

PRESCOTT CITY COUNCIL
***JOINT STUDY SESSION/**
SPECIAL MEETING AGENDA
***AMENDED**

PRESCOTT CITY COUNCIL
STUDY SESSION
TUESDAY, FEBRUARY 2, 2010
3:00 P.M.

Council Chambers
201 South Cortez Street
Prescott, Arizona 86303
(928) 777-1100

The following Agenda will be considered by the Prescott City Council at its **Joint Study Session/Special 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 Wil Ryland, Church of Nazarene
- ◆ **PLEDGE OF ALLEGIANCE:** Special Needs Activity Program (SNAP) Signers
- ◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

Mayor Kuykendall	
Councilman Blair	Councilwoman Linn
Councilman Hanna	Councilwoman Lopas
Councilman Lamerson	Councilwoman Suttles

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

***STUDY SESSION**

I. PRESENTATIONS

- A. Performance by members of the Special Needs Activity Program SNAP signers.
- B. [Presentation and discussion of the City Pavement Management System, the Annual City Streets Program Report, and Capital Improvement Program Priority Projects.](#)

II. **DISCUSSION ITEMS**

- A. Adoption of Ordinance No. 4723-1020 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona renewing a lease for a portion of City-owned property known as the Rowle P. Simmons Community Center with the Adult Center of Prescott, Inc.
- B. Approval of contract with Commercial Glass Company in an amount not to exceed \$40,040.22 for window, door and glass replacement through a Energy Efficiency Conservation Block Grant (EECGB).
- C. Adoption of Resolution No. 4004-1034 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott Fire Department to enter into a Base Hospital Agreement with the Yavapai Regional Medical Center for medical control, direction and paramedic level care (Advanced Life Support) and a Business Associate Agreement as an amendment thereto and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- D. Award of funding, in the amount of \$50,231.10, not including tax and shipping, to Telewave, Inc., for 3 Channel VHF Combiners and 3 Channel VHF RX Distribution Systems for the Indian Hill, Mingus Tank, Northwest Tank and Yavapai Hills Communications sites.
- E. Adoption of Resolution No. 4002-1032 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, declaring, for purposes of Section 1.150-2 of the Federal Treasury Regulations, official intent to be reimbursed in connection with certain capital expenditures relating to the “Water System Fund – Distribution System Program,” and “Wastewater System Fund – Collection System Program.”
- F. Adoption of Resolution No. 4003-1033 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, adopting a Council policy regarding contracts with the City by public officers and employees of the City.
- G. Notice of Public Hearing (February 9, 2010) and consideration of liquor license application submitted by Aaron David Meisheid, applicant for M & A Restaurants LLC, for a new Series 12, Restaurant, license for Firehouse Kitchen located at 220 West Goodwin Street, Suite 101.
- H. Approval of the Minutes of the Prescott City Council Workshop of January 19, 2010; the Study Session of January 19, 2010; the Workshop of January 26, 2010; the Regular Voting Meeting of January 26, 2010, and the Study Session of February 2, 2010.

- I. Selection of items for placement on the agenda of the Regular Voting Meeting of February 9, 2010.

III. ADJOURNMENT

***SPECIAL MEETING**

1. **Call to Order**
2. **Recess into Executive Session**
3. **EXECUTIVE SESSION**
 - A. **Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to A.R.S. §38-431.03(A)(4).**
 1. **Salt River Valley Water Users' Association vs. City of Prescott**
4. **Adjournment**

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing **AMENDED** 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, MMC, City Clerk

COUNCIL AGENDA MEMO – 02/02/2010
DEPARTMENT: Public Works
AGENDA ITEM: Presentation and discussion of the City Pavement Management System, the Annual City Streets Program Report, and Capital Improvement Program Priority Projects.

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>SNorwood</i>	<i>01/28/10</i>

Item Summary

This item is to present for Council discussion the City Pavement Management System and the Annual City Streets Program Report which pertains to Fiscal Years 2009 and 2010. The three principal areas of the Streets Program are: 1) recurring operations and maintenance; 2) pavement preservation, rehabilitation, and street reconstruction; and 3) creation of new capacity. The report provides a summary of specific projects accomplished, budget, and financial resources required for each. The report also identifies current FY 10 projects in progress along with the respective budgets.

A list of significant street reconstruction projects, for which design has been completed, is provided (attached) in advance of the City's upcoming annual planning session scheduled next week and in preparation for the FY 11 budget process. Several street segments are identified with current construction cost estimates. The list provides a basis for discussion and Council's consideration in determining the near and long term program direction.

A discussion of the Streets Program including: projected revenues over the next five years, One Cent Sales Tax Fund obligations, financing options for reconstruction projects, recommended increase in maintenance and rehabilitation of existing streets, and other program elements, will be beneficial in program planning.

- Attachments**
- Streets Program Annual Report FY 09 & FY 10
 - Street CIP Priority Projects

Recommended Action: No Action required; presentation and Council discussion only



Memorandum

TO: The Honorable Mayor and City Council
THRU: Steve Norwood, City Manager
FROM: Mark Nietupski, Public Works Director
Chad McDowell, Field Operations Director
DATE: January 6, 2010
SUBJECT: STREETS PROGRAM ANNUAL REPORT – FY 09 & 10

In partnership Field Operations and Public Works staff worked together effectively to solve problems and provide services which improved the City's transportation system completing several street improvement projects and providing maintenance activities during Fiscal Year 2009 to the benefit of the community.

One example of a successful project involved the reduction of dust on several unpaved City streets. The project approach utilized recycled asphalt millings prepared, graded, and compacted in place and then topped with a chip seal coat. This application forms a "dust suppression membrane" at a relatively low cost. While not a permanent solution, this treatment alternative is expected to provide five or more years of interim benefit resulting in improved roadway surfaces and air quality for residents along with the elimination of repetitive roadway grading for the treated streets.

The following is an accounting of the Fiscal Year 2009 Streets Program as well as projected financial target outcomes for Fiscal Year 2010 presented in three principal areas: 1) operations and maintenance; 2) pavement preservation, rehabilitation, and reconstruction of existing streets; and 3) the creation of new capacity.

1) OPERATIONS AND MAINTENANCE

Field Operations, Streets Division maintains approximately 508 lane-miles of paved streets and 15 lane miles of unpaved roads and alleys. The following recurring maintenance activities were performed during FY 09 including: pavement patching, application of rubberized crack sealant, signage installation / repair, concrete curb, gutter and sidewalk replacement, street sweeping, snow removal, brush control, grading unpaved roads, drainage and traffic signal maintenance. In support of those activities the City received \$2,207,143 from HURF revenues in FY09 and expended approximately 90.2% of those funds. Additionally the Streets Operations Division received \$595,000 from the One-cent Sales Tax for Streets and Open Space and expended approximately 100.3% of those funds. A summary of those revenues and expenditures are presented below.

FY09 Streets Operations & Maintenance Expenditures

	HURF Fund FY09		1-Cent Fund FY09	
	Budgeted	Expended	Budgeted	Expended
Personnel	\$1,833,143	\$1,629,073	N/A	N/A
Equipment	\$219,000	\$214,774	\$275,000	\$287,446 ¹
Materials	\$155,000	\$146,788	\$320,000	\$309,045
TOTAL	\$2,207,143	\$1,990,635²	\$595,000	\$596,491³

¹ Internal Repair Order (Vehicle Maintenance)

² Expended 90.2% of budgeted HURF Funds

³ Expended 100.3% of budgeted 1-Cent Funds

2) PAVEMENT PRESERVATION, REHABILITATION, AND RECONSTRUCTION

Projects of this type are funded by the One Cent Sales Tax for Streets and Open Space; whereas, in the past pavement preservation and reconstruction was funded by HURF. A summary of FY09 program is presented below. The total FY 09 budget for the listed projects is in the amount of \$13,733,292.00. The total FY 09 expenditure for the listed projects is in the amount of \$9,284,454.72.

PAVEMENT PRESERVATION

- Asphalt Rubber Asphalt Concrete Friction Course (ARACFC) on Willow Creek Road - Mitchell Road to Willow Lake Road and on Ruth Street - Whipple Street to Whetstine Avenue; construction was completed in FY09.
 - Budgeted FY09: \$1,834,000.00
 - Spent FY09: \$1,567,086.60
- Annual Chip Seal Program on residential streets in airport/Antelope Hills area, the Cliff Rose area, North Central area, Senator Highway, and various streets citywide in need of pavement preservation construction was completed in FY09
 - Budgeted FY09: \$1,014,495.90
 - Spent FY09: \$ 978,435.19

PAVEMENT REHABILITATION

- No projects

STREET RECONSTRUCTION

- Copper Basin Road - Sheriff's Posse Trail to White Spar Road construction was substantially completed in June 2009.
 - Budgeted FY09: \$4,141,259.00
 - Spent FY09: \$4,148,276.74
- Iron Springs Road - Gail Gardner Way to Williamson Valley Road; construction was completed in FY 09.
 - Budgeted FY09: \$150,000.00
 - Spent FY09: \$282,367.81

UNPAVED STREETS

- Twenty-six unpaved street segments (approximately 4 lane-miles) were improved with a dust suppression membrane consisting of compacted recycled asphalt millings with a chip seal coat providing the final surface treatment. This program was implemented city-wide to provide an interim dust mitigation solution.
 - Budgeted FY09: \$ 80,000.00
 - Spent FY09: \$126,676.75

- Campbell Street Improvements - Hillside Avenue to Home Street, a federally funded project through the US Department of Housing and Urban Development. Construction was completed in FY09.
 - Budgeted FY09: \$189,205.00
 - Spent FY09: \$110,345.00

SIDEWALK EXTENSIONS

- McCormick Street Sidewalk Extension - Goodwin Street to the Pioneer Home; construction was completed in FY09.
 - Budgeted FY09: \$110,000.00
 - Spent FY09: \$122,028.36

TRAFFIC CALMING

- Rosser Street Traffic Calming - Eagle Cliff Drive to Eagle View Drive; construction was completed in FY09.
 - Budgeted FY09: \$73,335.00
 - Spent FY09: \$65,197.00

PROJECT ENGINEERING

- Demerse Avenue Reconstruction - Whetstine Avenue to Montebello Lane; engineering was completed FY09.
 - Budgeted FY09: \$2,743,454.00
 - Spent FY09: \$ 127,719.01

- Rosser Street Reconstruction, Phase II - Tatum Place to SR 89; engineering was completed FY09.
 - Budgeted FY09: \$1,015,000.00
 - Spent FY09: \$ 144,090.97

- Senator Highway Reconstruction - Mt. Vernon Street to Nathan Lane; engineering was completed FY09.
 - Budgeted FY09: \$94,484.00
 - Spent FY09: \$83,579.84

- Unpaved Streets - Idylwild Road from Thumb Butte Road to Lindbergh Drive; Lindbergh Drive from Idylwild Road to Oregon Avenue; and Ring Drive from Idylwild Road to the end of Ring Drive; engineering was completed FY09.
 - Budgeted FY09: \$278,060.75
 - Spent FY09: \$268,207.65

- Yavapai Hills Pavement Rehabilitation - Sunrise Boulevard from Bear Way to Oregon Court; engineering was completed FY09.
 - Budgeted FY09: \$890,000.00
 - Spent FY09: \$ 6,128.56

- Granite Dells Parkway/SR89A Traffic Interchange - engineering was completed in FY09.
 - Budgeted FY09: \$1,120,000.00
 - Spent FY09: \$1,253,578.24

- Brush Street, Road and Utility Upgrades - Gurley Street to the end of Brush Street; engineering was completed FY09.
 - Budgeted FY09: \$0
 - Spent FY09: \$737.00

3) NEW CAPACITY

1.2 lane-miles were added to Iron Springs Road with the addition of the two-way center turn-lane completed in FY09. Proportionate cost of project for new capacity \$3,031,975.00 (Expense is FY 08)

FY10 PROGRAM PROJECTIONS

1) OPERATIONS AND MAINTENANCE

FY10 Streets Operations & Maintenance Expenditures

	HURF Fund FY10	1-Cent Fund FY10
	Budgeted	Budgeted
Personnel	\$1,662,234	N/A
Equipment	\$228,000	\$275,000
Materials	\$161,000	\$245,000
TOTAL	\$2,051,234	\$520,000

2) PAVEMENT PRESERVATION, REHABILITATION, AND RECONSTRUCTION

The total pavement preservation, rehabilitation, and reconstruction budget for FY10 is \$4,333,285.00 and includes the following projects:

PAVEMENT PRESERVATION

- Pavement Preservation (Rubber Chip & ARACFC) Various streets in the Ranch and Yavapai Hills
 - Budgeted FY10: \$1,209,831.00

PAVEMENT RECONSTRUCTION

- Country Club Drive Reconstruction - Park Avenue to Vista Lane, with pavement overlay to Verde Lane
 - Budgeted FY10: \$ 250,000.00
- Demerse Street - Whetstine Avenue to Montebello Lane
 - Budgeted FY10: \$2,873,454.00

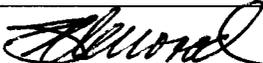
3) NEW CAPACITY / INTERSECTION IMPROVEMENTS

- The Granite Dells Parkway/SR89A Traffic Interchange will add approximately 1.71 lane miles of new City roadway including the extension of Centerpointe East Drive.
 - Budgeted FY 10: \$13,599,096.00
- The Prescott Lakes Parkway roundabout will provide an intersection improvement to facilitate access to the Yavapai County Justice Center to the southwest and the Sundog Connector to the northeast. Yavapai County is scheduled to begin construction of this project in Spring 2010. The City contribution to the project, which is one-half the cost, is planned in FY 11. .20 lane miles will be added to the City street system as a result of this project. The estimated City share of costs is \$1,000,000.00

