

**CITY OF KINGMAN
TOURISM DEVELOPMENT COMMISSION
City Council Chambers
310 N. 4th Street - Kingman, Arizona
7:30 A.M. Thursday, November 3, 2016**

REGULAR MEETING AGENDA

CALL TO ORDER AND ROLL CALL

1. APPROVAL OF MINUTES

- a. The Regular Meeting Minutes of August 4, 2016**

- 2. CONSIDERATION OF PUBLIC COMMENTS:** Those wishing to address the Commission should fill out request forms in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for consideration and decision at a later time. Comments from the public will be restricted to items not on the agenda. There will be no comments allowed that advertise for a particular person or group. Comments should be limited to no longer than three minutes.

3. REPORTS

- a. REPORT BY TINA MOLINE ON HOTEL REVENUES**
- b. REPORT BY JOSH NOBLE ON MONTHLY STR HOTEL DATA**
- c. REPORT BY JOSH NOBLE ON REQUESTED TDC GOALS WORKSHOP**

4. OLD BUSINESS

None.

5. NEW BUSINESS

- a. Review and Acceptance of Kingman Railroad Club Quarterly Report for the Months of July, August and September**
Members of the Whistle Stop Railroad Club will present their quarterly report regarding activities of the Kingman Railroad Museum.
- b. Review and recommendation regarding Kingman Railroad Museum agreement renewal**
The Whistle Stop Railroad Club is requesting a renewal of their operating agreement at the Kingman Railroad Museum and Depot.

c. Review and Acceptance of Kingman Circle first Quarterly Report by Ignite Marketing

Ignite Marketing representatives will present their first quarterly report regarding the marketing activities for KingmanCircle.com for the months of August, September, and October.

d. Presentation from Frontier Communications regarding Downtown Parks and Downtown Commerce Wi-Fi

Frontier Communications would like to present the possibility of a Downtown Parks and Downtown Commerce Wi-Fi. The system would be a customized Wi-Fi solution that would enhance the tourist's experience in Kingman. Staff is seeking a recommendation on whether or not to pursue this project.

6. **ANNOUNCEMENTS BY COMMISSIONERS**—Limited to announcements, availability or attendance at conferences and seminars, requests for agenda items for future meetings and requests for reports from staff. No discussion on any of these items.

7. **ADJOURNMENT**

**CITY OF KINGMAN
TOURISM DEVELOPMENT COMMISSION
City Council Chambers
310 N. 4th Street - Kingman, Arizona
7:30 A.M. Thursday, August 4, 2016**

7:30 A.M.

**Regular Meeting
MINUTES**

Thursday August 4, 2016

Commissioners Present:	Staff:	Visitors Signing In:
Krystal Burge, Chair --- EXCUSED	Gary Jeppson, Staff Liaison	See Attached
Thomas Spear, Vice-Chair	Tina Moline, Finance Director	
Jan Davis, Commissioner	Burley Hambrick, Project Manager	
Theresa Evans, Commissioner	John Dougherty, City Manager	
Angela Patterson, Commissioner	Josh Noble, Tourism Director	
Harley Pettit, Commissioner --- LATE	Sydney Muhle, City Clerk and Recording Secretary	

REGULAR MEETING MINUTES

CALL TO ORDER AND ROLL CALL: Chair Burge called the meeting to order at 7:30 A.M. All commission members were present except Commissioner Pettit who was late.

1. APPROVAL OF MINUTES

- a. The Regular Meeting minutes of May 5, 2016.

Commissioner Evans made a MOTION to APPROVE the Regular Meeting Minutes of May 5, 2016. Vice Chairperson Spear SECONDED and it was APPROVED by a vote of 5-0.

- 2. CALL TO THE PUBLIC:** Those wishing to address the Commission should fill out request forms in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for consideration and decision at a later time. Comments from the public will be restricted to items not on the agenda. There will be no comments allowed that advertise for a particular person or group. Comments should be limited to no longer than three minutes.

There were no public comments.

3. OLD BUSINESS

- A. REQUEST FOR PROPOSAL REGARDING LEASE AGREEMENT AT THE POWERHOUSE:** Project Manager Burley Hambrick will present an update summary.

Project Manager Burley Hambrick addressed the commission and said that staff had advertised the request for proposal (RFP) for concessions. He then discussed the advertisements. He said that three entities were notified but there was no response.

