

RESOLUTION NO. 2025-1917

A RESOLUTION OF THE COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, CALLING A UTILITY FRANCHISE ELECTION TO BE HELD ON NOVEMBER 4, 2025, IN CONJUNCTION WITH THE CITY'S GENERAL ELECTION, DECLARING AN ELECTRIC ENERGY UTILITY BENEFICIAL TO THE CITY OF PRESCOTT; DESIGNATING THE TEXT OF A QUESTION AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO A FRANCHISE AGREEMENT IN FULL, TO BE VOTED ON BY THE QUALIFIED ELECTORS OF THE CITY OF PRESCOTT, PURSUANT TO THE CONSTITUTION AND LAWS OF THE STATE OF ARIZONA AND THE CHARTER OF THE CITY OF PRESCOTT

RECITALS:

WHEREAS, the qualified electors of the City of Prescott approved a 25-year franchise agreement with Arizona Public Service Company ("APS"), an Arizona corporation, to operate, maintain, and construct its electric utility, electric power lines, appurtenances and facilities throughout the City of Prescott's (the "City") public rights-of-way (the "Current Franchise"), which commenced on or about May 22, 2001; and,

WHEREAS, the current Franchise with APS expires on or about May 21, 2026; and,

WHEREAS, APS has submitted a proposed franchise to the City of Prescott for the purpose of supplying electrical energy, power lines, appurtenances, and facilities; and,

WHEREAS, the Council of the City of Prescott has determined that it is beneficial for the City to grant a new franchise to APS conferring the right to utilize the City's rights-of-way for the provision of electricity; and,

WHEREAS, pursuant to the Arizona Constitution, Article XIII, Section 4 and Arizona Revised Statutes § 9-501, a city shall not grant a franchise for a public utility unless authorized by a majority vote of the qualified voters at a regular or special election duly and regularly called for that purpose; and,

WHEREAS, pursuant to the Prescott City Charter, Article XII, Section 1, a public utility franchise agreement must be approved by a majority of the qualified electors in a primary, general, or special election; and,

WHEREAS, the City Council desires to submit to the qualified electors of the City of Prescott the approval of a franchise agreement APS to operate, maintain and construct an electric utility, electric power lines, appurtenances and facilities in the public rights-of-way.

ENACTMENTS:

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

SECTION 1: THAT the City Council hereby calls a Utility Franchise Election of the City of Prescott be held on November 4, 2025, for the purpose of submitting to the qualified electors of the City the question substantially in the form set forth in Exhibit "A" attached hereto (the "Official Ballot").

SECTION 2: THAT the proposed franchise (Exhibit "C" attached hereto) be published in full in some newspaper of general circulation published by the City of Prescott for at least thirty (30) consecutive days before the election.

SECTION 3: THAT

- (A) Notice of the Special Election of November 4, 2025, shall be given by mailing an Informational Pamphlet to each household that contains a registered voter within the City not less than thirty-five (35) days before the date of the election.
- (B) The City Clerk is hereby authorized and directed to cause the Informational Pamphlet to be prepared and so mailed according to law and the provisions of this Resolution under the circumstances described herein.

SECTION 4: THAT the Informational Pamphlet shall contain the information required by Section 35-454, Arizona Revised Statutes, as amended, and a sample of the Official Ballot shall be in a form the City Clerk deems acceptable.

SECTION 5: That the Official Ballot shall be in substantially the form attached hereto as Exhibit "A."

SECTION 6: THAT the City Clerk is hereby authorized to request arguments for and against the appropriate subject matter of the Election for inclusion in the Informational Pamphlet by providing the notice in substantially the form attached hereto as marked Exhibit "B" (hereinafter referred to as the "Notice for Arguments") by posting the Notice for Arguments at all places in which notices of meetings of the City Council are posted and publishing the Notice of Arguments in the Prescott Daily Courier. The deadline to submit arguments shall be 4:00 p.m. MST, August 8, 2025.

SECTION 7: THAT this will be a vote-by-mail election.

SECTION 8: THAT

- (A) The City Clerk is hereby authorized and directed to coordinate with the County to have printed the appropriate version of the Official Ballot.