**City of Prescott
Street Program Priority Projects**

Project	Street Estimated Cost	Utilities Estimated Cost
Rosser Street	1,759,344.00	2,139,100.00
Williamson Valley	7,370,215.00	1,500,000.00
South Mt. Vernon	1,847,935.00	920,000.00
Park Avenue	2,143,616.00	1,474,000.00
Robinson Drive	1,540,012.00	885,000.00
Senator Highway	3,734,753.00	200,000.00
Clubhouse Drive Relocation	705,000.00	tbd
Walker Road Rehab SR 69 - City Limits	689,000.00	tbd
SUBTOTAL	19,789,875.00	7,118,100.00
Beach Ave & McCormick Street	496,428.00	tbd
Ruger Road Realignment @ SR 89 DA	1,210,830.00	tbd
Side Road Connector Roundabout @ SR89 DA	1,128,432.00	tbd
Sundog Connector/Storm Ranch DA	2,420,635.00	tbd
Sundog Connector Yavapai County IGA	1,200,000.00	tbd
Bashford Court Alley	102,762.00	tbd
Bradshaw Drive	618,324.00	tbd
TOTAL	26,967,286.00	7,118,100.00

COUNCIL AGENDA MEMO – 02/02/10 & 02/09/10
DEPARTMENT: Parks, Recreation & Library
AGENDA ITEM: Adult Center of Prescott, Inc. Lease Agreement

Approved By:	Date:
Department Head: Debbie Horton	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood 	01/28/10

BACKGROUND: The City of Prescott and the Adult Center of Prescott, Inc. have an existing lease for a portion of the Rowle P. Simmons Community Center located at 1280 E. Rosser Street dated December 2003. Construction of the new City-owned facility was completed in 2006. After two full years of operation, City staff and the Board of Directors of the Adult Center of Prescott, Inc. (the AC) exercised the option to review the agreement as stated in the terms of the lease. Following are key points agreed to between the parties:

- The AC pays \$1 per year in rent
- AC pays telephone, gas, electric, cable and internet services to their area, and ½ of these utility costs provided common areas of the building.
- City pays for water unless usage by all tenants exceeds 360,000 gallons per year, at which time the cost of the overage will be apportioned equally between the AC, the City and Meals On Wheels, the third tenant of the building.
- AC maintains General Liability insurance of \$2 million and casualty and risk insurance in the amount of \$3 million, naming the City of Prescott as an additional insured.
- City will reduce the \$80,000 previously paid annually by \$16,000 per year beginning in FY11 until AC is independent of city funding. The schedule is as follows:
 - FY11 – COP payment to AC \$64,000
 - FY12 – COP payment to AC \$48,000
 - FY13 – COP payment to AC \$32,000
 - FY14 – COP payment to AC \$16,000
 - FY15 – COP payment to AC \$0
- Repair work required to the leased premises in amounts exceeding \$500 will be paid by the City.
- The City may use the leased premises free of charge for 15 City designated events in a calendar year providing activities and related functions do not conflict with AC programs, activities and rentals previously scheduled. City will designate one individual to be contact for scheduling the 15 events at the Adult Center.
- The AC, a 501(c)3 organization, will provide a broad range of recreational, educational, and social activities to the community on a non-discriminatory basis.

Agenda Item: Adult Center of Prescott, Inc. Lease Agreement

- The term of the lease is 49 years, with an option to renew for an additional 49 years, subject to review and renegotiation between the parties at annual intervals.

Because of the length of this document and the ARS requirement that ordinances be published, it is recommended that it first be adopted as a Public Record through Resolution No. 4005-1035 and then that public record is adopted by reference through Ordinance No. 4723-1020.

The full text of the lease is attached for your review.

Recommended Action: (1) MOVE to adopt Resolution No. 4005-1035; and **(2) MOVE** to adopt Ordinance No. 4723-1020.

RESOLUTION NO. 4005-1035

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED THE "2010 LEASE WITH THE ADULT CENTER OF PRESCOTT, INC. FOR LEASE OF A PORTION OF THE ROWLE P. SIMMONS COMMUNITY CENTER"

RECITALS:

WHEREAS, that certain document entitled the "*2010 Lease with the Adult Center of Prescott, Inc. for lease of a portion of the Rowle P. Simmons Community Center,*" three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the city clerk.

ENACTMENTS:

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

Section 1. THAT certain document entitled the "*2010 Lease with the Adult Center of Prescott, Inc. for lease of a portion of the Rowle P. Simmons Community Center,*" is hereby declared to be a public record.

Section 2. THAT the City Clerk is hereby directed to maintain three (3) copies of the above referenced public documents on file at all times for inspection by the public.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 9th day of February, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

EXHIBIT 'A'

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this _____ day of _____, 2010, by and between the CITY OF PRESCOTT, a municipal corporation, hereinafter referred to as "Lessor", and THE ADULT CENTER OF PRESCOTT, INC., an Arizona non-profit corporation, hereinafter referred to as "Lessee";

WITNESSETH:

WHEREAS, Lessor owns certain real property upon which the new Prescott Community Center has been built, which property is more particularly identified as Yavapai County Assessor's Parcel Number 105-04-026; and

WHEREAS, Lessee made a significant financial contribution to the construction of the Rowle P. Simmons Community Center, which contribution provided a significant benefit to the public and is gratefully acknowledged by the City of Prescott on behalf of its citizens; and

WHEREAS, Lessor acknowledges the public benefit to be derived from Lessee's operations at the Rowle P. Simmons Community Center and has complied with its charter obligations pertaining to the lease of real property.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREIN CONTAINED, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by each party to the other, the parties hereto agree as follows:

1. **LOCATION OF THE PRESCOTT COMMUNITY CENTER.** The real property upon which the Rowle P. Simmons Community Center ("RPSCC") has been constructed is herein described as Yavapai County Assessor's Parcel No. 105-04-026, which property is located at postal address 1280 E. Rosser Street, Prescott, Arizona (the "City Property").

2. **CONSTRUCTION OF THE PRESCOTT COMMUNITY CENTER.** Lessor was responsible for the construction of the RPSCC. The estimated cost of the design and construction of the RPSCC was in excess of \$3,650,000. In June, 2006, Lessee paid Lessor \$300,000 that was applied towards the cost of that construction.

3. **EFFECTIVE DATE OF LEASE AGREEMENT; PREMISES.** This term of this Lease Agreement shall begin upon the Effective Date, as defined in Paragraph 4 of this Lease Agreement. Upon the Effective Date, the terms of this Lease Agreement shall thereafter govern Lessee's right to possess and its actual possession of that part of the RPSCC as more fully described on Exhibit "A" (the "Leased Premises") Subject to the terms and conditions of this Lease Agreement, Lessee shall accept the Leased Premises in their "as-is" condition as of the Effective Date.

4. **TERM & CANCELLATION.** The initial term of this Lease Agreement shall begin on _____ (the "Effective Date") and shall continue through December 31, 2058; provided, however, that the term of this Agreement is subject to the annual review, cancellation and renewal provisions herein, and both parties reserve the right to review the performance of the other and maintenance and operations of the leased premises every year during the month of May proceeding the next fiscal year of this agreement. In the event that either City of

Lessee or both of them determines based upon such annual review for any reason not to continue with the Lease, either may give the other party one year (12 months) written notice of intent to cancel, and the lease shall be cancelled with no further obligations by either party upon the expiration of the one year period after a notice of intent to terminate by either party. Accordingly, the term of years for this Lease is intended to be subject to the right of either or both parties to cancel the lease after one year following written notice to the other of cancellation. Unless earlier terminated or cancelled as herein provided, at the expiration of this initial Lease term, Lessee shall have the option to renew this Lease Agreement for an additional forty-nine (49) year term on the same terms and conditions as set forth herein, except as the parties may otherwise mutually agree at the time the option is exercised. Lessee may exercise this option by providing Lessor with no less than six (6) months written notice thereof prior to the expiration of the initial lease term.

5. **RENT.** In consideration of the public benefit to be realized from Lessee's operations at the RPSCC, as more particularly set forth in Paragraph 7 and 9 of this Lease Agreement, and also in consideration Lessee's financial contribution to Lessor which was used to finance, in part, the development of the City Property, Lessee shall pay rent to Lessor in the annual amount of One Dollar (\$1.00) payable each year commencing on the Effective Date and each year thereafter on the anniversary of the Effective Date for the remainder of the term of this Lease Agreement and any extensions thereof.

6. **ABANDONMENT.** If Lessee abandons the Leased Premises, Lessee shall automatically forfeit any and all rights under this Lease Agreement, and Lessor

may exercise any and all available remedies as set forth in Paragraph 13 of this Lease Agreement or as allowed by law. Abandonment as used in this paragraph shall be deemed to have taken place upon the Lessee closing the Leased Premises to the public for seven (7) consecutive days, excluding, however, closures (i) required due to national or natural disaster or local emergency, (ii) necessary to allow Lessee or Lessor to comply with their obligations under this Lease Agreement, (iii) occurring due to circumstances beyond Lessee's control or (iv) for which Lessee has given prior written notice to Lessor and Lessor has approved thereof in writing before the date set for closure.

7. **LESSEE'S RESPONSIBILITIES.** During the term of this Lease Agreement, Lessee's responsibilities shall be as follows:

A. Lessee shall pay prior to delinquency any and all taxes which may be assessed against and levied upon trade fixtures, furnishings, equipment, and all other personal property of Lessee.

B. Lessee shall place all utilities that provide service to the Leased Premises in its name to the extent the existing metering system at the Leased Premises or the RPSCC will allow. Except as otherwise provided in this Lease Agreement, Lessee is responsible for the payment of any and all of utility bills for services provided to the Leased Premises, including, without limitation, telephone, gas, electric, cable and internet services. Further, Lessee shall pay for one-half of the utility bills for such services provided to common areas within the RPSCC. The common areas shall include all areas of the RPSCC that are not leased to any tenant. With respect to water service, which is provided by Lessor, Lessor shall not charge Lessee for water

usage unless the combined total of water usage by all tenants of the RPSCC and the Lessor exceeds 360,000 gallons in any given year. If water usage exceeds this amount, then the cost of the overage shall be apportioned amongst all tenants and the Lessor in equal amounts. Lessor shall ensure that all lease agreements with all other tenants of the RPSCC shall contain a lease provision identical in effect to the one provided for herein.

C. Lessee shall, at Lessee's expense, comply with all applicable statutes, ordinances, rules, regulations, orders, and requirements in effect during the term of this Lease Agreement.

D. Lessee shall ensure that no lien shall encumber, be placed upon or recorded against the Leased Premises, the RPSCC or upon any other estate or reversion of Lessor in the Leased Premises or in the RPSCC or upon any building or improvement thereon, and should any such lien arise, Lessee, at its own cost and expense, shall bond or otherwise discharge the same within ten days after receiving notice thereof.

E. Lessee shall make no alterations or additions to the Leased Premises without Lessor's prior written consent, which consent shall not be unreasonably withheld. Any alteration or addition of the Leased Premises, excepting movable furniture, machinery and trade fixtures, shall become part of the realty and shall belong to the Lessor upon termination of this Lease Agreement. Notwithstanding the foregoing, however, it is mutually agreed that the Audio Visual System shall be Lessee's property and Lessee may remove the same at the expiration of this Lease Agreement provided all damages caused thereby shall be repaired. It is further

understood and agreed that under no circumstances is the Lessee to be deemed the agent of the Lessor for any alteration, repair or operation of the Leased Premises.

F. Subject to Lessor's prior written approval, which approval shall not unreasonably withheld, Lessee may install in the Leased Premises any new fixtures Lessee deems desirable and such shall remain Lessee's property. Lessee may remove these fixtures at any time, but shall repair any damage caused by the removal. No fixtures shall be installed which affect the structural integrity or external appearance of the Leased Premises or the RPSCC without Lessor's prior written consent, which consent Lessor may grant or withhold in its sole and absolute discretion. Any fixtures or other property of Lessee remaining on the premises after thirty (30) days after termination of this Lease Agreement shall become Lessor's property unless the parties have otherwise mutually agreed.

G. Lessee shall not assign, mortgage or encumber this Lease Agreement nor sublet the Leased Premises, without the prior written consent of the Lessor in each instance, which consent shall not be unreasonably withheld. The consent of the Lessor to an assignment or subletting shall not be construed to relieve the Lessee from obtaining the consent, in writing, of the Lessor to any further assignment or subletting.

H. Lessee shall not, at any time, without first obtaining the Lessor's express written consent, which consent Lessor may grant or withhold in its sole and absolute discretion:

i. Change, whether by alteration, replacement, rebuilding or otherwise, the exterior color or architectural treatment of the Leased Premises, the

RPSCC, or the City Property, or any part thereof;

ii. Perform any act or carry on any practice which may damage, mar or deface the Leased Premises, the RPSCC or the City Property;

iii. Install, operate or maintain in the Leased Premises any electrical equipment which will overload the electrical system therein or any part thereof, beyond its reasonable capacity for proper and safe operation.

I. Lessee hereby agrees to indemnify, defend and hold harmless Lessor, its officers, employees, agents, successors or assigns herein (collectively the "Indemnified Party"), in both their public and private capacities, from and against any and all causes of action, claims, demands, expenses, liabilities, judgments, costs, losses or damages that any Indemnified Party may suffer or be subject to on account of, or in any way relating to or growing out of any and all known or unknown personal injuries, property damages, or claims of any type or any other matter in any way relating to the Leased Premises, to Lessee's operations at the Leased Premises, to such matters arising from acts or omissions by patrons or invitees of the Lessee, or to the Lessee's use of the RPSCC or the City Property; provided, however, that the Arizona laws, statutes, court cases and other laws pertaining to comparative fault apply to any and all of the matters subject to this paragraph and to Lessee's obligation to indemnify, defend and hold harmless any Indemnified Party.

