



PRESCOTT CITY COUNCIL VOTING MEETING AGENDA

**PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, MARCH 10, 2009
3:00 P.M.**

**Council Chambers
201 S. Cortez Street
Prescott, AZ 86303
(928) 777-1100**

The following Agenda will be considered by the Prescott City Council at its Regular Voting Meeting pursuant to the Prescott City Charter, Article II, Section 13. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

- ◆ **CALL TO ORDER**
- ◆ **INTRODUCTIONS**
- ◆ **INVOCATION:** Pastor John Perry, Alliance Bible Church
- ◆ **PLEDGE OF ALLEGIANCE:** Councilman Bell
- ◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

Mayor Wilson	
Councilman Bell	Councilman Luzius
Councilman Lamerson	Councilman Roecker
Councilwoman Lopas	Councilwoman Suttles

- ◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

- I. **PUBLIC COMMENT**

- A. Lisa Barnes re the upcoming Complete Streets Town Hall.

- II. **PRESENTATIONS**

- A. Presentation by Prescott Police Department re the Yavapai County Community Foundation (YCCF).
- B. Presentation by Dave Maurer, Executive Director of the Prescott Chamber of Commerce, re the Chamber Jobs Program.

- C. Presentation by the Prescott Police Department on Crime Stats Year-End Report.

III. CONSENT AGENDA

CONSENT ITEMS A THROUGH I LISTED BELOW MAY BE ENACTED BY ONE MOTION. ANY ITEM MAY BE REMOVED AND DISCUSSED IF A COUNCILMEMBER SO REQUESTS.

- A. Award a contract for construction of the East Gurley Street Water Services Installation and Main Line Stub Out Project to T & H Construction in the amount of \$101,569.31.
- B. Approve a professional services agreement with Shephard-Wesnitzer, Inc., to provide engineering and design services for the Old North Reservoir Replacement Project in an amount not to exceed \$342,624.00.
- C. Adopt Resolution No. 3939-0945 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Assignment Agreement pertaining to the Agreement for Potable Water #WSA07-015, Storm Ranch Middle Parcel, with RHP Investments, LLC, thereby assigning the rights and obligations under the existing agreement to SLF III – AZ Storm Ranch, LLC, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- D. Approve Final Plat (FP08-007) for Mystic Hills, A Planned Area Development comprising 4 lots on 5.5 acres located west of Downer Trail and south of Iron Springs Rd, Applicant/Owner: Bryan Tucker, APN: 115-10-026A, Zoning is SF-35.
- E. Approve Revision of Plat for Lot 3 Prescott Lakes Commerce Center, Creating Four Office and Six Warehouse Condominiums (Existing Structures).
- F. Water Conservation Program changes and initiatives.
 - 1. Adopt Ordinance No. 4691-0934 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Title III, Chapter 10 of the Prescott City Code by revising Section 8 thereto entitled “Incentive Program”.
 - 2. Authorize use of budgeted water reduction demonstration project funding for the retrofit of plumbing fixtures at the Grace Sparks Activity Center, and landscape modifications within the public right-of-way at Miller Valley Elementary School.

3. Authorize solicitation of proposals for implementation of WaterSmart landscaping of Memorial Park as a design competition.
- G. Approve contract for airport property appraisal services with Southwest Appraisal Associates, Inc. in an amount not to exceed \$30,000.00.
- H. WIFA Financing Resolutions:
1. Adopt Resolution No. 3938-0944 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Clean Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (North Prescott Regional Force Main)
 2. Adopt Resolution No. 3940-0946 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Drinking Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (Zone 39 Water Mains & Pump Station)
 3. Adopt Resolution No. 3941-0947 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Clean Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (Airport Centrifuge)
 4. Adopt Resolution No. 3942-0948 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Drinking Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (Airport Zone N and S Loops Water Mains)
 5. Adopt Resolution No. 3943-0949 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Drinking Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (Intermediate pump Stations & Reservoir)
 6. Adopt Resolution No. 3944-0950 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Clean Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (WWTP Plants Plan and Design)
- I. Approve the Minutes of the Prescott City Council Special Meeting/Study Session of February 3, 2009 (amended from previously approved on

February 24, 2009), the Study Session of February 17, 2009, and the Regular Voting Meeting of February 24, 2009.