Vice Chairperson Spear asked if there was a reason given for this.

Mr. Hambrick said that one tenant didn't want to make the necessary improvements which included electrical and plumbing upgrades. He said that the cost would have been a couple thousand dollars.

Chairperson Burge asked if anyone had ideas for this item.

Vice Chairperson Spear said that if tenants are not willing to commit the money then they are not serious about what the commission is trying to accomplish.

Chairperson Burge said that the commission has done everything and offered the opportunity.

Vice Chairperson Spear said he thought it should be left out there as this does not meant that someone will not come along in the future.

Commissioner Patterson asked if this was posted on the City's website.

Chairperson Burge said that it was posted in all publications.

Mr. Hambrick said that the RFP closed on July 1st. He said that the tribe showed interest and were notified.

Vice Chairperson Spear said that this may come later.

Chairperson Burge said that she appreciated the work put into this and the commission would be happy to monitor this and wait for further requests.

B. REPORT BY JIM HINCKLEY ON THE EUROPEAN ROUTE 66 FESTIVAL:
Independent Contractor Jim Hinckley will present on the activities of the Festival.

Jim Hinkley addressed the commission and provided information about his activities at the European Route 66 Festival. The commission also asked Mr. Hinkley a variety of questions and Mr. Hinkley provided additional information and clarification regarding this event.

Commissioner Pettit arrived at 7:38 A.M.

Vice Chairperson Spear said that he has noticed several local businesses mentioned in Mr. Hinkley's report. He asked if this was an opportunity to ask those businesses for funding.

Mr. Hinkley said that several of these businesses did make contributions. He said that it will be difficult to make Kingman a single night visits but is ideal for two to four night visits.

Vice Chairperson Spear said that several businesses are received repeated mention that should be helping in these efforts.

Chairperson Burge said that this needs to continue to be developed to make this a success for the future. She said that the commission wants to see positive things but want the community to help.

Mr. Hinkley said that this is helping and it is a great idea to create a network. He said that he wants to see Kingman succeed and this is the greatest untapped tourism potential on Route 66.

Chairperson Burge agreed and thanked Mr. Hinkley. She said that it is important to keep working on what we can do to keep moving this forward.

Mr. Hinkley offered a few final comments.

- C. PRELIMINARY FISCAL YEAR 2017 TDC OPERATING BUDGET:** The City Manager will review TDC's operating budget with the Commission.

City Manager John A. Dougherty said that this item was an error and should have been taken off of the agenda.

4. NEW BUSINESS

A. REPORT BY JOSH NOBLE ON MONTHLY STR HOTEL DATA

Tourism Director Josh Noble will provide a verbal report to the commission regarding the monthly STR Report.

Tourism Director Josh Noble gave a verbal report regarding the monthly STR Hotel Data report and noted that several data sets were trending up. He said that due to the distribution rights for this do not allow for this report to be provided as part of the packet as it would become permanent public information.

Commissioner Patterson asked if the commission pays for this report.

Mr. Noble explained the process for this system and said that it helps the internal mechanism to see how effective efforts are. He said that this was paid for by the commission but is the only source in the country for this data.

Commissioner Patterson asked whether the commission should receive a printed out report so that they can follow along as commission funds paid for the report.

Mr. Noble said that the report would be public record. He said that he can show the report to any commissioners who would like to see the report but it cannot be presented at the meeting due to the Open Meeting Law requirements.

Chairperson Burge said that prior to this report the commission had been tracking this themselves and the purpose of this was to get a cleaner understanding.

Mr. Noble said that the commission puts a lot of funding into events and this is to fine tune that.

Vice Chairperson Spear said that Smith Travel Research does have this data and most properties in the area are on this two way system. He explained the process and said that this is the price the commission pays for clean data because this is the only way to track this. He encouraged the rest of the commission to meet with Mr. Noble and view the report. He said that he supports this expenditure and understands why the information cannot be made public. He said that this limits what can be done with the report.

Commissioner Patterson asked if the commission can extract certain information.

Mr. Noble said that this information is already generalized. He said that the agreement is ironclad and explained the packet and minutes distribution process. He said that the report is also shared with Development Services Director Gary Jeppson to provide for potential business opportunities.

Vice Chairperson Spear said that this data helps determine if an event is effective when they ask for funding and if this is a proven event.

Chairperson Burge said that the information is valuable for Mr. Noble to help people have a better understanding.

