

SUPERIOR COURT, STATE OF ARIZONA, IN AND FOR THE COUNTY OF YAVAPAI

<p>TOWN OF PRESCOTT VALLEY, Plaintiff</p> <p>vs.</p> <p>FRANKLIN PHONETIC PRIMARY SCHOOL, INC., Defendant.</p>	<p>Case No. P1300CV201600634</p> <p align="center">ORDER RE: PLAINTIFF'S MOTION FOR REHEARING AND DEFENDANT'S MOTION FOR ATTORNEY'S FEES AND COSTS</p>	<p align="right">FILED w/o ✓</p> <p>DATE: <u>DEC 26 2018</u> <u>12:25</u> O'Clock <u>P</u>.M.</p> <p align="right"><i>DONNA MCQUALITY, CLERK</i></p> <p>BY: <u>C VANLANDINGHAM</u> Deputy</p>
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<p>HONORABLE DON STEVENS</p> <p>VERDE SEASONAL PRO TEM</p>	<p>BY: Nicole Bizardi, Judicial Assistant</p> <p>DATE: December 20, 2018</p>
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The Court has received and considered Plaintiff's *Motion for Rehearing Pursuant to Az Super CT RAP Civ Rule 14*, filed November 29, 2018, the *Response* of Defendant, and the Plaintiffs *Reply*. The Court has carefully reviewed its prior ruling, as well as the current arguments presented by the Town of Prescott Valley. In reaching its prior decision in this case, the Court carefully reviewed the entire record, not just the word "may", in order to evaluate the Town's position. In terms of the "legislative history" of the Ordinance, the Court found that the public statements in Resolution 17 by the Town described the benefits that the District would provide a benefit to adjoining owners by "...constructing common parking areas and assigning spaces thereon to adjoining businesses in order to reduce on-site parking needed for expansion." Resolution 1446 included similar language "The public infrastructure in Area 2 will substantially increase the parking capacity for businesses."

IT IS THEREFORE ORDERED that Plaintiff's *Motion for Rehearing Pursuant to Az Super CT RAP Civ Rule 14* is DENIED.

The Court has reviewed and considered the *Motion for Attorney's Fees* filed by Franklin Phonetic, the Town's *Objection* to the Motion, and the Franklin's *Reply*. The Court has reviewed the case of *Roubos v. Miller*, 214 Ariz. 416, 153 P.3d 1045 (2007) and finds that it does not control the resolution of the *Motion for Attorney's Fees*. The Court finds that Franklin Phonetic is the prevailing party and is entitled to recover its fees in defending this case. The Town's objections to the recovery of certain fees in other proceedings are denied.

IT IS THEREFORE ORDERED that the *Motion for Attorney's Fees* filed by Franklin Phonetic is GRANTED, and pursuant to A.R.S. §12-348, the amount of the attorney's fees awarded is \$9,097 based on the capped fee rate allowed by the statute.

IT IS FURTHER ORDERED awarding Franklin Phonetic its taxable costs in the amount of \$506.42.

DATED this 21ST day of December, 2018.



 HON. DON STEVENS
 Judge of the Superior Court, Verde Division SPT

P1300CV201600634

Town of Prescott Valley v Franklin

December 20, 2018

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cc: Steven G. Zraick- Deputy Town Attorney- Town of Prescott Valley- (e)
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Bond Offering

\$3,425,000
PARKWAY COMMUNITY FACILITIES DISTRICT NO. 1
(PRESCOTT VALLEY, ARIZONA)
GENERAL OBLIGATION BONDS,
SERIES 2006
(BANK QUALIFIED)

MATURITY SCHEDULE

BASE CUSIP NO. * 70154P

\$ 595,000 TERM BOND AT 4.85% DUE JULY 15, 2015 PRICE 100% CUSIP AA9
\$ 650,000 TERM BOND AT 5.20% DUE JULY 15, 2020 PRICE 100% CUSIP AB7
\$ 840,000 TERM BOND AT 5.30% DUE JULY 15, 2025 PRICE 100% CUSIP AC5
\$1,340,000 TERM BOND AT 5.35% DUE JULY 15, 2031 PRICE 100% CUSIP AD3

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NEW ISSUE - FULL BOOK-ENTRY-ONLY FORM

NOT RATED

In the opinion of Bond Counsel, assuming compliance with certain tax covenants by the District, interest on the Bonds will be excluded from gross income for federal income tax purposes under existing statutes, regulations, rulings and court decisions. Interest on the Bonds will not be an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, see "TAX MATTERS" herein for a description of the federal alternative minimum tax on corporations and certain other federal tax consequences of ownership of the Bonds. Bond Counsel is further of the opinion that, if the foregoing is the case, the interest on the Bonds will be exempt from income taxation under the laws of the State of Arizona.

**\$3,425,000
PARKWAY COMMUNITY FACILITIES DISTRICT NO. 1
(PRESCOTT VALLEY, ARIZONA)
GENERAL OBLIGATION BONDS,
SERIES 2006
(BANK QUALIFIED)**

Dated: Date of Delivery

Due: As shown on inside front cover page

Interest Payment Dates: January 15 and July 15 of each year, commencing January 15, 2007

The Parkway Community Facilities District No. 1 (Prescott Valley, Arizona) General Obligation Bonds, Series 2006 (the "Bonds") are authorized pursuant to Title 48, Chapter 4, Article 6, Arizona Revised Statutes, as amended, and an election held in and for Parkway Community Facilities District No. 1 (the "District"), a community facilities district formed within the boundaries of the Town of Prescott Valley, Arizona (the "Town"), which election was held on June 27, 2006. The Bonds will be issued pursuant to a Series 2006 Indenture of Trust and Security Agreement, dated as of October 1, 2006 (the "Indenture"), from the District to Wells Fargo Bank, N.A., as trustee, and a resolution of the district board of the District, and will be payable as to both principal and interest from *ad valorem* taxes to be levied on all taxable property within the boundaries of the District, without limitation as to rate or amount. A portion of the proceeds of the Bonds in an amount equal to the Reserve Requirement (as such term is defined herein) will be deposited into the Reserve Fund (as defined below) and used to pay principal and interest on the Bonds to the extent tax collections are insufficient for such purpose. See "SECURITY FOR AND SOURCES OF PAYMENT OF THE BONDS" and "SPECIAL RISK FACTORS" herein.

The Board of the District (defined herein) will designate the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. The Board of the District will represent and warrant that it reasonably anticipates that the aggregate amount of qualified tax-exempt obligations that will be issued by the District in calendar year 2006 will not exceed \$10,000,000.

As they will be in book-entry-only form, purchasers will not receive definitive certificates with respect to the Bonds. So long as any purchaser is the beneficial owner of a Bond, such purchaser must maintain an account with a broker or a dealer who is, or acts through, a DTC Participant (defined herein) to receive payment of principal of and premium, if any, and interest on such Bond. See Appendix F - "BOOK-ENTRY-ONLY SYSTEM."

The Bonds will be subject to optional and mandatory redemption by the District prior to maturity as described herein.

Proceeds of the sale of the Bonds will be used: (i) to pay costs of acquisition and construction of certain public infrastructure benefiting the District, (ii) to pay capitalized interest coming due on the Bonds on January 15, 2007 and July 15, 2007, (iii) to fund a debt service reserve fund for the Bonds (the "Reserve Fund"), and (iv) to pay costs of issuance relating to the Bonds.

The Bonds are not being sold in a public offering. The Bonds may be purchased by Qualified Investors (defined herein) only and, except as described herein, will be transferable to Qualified Investors only. See "INVESTOR SUITABILITY STANDARDS AND TRANSFER RESTRICTIONS" herein.

Investment in the Bonds involves certain risks that each prospective investor should consider prior to investing. See "SECURITY FOR AND SOURCES OF PAYMENT OF THE BONDS" and "SPECIAL RISK FACTORS" herein.