J. Lessee undertakes to indemnify, defend and hold harmless any Indemnified Party from any and against any and all causes of action, claims, demands, expenses, liabilities, judgments, costs, losses or damages that any Indemnified Party may suffer or be subject to on account of, or in any way relating to or growing out of or

relating to Lessee's or Lessee's patrons or invitees use of the common areas (as defined in Paragraph 7B) in the RPSCC and on the City Property, and all areas adjoining, or used to access the Leased Premises in any way relating to use by Lessee's patrons or invitees, provided, however, that the Arizona laws, statutes, court cases and other laws pertaining to comparative fault apply to any and all of the matter subject to this paragraph and to Lessee's obligation to indemnify, defend and hold harmless any Indemnified Party.

K. Lessee expressly agrees that the provisions in Paragraphs 7I and 7J are intended to be as broad and inclusive as is permitted by City of Prescott Ordinances and the laws of the State of Arizona and that if any portion thereof is held invalid, it is agreed that the remaining provisions shall continue in full legal force and effect. Further, it is understood by Lessor that Lessee is not responsible for the acts or omissions of any other tenant or its patrons or invitees in the RPSCC or on the City Property and that the provisions of Paragraph 7I and 7J do not apply to thereto. Indemnification resulting from damage to portions of the RPSCC leased by any other tenant or from the actions of such tenant's officers, employees, agents, successors or assigns, patrons or invitees shall not be the responsibility of Lessee. In cases where damage shall be to the common areas of the RPSCC or the City Property shall be caused jointly by the Lessee and any other tenant, the Arizona laws, statutes, court cases and other laws pertaining to comparative fault shall apply.

L. Lessee shall obtain and maintain in continuous effect during the term of this Lease Agreement, a policy or policies of general liability and directors and officers insurance with minimum limits of not less than \$2,000,000 and shall obtain and

maintain in continuing effect \$3,000,000 for casualty and risk related to damage caused by fire. Such policy or policies shall name Lessor and its agents, officers, employees and assigns as additional insureds. Lessee shall provide copies of such policy or policies to Lessor upon request. Liability insurance shall provide the following coverage:

- a) General Liability/Premises and Property Coverage which shall include coverage for all risks associated with this Lease Agreement;
- b) Bodily Injury and Property Damage coverage for all risks associated with this Lease Agreement;

All insurance required pursuant to this Lease Agreement must be written by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in ARS Section 20-217, a copy of which certificate is to be attached to each applicable bond or binder.

Lessee may, but shall not be required, to procure and maintain a policy of insurance covering its personal property. Except in the case of damages caused due to the acts of Lessor or its agent or employees, Lessor shall not be liable for any damages to the personal property of Lessee.

If Lessee fails to procure and maintain any insurance that Lessee is required to procure pursuant to the terms of this Lease, Lessor may, but shall not be required to, procure and maintain the same at Lessee's expense.

M. The terms and conditions of this Lease Agreement shall be binding upon Lessee, its successors, heirs and assigns.

N. Should it become necessary for any Indemnified Party to incur

costs and expenses to retain the services of an attorney to enforce the indemnity and defense provisions of this Lease Agreement, or any portion thereof, Lessee agrees to pay such Indemnified Party's reasonable costs and attorneys' fees thereby expended, or for which liability is incurred as provided by law; provided, however, that Lessee and the Indemnified Party shall mutually select the attorney or attorneys providing the services. This paragraph shall not apply if Lessee provides written notice to Lessor of a necessary repair to be made which is the Lessor's responsibility under this Lease Agreement, and Lessor fails to perform said repairs within a reasonable time period after such written notice, and such failure of Lessor results in the bodily injury or property damage necessitating the services of an attorney.

O. Except as otherwise provide herein, Lessee shall be solely responsible for any and all costs associated with its programs and operations at the RPSCC, including but not limited to costs relating to materials, employees and reception services.

P. Lessee shall permit an inspection of the Leased Premises by Lessor, or Lessor's agents or representatives, during reasonable hours, at any time during the term of this Lease Agreement. If access to the Leased Premises for such purposes cannot be obtained, or if at any time an entry shall be deemed necessary for the protection of the PCC, whether for the benefit of the Lessor or Lessee, the Lessor, its agents or representatives, may enter the Leased Premises to accomplish such purposes. The provisions contained in this paragraph are not to be construed as creating or increasing any obligation on the part of the Lessor under this Lease.

Q. Lessee hereby agrees to provide proof of payments of any and all

personal property taxes and insurance coverage required under the terms of this Lease Agreement.

R. Lessee shall keep the inside of the Leased Premises in a clean and neat condition at all times. Lessee shall, at its sole expense, including personnel costs, change all air-conditioning filters on a monthly basis. Lessor shall make available, at no cost to Lessee, man-lift equipment to perform minor repairs in high ceiling areas. Lessor may offer training and certification to one or more Adult Center employee in safe operation of man-lift, if desired by Adult Center staff.

S. Lessee shall, at its expense and throughout the Lease term, maintain, service, replace, and keep in good repair the interior of that portion of the Leases Premises, including such items as floors, ceilings, walls, doors, glass, cleaning, partitions, and electrical fixtures, light bulbs, provided said repairs do not constitute "Major Repairs" as contemplated by Paragraph 8F of this Lease Agreement. If Lessor determines that any such maintenance, service or repairs are required, Lessor shall give Lessee written notice of the need for such repair, in order to give Lessee the opportunity to effectuate said repair or replacement. If Lessee does not effectuate the same within a reasonable time, Lessor may, but shall not be required to, effectuate said maintenance, service or repair, the costs of which Lessee shall reimburse to Lessor (unless said repairs are deemed "Major Repairs"); provided, however, that any damage caused by any negligent or intentional acts or omissions of Lessee, Lessee's agents, employees, or invitees, shall remain the responsibility of the Lessee, irrespective of the cost of repair or replacement.

8. **LESSOR'S RESPONSIBILITIES.** During the term of this Agreement,

Lessor's responsibilities shall be as follows:

A. Lessor shall enforce any and all warranties relating to the design and construction of the RPSCC or any improvements on the City Property for deficiencies or other matter that come within the terms of any and all applicable warranties; provided, however, that Lessor shall not be liable to Lessee or its patrons or invitees for any bodily injury or property damage should any warranty work fail to be timely completed through no fault of Lessor. Lessee shall be able to obtain warranty work for any defective construction, equipment or fixtures by advising Lessor in a timely fashion in writing so that Lessor can arrange for said repairs and/or replacement of defective equipment, etc. under the applicable warranty with the responsible party. No representations, statement or warranties, expressed or implied, have been made by or on behalf of Lessor as to the condition thereof.

B. Lessor shall keep all buildings, landscaping and site improvements and other buildings or fixtures on the City Property and in the RPSCC, including all alterations, additions and improvements, insured against loss or damage by fire, or other casualty losses, with all standard extended coverage, in an amount not less than the full replacement value. Nothing in this paragraph shall be deemed to require Lessor to procure a general liability insurance or fire casualty policy covering claims or losses for Lessee's operation or use of the Leased Premises, the RPSCC or Lessee's operation or use of the City Property. Further, Lessor shall not be responsible for insuring against any risk associated with the use of the RPSCC by Lessee or its invitees, licenses, guests or patrons.

C. Lessor will pay the electric and gas utilities, if any, for the common

areas in the RPSCC and on the City Property, and will send a copy of said billing to the Lessee on a monthly basis. Within twenty days of its receipt of the billing, Lessee will reimburse Lessor for one-half the cost of the same. Further, Lessor shall be responsible for all landscape watering. Lessor will pay for any and all costs related to the operation and repair of the alarm system, sewer and sanitation services relating to the Leased Premises. Other than as set forth herein, Lessor shall in no way be responsible for the expenses related to any utilities.

D. Lessor shall provide snow removal services to the parking lots (which will include cinder application and cinder removal if needed) of the City Property. It is expressly understood and agreed to by and between the parties that this service will only be available when all other public streets and municipal lots have been cleared of snow, and is subject to other demands of the City of Prescott. Notwithstanding the foregoing, Lessor shall use all reasonable efforts to ensure that snow removal services are provided for the parking lots on the City Property.

E. To help offset the Lessee's operational costs, Lessor will pay to Lessee the sum of sixty-four thousand dollars (\$64,000) for calendar year 1, which is defined as commencing on July 1, 2010, which sum shall be paid on a quarterly basis commencing on July 1, 2010, then payable in equal installments quarterly for that year. The next fiscal year, July 1, 2011, Lessor will pay to Lessee \$48,000 commencing on July 1, 2011, then payable in equal installments quarterly for that calendar year. The following calendar year, commencing on July 1, 2012, Lessor will pay to Lessee \$32,000 then payable in equal installments quarterly for that calendar year. For the final year, commencing on July 1, 2013, Lessor will pay to Lessee \$16,000 payable in

equal installments quarterly for that calendar year. Thereafter, no further annual sums will be paid to Lessee by Lessor to offset any operational costs.

F. Any repairs which are required to be done to the Leased Premises, which repairs are not necessitated by the acts or omissions of the Lessee, its officers, employees, agents, successors or assigns which exceed FIVE HUNDRED DOLLARS (\$500.00) in cost, shall be Lessor's responsibility for all repairs; provided however that the Lessor will not be obligated to pay for any repairs unless the Lessee first gives written notice to Lessor of the repairs needed, the reason for such repairs, and the estimated cost of said repairs, whereupon Lessor shall have the option to undertake said repairs by its own agents, contractors, or subcontractors. If Lessor undertakes to have repairs made by its own agents, contractors or subcontractors, and the repairs are not in excess of FIVE HUNDRED DOLLARS (500.00), the cost thereof shall be borne solely by the Lessee. In common areas, the repair expense shall be apportioned to and evenly born by all tenants of the RPSCC where the repair is necessitated. If the cost of such repairs exceeds FIVE HUNDRED DOLLARS (\$500.00), the costs thereof shall be borne by the Lessor to the extent that said repairs exceed FIVE HUNDRED DOLLARS (\$500.00).

If emergency repairs become necessary and providing written notice to Lessor is not practical (e.g., after hours, during holidays, etc.), Lessor will remain obligated to pay for such repairs provided the Lessee has made a good faith effort to contact the Lessor. Lessor and Lessee agree to attend necessary training regarding the operation of thermostats, exterior lighting clocks, fire alarm control panel, building water shut off and water meter billing and meter locations. One copy of the building equipment

maintenance specifications shall be kept and maintained on the Leased Premises. Lessee shall promptly notify Lessor of any needed warranty repairs or maintenance.

G. In accordance with ARS Section 42-17107(A)(2), it is expressly agreed by and between the parties that the Lessor is a body politic, and as such can neither incur debt in a succeeding fiscal year nor encumber future Prescott City Councils. As such, it is expressly agreed by and between the parties that in the event that in any subsequent fiscal year the Prescott City Council does not provide funding for the obligations provided for in this Paragraph 8, then and in that event this Lease Agreement shall be of no further force and effect; provided, however, that in the event of the termination of this Lease Agreement as a result of non-funding by the Prescott City Council during the first ten (10) years of this Lease Agreement, then and in that event the Lessee will be reimbursed for its capital contribution (as provided for in Paragraph 3) the sum of \$30,000 for each year prior to the tenth anniversary of this Agreement. This shall be the City's sole obligation for such termination of the agreement.

H. Lessor shall, at its expense and throughout the term of this Lease, at least annually inspect, maintain, service, replace needed parts, and keep in good repair the following items: electrical and mechanical equipment, plumbing, heating and cooling equipment, air conditioning, fire sprinkler system, fire extinguishers, security system, irrigation system, foundations, exterior walls, exterior roof, and adjacent parking lot which is owned by the Lessor.

I. Lessor's Human Resources Division may provide Lessee with City of Prescott human resource policies and materials upon request by Lessee. It shall be

Lessee's responsibility to deal with its employees and employment issues.

J. Lessor shall perform periodic maintenance to the outside of the demised premises, including sidewalks, parking area, and front, rear and side yards. Lessee shall keep and maintain general liability insurance covering these areas during the duration of this contract. Lessor shall be responsible for replacing any plants in the exterior of the Leased Premises.

9. **USE OF THE PROPERTY.** The prime consideration of this Lease Agreement is the public benefit to be realized from Lessee's operations at the Leased Premises. Therefore, compliance with this paragraph is of the utmost importance.

A. Lessee shall provide a broad range of adult activities to the community, on a non-discriminatory basis (other than differentiating fees between members and non-members, and between City of Prescott residents and non-City of Prescott residents, at Lessee's election).

B. Lessor may use the Leased Premises for a total of fifteen events, free of charge or at a reduced rate as the City requests, for City of Prescott programs, activities, sponsored or endorsed events, and other community functions (a "City Event"), provided, however, that the scheduling of said activities does not conflict with Lessee's programs, activities, and rental uses previously or regularly scheduled. The fifteen City Events shall include the use of a room for a polling place for statewide or countywide elections held in even-numbered years. It is further understood and agreed that special elections may be called by the County more frequently from time to time, and in accordance with Arizona Revised Statutes, elections may be held on four days of any year, but these would be an exception. Notwithstanding the forgoing provisions on

scheduling conflicts, the City shall have priority for scheduling as to any and all election events.