B. DISCUSSION REGARDING POTENTIAL DEVELOPMENT OF A HISTORIC ELECTRIC VEHICLE ASSOCIATION FACILITY

City Manager John A. Dougherty will present a potential idea for the development of a living museum to house the local electric vehicle museum in partnership with the Historic Electric Vehicle Association.

City Manager John A. Dougherty presented an idea to the commission for development of a Historic Electric Vehicle Museum on a City-owned 5.2 acre property at the corner of Andy Devine Avenue and Fairgrounds Boulevard. He provided ideas for the project including finding sponsors to help pay of the project and making the building green. He said that there were additional opportunities for educational elements. He said that there is a wide variety of interest and this is only in the thought process right now.

Vice Chairperson Spear said that the issue is funding and asked if the Council would authorize use of bed tax for this. He said that the commission is limited in what can be done with funding now that the Tourism Department is under the City. He noted that there would need to be a focus for the displays and that policies and procedures would need to be developed. He said that he is in support of this and it would be the only one in the world. He said that a lot of background would need to happen before it would be ready to break ground.

Chairperson Burge said that she would love to get background on other vehicle museums and explained some of her vision for the project. She said that she would like to see other American made vehicles in there as well.

Vice Chairperson Spear said that this goes back to vision and if this is going to be for electric vehicles then it needs to follow that and show the progression. He said that he would think one of those manufacturers would be interested in supporting this.

Chairperson Burge said that the property mentioned would be ideal for this. She said that she was very impressed with this idea and it would be outstanding progress. She said that it might take several years but she was excited about it.

Commissioner Pettit asked if there was an opportunity to do something in old town maybe near the Powerhouse Visitor Center. He said that this is a tremendous opportunity but the location would be an opportunity.

Mr. Dougherty explained the size and location of the property in question and noted that it was along Route 66.

Commissioner Evans said that these are very big draws and mentioned several locations with vehicles museums. She said that it is a money maker. She said that she did not want to see all of the funding come from the City and would like to see people step forward for funding.

Chairperson Burge said that it would be great to work with partners on this to see what can be done.

Mr. Dougherty said that there are at least two cities with an electric car and he would like to string them along Route 66 to bring people to Kingman to see the whole collection.

Commissioner Patterson noted that there are a lot of grants available.

Mr. Hinkley said that he had spoken to organizations about this. He also explained the interest in this and said that there needs to be continuity along the Route 66 corridor. He also explained events that have been done in other cities.

Chairperson Burge said that the commission is very enthusiastic about this and offered support to make sure this continues. She advised that Mr. Dougherty communicate this idea to the Council.

Vice Chairperson Spear said that this is definitely an opportunity but the city needed to talk with someone on vehicle museums to make sure this does not get overwhelmed.

Commissioner Evans said that car events bring vehicles every year and the streets are packed.

Chairperson Burge said that the commission is excited and wants to keep this going.

Mr. Noble noted that part of this is long range planning to help pull people off of the highway and direct them through town. He said that pulling attractions like this out of downtown will help make Kingman more rounded.

5. REPORTS

A. REPORT BY JOSH NOBLE ON MONTHLY STR HOTEL DATA

Tourism Director Josh Noble will provide a verbal report to the commission regarding the monthly STR Report.

Chairperson Burge noted that this was a duplicate item.

6. **ANNOUNCEMENTS BY COMMISSIONERS**—Limited to announcements, availability or attendance at conferences and seminars, requests for agenda items for future meetings and requests for reports from staff. No discussion on any of these items.

Vice Chairperson Spear noted that there was not a bed tax report at this time.

Mr. Noble explained that Finance Director Tina Moline was out of town and this report would be provided at the next meeting.

Vice Chairperson Spear said that it is nice to overlay this report with the STR Report to see the impact.

Chairperson Burge said that this was not on the agenda but it would be nice to build into the agenda and just say that there is not report if there isn't one.

Commissioner Pettit made a MOTION to ADJOURN. Commissioner Patterson SECONDED and it was APPROVED by a vote of 6-0.

7. **ADJOURNMENT** --- 8:15 A.M.

APPROVED:

Kristal Burge
TDC Chairperson

STATE OF ARIZONA)
COUNTY OF MOHAVE) ss:
CITY OF KINGMAN)

CERTIFICATE OF TDC MINUTES

I, Sydney Muhle, City Clerk and Recording Secretary of the City of Kingman, Arizona, hereby certify that the foregoing Minutes are a true and correct copy of the Regular Meeting Minutes of the Tourism Development Commission held on May 5th, 2016.