IV. REGULAR AGENDA

- A. Public Hearing and consideration of a liquor license application from Nicholas Patrick Agar, Applicant for Mama Edda's Gourmet Pizza, for a Series 12, *Restaurant*, license for Mama Edda's Gourmet Pizza located at 221 North Cortez.
- B. Public Hearing and consideration of a liquor license application from Lawrence Angel Hernandez, Applicant for L&L Chuy Distributing, for a Series 4, *Wholesaler*, license for L&L Chuy located at 565 EZ Street Suite C-3.
- C. Public Hearing and consideration of a liquor license application from Keri Hansen, Agent/Applicant for Sweettart, LLC, for a Series 12, *Restaurant*, license for Sweettart located at 123 North Cortez Street.
- D. [Appointment of member to the Advisory & Appeals Board.](#)
- E. [Approval of an agreement with Prescott Community Access Channel.](#)
- F. [Approval of letter to Central Yavapai Metropolitan Planning Organization \(CYMPO\) regarding transit implementation.](#)
- G. Recess into Executive Session.

V. EXECUTIVE SESSION

- A. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to ARS 38-431.03(A)(7).
 - 1. Possible purchase of property in the Granite Dells area.
 - 2. Possible purchase of property in the Thumb Butte area.

VI. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall on _____ at _____ .m. in accordance with the statement filed by the Prescott City Council with the City Clerk.

Elizabeth A. Burke, City Clerk, MMC

RESOLUTION NO. 3940-0946

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AUTHORIZE THE APPLICATION FOR A DRINKING WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)

RECITALS:

WHEREAS, the City of Prescott of Yavapai County has identified a need for a water capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its water system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for, financial assistance from WIFA of an amount not to exceed \$8,998,096 for the Zone 39 Water Mains & Pump Station project; and

WHEREAS, the City of Prescott population at the time of this request is 43,329, which meets the requirement under A.R.S. 9-571.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Drinking Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 2. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$8,998,096 payable from revenues for the water system.

SECTION 3. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and

things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 10th day of March, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

RESOLUTION NO. 3941-0947

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AUTHORIZE THE APPLICATION FOR A CLEAN WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)

RECITALS:

WHEREAS, the City of Prescott of Yavapai County has identified a need for a wastewater capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its wastewater system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for, financial assistance from WIFA of an amount not to exceed \$1,027,345 for the Airport Centrifuge Project; and

WHEREAS, the City of Prescott population at the time of this request is 43,329, which meets the requirement under A.R.S. 9-571.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Clean Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 2. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$1,027,345 payable from revenues for the wastewater system.

SECTION 3. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and

things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 10th day of March, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

RESOLUTION NO. 3942-0948

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AUTHORIZE THE APPLICATION FOR A DRINKING WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)

RECITALS:

WHEREAS, the City of Prescott of Yavapai County has identified a need for a water capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its water system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for, financial assistance from WIFA of an amount not to exceed \$3,591,880 for the Airport Zone North and South Loops Water Mains project; and

WHEREAS, the City of Prescott population at the time of this request is 43,329, which meets the requirement under A.R.S. 9-571.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Drinking Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 2. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$3,591,880 payable from revenues for the water system.

SECTION 3. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and

things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 10th day of March, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

RESOLUTION NO. 3943-0949

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AUTHORIZE THE APPLICATION FOR A DRINKING WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)

RECITALS:

WHEREAS, the City of Prescott of Yavapai County has identified a need for a water capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its water system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for, financial assistance from WIFA of an amount not to exceed \$14,934,457 for the Intermediate Pump Station and Reservoirs project; and

WHEREAS, the City of Prescott population at the time of this request is 43,329, which meets the requirement under A.R.S. 9-571.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Drinking Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 2. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$14,934,457 payable from revenues for the water system.

SECTION 3. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and

things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 10th day of March, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

RESOLUTION NO. 3944-0950

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AUTHORIZE THE APPLICATION FOR A CLEAN WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)

RECITALS:

WHEREAS, the City of Prescott of Yavapai County has identified a need for a wastewater capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its wastewater system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for, financial assistance from WIFA of an amount not to exceed \$1,386,334 for the Wastewater Treatment Plants Plan and Design Projects; and

WHEREAS, the City of Prescott population at the time of this request is 43,329, which meets the requirement under A.R.S. 9-571.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Clean Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 2. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$1,386,334 payable from revenues for the wastewater system.

SECTION 3. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and

things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 10th day of March, 2009.

JACK D. WILSON, Mayor

ATTEST:

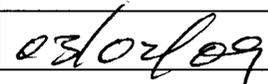
APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

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COUNCIL AGENDA MEMO – 03/10/2009	
DEPARTMENT:	City Council
AGENDA ITEM: Appointment of Member to the Advisory & Appeals Board	

Approved By:	Date:
Council Appointment Committee: Mayor Wilson, Councilwoman Suttles, Councilman Luzius	03/02/2009
Finance Director: Mark Woodfill	
City Manager: Steve Norwood 	

Item Summary

After the last appointment of members to the Advisory and Appeals Board, the City received notification that Gilbert Phelps was resigning from the Board. Since the Council Appointment Committee had just interviewed several for the prior vacancies, the Committee agreed to the appointment of Marty Goodman to fill this vacancy.