All requests for use of the Premises for a City Event pursuant to this paragraph shall directed to Lessee through one City identified contact, be it the Parks, Recreations & Library Director, the City Manager or any other person appointed by the City for such purpose. If anyone other than the City designated person contacts Lessee and purports to have authority to schedule a City Event, Lessee shall refer such person to the City designated contact and shall have no obligation to schedule the City Event except through the City designated contact.

In the event of conflict, other than for election events, between the Lessee's use of the Leased Premises and a use requested by the City of Prescott, the parties shall meet and resolve competing use issues on an equitable basis, and both parties agree to reasonably resolve such conflicts in a manner that accommodates equitable use by both parties. In the event that Lessor schedules an event at the Leased Premises, it shall be responsible for its own event associated activities, including meals, employee labor and cleanup. As an additional consideration for free use of the Leased Premises, Lessor hereby agrees to exempt, indemnify, and hold harmless the Lessee from any and all claims, costs, or judgments resulting from any acts or omissions by the Lessor, its officers, employees, agents, successors or assigns during the Lessor's use of the Leased Premises. For each such event subject to the provisions of this section, Lessor shall provide to lessee a Certificate of Insurance naming the Lessee as an additional insured for that particular event.

C. To insure compliance with the provisions of this paragraph, the

Lessee, upon request by the City of Prescott Recreation Services Director, shall submit a list of programs and fees to the Recreation Services Director, or such other contract administrator as designated by the City of Prescott Manager.

10. **TERMINATION OF EXISTING LEASE.** The parties acknowledge that the parties have an existing lease for an Adult Center dated December 10, 2003, City of Prescott Contract #96-149. The parties hereto agree that the existing lease agreement, together with any amendments thereto, shall be mutually rescinded as of the Effective Date, and that from and after that date neither party shall have any obligation or right under said prior lease and that this Lease Agreement shall be deemed the sole agreement between the parties.

11. **SURRENDER OF PREMISES.** It is agreed that at the expiration of the term of this Lease Agreement, any extension thereof pursuant to the Lessee's irrevocable option to renew for an additional 49-year term, or any sooner termination of this Lease Agreement, Lessee will quit and surrender the Leased Premises in good order and condition as reasonable use and wear thereof will permit, damage by the elements excepted. If Lessee should hold over the said term with the consent, express or implied, of Lessor, such holding over shall be construed as a tenancy only from month to month, and the Lessee shall continue to abide by the terms of this Lease Agreement during said holdover period.

12. **DEFAULTS.**

A. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Lessee:

- i. Lessee vacating or abandoning the Leased Premises.

ii. Lessee's failure to observe or perform any of the covenants, conditions, or provisions of this Lease Agreement to be observed or performed by Lessee, where such failure shall continue for a period of thirty (30) days after written notice hereof from Lessor to Lessee.

iii. (i) The making by Lessee of any general assignment, or general arrangement for the benefit of creditors; (ii) the filing by or against Lessee of a petition to have Lessee adjudged a bankrupt entity or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the premises or of Lessee's interest in the Lease, where possession is not restored to Lessee within thirty (30) days; or (iv) the attachment, execution, or other judicial seizure of substantially all of Lessee's assets located at the premises or of Lessee's interest in this Lease, where such seizure is not discharged within thirty (30) days.

B. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Lessor:

i. Lessee's failure to observe or perform any of the covenants, conditions, or provisions of this Lease Agreement to be observed or performed by Lessee, where such failure shall continue for a period of thirty (30) days after written notice hereof from Lessor to Lessee.

13. **REMEDIES.**

A. The parties hereto expressly covenant and agree that they will attempt in good faith to resolve any controversy or claim arising out of or relating to this

Agreement through negotiation. If, however, a matter has not been resolved within a reasonable period of time, upon the written demand of either party, the matter shall be resolved by arbitration in accordance with the Uniform Arbitration Act, A.R.S. § 12-1501 *et seq.* A party desiring arbitration shall serve upon the other, a writing (the "Notice") describing, in general terms, the controversy and naming such party's Arbitrator. Within twenty (20) days after said Notice the other party shall serve upon the party demanding arbitration a writing (the "Response"), describing, in general terms, any additional issues to be arbitrated and naming its Arbitrator. Within seven (7) days thereafter the two Arbitrators shall meet, and at that time or within seven (7) days thereafter shall appoint a third Arbitrator. If the two Arbitrators cannot agree upon the third Arbitrator, either party may apply to the Arizona Superior Court in and for Yavapai County pursuant to the provisions of A.R.S. §12-1503 for appointment of the third Arbitrator. The three Arbitrators, immediately after appointment of the third Arbitrator, shall appoint a time and place and otherwise proceed under the provisions of A.R.S. §12-1505.

B. Subject to the arbitration provisions of Section 13A, if Lessor or Lessee determines that the other party has not fulfilled its duties or obligations under this Lease Agreement, this Lease Agreement may be terminated by that party upon twelve (12) months written notice to the other party, with or without cause. However, the party desiring to terminate this agreement must provide notice as to the specific manner in which the other party has not fulfilled the aforementioned duties. The party deemed to be failing its duties or obligations would then have 30 days to implement a solution before final notice of termination is issued.

C. If Lessee is in material breach of this Lease Agreement, Lessor

may re-take possession of the Leased Premises and remove therefrom all of Lessee's property and all persons then thereon. Any entry and/or re-entry by the Lessor, whether had or taken under what is generally known as summary proceedings, or otherwise, as provided by the terms of this Lease, shall not be deemed to absolve or discharge the Lessee from liability hereunder.

D. If Lessor is in material breach of this Agreement such that Lessee cannot reasonably comply with its obligation hereunder, Lessee may terminate this Lease Agreement by providing no less than thirty (30) days written notice thereof.

14. **NOTICES.** Any notice required or permitted to be given pursuant to this Lease Agreement shall be in writing and may be served personally or by regular mail, addressed to Lessor or Lessee respectively at the following addresses (until written notice of change of address is provided by either party to the other):

To Lessor:

City of Prescott
Recreation Services Director
P.O. Box 2059
Prescott, Arizona 86302

With a copy to the City of Prescott Manager at the following address;

City Manager
City of Prescott
201 South Cortez
Prescott, AZ 86301

To Lessee:

Adult Center of Prescott, Inc.
President, Board of Directors
1280 E. Rosser St.
Prescott, Arizona 86301

15. **WAIVER.** The waiver by any party hereto of any breach or breaches by the other party of any one or more of the covenants, agreements, conditions, or obligations herein contained or the acceptance of any delinquent payments shall not bar the party from seeking a forfeiture or any other rights or remedies in the event of any subsequent breach of any such or other covenants, agreements, conditions, or obligations.

16. **SEVERABILITY.** The invalidity of any provision of this Lease Agreement as determined by a Court of competent jurisdiction, shall in no way effect the validity of any other provision hereof, so long as the original intent of the parties is not defeated thereby.

17. **CHANGE IN LEASE.** The making, execution and delivery of this Lease Agreement have not been induced by any representation, statement, warranties or agreements other than those herein expressed. The parties mutually agree that this Lease Agreement supersedes all other previous and/or other agreements bearing upon the above premises, and it is further agreed that no changes to or in this Lease shall be made without being in writing, agreed to and signed by all parties hereto.

18. **CONSTRUCTION.** The terms and conditions of this Lease Agreement shall be construed and governed in accordance with the laws of the State of Arizona.

19. **PREPARATION OF AGREEMENT.** This Lease Agreement is the result of negotiations by and between the parties. Therefore, any ambiguity in this Lease Agreement is not to be construed against either party.

20. **WAIVER OF ATTORNEY FEES.** Subject to Paragraph 7N, the parties hereto expressly covenant and agree that in the event of litigation arising from this

Lease Agreement, neither party shall be entitled to an award of attorney fees, either pursuant to the Lease Agreement, pursuant to A.R.S. Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.

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

22. **NON-DISCRIMINATION CLAUSE.** The Lessee, with regard to the provisions of services to the general public pursuant to this Lease, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status. The Lessee will not participate either directly or indirectly in the 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, and Executive Orders 99-4 and 2000-4.

23. **CONTRACT ADMINISTRATOR.** The Contract Administrator for the

purposes of this Lease shall be the City of Prescott Recreation Services Director (or designee), until such time that a different contract administrator is designated by the City of Prescott Manager. Whenever the consent of the City of Prescott is required pursuant to the terms of this Lease Agreement, the Contract Administrator is hereby empowered to give such consent on behalf of the Lessor, with the exception of changes to the Lease Agreement pursuant to Paragraph 17, which are required to be approved by the Prescott City Council.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott this _____ day of _____, 2010.

Marlin Kuykendall, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE
City Clerk

GARY D. KIDD
City Attorney

LESSEE:

PASSED, APPROVED AND ADOPTED by the Board of Directors of the ADULT CENTER OF PRESCOTT, INC., this _____ day of _____, 2010

By: _____
Its: President, Board of Directors

ORDINANCE NO. 4723-1020

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT ENTITLED THE "2010 LEASE WITH THE ADULT CENTER OF PRESCOTT, INC. FOR LEASE OF A PORTION OF THE ROWLE P. SIMMONS COMMUNITY CENTER", MADE A PUBLIC RECORD BY RESOLUTION NO. 4005-1035

RECITALS:

WHEREAS the City has advertised its notice of intent to lease a portion of City owned property located at 1280 E. Rosser Street known as the Rowle P. Simmons Community Center and as a result of such notice of intent has received a proposal to lease and has entered into negotiations to lease certain portions of such real property to the Adult Center of Prescott, Inc.; and

WHEREAS, The City of Prescott and the Adult Center of Prescott, Inc. have an existing lease for the aforementioned property dated December 2003. Construction of the new City-owned facility was completed in 2006. After two full years of operation, City staff and the Board of Directors of the Adult Center of Prescott, Inc., exercised the option to review the agreement and have agreed to the terms of a new Lease Agreement.

WHEREAS the City wishes to renew said lease to the Adult Center of Prescott, Inc., on the portion of the City of Prescott's property located at 1280 E. Rosser Street;

WHEREAS the City Council has determined that the Adult Center, Inc. has submitted the best qualified proposal for the foregoing Lease.

ENACTMENTS:

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

SECTION 1. THAT certain document known as the *"2010 Lease with the Adult Center of Prescott, Inc. for Lease of a Portion of the Rowle P. Simmons Community Center,"* three copies of which are on file in the office of the City Clerk of the City of Prescott, Arizona, which document was made a public record by Resolution No. 4005-1035 of the City of Prescott, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, the provisions thereof to become effective March 11, 2010.

SECTION 2. THAT the Mayor and staff are hereby authorized to execute said Lease Agreement on behalf of the City of Prescott, and to take any and all steps deemed necessary to accomplish the foregoing.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 26th day of January, 2010.

MARLIN D. KUYKENDALL, Mayor

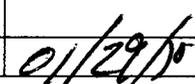
ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

COUNCIL AGENDA MEMO – February 2 & 9, 2010
DEPARTMENT: City Manager, Grants
AGENDA ITEM: Energy Efficiency Conservation Block Grant (EECBG) Contract for Window, Door and Glass Replacement

Approved By:	Date:
Department Head: Linda Hartmann	January 21, 2010
Finance Director: Mark Woodfill	
City Manager: Steve Norwood 	01/29/10 

Background:

The American Recovery and Reinvestment Act of 2009, Public Law 111-5, appropriates funding for the Department of Energy (DOE) to issue/award formula based grants to states, U.S. territories, units of local government and Indian tribes under the Energy Efficiency and Conservation Block Grant (EECBG) Program.

The purpose of the EECBG Program is to assist eligible entities in creating and implementing strategies to:

- ✓ Reduce fossil fuel emissions in a manner that is environmentally sustainable and, to the maximum extent practicable, maximize benefits for local and regional communities;
- ✓ Reduce the total energy use of the eligible entities; and improve energy efficiency in the building sector, the transportation sector; and other appropriate sectors.

Project:

City staff, with council approval (June 09, 2009) determined that the best use of the award dollars was to retrofit city hall, parks and recreation administration building and the airport terminal with energy efficient windows, doors, insulation, and HVAC systems.

Financial:

In response to a request for bids for window, door and glass replacement, the City received two bids. Both included the city hall vestibule option. This is the area immediately outside the front doors of City Hall, facing Cortez Street. There is currently no way to stop the warm/cold air from entering and escaping the doors. It should be noted that the APS energy audit conducted in 2008 identified that area of building as one of the largest energy loss locations in the building.

The City through its entitlement status received \$197,100. from the Department of Energy.

T&T Glass, Prescott AZ	\$50,814.10
Commercial Glass Company, Prescott Valley, AZ	\$40,040.22

Commercial Glass Company was the lowest bidder. Purchasing staff verified references and received positive feedback. The contractor has previous experience with the City and accordingly Administrative Services was satisfied with the finished product.

The term of the contract will be 60 days. Work will commence approximately 10 days after award/notice to proceed. The proposed contractor states work can be completed in 15 working days.

Approval of this contract will serve in the best interest of the City of Prescott and also satisfies conditions of use of American Recovery and Reinvestment Act of 2009 funding.