Dated this 3rd day of November, 2016.

Sydney Muhle
City Clerk and Recording Secretary

KINGMAN RAILROAD MUSEUM

QUARTERLY REPORT

THIRD QUARTER – 2016

JULY – AUGUST -- SEPTEMBER

	A	B	C	D	E	F	G
1							
2							
3					KINGMAN RAILROAD MUSEUM		
4							
5							
6							
7	JULY REPORT						
8							
9		ADMISSIONS			ADMISSION		DONATIONS
10	DATE	PAID	N/C		INCOME		RECEIVED
11	07/01/16	6	5		\$ 12.00		\$ 1.00
12	07/02/16	19	7		\$ 38.00		\$ 11.00
13	07/03/16	22	0		\$ 44.00		\$ 9.00
14	07/04/16	23	4		\$ 46.00		\$ 17.00
15	07/06/16	18	15		\$ 36.00		\$ 6.00
16	07/07/16	19	3		\$ 38.00		\$ -
17	07/08/16	14	10		\$ 28.00		\$ 1.00
18	07/09/16	31	9		\$ 62.00		\$ 9.00
19	07/10/16	19	5		\$ 38.00		\$ 3.00
20	07/13/16	15	8		\$ 30.00		\$ -
21	07/14/16	13	5		\$ 26.00		\$ 6.00
22	07/15/16	14	11		\$ 28.00		\$ 3.00
23	07/16/16	15	9		\$ 30.00		\$ 21.00
24	07/17/16	6	3		\$ 12.00		\$ 2.00
25	07/20/16	14	13		\$ 28.00		\$ 3.00
26	07/21/16	14	4		\$ 28.00		\$ 1.00
27	07/22/16	18	11		\$ 36.00		\$ 7.00
28	07/23/16	23	7		\$ 46.00		\$ 3.00
29	07/24/16	22	4		\$ 44.00		\$ 2.00
30	07/27/16	19	7		\$ 20.00		\$ 7.00
31	07/28/16	11	10		\$ 22.00		\$ -
32	07/29/16	27	3		\$ 54.00		\$ 20.00
33	07/30/16	12	4		\$ 24.00		\$ 1.00
34	07/31/16	10	9		\$ 20.00		\$ 14.00
35							
36	TOTALS	404	166		\$ 790.00		\$ 147.00

	A	B	C	D	E	F	G
1							
2							
3			KINGMAN RAILROAD MUSEUM				
4							
5							
6							
7	AUGUST REPORT						
8							
9		ADMISSIONS			ADMISSION		DONATIONS
10	DATE	PAID	N/C		INCOME		RECEIVED
11	08/03/16	5	1		\$ 10.00		\$ 11.00
12	08/04/16	7	3		\$ 14.00		\$ 13.00
13	08/05/16	12	18		\$ 24.00		\$ 8.00
14	08/06/16	22	4		\$ 44.00		\$ 1.00
15	08/07/16	20	7		\$ 40.00		\$ 7.00
16	08/10/16	7	1		\$ 14.00		\$ 2.00
17	08/11/16	12	2		\$ 24.00		\$ 2.00
18	08/12/16	9	7		\$ 18.00		\$ 1.00
19	08/13/16	11	6		\$ 22.00		\$ 16.00
20	08/14/16	20	8		\$ 40.00		\$ 11.00
21	08/17/16	4	7		\$ 8.00		\$ 2.00
22	08/18/16	15	2		\$ 30.00		\$ 1.00
23	08/19/16	19	15		\$ 38.00		\$ 6.00
24	08/20/16	14	3		\$ 28.00		\$ 4.00
25	08/21/16	27	2		\$ 54.00		\$ 6.00
26	08/24/16	12	3		\$ 24.00		\$ 9.00
27	08/25/16	6	1		\$ 12.00		\$ 20.00
28	08/26/16	13	5		\$ 26.00		\$ -
29	08/27/16	17	8		\$ 34.00		\$ 8.00
30	08/28/16	8	5		\$ 16.00		\$ 6.00
31	08/31/16	4	1		\$ 8.00		\$ 1.00
32							
33	TOTALS	264	109		\$ 528.00		\$ 135.00