Advisory and Appeals Board

Member: Gilbert Phelps Term Expires 02/2011 General Building

The Advisory and Appeals Board was established by Ordinance No. 1650 in December of 1983, and consists of nine members to pass on matters pertaining to the Building, Electrical, Mechanical, and Plumbing Codes of the City. The Board members are required to meet specific criteria, representing the following sections: General Building (2), Electrical (2), Mechanical (2) and Plumbing (2) and serve for three-year terms.

Recommended Action: MOVE to accept the Council Appointment Committee's recommendation to appoint Marty Goodman (General Building) to the Advisory & Appeals Board, term to expire 02/2011.

**CITY OF PRESCOTT/
PRESCOTT COMMUNITY ACCESS CHANNEL
AGREEMENT**

THIS AGREEMENT is made by and between the CITY OF PRESCOTT, a municipal corporation of the State of Arizona (hereinafter referred to as "CITY"), and PRESCOTT COMMUNITY ACCESS CHANNEL, an Arizona not-for-profit corporation (hereinafter referred to as "P.C.A.C.").

WHEREAS, P.C.A.C. has been formed pursuant to Chapter 4-12 of the Prescott City Code to promote and develop community involvement in and use of cable television for public, educational, governmental purposes.

NOW, THEREFORE, in consideration of the terms and covenants herein, the parties agree as follows:

1. The term of this Agreement shall be from April 1, 2009 until March 31, 2014. The parties may, by mutual consent, extend this contract for an additional five-year period, under the same terms and conditions as contained herein.

2. In consideration of P.C.A.C. continuing to provide cable television access for public, educational, governmental and other nonprofit purposes, which the CITY hereby acknowledges are of benefit to the public, the CITY agrees to provide to P.C.A.C. the following funding:

(a) The sum of \$82,000.00 annually, payable in equal monthly installments. Payments shall be issued no later than the 10th day of the month following the month in which services were rendered.

(b) The CITY receives \$5,000.00 annually from Cable One for the purchase of hardware. The CITY will thereafter provide funds in an equivalent amount to P.C.A.C. which P.C.A.C. agrees shall be used solely for the purchase of hardware, software, equipment and facilities improvements within one (1) year of receipt of said funds for the duration of this Agreement.

(c) The CITY's obligation to pay all funds herein shall be subject to the CITY's receipt of funds from Cable One in an amount sufficient to cover the CITY's funding obligations under this Agreement.

3. P.C.A.C. hereby covenants and warrants that any and all monies received pursuant to Paragraph 2(b) above shall be expended solely for the purchase of equipment directly related to P.C.A.C. and improvements to P.C.A.C. facilities.

4. With respect to any equipment purchased by P.C.A.C. with funds received pursuant to section 2(b), P.C.A.C. further agrees:

(a) Not to dispose of, sell, convey or otherwise transfer any such property or equipment without the consent of the City Manager.

(b) That in the event that P.C.A.C. dissolves, liquidates, ceases operations, or fails to remain the designated provider of an access channel in accordance with PCC Chapter 4-12, that all equipment and other assets purchased by P.C.A.C. with funds received pursuant to section 2(b) shall revert to and become the property of the CITY.

5. That P.C.A.C. shall provide monthly financial reports as approved by the P.C.A.C. Board of Directors to the City Manager during the term of this Agreement; and further that said financial reports shall separately identify the specific expenditures of

monies received pursuant to this Agreement including those funds received pursuant to section 2(b).

6. P.C.A.C. shall provide copies of its approved annual budget to the City Manager at the time of its adoption.

7. P.C.A.C. shall provide an annual report to the City Manager that outlines P.C.A.C. activities for the previous year, including but not limited to membership status, number of new and existing programs produced and cablecast, community participation in programming, fundraising activity and goals and objectives for the coming year.

8. A CITY representative appointed by the Mayor or his designee shall serve as a liaison to the Prescott Community Access Channel Board of Directors.

9. While the CITY continues to cablecast on Channel 13, P.C.A.C. shall allow the CITY to have access to the Community Access Channel at no charge or cost to the CITY. Said access shall consist of not less than 56 programming hours per week, including not less than 14 of the prime-time programming hours, i.e. 5 p.m. through 12 a.m. per week. The P.C.A.C. Station Manager shall work with the CITY to develop a government programming schedule that reflects the potential for exceptionally long meetings to prevent the preemption of non-government programs. On the rare occasions when total programming and/or primetime programming exceed the contract limits and non-government programming is preempted, the CITY shall work with P.C.A.C. to adjust subsequent weeks' programming schedules to make additional time available for preempted, non-government programming.