Recommended Action: MOVE to approve contract with Commercial Glass Company not to exceed \$40,040.22

COUNCIL AGENDA MEMO – 02/02/10 & 02/09/10
DEPARTMENT: Fire
AGENDA ITEM: Renewal of Base Hospital Agreement and Approval of a Business Associate Agreement Amendment

Approved By:	Date:
Department Head: Bruce Martinez	
City Manager: Steve Norwood <i>SNorwood</i>	<i>02/29/10</i>

Background

State Statutes require that the Arizona Department of Health Services (ADHS) regulate Emergency Medical Services (EMS) in the State of Arizona. One of the ADHS's regulations is to ensure that providers of Paramedic level care (Advanced Life Support) have an agreement with a Base Hospital for medical control, direction, and administrative oversight of all providers. For more than 30 years, the City of Prescott has had an agreement with Yavapai Regional Medical Center (YRMC) for this purpose and to meet the statutory requirements. The agreement requires City Council approval annually and any time an amendment or revision is requested by either party. The agreement sets out the expectations for the Provider Agency (City of Prescott Fire Department) and the Base Hospital (YRMC).

Status

The Base Hospital Agreement approved on July 21, 2009 has no revisions but needs to be renewed. There is a new Federal mandate to execute a Business Associate Agreement as an amendment to any contract we have with Yavapai Regional Medical Center. The new Business Associate Agreement amendment outlines a heightened enforcement of Health Insurance Portability and Accountability Act of 1996 (HIPPA). The HIPPA regulations also define civil and criminal penalties that can be imposed against business associates for failing to comply.

The Base Hospital Agreement meets all the current rules under the ADHS regulations and statutes. Both agreements have been reviewed and approved by the City of Prescott Legal department.

Financial

There are no financial implications to these agreements.

Recommendation: MOVE to adopt Resolution No. 4004-1034.

December 2009

DEC 1 2009

Dear Business Associate,

President Barack Obama signed into law a \$787 billion economic American Recovery and Reinvestment Act of 2009 that includes provisions for heightened enforcement of Health Insurance Portability and Accountability Act of 1996 (HIPAA). The HIPAA provisions in the economic stimulus Act fall under the Health Information Technology for Economic and Clinical Health (HITECH) Act. The HITECH Act significantly changed how HIPAA's Rules apply to business associates. Instead of being subject only to contractual obligations for handling PHI, business associates are now covered directly by the extensive requirements of the HITECH Act and the HIPAA Rules. These regulations also define the civil and criminal penalties that can be imposed against business associates for failing to comply.

It is mandated that a Business Associate Agreement be executed as an Amendment to any contracts Yavapai Regional Medical Center has with companies that have access to Protected Health Information (PHI).

Therefore, we respectfully request you sign both copies of the enclosed copies of the 2009 Business Associate Agreement with Yavapai Regional Medical Center. For both copies please fill in the date executed (Page 1), sign and fill out under "Business Associate" (Page 8) and complete the "Notice" section (page 8) on both copies. Please return one signed copy to us using the enclosed return envelope.

It is imperative that these agreements be executed in a timely manner in order to meet the HIPAA deadline. Please return both documents to us by **January 15, 2010**.

Should you have any questions please contact either of us at the number listed below.



Nancy Milner,
Corporate Compliance Officer/Privacy Officer – (928) 771-5688



David Woodcock,
Chief Information Officer/HIPAA Security Officer – (928) 771-5698

RESOLUTION NO. 4004-1034

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT FIRE DEPARTMENT TO ENTER INTO A BASE HOSPITAL AGREEMENT WITH THE YAVAPAI REGIONAL MEDICAL CENTER FOR MEDICAL CONTROL, DIRECTION AND ADMINISTRATIVE OVERSIGHT OF ALL PROVIDERS RELATING TO PARAMEDIC LEVEL CARE (ADVANCED LIFE SUPPORT) AND A BUSINESS ASSOCIATE AGREEMENT AS AN AMENDMENT THERETO AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, for more than 30 years the City of Prescott Fire Department and the Yavapai Regional Medical Center (YRMC) have had an annual agreement for medical control, direction, and administrative oversight of all providers relating to Paramedic level care (Advanced Life Support);

WHEREAS, the City of Prescott Fire Department and the Yavapai Regional Medical Center wish to enter into the attached Base Hospital Agreement, Exhibit "A", hereto, that mirrors current state guidelines and meets all the current rules under the Arizona Department of Health Services (ADHS) regulations and statutes; and

WHEREAS, President Barack Obama signed into law a \$787 billion economic American Recovery and Reinvestment Act of 2009 that includes provisions for heightened enforcement of Health Insurance Portability and Accountability Act of 1996 (HIPPA). Therefore, it is now mandated that a Business Associate Agreement be executed as an Amendment to any contract Yavapai Regional Medical Center has with companies that have access to Protected Health Information; and

WHEREAS, the City of Prescott Fire Department and the Yavapai Regional Medical Center wish to enter into the attached Business Associate Agreement, Exhibit "B", as an Amendment to the Base Hospital Agreement (Exhibit A); and

WHEREAS, there are no financial implications of this Agreement.

ENACTMENTS:

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

Section 1. THAT the City of Prescott hereby approves the attached Base Hospital Agreement (Exhibit "A") between Yavapai Regional Medical Center and the City of Prescott Fire Department for medical control, direction, and administrative oversight of all providers relating to Paramedic level care (Advanced Life Support).

Section 2. THAT the City of Prescott also approves the Business Associate Agreement (Exhibit "B") between Yavapai Regional Medical Center and the City of Prescott Fire Department as mandated by the extensive requirements of the HITECH Act and the HIPPA rules.

Section 3. THAT the Mayor and staff are hereby authorized to execute the attached Base Hospital Agreement and the Business Associate Agreement as an Amendment to the Base Hospital Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 9th day of February, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A BURKE, City Clerk

GARY D KIDD, City Attorney

BASE HOSPITAL AGREEMENT

This AGREEMENT is made between **YAVAPAI COMMUNITY HOSPITAL ASSOCIATION dba YAVAPAI REGIONAL MEDICAL CENTER**, a health care facility licensed under the laws of the State of Arizona, hereinafter referred to as "Base Hospital", and **PRESCOTT FIRE DEPARTMENT**, hereinafter referred to as "Provider Agency", licensed to provide pre-hospital care services under the laws of the State of Arizona.

Base Hospital shall:

1. Be designated and referred to as "Base Hospital" for the purpose of being identified as the regional facility with primary responsibility for medical control with respect to the services provided under its auspice.
2. Execute a written contract with an agency that employs emergency medical technicians in a prehospital setting, to be reviewed and updated yearly. The base hospital shall maintain written verification that the yearly review and update was performed.
3. Provide both administrative and on-line medical direction to the prehospital emergency medical technicians that are employed by the agency.
4. Establish a procedure to replace disposable, medical (fire only), and pharmaceutical supplies for the contracted provider agency after the patient care has been terminated by the agency.
5. Establish a provision to dispose of contaminated waste that meets federal and state regulation.
6. Base hospital agrees to investigate and resolve agency complaints about the base hospital, its procedures, the medical director, emergency physician, nurse, or other base hospital employees by referring the complaint to the Administrative Medical Director or his/her designee. Complaints about the Administrative Medical Director will be directed to the Emergency Department Medical Director.
7. Contain a provision that establishes;
 - A. Written procedures to withdraw or suspend medical direction
 - B. Written medical direction requirements for the emergency medical technicians; and
 - C. Written procedure for notifying the employing agency and the emergency medical technician of the withdrawal or suspension of medical direction.
8. Appoint an administrative medical director that meets the qualifications and responsibilities of AZDHS rules and regulations R9-25-204.
 - A.. An individual shall not act as an administrative medical director unless the individual:
 1. Is a physician; and
 2. Meets one of the following:
 - a. Has emergency medicine certification from a specialty board recognized by the Arizona Medical Board or the Arizona Board of Osteopathic Examiners in Medicine and Surgery;

- b. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - c. Is practicing emergency medicine and has:
 - i. Proficiency in advanced emergency cardiac life support,
 - ii. Proficiency in advanced trauma life support, and
 - iii. Proficiency in pediatric emergency care.
- B. An administrative medical director shall act only on behalf of:
 - 1. An emergency medical services provider;
 - 2. An ambulance service;
 - 3. An ALS base hospital certified under this Article;
 - 4. A centralized medical direction communications center; or
 - 5. The Department, as provided in A.R.S. 36-2202(J).
- C. An administrative medical director:
 - 1. Shall coordinate the provision of administrative medical direction to EMT's; and
 - 2. May delegate responsibilities to an individual as necessary to fulfill the requirements in this Section, if the individual is:
 - a. A physician,
 - b. A physician assistant,
 - c. A registered nurse practitioner,
 - d. A registered nurse,
 - e. A practical nurse, or
 - f. An EMT-1 or EMT-P
- D. An administrative medical director shall:
 - 1. Ensure that an EMT receives administrative medical direction as required under A.R.S. Title 36, Chapter 21.1 and this Chapter;
 - 2. Approve, ensure implementation of, and annually review treatment protocols, triage protocols, and communications protocols for an EMT to follow that are consistent with:
 - a. A.R.S. Title 36, Chapter 21.1 and this Chapter; and
 - b. The EMT's scope of practice as identified under Article 4 & 5 of this Chapter;
 - 3. Approve, ensure implementation of, and annually review policies and procedures that an EMT shall follow for medical recordkeeping, medical reporting, and completion and processing of prehospital incident history reports that are consistent with:
 - a. A.R.S. Title 36, Chapter 21.1 and this Chapter; and
 - b. The EMT's scope of practice as identified under Article 4 & 5 of this Chapter;
 - 4. Approve, ensure implementation of, and annually review policies and procedures governing the administrative medical direction of an EMT, including policies and procedures for:

- a. Monitoring and evaluating an EMT's compliance with treatment protocols, triage protocols, and communications protocols;
 - b. Monitoring and evaluation an EMT's compliance with medical recordkeeping, medical reporting, and prehospital incident history report requirements;
 - c. Monitoring and evaluating an EMT's performance as authorized by the EMT's scope of practice as identified under Article 4 & 5 of this Chapter;
 - d. Ensuring that an EMT receives ongoing education, training, or remediation necessary to promote ongoing professional competency and compliance with EMT standard or practice established in R9-25-410;
 - e. Withdrawing an EMT's administrative medical direction; and;
 - f. Reinstating an EMT's administrative medical direction; and;
5. Approve, ensure implementation of, and annually review policies and procedures for a quality assurance process to evaluate the effectiveness of the administrative medical direction provided to EMT's.
- E. An administrative medical director shall
1. Annually document that the administrative medical director has reviewed A.R.S. Title 36, Chapter 21.1 and this Chapter; and
 2. Ensure that an individual to whom the administrative medical director delegates authority to fulfill the requirements in this Section annually documents that the individual has reviewed A.R.S. Title 36, Chapter 21.1 and this Chapter.
9. Assure that all emergency physicians who provide on-line medical direction to prehospital personnel meet requirements of AZDHS regulation (R9-25-203);
 10. Have necessary communications equipment that is operational, compatible with EMSCOM system (if available in their area), located in the emergency room, has a dedicated line, with the capability of recording communication between base hospital and emergency medical personnel. Base hospital shall also have policy and procedures in place for communication notification and alternative communications. Flagstaff Medical Center will act as an alternate.
 11. Communicate as soon as it is practically possible all pertinent patient management information when a patient is to be transported to a receiving facility other than base hospital. In that event, care of the patient and direct communications, with the emergency medical technician rendering that care may be transferred to the medical control of authority of said receiving facility, if it is a hospital medical control authority. Exception to this will be a mass casualty incident.
 12. Respond to all requests for radio or telephone medical direction by emergency medical technicians of provider agency as promptly as possible in a cooperative and responsible manner.

13. Medical direction shall be consistent with NAEMS Field Treatment Protocols and with the rules and regulation of AZDHS.
14. Provide adequate structural and facility resources to allow for the training of emergency medical technicians, to include:
 - A. Process integration of information, access contact supervisor at station.
 - B. Hospital will continue to meet requirements as a training center for the re-certification of EMTs. This training center would be available for Y.R.M.C. personnel and agency personnel.
 - C. Hospital to provide space for run review. Hospital and agencies to jointly determine issues to be reviewed. The Base Hospital will provide a separate area for completion of documentation and of re-supplies for agency personnel.
15. Provide for on-line medical direction, (if applicable) to field units in remote assignments outside the jurisdiction of the fire department boundaries. (Fire only)
16. Upon arrival to the emergency center, the hospital staff will assist with the effective transfer of the patient in an orderly and timely manner.
17. Provide Base Hospital orientation to new ALS providers within a 5-day period from time of request.
18. Provide a mechanism for timely notification of potential infectious disease exposure to agencies personnel.
19. Will indemnify the Administrative Medical Director and/or any physician acting as the Administrative Medical Director, and Medical Services of Prescott Emergency Physician Group harmless for liability not directly caused by the Base Hospital.

Provider Agency Shall:

1. Provide an emergency vehicle staffed by basic emergency technicians twenty-four (24) hours per day, and by ALS personnel, whenever possible. Volunteer agencies that do not incorporate emergency medical technicians must have first responders available for purpose of delivering emergency care.
2. Agencies will notify the Base Hospital immediately regarding separation of ALS personnel.
3. Agency personnel will have identification with name and agency.
4. Have working communication equipment that allows base hospital medical direction communication with emergency medical technicians in the field.
5. Utilize NAEMS Field Treatment Protocols to determine patient treatment in the event of the unavailability of on-line medical direction or contact alternate base hospital.
6. Provide the administrative medical director with adequate and appropriate access to prehospital personnel and records for purposes of performance evaluation, and training.

7. When ALS skills have been instituted, the emergency medical technician with the highest skill level shall be in charge of patient care. This ALS provider will contact the Base Hospital and communicate specific components of the patient's assessment, treatment, and other pertinent information. Upon the consent of the Physician, patients may be designated BLS and transported accordingly.
8. Upon arrival to the emergency center, ALS personnel shall, in an orderly and timely manner, transfer the patient (s) to the hospital's emergency medical staff. Provider Agency personnel shall assist and cooperate in the transferring of the patient (s) into the treatment area of the emergency center, and assist with continued treatment if needed or requested by the hospital staff. The Provider Agency shall have no further duty to the patient upon completion of the transfer. Transfer shall be defined as completion of verbal and required documentation report with signature of accepting physician or nursing personnel.
9. Whenever Provider Agency personnel are performing service on the premises of Base Hospital, such personnel shall be considered independent contractors and not as agency or physician or hospital staff. Provider Agency personnel shall not be under the supervision, management, direction, or control of Base Hospital in the performance of their duties, except as provided for in this agreement.
10. That the ALS personnel assigned to the Base Hospital shall not be assigned concurrently to any other facility for administrative medical direction.
11. Provider Agency agrees to cooperate with the Base Hospital to investigate and resolve patient, physician, and nurse complaints about the agency, its procedures, and agency personnel.
12. Nothing in this Agreement shall prohibit Base hospital from entering into similar agreements with other parties.
13. Will indemnify the Administrative Medical Director and/or any physician acting as the Administrative Medical Director, and Medical Services of Prescott Emergency Physician Group harmless for liability not directly caused by the Provider Agency.

Base Hospital and Provider Agency shall:

1. Conduct themselves pursuant to this Agreement based on integrity, respect, and professionalism. Utilizing the five values list of YRMC; Respect, Integrity, Accountability, Commitment, and Quality.
2. Implement a process to develop and review policies and procedures that all emergency medical personnel must follow.
3. Develop a written quality improvement process in consultation with Y.R.M.C. Q.I. department.
4. Have a written process for evaluation of each EMT, to assess the EMT's clinical competency and compliance with protocols, by the Administrative Medical Director. The basis for clinical competency will be established utilizing current data relating to specific procedures within the EMT's scope of practice.
5. Participate in Pre-Hospital Committee.
6. To each maintain adequate public and professional liability insurance with a company licensed to do business in Arizona to cover personal injury and property damage caused by the acts or omissions of their respective personnel in

- an amount not less than \$1,000,000.00 per occurrence. Each party shall forward to the other a certificate of such insurance, or be self-insured. Thirty days advance written notice of cancellation, non-renewal, or substantial change shall be given.
7. To comply, where applicable, with the requirement of Arizona Revised Statutes of the Rules and Regulations of the Arizona Department of Health Services in the performance of their respective functions under the agreement. Said ADHS regulations are incorporated herein by the reference.
 8. To comply with Federal regulation and HIPAA requirements: Whereas the Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. §§ 160, 164 ("HIPAA"), adopted by the United States Congress, requires confidentiality of protected health information received by a Covered Entity, for the purpose of this agreement both parties are considered 'Covered Entities'.
 9. That this writing constitutes the entire Agreement entered into by and between the parties and supersedes any prior Agreement or understanding of the parties in this matter whether oral or written. Any modification of this Agreement shall be invalid unless stated in writing and signed by both parties.
 10. That this agreement shall commence on **January 1, 2010** and shall be reviewed sixty (60) days prior to end date of **December 31, 2010** and signed by hospital and Provider Agency for renewal, and shall not be terminated unless terminated in writing by either of the parties at least thirty (30) days prior to the end of any one year period.
 11. That this Agreement is executed in original and one more counterparts, any of which may be considered an original agreement if signed in original.
 12. Pursuant to ARS Section 38-511, the City of Prescott may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the agreement on behalf of the City is, at any time while the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement. In the foregoing event, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in writing, negotiating, securing, drafting or creating this Agreement on behalf of the City of Prescott from any other party to the Agreement arising as a result of the Agreement.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this "Agreement") is entered into on this _____ day of _____, _____, between Yavapai Community Hospital Association & Affiliates d/b/a Yavapai Regional Medical Center, an Arizona non-profit corporation ("YRMC" or "Covered Entity") and _____ ("Business Associate"), with an effective date of _____ ("Effective Date"). This Agreement sets out the responsibilities and obligations of Business Associate as a business associate of Covered Entity under the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH Act").

City of Prescott
Legal Department
P.O. Box 2059
Prescott, AZ 86302-2059

RECITALS:

A. Covered Entity may make available and/or transfer to Business Associate Protected Health Information ("PHI") of Individuals in conjunction with Services, which Business Associate will use or Disclose only in accordance with this Agreement.

AGREEMENT:

Business Associate and Covered Entity agree to the terms and conditions of this Agreement in order to comply with the rules on handling of Protected Health Information ("PHI") under the HIPAA Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subpart E ("Privacy Standards"), the HIPAA Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C ("Security Standards"), and the HIPAA Breach Notification Regulations, 45 C.F.R. Part 164, Subpart D ("Breach Notification Regulations"), all as amended from time to time.

1. DEFINITIONS

- a. **Terms Defined in Regulation:** Unless otherwise provided, all capitalized terms in this Agreement will have the same meaning as provided under the Privacy Standards, the Security Standards and the Breach Notification Regulations.
- b. **Protected Health Information or PHI:** Protected Health Information or PHI, as defined by the Privacy Standards, for this Agreement means PHI that is received or created on behalf of Covered Entity by Business Associate.

2. USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- a. **Performance of Services:** Business Associate will Use or Disclose PHI only for those purposes necessary to perform Services, or as otherwise expressly permitted in this Agreement or required by law, and will not further Use or Disclose such PHI.
- b. **Subcontractor or Agent Performance of Services:** Business Associate agrees that anytime it provides PHI to a subcontractor or agent to perform Services for Covered Entity, Business Associate first will enter into a contract or confidentiality agreement with such subcontractor or agent that contains the same terms, conditions, and restrictions on the Use and Disclosure of PHI as contained in this Agreement.
- c. **Business Associate Management, Administration and Legal Responsibilities:** Business Associate may Use or Disclose PHI for Business Associate's management and administration, or to carry out Business Associate's legal responsibilities. Business Associate may Disclose PHI received from Covered Entity to a third party for such purposes only if: (1) the Disclosure is required by law; or (2) Business Associate secures written assurance from the receiving party that the receiving party will: (i) hold the PHI confidentially; (ii) Use or Disclose the PHI only as required by law or for the purposes for which it was Disclosed to the recipient; and (iii) notify the Business Associate of any other Use or Disclosure of PHI.
- d. **Data Aggregation:** Business Associate may Use PHI to perform data aggregation services as permitted by 45 CFR § 164.504(e)(2)(i)(B).

3. SAFEGUARDS FOR PROTECTED HEALTH INFORMATION

- a. **Adequate Safeguards:** Business Associate will implement and maintain appropriate safeguards to prevent any Use or Disclosure of PHI for purposes other than those permitted by this Agreement, including administrative, physical and technical safeguards to protect the confidentiality, integrity, and availability of any electronic protected health information ("ePHI"), if any, that Business Associate creates, receives, maintains, and transmits on behalf of Covered Entity. Upon request of Covered Entity, Business Associate will provide evidence to Covered Entity that these safeguards are in place and are properly managed.
- b. **Compliance with HIPAA Security Standards:** Business Associate will comply with 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316, as of the date by which Business Associate is required to comply with such regulations.

4. REPORTS OF IMPROPER USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION, SECURITY INCIDENTS AND BREACHES

- a. **Use or Disclosure Not Permitted by This Agreement:** Business Associate will report in writing to Covered Entity any Use or Disclosure of PHI for purposes other than those permitted by this Agreement within 5 business days of Business Associate's learning of such Use or Disclosure.

- b. Security Incidents:** Business Associate will report in writing to Covered Entity any Security Incident of which Business Associate becomes aware. Specifically, Business Associate will report to Covered Entity any successful unauthorized access, Use, Disclosure, modification, or destruction of ePHI or interference with system operations in an information system containing ePHI of which Business Associate becomes aware within 5 five business days of Business Associate learning of such Security Incident. Business Associate also will report the aggregate number of unsuccessful, unauthorized attempts to access, Use, Disclose, modify, or destroy ePHI or interfere with system operations in an information system containing ePHI, of which Business Associate becomes aware, provided that: (i) such reports will be provided only as frequently as the parties mutually agree, but no more than once per month; and (ii) if the definition of "Security Incident" under the Security Standards is amended to remove the requirement for reporting "unsuccessful" attempts to Use, Disclose, modify or destroy ePHI, the portion of this Section 4 addressing the reporting of unsuccessful, unauthorized attempts will no longer apply as of the effective date of such amendment.
- c. Breaches of Unsecured PHI:** Business Associate will report in writing to Covered Entity any Breach of Unsecured Protected Health Information, as defined in the Breach Notification Regulations, within 5 business days of the date Business Associate learns of the incident giving rise to the Breach. Business Associate will provide such information to Covered Entity as required in the Breach Notification Regulations. Business Associate will reimburse Covered Entity for any reasonable expenses Covered Entity incurs in notifying Individuals of a Breach caused by Business Associate or its subcontractors or agents, and for reasonable expenses Covered Entity incurs in mitigating harm to those Individuals.

5. ACCESS TO PROTECTED HEALTH INFORMATION

- a. Covered Entity Access:** Within 5 business days of a request by Covered Entity for access to PHI, Business Associate will make requested PHI available to Covered Entity.
- b. Individual Access:** If an Individual makes a request for access directly to Business Associate, Business Associate will within 5 business days forward such request in writing to Covered Entity. Covered Entity will be responsible for making all determinations regarding the grant or denial of an Individual's request for PHI and Business Associate will make no such determinations. Only Covered Entity will release PHI to an Individual pursuant to such a request.

6. AMENDMENT OF PROTECTED HEALTH INFORMATION

- a. Covered Entity Request:** Within 5 business days of receiving a request from Covered Entity to amend an Individual's PHI, Business Associate will provide such information to Covered Entity for amendment. Alternatively, if Covered Entity's

request includes specific information to be included in the PHI as an amendment, Business Associate will incorporate such amendment within 5 business days of receipt of the Covered Entity request.

- b. **Individual Request:** If an Individual makes a request for amendment directly to Business Associate, Business Associate will within 5 business days forward such request in writing to Covered Entity. Covered Entity will be responsible for making all determinations regarding amendments to PHI and Business Associate will make no such determinations.

7. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

- a. **Disclosure Records:** Business Associate will keep a record of any Disclosure of PHI that Business Associate makes to its agents, subcontractors or other third parties, if Covered Entity is required to provide an accounting to Individuals of such Disclosures under 45 C.F.R. § 164.528. Business Associate will maintain its record of such Disclosures for six years from the termination of this Agreement.
- b. **Data Regarding Disclosures:** For each Disclosure for which it is required to keep a record under paragraph 7(a), Business Associate will record and maintain the following information: (1) the date of Disclosure; (2) the name of the entity or person who received the PHI and the address of such entity or person, if known; (3) a description of the PHI Disclosed; and (4) a brief statement of the purpose of the Disclosure.
- c. **Provision to Covered Entity:** Within 5 business days of receiving a notice from Covered Entity, Business Associate will provide to Covered Entity its Disclosure records.
- d. **Request by Individual:** If an Individual requests an accounting of Disclosures directly from Business Associate, Business Associate will forward the request and its Disclosure record to Covered Entity within 5 business days of Business Associate's receipt of the Individual's request. Covered Entity will be responsible for preparing and delivering the accounting to the Individual. Business Associate will not provide an accounting of its Disclosures directly to any Individual.

8. ACCESS TO BOOKS AND RECORDS

- a. **Covered Entity Access:** Business Associate will, within 5 business days of Covered Entity's written request, make available during normal business hours at Business Associate's offices, all records, books, agreements, policies and procedures relating to the Use or Disclosure of PHI for the purpose of allowing Covered Entity or its agents or auditors to determine Business Associate's compliance with this Agreement.

- b. Government Access:** Business Associate will make its internal practices, books and records on the Use and Disclosure of PHI available to the Secretary of the Department of Health and Human Services to the extent required for determining compliance with the Privacy Standards, Security Standards, or Breach Notification Regulations. Notwithstanding this provision, no attorney-client, accountant-client or other legal privilege will be deemed waived by Business Associate or Covered Entity as a result of this Section.

9. TERMINATION

Covered Entity may terminate the Written Agreement, if any, and this Agreement upon written notice to Business Associate if Covered Entity determines that the Business Associate or its subcontractors or agents has breached a material term of this Agreement. Covered Entity will provide Business Associate with written notice of the breach of this Agreement and afford Business Associate the opportunity to cure the breach to the satisfaction of Covered Entity within 30 days of the date of such notice. If Business Associate or its subcontractors or agents fail to timely cure the breach, as determined by Covered Entity in its sole discretion, Covered Entity may terminate the Written Agreement, if any, and this Agreement.

10. RETURN OR DESTRUCTION OF PROTECTED HEALTH INFORMATION

- a. Return or Destruction of PHI:** Within 30 days of termination of this Agreement, Business Associate will return to Covered Entity all PHI that Business Associate or its subcontractors or agents maintain in any form or format. Alternatively, Business Associate may, upon Covered Entity's written consent, destroy all such PHI and provide written documentation of such destruction. Business Associate will be responsible for recovering any PHI from its subcontractors or agents, or documenting their destruction of such PHI, consistent with the terms of this Section.
- b. Retention of PHI if Return or Destruction is Infeasible:** If Business Associate believes that returning or destroying PHI at the termination of this Agreement is infeasible, it will provide written notice to Covered Entity within 30 days of the effective date of termination of this Agreement. Such notice will set forth the circumstances that Business Associate believes makes the return or destruction of PHI infeasible and the measures that Business Associate will take for assuring the continued confidentiality and security of the PHI. Covered Entity promptly will notify Business Associate of whether it agrees that the return or destruction of PHI is infeasible. If Covered Entity agrees that return or destruction of PHI is infeasible, Business Associate may keep the PHI but will extend all protections, limitations and restrictions of this Agreement to Business Associate's Use or Disclosure of PHI retained after termination of this Agreement and will limit further Uses or Disclosures to those purposes that make the return or destruction of the PHI infeasible. Business Associate will also ensure that any such extended protections, limitations and restrictions apply to its subcontractors or agents for whom return or destruction of PHI is determined by Covered Entity to be infeasible. If Covered Entity does not

agree that the return or destruction of PHI from Business Associate or its subcontractors or agents is infeasible, Covered Entity will provide Business Associate with written notice of its decision, and Business Associate and its subcontractors and agents will proceed with the return or destruction of the PHI pursuant to the terms of this Section within 30 days of the date of Covered Entity's notice.

11. RESTRICTIONS ON USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

If Covered Entity advises Business Associate of any changes in, or restrictions to, the permitted Use or Disclosure of PHI, Business Associate will restrict the Use or Disclosure of PHI consistent with the Covered Entity's instructions.

12. MITIGATION PROCEDURES

Business Associate will mitigate, to the maximum extent practicable, any deleterious effect from its or its subcontractors' or agents' Use or Disclosure of PHI in a manner that violates this Agreement.

13. OBLIGATIONS REGARDING BUSINESS ASSOCIATE PERSONNEL

Business Associate will inform all of its Workforce Members, subcontractors and agents ("Business Associate Personnel"), whose services may be used to satisfy Business Associate's obligations under the Written Agreement, if any, or this Agreement, of the Business Associate's obligations under this Agreement. Business Associate represents and warrants that the Business Associate Personnel are under legal obligation to Business Associate, by contract or otherwise, sufficient to enable Business Associate to fully comply with the provisions of this Agreement. Business Associate will maintain a system of sanctions for any Business Associate Personnel who violates this Agreement.

14. COMPLIANCE WITH HITECH ACT AND REGULATIONS

Business associate will comply with the requirements of Title XII, Subtitle D of the Health Information Technology for Economic and Clinical Health (HITECH) Act, codified at 42 U.S.C. §§ 17921-17954, which are applicable to Business Associate, and will comply with all regulations issued by the Department of Health and Human Services (HHS) to implement these referenced statutes, as of the date by which Business Associate is required to comply with such referenced statutes and HHS regulations.

15. MISCELLANEOUS

a. COMPLIANCE WITH LAWS: The parties are required to comply with federal and state laws. If this Agreement must be amended to secure such compliance, the parties will meet in good faith to agree upon such amendments. If the parties cannot agree upon such amendments, then either party may terminate this Agreement upon 30 days' written notice to the other party.

- b. CONSTRUCTION OF TERMS:** The terms of this Agreement will be construed in light of any applicable interpretation or guidance on the Privacy Standards, Security Standards or Breach Notification Regulations issued by the Department of Health and Human Services.
- c. NO THIRD PARTY BENEFICIARIES:** Nothing in this Agreement will confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- d. NOTICES:** All notices required under the Agreement will be given in writing and will be delivered by (1) personal service, (2) first class mail, or (3) messenger or courier. All notices shall be addressed and delivered to the contact designated in the signature block, or other address provided by the party from time to time in writing to the other party. Notices given by mail will be deemed for all purposes to have been given forty-eight hours after deposit with the United States Postal Service. Notices delivered by any other authorized means will be deemed to have been given upon actual delivery.
- e. ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties with regard to the Privacy Standards, Security Standards and Breach Notification Regulations, there are no understandings or agreements relating to this Agreement that are not fully expressed in this Agreement and no change, waiver or discharge of obligations arising under this Agreement will be valid unless in writing and executed by both parties.
- f. WRITTEN AGREEMENT:** This Agreement will be considered an attachment to Written Agreement, if any, and is incorporated as though fully set forth within the Written Agreement. This Agreement will govern in the event of conflict or inconsistency with any provision of Written Agreement.
- g. COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and when taken together shall constitute one agreement. Facsimile and electronic signatures shall be deemed to be original signatures for all purposes of this Agreement.

Remainder of page left blank intentionally.

BUSINESS ASSOCIATE

YAVAPAI REGIONAL MEDICAL CENTER

By: _____

By: TJL 9. BS

Print Name: i

Print Name: TIMOTHY J. BARNETT, FACHE

Title: _____

Title: PRESIDENT & CEO

Date: _____

Date: 12/14/09

Contact for Notices under this Agreement:

Print Name: _____

Print Name: Nancy Milner

Title: _____

Title: Corporate Compliance Officer

Address: _____

Address: 1003 Willow Creek Road

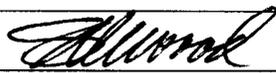
Prescott, AZ 86301

Phone: _____

Phone: (928) 771-5688

Remainder of page left blank intentionally.

COUNCIL AGENDA MEMO – 02/02/10 & 02/09/10
DEPARTMENT: Regional Communications
AGENDA ITEM: Award the purchase/installation of a 3 Channel VHF Combiner and 3 Channel VHF RX Distribution System for Indian Hill, North West Tank, Mingus Tank and Yavapai Hills Communications sites.

Approved By:	Date:
Department Head: Darrell Willis, Division Chief of Wildland / Disaster Preparedness / Communications Departments	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood 	<i>01/28/10</i>

BACKGROUND

The City of Prescott has been in the process of building a new Public Safety Radio System for four years. The system is comprised of multiple radio sites which utilize multiple Channels at each site location. The Channels are Prescott PD Channel 1, Prescott PD Channel 2 and Prescott Fire Channel 2. With the use of simulcast technology, these Channels have the ability to receive and transmit at the same time at all sites, thus providing a high level of coverage and solid communications for Public Safety personnel.

In order for a Multi-Channel, Multi-Site Radio System to function properly, it requires radios to receive and transmit at the same time. The problem that arises is the need for the devices to be protected from each other on their respective Channel; with multiple Channels per site, they also need to provide protection or filtering from other transmitters and receivers that are in use at the same site. To provide this protection, a few levels of filtering must be established.

One level includes physical separation of the transmit and receive antennas at each site. This particular separation is in the form of physical vertical separation of the antennas on the tower. The preferred distance is approximately 60' of vertical separation; however, in some cases, due to tower heights and physical limitations, this is not feasible. In these cases it is necessary to employ more sophisticated filtering devices.

Another level of protection is to provide the ability to Multi-Couple all of the receivers at a given site to a single antenna; the device that provides this protection is called a Receive Multi-Coupler. The design that was engineered for the City of Prescott proposes the use of these devices on each site.

The next level provides for all of the transmitters to be coupled or grouped together into the same antenna; this device is called a Transmitter Combiner which is also engineered into the proposed filter design for the City of Prescott.

AGENDA ITEM: Award the purchase/installation of a 3 Channel VHF Combiner and 3 Channel VHF RX Distribution System for Indian Hill, North West Tank, Mingus Tank and Yavapai Hills Communications sites.

These devices provide for the proper physical separation of the antennas at each site allowing for a single receive antenna and transmit antenna. Without this equipment it would require dedicated antennas for each device at each site which may require 5-6 antennas to be mounted on the tower at each site. This would not allow for the proper physical separation and the proper protection from the transmitters and receivers and their neighboring Channels. The proposed filter equipment is required to provide proper operation of the Public Safety Radio network for the City of Prescott.

FINANCIAL

Council has approved funding for this construction contract expense via the communications infrastructure budget in the Fiscal Year 2010. The contract cost of \$50,231.10, not including tax and shipping, will be paid out of account 2255200-8910-09605. This equipment will be purchased from Telewave Inc. using GSA (U.S. General Services Administration) pricing.

ITEM SUMMARY

With the purchase and installation of this radio filtering equipment, the Radio Infrastructure Project will be completely operational.

Recommended Action: MOVE to award funding, in the amount of \$50,231.10, not including tax and shipping, to Telewave, Inc., for 3 Channel VHF Combiners and 3 Channel VHF RX Distribution Systems for the Indian Hill, Mingus Tank, Northwest Tank and Yavapai Hills Communications sites.



660 Giguere Court, San Jose, California 95133, U.S.A.
 t: +408.929.4400 f: +408.929.4080 w: http://www.telewave.com
 e: dennis@telewave.com

QUOTATION

Company: City of Prescott
Attn: Tad Coyner
Country:
Tel #: 928-300-8444
Fax #:
Email: tad.coyner@prescott-az.gov
Ref: Indian Hill

28-Dec-2009

From: Dennis Krakenberg
 Domestic Sales Engineer

Quote # 1209-0869-DK I.H.

ITEM #	QTY.	MODEL	DESCRIPTION	UNIT PRICE (US\$)	EXTENSION (US\$)
1	1	M108-150-3TRM	<p style="text-align: center;">3 Ch VHF Combiner Per Drawing 90530-1,-3</p> 148-174 mHz Rack mount 3 Ch transmit combiner with power monitoring	\$5,961.31	\$5,961.31
			<p style="text-align: center;">3 Ch VHF RX Distribution Systems Per Drawing 90530-2,-4</p>		
2a	1	TPCP-1554	148-174 mHz Preselect Filter	\$815.36	\$815.36
2b	1	TWNC-1505-1	148-174 mHz Bandpass Cavity	\$194.59	\$194.59
2c	1	TWR2-150	132-174 mHz 2 Ch Receiver Distribution Panel	\$884.51	\$884.51
2d	2	TWX150-2P	VHF Band 2-pole Crystal Filter	\$510.00	\$1,020.00
2e	1	TWX150	VHF Band 4-pole Crystal Filter	\$864.41	\$864.41
2f	2	TLA150-12	132-174 mHz Bipolar Preamp	\$353.00	\$706.00
2g	1	PNL014	Equipment Mounting Panel	\$27.00	\$27.00
2h	2	TWCH-2	Phasing Harnesses	\$170.00	\$340.00
2i	8	TW2	Custom Interconnect Cables	\$37.40	\$299.20
2j	1	TBR72-19B	Steel Bud Relay Rack with Cross bracing	\$322.44	\$322.44
	6		Manufacturing labor	\$75.00	\$450.00
	0.5		Engineering labor	\$150.00	\$75.00

Crystal filters take 8 to 10 weeks to grow
 Non cancellation or return after order is placed

PRICING: GSA/LG	SHIPPING :	TBA
	TOTAL:	\$11,959.82

Ship Date : 10 to 15 Working Days After Receipt of Order
SHIPPING: FOB, San Jose, CA 95133
PAYMENT: Paid in full with Order, Visa, MasterCard, AMEX and net 30 with approval of credit
TERMS: Quote valid for 30 days



660 Giguere Court, San Jose, California 95133, U.S.A.
 t: +408.929.4400 f: +408.929.4080 w: http://www.telewave.com
 e: dennis@telewave.com

QUOTATION

Company: City of Prescott
Attn: Tad Coyner
Country:
Tel #: 928-300-8444
Fax #:
Email: tad.coyner@prescott-az.gov
Ref: North West

28-Dec-2009

From: Dennis Krakenberg
Domestic Sales Engineer

Quote # 1209-0869-DK N.W.

ITEM #	QTY.	MODEL	DESCRIPTION	UNIT PRICE (US\$)	EXTENSION (US\$)
1	1	M108-150-3TRM	<p style="text-align: center;">3 Ch VHF Combiner Per Drawing 90530-1,-3</p> <p>148-174 mHz Rack mount 3 Ch transmit combiner with power monitoring</p> <p style="text-align: center;">3 Ch VHF RX Distribution Systems Per Drawing 90530-2,-4</p>	\$5,961.31	\$5,961.31
2a	1	TPCP-1554	148-174 mHz Preselect Filter	\$815.36	\$815.36
2b	1	TWNC-1505-1	148-174 mHz Bandpass Cavity	\$194.59	\$194.59
2c	1	TWR2-150	132-174 mHz 2 Ch Receiver Distribution Panel	\$884.51	\$884.51
2d	2	TWX150-2P	VHF Band 2-pole Crystal Filter	\$510.00	\$1,020.00
2e	1	TWX150	VHF Band 4-pole Crystal Filter	\$864.41	\$864.41
2f	2	TLA150-12	132-174 mHz Bipolar Preamp	\$353.00	\$706.00
2g	1	PNL014	Equipment Mounting Panel	\$27.00	\$27.00
2h	2	TWCH-2	Phasing Harnesses	\$170.00	\$340.00
2i	8	TW2	Custom Interconnect Cables	\$37.40	\$299.20
2j	1	TBR72-19B	Steel Bud Relay Rack with Cross bracing	\$322.44	\$322.44
	6		Manufacturing labor	\$75.00	\$450.00
	0.5		Engineering labor	\$150.00	\$75.00

Crystal filters take 8 to 10 weeks to grow
 Non cancellation or return after order is placed

PRICING: GSA/LG	SHIPPING : TOTAL:	TBA \$11,959.82
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Ship Date : 10 to 15 Working Days After Receipt of Order
SHIPPING: FOB, San Jose, CA 95133
PAYMENT: Paid in full with Order, Visa, MasterCard, AMEX and net 30 with approval of credit
TERMS: Quote valid for 30 days



660 Giguere Court, San Jose, California 95133, U.S.A.
 t: +408.929.4400 f: +408.929.4080 w: http://www.telewave.com
 e: dennis@telewave.com

QUOTATION

Company: City of Prescott
Attn: Tad Coyner
Country:
Tel #: 928-300-8444
Fax #:
Email: tad.coyner@prescott-az.gov
Ref: Mingus Tanks

28-Dec-2009

From: Dennis Krakenberg
 Domestic Sales Engineer

Quote # 1209-0870-DK M.T.

ITEM #	QTY.	MODEL	DESCRIPTION	UNIT PRICE (US\$)	EXTENSION (US\$)
1	1	M108-150-4TRM	<p style="text-align: center;">4 Ch VHF Combiners Per Drawing 90529-1,-3</p> 148-174 mHz Rack mount 4 Ch transmit combiner with power monitoring	\$7,157.22	\$7,157.22
			<p style="text-align: center;">3 Ch VHF RX Distribution Systems Per Drawing 90529-2,-4</p>		
2a	1	TPCP-1554	148-174 mHz Preselect Filter	\$815.36	\$815.36
2b	1	TWNC-1505-1	148-174 mHz Bandpass Cavity	\$194.59	\$194.59
2c	1	TWR2-150	132-174 mHz 2 Ch Receiver Distribution Panel	\$884.51	\$884.51
2d	2	TWX150-2P	VHF Band 2-pole Crystal Filter	\$510.00	\$1,020.00
2e	1	TWX150-12	VHF Band 4-pole Crystal Filter	\$864.41	\$864.41
2f	2	TLA150-12	132-174 mHz Bipolar Preamp	\$353.00	\$706.00
2g	1	PNL014	Equipment Mounting Panel	\$27.00	\$27.00
2h	2	TWCH-2	Phasing Harnesses	\$170.00	\$340.00
2i	8	TW2	Custom Interconnect Cables	\$37.40	\$299.20
2j	1	TBR72-19B	Steel Bud Relay Rack with Cross Bracing	\$322.44	\$322.44
	6		Manufacturing labor	\$75.00	\$450.00
	0.5		Engineering labor	\$150.00	\$75.00

Crystal filters take 8 to 10 weeks to grow
 Non cancellation or return after order is placed

PRICING: GSA/LG	SHIPPING : TOTAL:	TBA \$13,155.73
------------------------	------------------------------	----------------------------

Ship Date : 10 to 15 Working Days After Receipt of Order
SHIPPING: FOB, San Jose, CA 95133
PAYMENT: Paid in full with Order, Visa, MasterCard, AMEX and net 30 with approval of credit
TERMS: Quote valid for 30 days

COUNCIL AGENDA MEMO – 02/02/10 & 02/09/10
DEPARTMENT: FINANCE
AGENDA ITEM: RESOLUTION DECLARING THE CITY’S INTENT TO BE REIMBURSED FOR CERTAIN CAPITAL EXPENDITURES FROM THE ISSUANCE OF DEBT

Approved By:	Date:
Department Head:	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>[Signature]</i>	<i>01/28/10</i>

BACKGROUND

Federal Treasury Regulation Section 1.150-2 requires municipalities to declare their intent to reimburse themselves for capital expenditures through a debt issue prior to, or within, 60 days of the expenditure. The FY 2010 budget identifies several water and wastewater projects that will be financed through the issuance of debt.

ITEM

The projects, which are intended to be financed with debt, are scheduled throughout the year; therefore, in order to minimize the cost of financing, these projects need to be consolidated into one bond issue. Funds for these projects will be advanced through short-term internal borrowing, then, when the bonds are issued, the affected funds will repay these short-term loans with the bond proceeds.

Recommended Action: MOVE to adopt Resolution No. 4002-1032.

RESOLUTION NO. 4002-1032

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, DECLARING, FOR PURPOSES OF SECTION 1.150-2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES RELATING TO THE "WATER SYSTEM FUND – DISTRIBUTION SYSTEM PROGRAM," AND "WASTEWATER SYSTEM FUND - COLLECTION SYSTEM PROGRAM"

RECITALS:

WHEREAS, the City of Prescott, a municipal corporation of the State of Arizona (hereinafter referred to as the "City"), is authorized and empowered pursuant to law to issue or cause to be issued obligations to finance the costs of various capital facilities owned or to be owned by the City; and

WHEREAS, it is contemplated that certain expenditures made by the City with regard to capital facilities owned or to be owned by the City with regard to certain water and wastewater system improvements will be reimbursed from the proceeds of the sale of obligations to be issued in the future by or on behalf of the City;

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF CITY OF SEDONA, ARIZONA, that:

Section 1. Definitions. The following terms shall have the meanings assigned thereto as follows:

"official intent" means a declaration of intent of the City to reimburse an original expenditure with proceeds of an obligation.

"original expenditure" means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond.

"reimbursement bond" means the portion of an issue of obligations allocated to reimburse an original expenditure that was paid before the issue date of such issue.

Section 2. Official Intent. This Resolution is official intent relating to reimbursement for the original expenditures indicated in Exhibit A hereto which are capital expenditures (being any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles).

Section 3. Project Descriptions. The projects for which such original expenditures are to be paid are for those described on Exhibit A attached hereto and the maximum principal amount of obligations (including the reimbursement bonds for such purposes) to be issued for such projects will not exceed \$10,836,337.

Section 4. Reasonableness of Official Intent. On the date of this Resolution, the Mayor and Council of the City have a reasonable expectation (being that a prudent person in the same circumstances would have based on all the objective facts and circumstances) that it will reimburse such original expenditures with proceeds of such obligations. (Official intents have not been declared by the City as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for such projects. Moreover, the City does not have a pattern (other than in extraordinary circumstances) of failure to reimburse actual original expenditures covered by official intents.)

Section 5. Public Record. This Resolution shall be included as of the date hereof in the publicly available official records of the City, such records being maintained and supervised by the Clerk of the City, being the main administrative office of the City, and shall remain available for public inspection on a reasonable basis.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 9th day of February, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A BURKE, City Clerk

GARY D KIDD, City Attorney

EXHIBIT A

ORIGINAL EXPENDITURES INTENDED TO BE REIMBURSED

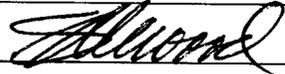
<u>Description of Original Expenditures</u>	<u>Amount of Expenditures</u>	<u>Dates of Original Expenditures</u>
Wastewater System Fund - Collection System Improvements	\$ 9,089,301	After December 11, 2009
Water System Fund – Distribution System Improvements	\$ 1,747,036	After December 11, 2009

CERTIFICATION

I hereby certify that the foregoing Resolution No. 4002-1032 was duly passed and adopted by the Mayor and the Council of the City of Prescott, Arizona, at a regular meeting held on the 9th day of February, 2010, and the vote was ___ ayes and ___ nays and that the Mayor and ___ Councilmembers were present thereat.

ELIZABETH A BURKE, City Clerk

COUNCIL AGENDA MEMO – 02/02/10 & 02/09/10
DEPARTMENT: LEGAL
AGENDA ITEM: ANNUAL CONFLICT OF INTEREST RESOLUTION

Approved By:	Date:
Department Head: Gary Kidd	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood 	01/28/10

BACKGROUND

State law prohibits the purchase of any service or merchandise from a Council member, appointee or employee unless a policy allowing such is adopted by the Council annually. {The Council has been adopting this Resolution for the past fourteen years} The attached Resolution is in accordance with ARS Section 38-503, and would:

Allow the City to enter into a contract with a public officer or employee of the City to provide items or services to the City, in an amount not to exceed \$300 per transaction, or in an amount not to exceed \$1,000 in any one year.

Provide that no public officer or employee of the City may enter into a contract to provide any item or service to the City in excess of \$300 per transaction, or in excess of \$1,000 in any one year, unless said contract is awarded pursuant to a public and sealed bidding process.

FINANCIAL IMPACT

None

Recommended Action: MOVE to adopt Resolution Number 4003-1033.

RESOLUTION NO. 4003-1033

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ADOPTING A COUNCIL POLICY REGARDING CONTRACTS WITH THE CITY BY PUBLIC OFFICERS AND EMPLOYEES OF THE CITY

RECITALS:

WHEREAS, ARS Section 38-503 requires the City Council to annually approve a policy regarding contracts with the City by public officers and employees of the City.

ENACTMENTS:

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

Section 1. That the City may enter into a contract with a public officer or employee of the City to provide any item or service to the City, in an amount not to exceed \$300.00 per transaction, or in an amount not to exceed \$1,000.00 in any one year.

Section 2. That no public officer or employee of the City may enter into a contract to provide any item or service to the City in excess of \$300.00 per transaction or in excess of \$1,000.00 in any one year unless said contract is awarded pursuant to a public and sealed bidding process.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 9th day of February, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A BURKE, City Clerk

GARY D KIDD, City Attorney

COUNCIL AGENDA MEMO – (02/02/10 & 02/09/10)

DEPARTMENT: City Clerk

AGENDA ITEM: Public Hearing and consideration of a liquor license application from Aaron David Meisheid, applicant for M & A Restaurants LLC, for a Series 12 Restaurant license for Firehouse Kitchen located at 220 West Goodwin Street, Suite 101.

Approved By:

Date:

Department Head: Elizabeth A. Burke

02/09/2010

Finance Director: Mark Woodfill

02/09/2010

City Manager: Steve Norwood



02/09/2010

A Liquor License Application, City No. 10-158, State No. 12133461, has been received from Aaron David Meisheid, Applicant for M & A Restaurants LLC, for a new Series 12 Restaurant license for **Firehouse Kitchen** located at 220 West Goodwin Street, Suite 101, due to an ownership change.

The public hearing will be held at the Regular Council Meeting of Tuesday, February 9, 2010. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have.

A copy of the application is available for Council's review in the City Clerk's Office.

Recommended Action: (1) **MOVE** to close the Public Hearing. (2) **MOVE** to approve/deny State Liquor License Application No. 12133461, for a new Series 12 Restaurant, Applicant for M & A Restaurants LLC for Firehouse Kitchen at 220 West Goodwin Street, Suite 101.

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.
12. Proximity to licensed childcare facilities as defined by A.R.S. § 36-881.

Historical Note

Former Rule 2; Former Section R4-15-02 renumbered as Section R4-15-102 without change effective October 8, 1982 (Supp. 82-5). Repealed effective July 11, 1983 (Supp. 83-4). New Section adopted effective March 3, 1993 (Supp. 93-1). R19-1-102 recodified from R4-15-102 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5119, effective January 9, 2006 (Supp. 05-4).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp

**ARIZONA STATE LIQUOR LICENSES
TYPES / PURPOSES
AS OF 04/07**

License Types: Series 01 In-State Producer's License

Allows an in-state producer to produce or manufacture spirituous liquor and sell the product to a licensed wholesaler.

License Types: Series 02 Out-of-State Producer's License

Allows an out-of-state producer, exporter, importer or rectifier to ship spirituous liquor into the state to a licensed Arizona wholesaler.

License Types: Series 03 Domestic Microbrewery License

Allows the licensee of a microbrewery to manufacture or produce not less than 5,000 gallons of beer in each calendar year following the first year of operation and not more than 620,000 gallons of beer in a calendar year.

License Types: Series 04 Wholesaler's License

Allows a wholesaler to warehouse and distribute for sale, spirituous liquor to a licensed retailer.

License Types: Series 05 Government License

Allows the holder of a government license to sell and serve spirituous liquor solely for consumption on the premises for which the license is issued. The license is issued in the name of a county, city, town or state university whose governing body has authorized its use.

License Types: Series 06 Bar License – Transferable

Allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

License Types: Series 07 Beer and Wine Bar License - Transferable

Allows a beer and wine bar retailer to sell and serve beer and wine, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

License Types: Series 08 Conveyance License (Airplanes, Trains, and Boats)

Allows the owner or lessee of an operating airline, railroad or boat to sell all spirituous liquors in individual portions or in original containers for consumption *only* on the plane, train or boat.

License Types: Series 09 Liquor Store License (All spirituous liquors) - Transferable

Allows a spirituous liquor store retailer to sell all spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

License Types: Series 10 Beer and Wine Store License (Beer and wine only)

Allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

License Types: Series 11 Hotel/Motel License (with Restaurant)

Allows the holder of a hotel/motel license to sell and serve spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

License Types: Series 12 Restaurant License

Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

License Types: Series 13 Domestic Farm Winery License

Allows a domestic farm winery licensee to manufacture or produce more than two hundred (200) gallons, but less than seventy-five thousand (75,000) gallons of wine annually, from grapes or other agricultural products, of which at least seventy-five percent (75%) are grown in this state.

License Types: Series 14 Club License

Allows the holder of a club license to sell and serve spirituous liquor for consumption only on the premises owned, leased or occupied by the club, and only to bona fide members of the club and their guests.

License Types: Series 15 Special Event License

Allows a charitable, civic, fraternal, political or religious organization to sell and serve spirituous liquor for consumption only on the premises where the spirituous liquor is sold, and only for the period authorized on the license. This is a temporary license.

Non-transferable License Types: Series 16 Wine Festival/Wine Fair License (Temporary)

1. Wine festival license: Allows a licensed domestic farm winery to serve samples of its products on the wine festival premises and the sale of such products in original containers for consumption off the wine festival premises.
2. Wine fair license: Allows a licensed domestic farm winery to serve samples of its products at a sanctioned county or state fair, and the sale of such products in original containers for consumption off the fair premises.

License Types: Series 17 Direct Shipment License

Allows an out-of-state producer, exporter, importer, or rectifier to take orders from retail customers by telephone, mail, catalog or the Internet. The orders must be shipped into the state to a licensed Arizona wholesaler. The wholesaler must sell the product to a licensed retailer. The retailer will deliver the spirituous liquor to the customer.