	A	B	C	D	E	F	G
1							
2							
3				KINGMAN RAILROAD MUSEUM			
4							
5							
6	SEPTEMBER REPORT						
7							
8		ADMISSIONS			ADMISSION		DONATIONS
9	DATE	PAID	N/C		INCOME		RECEIVED
10	09/01/16	1	1		\$ 2.00		\$ -
11	09/02/16	10	4		\$ 20.00		\$ 4.00
12	09/03/16	18	8		\$ 36.00		\$ 3.00
13	09/04/16	13	5		\$ 26.00		\$ 1.00
14	09/07/16	5	3		\$ 10.00		\$ -
15	09/08/16	5	0		\$ 10.00		\$ -
16	09/09/16	15	10		\$ 30.00		\$ 6.00
17	09/10/16	18	9		\$ 36.00		\$ 18.00
18	09/11/16	23	3		\$ 46.00		\$ -
19	09/14/16	6	1		\$ 12.00		\$ 3.00
20	09/15/16	4	0		\$ 8.00		\$ 2.00
21	09/16/16	8	9		\$ 16.00		\$ 4.00
22	09/17/16	23	4		\$ 46.00		\$ 10.00
23	09/18/16	9	3		\$ 18.00		\$ 20.00
24	09/21/16	11	5		\$ 22.00		\$ 8.00
25	09/22/16	13	2		\$ 26.00		\$ 4.00
26	09/23/16	26	1		\$ 52.00		\$ 12.00
27	09/24/16	27	0		\$ 54.00		\$ 23.00
28	09/25/16	17	0		\$ 34.00		\$ 6.00
29	09/28/16	8	5		\$ 16.00		\$ 21.00
30	09/29/16	10	3		\$ 20.00		\$ 1.00
31	09/30/16	9	3		\$ 18.00		\$ 6.00
32							
33	TOTALS	279	79		\$ 558.00		\$ 152.00

KINGMAN RAILROAD MUSEUM QUARTERLY REPORT

MONTH	ADMISSIONS		ADMISSION INCOME	DONATION INCOME
	PAID	N/C		
JULY	404	166	\$ 790.00	\$ 147.00
AUGUST	264	109	\$ 528.00	\$ 135.00
SEPTEMBER	279	79	\$ 558.00	\$ 152.00
TOTALS	947	354	\$ 1,876.00	\$ 434.00
PREPARED BY LORRAINE BROWNFIELD 09/05/2016				

**AN AGREEMENT BETWEEN THE CITY OF KINGMAN AND THE WHISTLE
STOP RAILROAD CLUB FOR PROFESSIONAL SERVICES**

This professional services agreement between the City of Kingman (CITY) an Arizona municipal corporation located entirely within Mohave County and the Whistle Stop Railroad Club (WSRRC) an unincorporated non-profit organization, for professional services is entered into and is effective this _____ day of _____ 2016

RECITALS

WHEREAS:

- A. Acting through its duly elected governing body, by Resolution, the City's Council has approved the City to enter into this Agreement, and authorized the Mayor as its representative to execute the same on behalf of the City pursuant to §9-499.01
- B. Acting through its duly elected governing body has approved WSRRC to enter into this Agreement, and authorized its President as its representative to execute the same.
- C. The City operates, manages and maintains a lease on the Railroad Depot, located at 402 East Andy Devine Avenue. The City wishes to contract with a non-profit group to operate a railroad based museum at the Depot. The City desires WSRRC to staff, manage, and operate 3,119 square feet (excluding Amtrak Personnel and Amtrak waiting areas), of the Depot providing artifacts, displays, and information regarding in the Southwest and Kingman to visitors, tourists, and residents.
- D. The WSRRC desire to contract and operate a Railroad Museum at the Depot.

AGREEMENTS

NOW THEREFORE, for good and valuable consideration, including consideration of the mutual promises, terms and conditions hereinafter set forth, including the mutual promises and obligations to be performed by the Parties hereto, the Parties agree as follows:

- 1. **INCORPORATION BY REFERENCE.** The above Recitals shall be incorporated by reference as part of the Parties' agreements and/or as the basis of consideration for this Agreement.
- 2. **COMMENCEMENT, DURATION, AND TERMINATION.** This Agreement, upon being fully executed, shall commence following the effective date and it shall continue in full force and effect unless earlier terminated as provided hereinafter. This agreement shall be in effect from the date of January 1, 2017 through December 31st, 2017 unless terminated pursuant to the provisions contained herein.