10. That in further consideration of this Agreement and unless other arrangements are made in advance between the City of Prescott Communications

Director and P.C.A.C., P.C.A.C. shall provide the necessary personnel to produce live broadcasts of all regularly scheduled City Council study and voting sessions, Board of Adjustment meetings, Planning and Zoning Commission meetings and Prescott Preservation Commission meetings. P.C.A.C. may also be asked to produce live broadcasts of Council and Commission workshops and intermittent special public meetings and community programs and CITY sponsored Special Events with a minimum of 48 hours advanced notice, 24 hours under special circumstances.

11. That in further consideration of this Agreement, P.C.A.C. shall cablecast during prime-time hours all programming described in Section 10 above at times to be determined by mutual agreement of the CITY and P.C.A.C.

12. That P.C.A.C. shall dedicate 15 notice (Video Bulletin Board) pages for City of Prescott public communication purposes to cablecast on the video bulletin board. Video Bulletin Board notices of special events, City of Prescott meetings or other announcements shall be posted within one (1) business day of receipt of said notices.

13. P.C.A.C. shall:

(a) Upon request by the CITY, provide the CITY with up to 10 (ten) total copies (dubs) per month of videotaped meetings and other CITY-produced or sponsored programs at no cost to the CITY.

(b) Continue work toward the goal of developing, recruiting and maintaining an audio/visual volunteer and/or student internship program to aid P.C.A.C. personnel in meeting the contract obligations to the CITY.

(c) Provide City of Prescott staff, P.C.A.C. volunteers and/or student interns with video production training and technical assistance as needed to aid P.C.A.C. personnel in meeting the channel's contract obligations to the CITY.

(d) Make P.C.A.C.'s personnel available 24 hours a day to assist with emergency communications in the event of flood, fire or other natural or manmade disasters.

(e) Train City of Prescott Communications staff to assist with emergency broadcasts.

(f) Work with Cable One and CITY toward the development and implementation of an emergency communications protocol.

(g) Subject to availability, make any and all of its video production equipment available to the CITY at no cost; provided, however, that the CITY provide P.C.A.C. with a minimum of forty-eight (48) hours notice of equipment needs and in accordance with P.C.A.C. rules and procedures.

(h) P.C.A.C. shall coordinate with Cable One to broadcast "government only" programming via Channel 15. The completion date shall be no later than ninety calendar days following the execution of this Agreement. Content shall consist of those programs identified in Section 10 and CITY produced programming. CITY may request assistance from P.C.A.C. to produce content for Channel 15 with advance, written notice. Additional content may include: public service announcements, video billboards, and CITY news and features. CITY reserves the right to continue running video billboards, CITY promotions, and select programming on Channel 13.

14. P.C.A.C. will include a disclaimer pertaining to any underwriting on Channel 15, mutually agreed upon by the City Manager or his designee, that will be cablecast at the beginning and the end of CITY government programs that carry underwriting in order to prevent any public misperception that such ads are governmentally endorsed, sponsored or approved.

15. To maximize the security of the remote video studio within Prescott City Hall, P.C.A.C. agrees to comply with security procedures as follows:

(a) P.C.A.C. will provide the Prescott Communications Director a list of all P.C.A.C. staff and volunteers authorized to operate the remote video studio and produce City Council and other public meetings in the studio.

(b) P.C.A.C. staff members and/or volunteers assigned by P.C.A.C. to produce a public meeting from the remote video studio within City Hall will, on the day of the meeting assignment, request a studio key either from the City Hall reception desk, from the Communications Director or a City Manager's office staff member. The key will be given to the P.C.A.C. staff member/volunteer provided that his or her name appears on the staff list provided by P.C.A.C. and further provided that he or she displays proper identification, i.e., a driver's license or CITY volunteer badge. The key holder is required to return the key the same day and before leaving the City Hall building.

16. To ensure sufficient, trained personnel to operate the remote video studio within City Hall, P.C.A.C. agrees to conduct training sessions with its own staff and volunteers and with City of Prescott staff and volunteers. P.C.A.C. will work with the CITY in the scheduling of those training sessions.

17. P.C.A.C. may continue to occupy allocated CITY space in the Prescott Activity Center at no cost to P.C.A.C. during the term of this Agreement.

18. That P.C.A.C., its Board, employees and agents shall strictly conform to all duly adopted bylaws of the Corporation.

19. P.C.A.C., with regard to its operations of a Community Access Channel, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the provision of services or charging of fees. P.C.A.C. will not participate either directly or indirectly in discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, or Executive Order 994. Notwithstanding this section, P.C.A.C. shall be allowed to charge additional rates or fees for services to residents or entities not within the Prescott Cable Television Franchise Area.