- (B) In order to comply with the Voting Rights Act of 1965, as amended, those items pertaining to the Election required to be translated into Spanish, will so be translated.

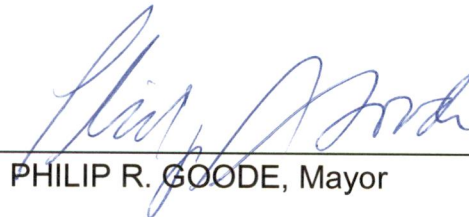
SECTION 9: THAT

- (A) The Election shall be held, conducted, and canvassed in conformity with the provisions of the general election laws of the State of Arizona, except as otherwise provided by law, and only such persons shall be permitted to vote at the Election who are qualified electors of the City.
- (B) Early voting shall be permitted in accordance with the provisions of Title 16, Chapter 4, Article 8, Arizona Revised Statutes, as amended.
- (C) The City Clerk is authorized and directed, if necessary, to enter into a contract with the County Recorder of the County, to enter into an agreement with the Elections Department of the County to conduct the Election for the City.
- (D) All expenditures as may be necessary to order, notice, hold and administer the Election are hereby authorized, which expenditures shall be paid from current operating funds of the City, with such costs for the Utility Franchise Election to be reimbursed by the Arizona Public Service Company.
- (E) The City Clerk is hereby further authorized to take all other necessary action to facilitate the Election.

SECTION 10: THAT

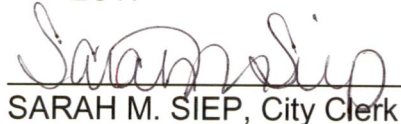
- (A) The Election shall be canvassed and the results thereof certified by the City Council within twenty (20) days of the Election, as provided by law.
- (B) The City Council shall further fulfill all of its' legal obligations to finalize the election.

PASSED AND ADOPTED by the City Council of the City of Prescott this 24th day of June, 2025.



PHILIP R. GOODE, Mayor

ATTEST:



SARAH M. SIEP, City Clerk

APPROVED AS TO FORM:



JOSEPH D. YOUNG, City Attorney

Exhibits:

A – Official Ballot

B – Notice for Arguments

C – Franchise Agreement

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
County of Yavapai) ss.

I, the undersigned Sarah M. Siep, being the duly appointed, qualified City Clerk of the City of Prescott, Yavapai County, Arizona, certify that the foregoing Resolution No. 2025-1917 is a true, correct and accurate copy of Resolution No. 2025-1917 passed and adopted at a Voting Meeting of the Council of the City of Prescott, Yavapai County, Arizona, held on the 24 day of June 2025, at which a quorum was present and, by a 7-0 vote, all voted in favor of said resolution.

Given under my hand and sealed this 25 day of June, 2025.

Seal



Saum Sep
City Clerk

EXHIBIT A
OFFICIAL BALLOT

PROPOSITION NO. 485

OFFICIAL TITLE: A MEASURE REFERRED TO THE PEOPLE BY THE PRESCOTT CITY COUNCIL RELATING TO A FRANCHISE AGREEMENT WITH ARIZONA PUBLIC SERVICE COMPANY FOR THE USE OF THE PUBLIC RIGHTS-OF-WAY IN THE CITY OF PRESCOTT, ARIZONA, FOR THE PURPOSE OF CONSTRUCTING, OPERATING, AND MAINTAINING ITS ELECTRIC UTILITY.

DESCRIPTIVE TITLE: Consideration of a Franchise Agreement with Arizona Public Service Company for a period of 25 years for the purpose of constructing, operating, and maintaining its electric utility within the City.

Proposition 485

A “yes” vote shall have the effect of approving a franchise agreement with Arizona Public Service Company to use the City-owned public rights-of-way to construct, operate, and maintain its electric utility within said City.

Yes

A “no” vote shall have the effect of not approving a franchise agreement with Arizona Public Service Company to use the City-owned public rights-of-way to construct, operate, and maintain its electric utility within said City.