This Agreement may be terminated or canceled by any party as long as the terminating party gives the other parties ninety (90) days notice in writing.

This Agreement may be canceled in accordance with A.R.S. Title 38, Chapter 3, Article 8, Section 38-511.

- 3. **PURPOSES.** The basic purpose of this Agreement is to set forth the terms and conditions of this agreement to allow for the providing of dispatch services.

4. RESPONSIBILITIES.

4.1 THE CITY :

- 4.1.1** Shall consider WSRRC recommended capitol improvements subject to the City's priorities and the availability of budgeted funds.
- 4.1.2** Shall, except as otherwise provided in this agreement, the City agrees to indemnify, hold harmless, and defend WSRRC, and their agents, officials and employees, from and against any and all claims, demands, actions, liabilities, losses and expenses, of every kind and description, including attorney's fees and litigation costs that may arise out of or result from any negligent act, action or omission of the City their employees, agents or contractors under this agreement.
- 4.1.3** Shall maintain Electrical, Plumbing, HVAC, and Major structural components of the premises.

4.2 WSRRC:

- 4.2.1** Shall not perform any alterations to structure or premises without prior written approval from City of Kingman Public Works Director.
- 4.2.2** Shall provide such services appropriate to the operation of a museum, including historical artifacts, displays and exhibits. Such services will include maintenance of the exhibits, cataloging of artifacts as to ownership, condition and origin. WSRRC may change out or expand exhibits on an as needed basis.
- 4.2.3** Shall provide for the routine maintenance of museum portion of the Depot; including but not limited to cleaning, dusting, and routine repairs. In addition, WSRRC shall maintain the stocking and cleaning of the restrooms.
- 4.2.4** Shall provide promotional material and marketing for the museum and to coordinate such efforts with other organizations working to promote attractions in the Kingman area. WSRRC shall specifically acknowledge the support of the City in any media or promotional material.
- 4.2.5** Shall operate the museum at least 5 (five) days a week. The hours of operation will vary seasonally, Wednesday through Sunday. WSRRC shall coordinate staffing of the Depot year round through the use of volunteers who are members of WSRRC. Additional hours of operation may be set by WSRRC subject to the approval of the City. In setting hours of operation, WSRRC will attempt to maximize public access with other attractions, events, or holidays.
- 4.2.6** Shall retain all admission fees, sales, and donations. WSRRC may set admission fees at a level appropriate to the exhibits subject to City approval.
- 4.2.7** Shall provide quarterly reports regarding number of visitors, admission fees, donations, and sales.
- 4.2.8** Contractor certifies that it is not currently engaged in, and agrees for the

durations of this Contract that it will not engage in, a boycott of Israel, as that term is defined in A.R.S. § 35-393.

4.2.6 Insurance Requirements

- A. Provide THE CITY with a liability insurance policy and endorsement naming THE CITY as additional for the operation of the RAILROAD MUSEUM and other services performed under this agreement

Liability limits shall be as follows:

General Liability \$1,000,000 each occurrence/\$2,000,000 Aggregate (including Premises/Operations, Products/Completed Operations, Personal Injury/Advertising Injury, Contractual Liability, Independent Contractors)

Excess Insurance \$4,000,000/each occurrence

The General, Personal Injury, and Excess Insurance shall be written on an occurrence base form. Additionally, no policy listed above shall have a deductible greater than \$25,000 per occurrence.

The WSRRC is responsible for any insurance on WSRRC's personal property kept on-site at the Kingman Railroad Depot. WSRRC hereby releases THE CITY from any and all claims arising in any way from loss or damage to WSRRC's personal property.

- B. Additional Insured's. Comprehensive general liability policy, Excess and Standard fire and extended coverage insurance shall name City of Kingman, its departments, officers, and employees as additional insured's on the certificate of insurance and by a policy endorsement.

Special Items. Each insurance policy shall provide the following: (i) the policies cannot be cancelled, or substantially modified until and unless thirty (30) days written notice is received by the City of Kingman for payment of any premium or for assessments under any form of policy;

(ii) the insurance company shall have no recourse against the City of Kingman for payment of any premium or for assessments under any form of policy; and (iii) the policies are intended as primary coverage for the City of Kingman and that any insurance or self-insurance maintained by THE CITY shall apply in excess of and not contributory with the insurance provided by these policies.