20. P.C.A.C. hereby agrees to provide any and all information to the CITY to resolve any complaints received by the CITY regarding the Community Access Channel within ten days of receiving notice from the CITY of said complaint, except where P.C.A.C. has a policy or obligation to not release information. Nothing in such policy or obligation is intended to affect records of the City of Prescott which are public records and the CITY will provide such public records to the public in accordance with applicable laws. P.C.A.C. shall further attempt to resolve any such complaint, and in any event shall contact the complainant within twenty (20) days in an attempt to resolve such complaint.

21. Notwithstanding the foregoing, this Agreement may be terminated by the CITY upon sixty (60) days written notice, with or without cause. It may also be terminated by the CITY in the event that budget funding for the CITY's payments hereunder is not approved by the Prescott City Council.

22. Pursuant to A.R.S. 38-511, the CITY may cancel this contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the CITY is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. In the foregoing event, the CITY may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this contract on behalf of the CITY from any other party to the contract, arising as a result of this contract.

23. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to binding arbitration.

24. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys' fees, either pursuant to the Contract, pursuant to A.R.S. Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.

25. It is expressly agreed and understood by and between the parties that P.C.A.C. is an independent contractor, and as such P.C.A.C., its employees, officers,

agents and assigns shall not become CITY employees, and are not entitled to payment or compensation from the CITY or to any fringe benefits to which other CITY employees are entitled. As an independent contractor, P.C.A.C. further acknowledges that it is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent contractor, P.C.A.C. further agrees that it will conduct itself in a manner consistent with such status, and that it, its officers, employees, agents or assignees will neither hold itself or themselves out, nor claim to be officers or employees of the CITY by reason thereof, and that it will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the CITY, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

26. This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

27. This Agreement shall be construed under the laws of the State of Arizona.

28. This Agreement represents the entire and integrated Agreement between the CITY and P.C.A.C. and supersedes all prior negotiations, representations, or Agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CITY and P.C.A.C. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent

provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary. In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

29. P.C.A.C. hereby agrees to save and hold harmless the CITY, or any of its departments, agencies, officers or employees whatsoever, from any and all claims, liabilities, expenses or lawsuits as a result of the CITY's participation pursuant to this Agreement, which are caused by the negligent acts or omissions, willful or intentional misconduct of the P.C.A.C., or its officers, employees, agents or assigns. The CITY hereby agrees to save and hold harmless P.C.A.C., or any of its departments, agencies, officers or employees whatsoever, from any and all claims, liabilities, expenses or lawsuits as a result of P.C.A.C.'s participation pursuant to this Agreement which are caused by the negligent acts or omissions, willful or intentional misconduct of the CITY, or its officers, employees, agents or assigns. The costs incurred by either party, any of its departments, agencies, employees or assigns, include but are not limited to actual punitive damages, special or consequential damages, and any and all expenses of litigation, except for any such claims that arise or relate to this Agreement pursuant to contractual issues between the parties, which shall be governed by the provisions of Section 23 and the other terms of this Agreement.

30. No oral order, objection, claim, or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver, or modifications shall be introduced in any proceeding.

31. The Contractor understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Contractor must also comply with A.R.S. §34-301, "Employment of Aliens on Public Works Prohibited," and A.R.S. §34-302, as amended, "Residence Requirements for Employees."

Under the provisions of A.R.S. §41-4401, Contractor hereby warrants to the CITY that the Contractor and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with all Federal Immigration laws and regulations that relate to their employees and A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the CITY.

The CITY retains the legal right to inspect the papers of any Contractor or Subcontractor's employee who works on this Contract to ensure that the Contractor or

Subcontractor is complying with the Contractor Immigration Warranty. Contractor agrees to assist the CITY in regard to any such inspections.

The CITY may, at its sole discretion, conduct random verification of the employment records of the Contractor and any of its Subcontractors to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the CITY in regard to any random verification performed.

Neither the Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214 Subsection A.

The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott this ____ day of _____, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Prescott
Community Access Channel this ____ day of _____, 2009.

CHAIRMAN OF THE BOARD

ATTEST:

Secretary of the Board

CITY OF PRESCOTT
PRESCOTT COMMUNITY ACCESS CHANNEL
AGREEMENT

THIS AGREEMENT is made by and between the CITY OF PRESCOTT, a municipal corporation of the State of Arizona (hereinafter referred to as "CITY"), and PRESCOTT COMMUNITY ACCESS CHANNEL, an Arizona not-for-profit corporation (hereinafter referred to as "P.C.A.C.").

WHEREAS, P.C.A.C. has been formed pursuant to Chapter 4-12 of the Prescott City Code to promote and develop community involvement in and use of cable television for public, educational, governmental purposes.

NOW, THEREFORE, in consideration of the terms and covenants herein, the parties agree as follows:

1. The term of this Agreement shall be from April 1, 2009 until March 31, 2014. The parties may, by mutual consent, extend this contract for an additional five-year period, under the same terms and conditions as contained herein.