NEITHER THE FULL FAITH AND CREDIT NOR THE GENERAL TAXING POWER OF THE TOWN, THE STATE OF ARIZONA (THE "STATE") OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE DISTRICT) IS PLEDGED TO THE PAYMENT OF THE BONDS. THE BONDS WILL BE OBLIGATIONS OF THE DISTRICT ONLY. NONE OF THE TOWN, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE DISTRICT) WILL HAVE ANY OBLIGATION WITH RESPECT TO DEBT SERVICE FOR THE BONDS.

This cover page contains certain information for general reference only. It is not a summary of the issue of which the Bonds are a part. Investors are advised to read this Limited Offering Memorandum in its entirety to obtain information essential to the making of an informed investment decision with respect to the Bonds.

The Bonds are offered when, as and if issued and subject to the approval of Greenberg Traurig, LLP, Phoenix, Arizona, Bond Counsel. Certain legal matters will be passed upon for the District by Greenberg Traurig, LLP, Phoenix, Arizona, and for the Underwriter by its counsel, Squire, Sanders & Dempsey L.L.P., Phoenix, Arizona. It is expected that delivery of the Bonds in book-entry-only form will be made through the facilities of DTC on or about October 31, 2006.

STONE & YOUNGBERG LLC

Dated: October 18, 2006

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Assumptions and Limiting Conditions set forth therein. See the copy of the Appraisal included as APPENDIX G hereto.

Financial Capability of Property Owners; Subsequent Transfer

There can be no assurance that the current property owners have the financial capabilities to complete development on any land owned or to pay the *ad valorem* property taxes with respect to the District Land, including the amounts to be used to pay principal of and interest on the Bonds. See "SECURITY FOR AND SOURCES OF PAYMENT OF THE BONDS - *Ad Valorem* Property Taxation in the District -- *Collection.*"

In addition, the property owners may continue to transfer ownership of parcels (or portions thereof) to other persons or entities. There can be no assurance that any subsequent property owners will have the financial capabilities to complete development on any land so acquired or to pay the *ad valorem* property taxes securing the Bonds. Failure of any property owners to pay such taxes when due could result in the rapid, total depletion of the Reserve Fund. In such event, there could be a default in the payment of the Bonds.



Change of Use of Property to Tax-Exempt Purposes and Removal From Tax Rolls

Owners of District parcels who put their property to tax-exempt uses such as schools, including charter schools, may exempt their property from *ad valorem* taxes as long as the tax-exempt use continues. The owners of Parcels No. 103-08-034A and 103-08-037 are presently operating a charter school on an adjacent parcel which is presently exempted from *ad valorem* taxes. Those owners have indicated their intention to file the required documentation to similarly exempt Parcels No. 103-08-034A and 103-08-037 from *ad valorem* taxation on the basis of charter school usage. The District knows of no reason why such application for exemption will not be granted by the Yavapai County taxing authorities. Other owners of District parcels could decide to put their parcels to a tax-exempt use, but the District knows of no other landowners who have expressed such intent.

Failure or Inability to Complete Public Improvements; Business Conditions in the District

If the District is unable to complete the expected Public Improvements, the ability of the property owners to develop or operate businesses in the District may be affected adversely.

The successful development or operation of businesses in the District may be affected by changes in general economic conditions, fluctuations in the real estate market and interest rates, changes in the income tax treatment of real property ownership, unexpected increases in development costs and other similar factors and the development of environmental problems with such land. The District could be affected by changes in governmental policies and laws, including, but not limited to, governmental policies and laws to restrict or control development. Operation of a business in the District or development of vacant parcels therein also could be affected by competition from other developments in surrounding areas. Consequently, prospective investors should not assume that development of vacant parcels will occur.

ANY OR ALL OF THE FOREGOING COULD REDUCE THE WILLINGNESS AND THE ABILITY OF THE PROPERTY OWNERS TO PAY *AD VALOREM* PROPERTY TAXES AND COULD GREATLY REDUCE THE VALUE OF SUCH PROPERTY IN THE EVENT IT HAS TO BE FORECLOSED UPON.