Certificates of Insurance and Policy Endorsement: WSRRC shall deliver Certificates of Insurance and required endorsements, for the policies of insurance required hereunder, to the City of Kingman, Attn Risk Management, 310 N Fourth Street, Kingman, AZ 86401. WSRRC shall continually maintain evidence of such insurance for City of Kingman, and provide such evidence upon THE CITY's request. Failure to provide such to THE CITY in no way absolves WSRRC from the responsibility of complying with the insurance requirements of this Agreement.

No Limitation of Liability. The procuring of any policy of insurance

shall not be construed to be a limitation upon WSRRC's liability or as a full performance on its part of the indemnification provisions of this AGREEMENT, WSRRC's obligation being, notwithstanding any said policy of insurance, for the full and total amount of any damage, injury, or loss caused by the negligence or neglect connected with the operation under this AGREEMENT.

Failure to Maintain Insurance. Failure to maintain the minimum insurance as stated herein shall constitute default of this AGREEMENT.

4.2.7 Hold Harmless/Indemnity Clause

Neither THE CITY, nor its departments, officers, or employees shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of WSRRC or of any other person whomsoever, caused by WSRRC's use of the Premises whatsoever; and WSRRC, hereby waives on WSRRC's behalf all claims against THE CITY, provided however, any liability resulting from the negligent acts or omissions or willful misconduct of THE CITY, its departments, officers, or employees shall not be waived.

To the furthest extent permitted by law, WSRRC shall defend, indemnify, and hold THE CITY, its departments, boards, commissions, council members, officials, agents, and employees, individually and collectively, for, from, and against all losses, expenses (including attorney fees), damages, claims, charges, fines, suits, actions, demands, or other liabilities of any kind ("Liability"), including without limitation liability for bodily injury, illness, death, or for property damage, resulting from or arising out of this AGREEMENT and/or the use or occupancy of the FACILITIES, except for Liability resulting from the negligent acts or omissions or willful misconduct of THE CITY, its employees, agents, or any person under THE CITY's direction and control.

4.3 JOINTLY. THE WSRRC AND CITY MUTUALLY AGREE:

4.3.1 To not incur legal liability for the actions of one another, other than under the terms and conditions of this Agreement. Each Party will be solely and entirely responsible for its own acts and acts of its own Board or Council members, officials, agents, and employees during the performance of this Agreement.

4.3.2 To act for the good faith implementation of this Agreement and its covenants, including full and complete timely performance.

- 5. LAWS.** The Parties shall each be fully responsible for compliance with all statutes, ordinances, codes, regulations, rules, court decrees or other laws (hereinafter collectively "**Laws**") applicable to it as part of fully performing the Project with regards to their respective roles. This Agreement shall not relieve either Party of any obligation or responsibility imposed upon it by Laws.

6. **NOTICE.** Any notice that is necessary shall be in writing and given by telefax, personal delivery, by deposit with an overnight express delivery service such as Federal Express, or by deposit in the United States Mail, certified mail-return receipt requested, postage prepaid, addressed to a Party at the address set forth below, or such other address as a Party may designate in writing by prior notice. The date notice is given shall be the date on which the notice is delivered if notice is given by personal delivery or overnight express delivery service, or three (3) days from the date of deposit in the Mail, if the notice is sent through the United States Mail. Notice shall be deemed to have been received on the date on which the notice is delivered, if notice is given by personal delivery or overnight express delivery service, or three (3) days following the date of deposit in the mail, if notice is sent through the United States Mail.

CITY:
Mail or Deliver To:
John Dougherty
City Manager
310 N 4th St
Kingman, Arizona 86401

WSRRC:
Mail or Deliver To:
President,
Whistle Stop Railroad Club
P.O. Box 348
Kingman , Arizona 86402