No

EXHIBIT "B"**FORM OF NOTICE FOR ARGUMENTS**

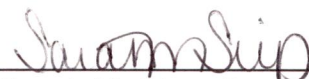
**REQUEST FOR ARGUMENTS FOR AND
AGAINST A PROPOSED UTILITY FRANCHISE
AGREEMENT WITH ARIZONA PUBLIC SERVICE
COMPANY FOR THE PROVISION OF AN
ELECTRIC UTILITY TO BE PLACED ON THE
BALLOT OF THE CITY'S GENERAL ELECTION TO
BE HELD ON NOVEMBER 4, 2025**

Pursuant to Resolution No. 2025-1917 adopted by the Council of the City of Prescott, Arizona (the "City"), on June 24, 2025 (the "Resolution"), the following question to be considered by the qualified electors of the City was ordered to be placed on the ballot at the City's Regular Election to be held on November 4, 2025 (the "Election").

Notice of the Election will be given by mailing an informational pamphlet to include arguments for and against the questions to be considered at the Election. (The full text of the question to be considered at the Election is included in the respective resolution which are available at the Office of the Office of the Clerk, 201 N. Montezuma St., Prescott, AZ 86301, and will be available at the on the City's website under City Clerk/Elections). Any person interested in providing any such argument(s) is hereby requested to provide the same to the City Clerk, before 4:00 p.m., Arizona time on August 8, 2025.

In accordance with Arizona Revised Statutes, each argument filed shall not exceed 300 words and shall contain the sworn statement of each person sponsoring it; if the argument is sponsored by an organization, it shall contain the sworn statement of two executive officers of the organization or if sponsored by a political committee it shall contain the sworn statement of the committee's chairman or treasurer. Each argument filed shall also be submitted in electronic format to the City Clerk's Office at 201 N. Montezuma Street, 3rd Floor, Prescott, Arizona 86301. The person or persons signing the argument shall identify themselves by giving their residence or post office address and a telephone number, which information shall not appear in the pamphlet.

PROPOSITION NO. 485- Franchise Agreement with Arizona Public Service Company for an Electric Utility (Resolution No. 2025-1917).



Sarah M. Siep, Prescott City Clerk

If you have any questions about the foregoing, please contact Sarah M. Siep, City Clerk at 928-777-1437

EXHIBIT "C"
FRANCHISE AGREEMENT

BETWEEN

ARIZONA PUBLIC SERVICE COMPANY

AND

PRESCOTT, ARIZONA

Section 1. - Grant of Franchise:

There is hereby granted to Arizona Public Service Company, a corporation organized and existing under and by virtue of the laws of the State of Arizona (herein called "Grantee"), its successors and assigns, a franchise (herein called the "Franchise") to construct, maintain and operate its electrical system, as defined herein, upon, over, along, across and under the present and future public rights-of-way. These rights-of-way include but are not limited to streets, alleys, highways and other dedicated rights-of-way in the City of Prescott, Arizona (herein called "City"). Grantee's system includes electric power lines, together with all necessary or desirable appurtenances, including, but not limited to, poles, towers, wires, cables, conduits, transmission lines, transformers, switches and communication lines for its own use. This Franchise is for Grantee's use of City's public rights-of-way to supply and deliver electric energy to City, its successors, the inhabitants thereof, and all individuals and entities either within or beyond the limits thereof, for all purposes.

Any street lighting service furnished by Grantee to City or to any street lighting improvement district within City shall be the subject of a separate agreement and shall not be governed by the provisions of this Franchise.

This Franchise includes the right to use public rights-of-way for the location of communication lines and appurtenances owned and operated by Grantee incidental to supplying electric energy under this Franchise. This Franchise does not include the right to use public rights-of-way for one-way transmissions directly to customers, users or subscribers of video programming, if any, which is required for the selection of or response to video programming. For purposes of the foregoing, the term “video programming” means programming provided by or generally considered comparable to programming provided by a television broadcast station. Grantee agrees that if Grantee uses or leases to others, the wires, towers, cables or lines for any purpose other than supplying electric services, before such use or lease, Grantee or Grantee’s lessee shall apply for and obtain a separate license from City.

City shall not be liable to Grantee should Grantee construct assets pursuant to this Franchise in an area over which City has erroneously exercised jurisdiction. .

