the safe, adequate and timely collection and treatment of wastewater within the District, such that all treated effluent shall be collected, treated and disposed of in accordance with health, safety and environmental laws; and

WHEREAS, the District has formulated and adopted rules governing the installation, use and maintenance of private sewer disposal systems and connections to the sewer system and lines of the District, pursuant to *Arizona Revised Statutes* § 48-2011(10); and

WHEREAS, the Board requires permits for any and all connections to the sewer system and lines in the District and for installation and maintenance of private sewage disposal systems, pursuant to *Arizona Revised Statutes* § 48-2011(11); and

WHEREAS, all persons who desire to connect to a sewer line within the District must first obtain written approval from the District and anyone who violates a rule adopted by the District or this Moratorium is guilty of a misdemeanor, pursuant to *Arizona Revised Statutes* § 48-2031; and

WHEREAS, regulations of the Arizona Department of Environmental Quality (ADEQ), A.A.C. R18-9-E301(C) (1) and (2), requires the District to be assured it will have adequate capacity of its sewage collection system and sewage treatment facility so that the design flows of the sanitary system within the District will not be exceeded or so that any permit conditions will not be exceeded; and

WHEREAS, the designed flow of the existing wastewater treatment plant within the District is inadequate to treat additional homes that may be built on lots approved by Yavapai County; and

WHEREAS, the existing capacity of the wastewater treatment plant is insufficient to treat the estimated wastewater from residential and other facilities within the District that have been approved for construction; and

WHEREAS, the Board is responsibly and deeply concerned that all landowners in the District may be burden with the obligations and related costs of transporting untreated effluent to another wastewater treatment plant(s) if the wastewater treatment plant in the District exceeds its capacity; and

WHEREAS, the Board has worked diligently and aggressively in an attempt to resolve these matters for more than three years without satisfactory resolution of the effluent generation relative to the availability of an adequate wastewater treatment plant; and

WHEREAS, the District is experiencing timing problems in expanding the wastewater treatment plant, which the construction thereof is the obligation of Harvard Simon I, L.L.C., at its own cost, to meet the existing and future demands for sewage effluent treatment in the District; and

WHEREAS, wastewater from properties within the District will exceed the wastewater treatment plant's present capacity in the near future if the homes presently constructed in the District are fully-occupied; and

WHEREAS, the Board deems it prudent to limit its risks and legal obligations in providing sanitary services to additional sewer connections within the District until additional wastewater treatment capacity is online.

NOW, THEREFORE,

BE IT RESOLVED, that the District adopts this Moratorium which precludes any new or additional sewer hookups within the District; and

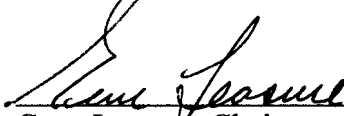
BE IT FURTHER RESOLVED, that the Moratorium shall not be lifted no sooner than after all outstanding invoices have been paid in full by Old Capitol Investments, L.L.C. and any other developer-entity that owes monies to the District; and

BE IT FURTHER RESOLVED, that the Moratorium shall not be lifted no sooner than one-hundred sixty (160) days of when the new and expanded wastewater treatment plant will actually be in operation in the District; and

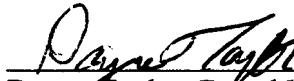
BE IT FURTHER RESOLVED, a copy of this Resolution shall be provided to the Yavapai County Department of Environmental Services, and that Department will be notified by the District when the Moratorium is lifted; and

BE IT FURTHER RESOLVED, that members of the District and developers within the District shall be promptly notified about the Moratorium, and they shall receive a copy of this Resolution upon request.

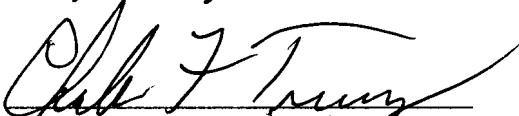
PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE I.C.R. SANITARY DISTRICT, this 9th day of DECEMBER, 2009.



Gene Leasure, Chairman



Dayne Taylor, Board Member



Charles F. Turney, Board Member