7. **OTHER CONDITIONS OR PROVISIONS**

- 7.1.1 **Severability.** The terms of this Agreement are severable. Any waiver by the Parties of any provision herein shall not impair the right of any Party to enforce any other provision of the Agreement. Such provision of this Agreement shall be interpreted in a manner as to be effective and valid under applicable Laws. Such provision shall be ineffective solely to the extent of such prohibition or invalidity. Such prohibition or invalidity shall not invalidate the remainder of the provisions or any other provision.
- 7.1.2 **Voluntary Execution.** The Parties acknowledge having read the Agreement in its entirety and voluntarily sign the Agreement with the intended purpose that it be fully binding as set forth.
- 7.1.3 **Arbitration.** In the event of a dispute, the Parties agree to use arbitration only to the extent it is required by A.R.S. § 12-1518 or otherwise required by Arizona Rules of Civil Procedure. The Parties shall agree to fully exhaust administrative remedies before filing litigation
- 7.1.4 **No Implied Authority.** This Agreement shall not be considered to imply authority to perform any tasks, accept any responsibility, or to do any other thing in relation hereto, not expressly set forth herein.
- 7.1.5 **Construction of Contract.** This Contract shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of or against the party drafting this Contract. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Contract.
- 7.1.6 **Legal Arizona Workers Act.** In compliance with A.R.S. § 41-4401, the Parties hereby warrants that they will, at all times during the term of this

Agreement, comply with all federal immigration laws applicable to the Parties' employment of their employees, and with the E-Verify requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). The Parties shall further ensure that each subcontractor who performs any work for the Parties under this Agreement likewise complies with the State and Federal Immigration Laws.

The Parties agree and warrant that the Parties shall each have the right at any time to inspect the books and records of the other Parties and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws. The Parties agree that any act by another Party or subcontractor that results in the impediment or denial of access of the books and records of the Parties or subcontractor shall be a material breach of this Agreement on the part of the that Party.

Nothing herein shall make the Parties or subcontractor an agent or employee of any of the other Parties. Nothing herein shall act to establish privity of contract between any of the Parties and any subcontractor.

Any breach of the Parties' or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Agreement subjecting the offending Party to penalties up to and including suspension or termination of this Agreement. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, the Party shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, subject to each Parties' approval as soon as possible so as not to delay project completion and at no additional expense to the other Parties. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of the offending Party.

The Parties shall advise each subcontractor of the Parties' rights and the subcontractor's obligations under this Article by including a provision in its contract with each subcontractor in the following form:

"SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR's employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that the Parties may inspect the SUBCONTRACTOR'S books and records to insure that is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract."

7.1.7 Non-Discrimination. The Parties will not discriminate on the grounds of age, race, color, national origin, religion, sex, disability, familial status or any other protected basis in the selection, treatment and retention of employees, subcontractors or in the procurement of materials and leases of equipment. The Parties also will not participate, either directly or indirectly, in any type of discrimination prohibited by any federal, state, or local law, including but not limited to Title VII of the Civil Rights Act of 1964, Section 504 of the

Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and Executive Orders 99-4 and 2000-4 (including any amendments thereto).

7.1.8 Scrutinized Business. As required by A.R.S. §§ 35-391.06(A) and 35-393.06(B), the Parties certifies to each other that they do not have any scrutinized business operations (as defined in A.R.S. §§ 35-391 and 35-393) in Sudan or Iran.

7.1.9 No Third Party Interest. This agreement shall be binding upon the Parties and any successor-in-interest. No provision herein is intended to create a third beneficiary interest in any person or entity, including but not limited to the respective employees or agents of any Party.

IN WITNESS WHEREOF, the Parties have signed this Agreement on the dates set forth below. This Agreement shall be effective as of the date first above written, and upon being fully executed.

CITY OF KINGMAN, a municipal corporation of the State of Arizona

Date Signed

By _____
Richard Anderson, Mayor, Kingman Common Council

WHISTLE STOPRAILROAD CLUB, a
Non-profit organization of the State of Arizona

Date Signed

By _____
Name, President

ATTEST:

APPROVED AS TO FORM

Sydney Muhle, City Clerk

Carl Cooper, City Attorney

CITY OF KINGMAN COMMUNICATION TO TDC



TO: Tourism Development Commission
FROM: Tourism
MEETING DATE: November 3, 2016
AGENDA SUBJECT: Downtown WIFI coverage

SUMMARY: Frontier Communications would like to present the possibility of a Downtown Parks and Downtown Commerce Wi-Fi. The system would be a customized Wi-Fi solution that would enhance the tourist's experience in Kingman.

Tourism Department Staff would like direction for the Commission as to whether there is an interest in seeking a proposal for such coverage in the Downtown Area.

ATTACHMENTS:
FISCAL IMPACT:
RECOMMENDATION:

Signature of Dept. Head

City Attorney
Approved as to form

City Manager's Review

AGENDA ITEM: