



ART DONATION AGREEMENT

This Agreement is made this _____ day of _____, by and between _____ (“Donor”) and the City of Prescott, Arizona (“City”). Exhibit A: Donor Information

WHEREAS, both the Donor and the City believe that this art donation enhances the aesthetic character of the community and advances the public understanding of art; and

WHEREAS, the Donor wishes to donate to the City of Prescott for use as public art an item which is more specifically described in Exhibit B and referred to as the “Work”, and the Donor has complied with the review processes of the Art in Public Places Committee, referred to as the “Committee”; and

WHEREAS, the City is willing to accept the donation under the terms and conditions herein:

THEREFORE, the parties agree as follows:

1. The Donor acknowledges that City of Prescott Resolution No. 4279-1488 “Guidelines for Acceptance of Public Art” referred to as the “Guidelines”, governs this Agreement and may be used to determine the suitability, appropriate location, maintenance, safety, acceptance and de-accession of the Work.
2. The Donor hereby irrevocably donates, and conveys title to the Work to the City. The donation shall be effective as of the _____ day of _____, 20____.
3. The Donor certifies that the Work is free of encumbrances and does not infringe upon any copyrights.
4. The City may remove or de-accession the Work at its sole discretion. The City will give the Donor the right of first refusal to reacquire the donated Work pursuant to the terms and conditions established by the City.
5. The Artist / Donor agrees to comply with the Committee and City requirements as described in Exhibit C including but not limited to; Installation, Inspections, liability insurance during installation, safety, ADA compliance, Interference with City facilities / utilities, and agreed future maintenance, prior to acceptance by the City. These requirements were determined during the Committee and City Staff and stakeholder review process.
6. This contract is subject to the cancellation provisions of A.R.S. §38-511.
7. In case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained therein.
8. The Donor agrees to defend, indemnify, and hold harmless the City, its officers, employees, agents, or other representatives from any and all claims for damages or otherwise arising under this Agreement and from any negligent acts of the Donor. This Indemnification provision shall survive the termination of this Agreement.
9. The parties expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court

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

DONOR:

DATED this _____ day of _____, 2016.

By: _____

STATE OF ARIZONA)
)ss.
COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed it.

[Seal]

Notary Public

CITY OF PRESCOTT:

DATED this _____ day of _____, 2016.

HARRY B. OBERG
Mayor

ATTEST:

APPROVED AS TO FORM:

DANA R. DeLONG

City Clerk

JON PALADINI

City Attorney

EXHIBIT A: Donor Information.

EXHIBIT B: Description of the Art.

1. Narrative description of the conceptual or finished Work. Method of installation, dimensions, timeframe for completion. Drawings, maquette, and photographs.

EXHIBIT C: Requirements and Costs Prior to Acceptance.

1. Project Budget. Artist / Donor borne costs. City costs. Future maintenance costs.
2. Schedule.
3. Engineering requirements.
4. Committee requirements.