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The Honorable Charles Blanchard
Arizona State Senate
Capitol Complex
Phoenix, Arizona 85007

Dear Senator Blanchard:

I92-004 (R92-009)

You have asked whether the controlling restriction in Article IX, § 14 of the Arizona Constitution is the general "highway or street purpose" limitation or the specific enumeration of permissible expenditures. This question essentially requires us to clarify Attorney General Opinion I84-087.

The Arizona Constitution states:

No moneys derived from fees, excises, or license taxes relating to registration, operation, or use of vehicles on the public highways or streets or to fuels or any other energy source used for the propulsion of vehicles on the public highways or streets, shall be expended for other than highway and street purposes including the cost of administering the State highway system and the laws creating such fees, excises, or license taxes, statutory refunds and adjustments provided by law, payment of principal and interest on highways and street bonds and obligations, expenses of State enforcement of traffic laws and State administration of traffic safety programs, payment of costs of publication and distribution of Arizona Highways magazine, State costs of construction, reconstruction, maintenance or repair of public highways, streets or bridges, costs of rights of way acquisitions and expenses related thereto, roadside development, and for distribution to counties, incorporated cities and towns to be used by them solely for highway and street purposes including costs of rights of way acquisitions and expenses related thereto, construction, reconstruction,

maintenance, repair, bridges and payment of principal and interest on highway and street bonds.

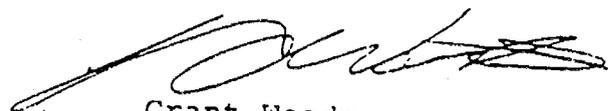
Ariz. Const. art. IX, § 14.

In analyzing constitutional provisions, it is a "salutary rule of construction that the presumption and legal intendment is that each and every clause in a written constitution has been inserted for some useful purpose, and therefore the instrument must be construed as a whole in order that its intent and general purpose may be ascertained...." State v. Osborn, 14 Ariz. 185, 204, 125 P. 884, 892 (1912). Also, the meaning ascribed to words in a constitutional provision is that which is generally understood and used by the people. McElhanev Cattle Co. v. Smith, 132 Ariz. 286, 290, 645 P.2d 801, 805 (1982).

Given this foundation, it is clear that the language, "No moneys...shall be expended for other than highway and street purposes...and for distribution to counties, incorporated cities and towns to be used by them solely for highway and street purposes..." was intended to control. To conclude otherwise would render meaningless the manifestly controlling language of a "highway or street" purpose and, therefore, violate the canon of constitutional construction requiring that all terms, if possible, be given effect and meaning. See Moore v. Valley Garden Center, 66 Ariz. 209, 211, 185 P.2d 998, 999 (1947). The use of the word "including" followed by an enumeration of permissible expenditures does not diminish the clear meaning of the phrase "highway and street purposes." A better, more harmonious construction is that the use of "including" was intended to obviate disputes over whether the enumerated items were for "highway or street" purposes. Cf. Arizona Board of Regents v. State ex rel. State of Arizona Public Safety Retirement Fund Manager Administrator, 160 Ariz. 150, 157, 771 P.2d 880, 887 (App. 1989) (the phrase "including but not limited to" makes it clear that other items of the same class were not to be excluded.)

Although the question raised in I84-087 was answered by reference to an enumerated item, the controlling restriction in Article IX, § 14, Arizona Constitution remains the requirement of a "highway or street purpose." Thus, if the activity in question is for a "highway or street purpose," highway user revenues may be used even if the activity does not fall within one of the enumerated categories.

Sincerely,



Grant Woods
Attorney General