2. In consideration of P.C.A.C. continuing to provide cable television access for public, educational, governmental and other nonprofit purposes, which the CITY hereby acknowledges are of benefit to the public, the CITY agrees to provide to P.C.A.C. the following funding:

(a) The CITY will pay 25% of the Cable One fees it receives for Public Access Broadcasting to P.C.A.C., not to exceed the sum of \$82,000.00 annually. In the event the 25% amount is less than \$82,000.00, the CITY's annual fee for

each such year shall be such lesser sum. Payments shall be issued no later than the 10th of the month following the month in which services were rendered.

(b) The CITY receives \$5,000.00 annually from Cable One for the purchase of hardware. The CITY will thereafter provide funds in an equivalent amount to P.C.A.C. which P.C.A.C. agrees shall be used solely for the purchase of hardware, software, equipment and facilities improvements within one (1) year of receipt of said funds for the duration of this Agreement.

(c) The CITY's obligation to pay all funds herein shall be subject to the CITY's receipt of funds from Cable One in an amount sufficient to cover the CITY's funding obligations under this Agreement.

3. P.C.A.C. hereby covenants and warrants that any and all monies received pursuant to Paragraph 2(b) above shall be expended solely for the purchase of equipment directly related to P.C.A.C. and improvements to P.C.A.C. facilities.

4. With respect to any equipment purchased by P.C.A.C. with funds received pursuant to section 2(b), P.C.A.C. further agrees:

(a) Not to dispose of, sell, convey or otherwise transfer any such property or equipment without the consent of the City Manager.

(b) That in the event that P.C.A.C. dissolves, liquidates, ceases operations, or fails to remain the designated provider of an access channel in accordance with PCC Chapter 4-12, that all equipment and other assets purchased by P.C.A.C. with funds received pursuant to section 2(b) shall revert to and become the property of the CITY.

5. That P.C.A.C. shall provide monthly financial reports as approved by the P.C.A.C. Board of Directors to the City Manager during the term of this Agreement; and further that said financial reports shall separately identify the specific expenditures of monies received pursuant to this Agreement including those funds received pursuant to section 2(b).

6. P.C.A.C. shall provide copies of its approved annual budget to the City Manager at the time of its adoption.

7. P.C.A.C. shall provide an annual report to the City Manager that outlines P.C.A.C. activities for the previous year, including but not limited to membership status, number of new and existing programs produced and cablecast, community participation in programming, fundraising activity and goals and objectives for the coming year.

8. A CITY representative appointed by the Mayor or his designee shall serve as a liaison to the Prescott Community Access Channel Board of Directors.

9. While the CITY continues to cablecast on Channel 13, P.C.A.C. shall allow the CITY to have access to the Community Access Channel at no charge or cost to the CITY. Said access shall consist of not less than 56 programming hours per week, including not less than 14 of the prime-time programming hours, i.e. 5 p.m. through 12 a.m. per week. The P.C.A.C. Station Manager shall work with the CITY to develop a government programming schedule that reflects the potential for exceptionally long meetings to prevent the preemption of non-government programs. On the rare occasions when total programming and/or primetime programming exceed the contract limits and non-government programming is preempted, the CITY shall work

with P.C.A.C. to adjust subsequent weeks' programming schedules to make additional time available for preempted, non-government programming.

10. That in further consideration of this Agreement and unless other arrangements are made in advance between the City of Prescott Communications Director and P.C.A.C., P.C.A.C. shall provide the necessary personnel to produce live broadcasts of all regularly scheduled City Council study and voting sessions, Board of Adjustment meetings, Planning and Zoning Commission meetings and Prescott Preservation Commission meetings. P.C.A.C. may also be asked to produce live broadcasts of Council and Commission workshops and intermittent special public meetings and community programs and CITY sponsored Special Events with a minimum of 48 hours advanced notice, 24 hours under special circumstances.

11. That in further consideration of this Agreement, P.C.A.C. shall cablecast during prime-time hours all programming described in Section 10 above at times to be determined by mutual agreement of the CITY and P.C.A.C.

12. That P.C.A.C. shall dedicate 15 notice (Video Bulletin Board) pages for City of Prescott public communication purposes to cablecast on the video bulletin board. Video Bulletin Board notices of special events, City of Prescott meetings or other announcements shall be posted within one (1) business day of receipt of said notices.

13. P.C.A.C. shall:

(a) Upon request by the CITY, provide the CITY with up to 10 (ten) total copies (dubs) per month of videotaped meetings and other CITY-produced or sponsored programs at no cost to the CITY.

(b) Continue work toward the goal of developing, recruiting and maintaining an audio/visual volunteer and/or student internship program to aid P.C.A.C. personnel in meeting the contract obligations to the CITY.

(c) Provide City of Prescott staff, P.C.A.C. volunteers and/or student interns with video production training and technical assistance as needed to aid P.C.A.C. personnel in meeting the channel's contract obligations to the CITY.

(d) Make P.C.A.C.'s personnel available 24 hours a day to assist with emergency communications in the event of flood, fire or other natural or manmade disasters.

(e) Train City of Prescott Communications staff to assist with emergency broadcasts.

(f) Work with Cable One and CITY toward the development and implementation of an emergency communications protocol.

(g) Subject to availability, make any and all of its video production equipment available to the CITY at no cost; provided, however, that the CITY provide P.C.A.C. with a minimum of forty-eight (48) hours notice of equipment needs and in accordance with P.C.A.C. rules and procedures.

(h) P.C.A.C. shall coordinate with Cable One to broadcast "government only" programming via Channel 15. The completion date shall be no later than ninety calendar days following the execution of this Agreement. Content shall consist of those programs identified in Section 10 and CITY produced programming. CITY may request assistance from P.C.A.C. to produce content for Channel 15 with advance, written notice. Additional content may include:

public service announcements, video billboards, and CITY news and features. CITY reserves the right to continue running video billboards, CITY promotions, and select programming on Channel 13.

14. P.C.A.C. will include a disclaimer pertaining to any underwriting on Channel 15, mutually agreed upon by the City Manager or his designee, that will be cablecast at the beginning and the end of CITY government programs that carry underwriting in order to prevent any public misperception that such ads are governmentally endorsed, sponsored or approved.

15. To maximize the security of the remote video studio within Prescott City Hall, P.C.A.C. agrees to comply with security procedures as follows:

(a) P.C.A.C will provide the Prescott Communications Director a list of all P.C.A.C. staff and volunteers authorized to operate the remote video studio and produce City Council and other public meetings in the studio.

(b) P.C.A.C. staff members and/or volunteers assigned by P.C.A.C. to produce a public meeting from the remote video studio within City Hall will, on the day of the meeting assignment, request a studio key either from the City Hall reception desk, from the Communications Director or a City Manager's office staff member. The key will be given to the P.C.A.C. staff member/volunteer provided that his or her name appears on the staff list provided by P.C.A.C. and further provided that he or she displays proper identification, i.e., a driver's license or CITY volunteer badge. The key holder is required to return the key the same day and before leaving the City Hall building.

16. To ensure sufficient, trained personnel to operate the remote video studio within City Hall, P.C.A.C. agrees to conduct training sessions with its own staff and volunteers and with City of Prescott staff and volunteers. P.C.A.C. will work with the CITY in the scheduling of those training sessions.

17. P.C.A.C. may continue to occupy allocated CITY space in the Prescott Activity Center at no cost to P.C.A.C. during the term of this Agreement.

18. That P.C.A.C., its Board, employees and agents shall strictly conform to all duly adopted bylaws of the Corporation.

19. P.C.A.C., with regard to its operations of a Community Access Channel, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the provision of services or charging of fees. P.C.A.C. will not participate either directly or indirectly in discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, or Executive Order 994. Notwithstanding this section, P.C.A.C. shall be allowed to charge additional rates or fees for services to residents or entities not within the Prescott Cable Television Franchise Area.

20. P.C.A.C. hereby agrees to provide any and all information to the CITY to resolve any complaints received by the CITY regarding the Community Access Channel within ten days of receiving notice from the CITY of said complaint, except where P.C.A.C. has a policy or obligation to not release information. Nothing in such policy or obligation is intended to affect records of the City of Prescott which are public records and the CITY will provide such public records to the public in accordance with

applicable laws. P.C.A.C. shall further attempt to resolve any such complaint, and in any event shall contact the complainant within twenty (20) days in an attempt to resolve such complaint.

21. Notwithstanding the foregoing, this Agreement may be terminated by the CITY upon sixty (60) days written notice, with or without cause. It may also be terminated by the CITY in the event that budget funding for the CITY's payments hereunder is not approved by the Prescott City Council.

22. Pursuant to A.R.S. 38-511, the CITY may cancel this contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the CITY is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. In the foregoing event, the CITY may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this contract on behalf of the CITY from any other party to the contract, arising as a result of this contract.

23. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to binding arbitration.

24. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of

attorneys' fees, either pursuant to the Contract, pursuant to A.R.S. Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.

25. It is expressly agreed and understood by and between the parties that P.C.A.C. is an independent contractor, and as such P.C.A.C., its employees, officers, agents and assigns shall not become CITY employees, and are not entitled to payment or compensation from the CITY or to any fringe benefits to which other CITY employees are entitled. As an independent contractor, P.C.A.C. further acknowledges that it is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent contractor, P.C.A.C. further agrees that it will conduct itself in a manner consistent with such status, and that it, its officers, employees, agents or assignees will neither hold itself or themselves out, nor claim to be officers or employees of the CITY by reason thereof, and that it will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the CITY, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

26. This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

27. This Agreement shall be construed under the laws of the State of Arizona.

28. This Agreement represents the entire and integrated Agreement between the CITY and P.C.A.C. and supersedes all prior negotiations, representations, or Agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CITY and P.C.A.C. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary. In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

29. P.C.A.C. hereby agrees to save and hold harmless the CITY, or any of its departments, agencies, officers or employees whatsoever, from any and all claims, liabilities, expenses or lawsuits as a result of the CITY's participation pursuant to this Agreement, which are caused by the negligent acts or omissions, willful or intentional misconduct of the P.C.A.C., or its officers, employees, agents or assigns. The CITY hereby agrees to save and hold harmless P.C.A.C., or any of its departments, agencies, officers or employees whatsoever, from any and all claims, liabilities, expenses or lawsuits as a result of P.C.A.C.'s participation pursuant to this Agreement which are caused by the negligent acts or omissions, willful or intentional misconduct of the CITY, or its officers, employees, agents or assigns. The costs incurred by either party, any of its departments, agencies, employees or assigns, include but are not limited to actual

punitive damages, special or consequential damages, and any and all expenses of litigation, except for any such claims that arise or relate to this Agreement pursuant to contractual issues between the parties, which shall be governed by the provisions of Section 23 and the other terms of this Agreement.

30. No oral order, objection, claim, or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver, or modifications shall be introduced in any proceeding.

31. The Contractor understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Contractor must also comply with A.R.S. §34-301, "Employment of Aliens on Public Works Prohibited," and A.R.S. §34-302, as amended, "Residence Requirements for Employees."

Under the provisions of A.R.S. §41-4401, Contractor hereby warrants to the CITY that the Contractor and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with all Federal Immigration laws and regulations that relate to their employees and A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the CITY.

The CITY retains the legal right to inspect the papers of any Contractor or Subcontractor's employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. Contractor agrees to assist the CITY in regard to any such inspections.

The CITY may, at its sole discretion, conduct random verification of the employment records of the Contractor and any of its Subcontractors to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the CITY in regard to any random verification performed.

Neither the Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214 Subsection A.

The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of
Prescott this ____ day of _____, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Prescott
Community Access Channel this ____ day of _____, 2009.

CHAIRMAN OF THE BOARD

ATTEST:

Secretary of the Board

CITY OF PRESCOTT
P.O. Box 2059
Prescott, AZ 86302
928-777-1270



Councilman Bob Bell
Councilman Jim Lamerson
Councilwoman Lora Lopas
Councilman Bob Luzius
Councilman Bob Roecker
Councilwoman Mary Ann Suttles

Mayor Jack Wilson

March 10, 2009

Mike Flannery, Chairman
Central Yavapai Metropolitan Planning Organization
7501 E. Civic Circle
Prescott Valley, Arizona 86314

Re: CYMPO Transit Implementation Preferences Survey

Dear Chairman Flannery and the CYMPO Executive Board:

At your meeting of January 28, 2009, the CYMPO Executive Board accepted the "Transit Implementation Plan" (Transit Plus, October 2008), and directed that a survey be forwarded to the CYMPO entities which had expressed an interest in cooperatively developing regional public transit services. This letter, approved by the City Council March 10, 2009, provides Prescott's response to the survey.

In summary, the City of Prescott supports:

- A regional approach to developing transit services within the CYMPO area
- Implementation of the Enhanced Voucher Program (Alternative #1) at this time, the important first step toward eventual fixed/flex route and paratransit services
- Securing a new funding source as a prerequisite for implementing any other new or enhanced service which would increase the local (nonfederal) cost
- Constraining the Enhanced Voucher Program by state LTAF II distributions; the City cannot commit to make up LTAF II funding if there is no state distribution
- Pursuit of legislation by CYMPO in the next session for changes to existing statutes, as necessary, to provide access to the Metropolitan Public Transit Authority (MPTA) model of transit governance for our region
- Creation and filling of a CYMPO Transit Administrator position when both a new funding source and MPTA enabling legislation are realized.

The City presently has no funding to support expansion of public transportation services. Unfortunately, during this time of extreme pressure on the City's finances and corresponding ability to provide core services, and with no firm indication of when more favorable economic circumstances may exist, any commitment of significant money required to fund a new function will necessitate a corresponding reduction in existing programs and/or services. Accordingly, we suggest that the region move toward expanding public transportation very deliberately, to assure that it is affordable and enjoys the clear support of our citizens.

Sincerely,

Jack D. Wilson
Mayor