Section 2. – Grantee’s Compliance with City Code; Plans Submitted for Approval; City Construction near Grantee’s Assets:

City expressly reserves unto itself, subject to the limitations of the Constitution and laws of Arizona, the right to ensure the safety and welfare of the public, including without limitation to: pass and enforce ordinances to protect the public from danger or inconvenience in the operation of any work performed in the public rights-of-way, including without limitation enforcement of this Franchise.

All construction under this Franchise shall be performed in accordance with applicable codes and ordinances of City with respect to such public rights-of-way as exist at the time of this Franchise Agreement, or as such Codes may be amended at some future date. Such construction shall be completed within a reasonable time. Except in emergency circumstances, prior to commencing any work in a Right-of-Way, Grantee and/or any contractors of Grantee shall obtain all necessary permits for such work in accordance with City Code in effect at the time of permitting. City and Grantee agree and understand that there may be instances when Grantee is required to make repairs that are of an emergency nature. Grantee shall notify City prior to such repairs, to the extent practicable, and shall apply for the necessary permits within five (5) business days after notification, showing the work performed in the public rights-of-way.

If City authorizes either directly or through a contractor, any construction project adjacent to or near Grantee's assets operated pursuant to this Franchise, City shall include in all such construction specifications, bids, and contracts, a requirement that the contractor or his designee must comply with the overhead power line safety laws (A.R.S. § 40-360.41 *et. seq.* as amended).

Section 3. – Construction and Relocation of Grantee's Assets; Payment:

Representatives of the City and Grantee shall, during the entire term of this Franchise, meet at least once in each calendar year, or more often if necessary, to review any projects involving the construction or modification of City Right-of-Way. The City shall provide the Grantee annually with its 5-year capital improvement plan, in order for both parties to adequately plan and budget for such actions and to determine the extent of work required of Grantee, if any, for such projects. Likewise for coordination efforts, Grantee shall provide the City annually, with documentation of its planned capital improvement projects to be executed within the City limits

for the next year. Neither party shall finalize the design of any assets without providing the other party notice as set forth in Section 15 below, and a reasonable opportunity to comment. If either party identifies a potential conflict between their existing assets and the other party's proposed assets, said party shall immediately notify the other party of such conflict and the parties shall use their best efforts to resolve such conflict.

When Grantee intends to replace, upgrade, or install new lines overhead, the City may request estimates for the undergrounding of such replacement lines, upgrades or new lines, including lines to be adjusted for road improvements or for specific projects addressed at the annual planning meeting, as referenced in this section. When requested, the Grantee will provide to the City two estimates: 1) an estimate for the cost of the project with overhead construction and 2) an estimate for the cost of the project with underground construction. The City will have no more than 60 days from the estimate date to determine if it wants the line built overhead or placed underground. If the City chooses underground construction for the project, the City will be responsible for the incremental cost of undergrounding, defined as the differential between the estimate for underground construction and the estimate for overhead construction. Within a reasonable period of time after receipt of the payment for the incremental cost of undergrounding, the Grantee will install the underground assets. The Grantee reserves the right to bill for the amount that the incremental cost associated with installation exceeds its estimate.

The City reserves the right to a refund of overpayment if the incremental costs are less than the amount billed in the estimate. If the City wishes to have a line not scheduled for replacement or upgrade placed underground, the City shall contact the Grantee to make such a request. The City shall be responsible for the entire costs related to this work.

All assets installed or constructed pursuant to this Franchise shall be so located or relocated and so erected as to minimize the interference with traffic, or other authorized uses over, under or through the public rights-of-way. Furthermore, Grantee shall not install, construct, maintain or use its assets in a manner that damages or interferes with any existing assets of another utility located in the public rights-of-way and agrees to relocate its assets, if necessary, to accommodate another facility relocation that has a prior rights interest in the public rights-of-way.

Activities related to the construction of Grantee's assets within the rights-of-way such as traffic control, backfilling, compaction and paving, and the location or relocation of lines and related assets shall be subject to regulation by City. Grantee shall keep accurate records of the location of all assets in the public rights-of-way and furnish them to City upon request. Upon completion of new or relocation construction of underground assets in the public rights-of-way, Grantee shall provide City's Engineer with corrected drawings showing the location of the underground assets in those cases where the actual location differs significantly from the proposed location. Grantee shall provide to City the actual location of such new or relocated assets in the public rights-of-way in an electronic format. Such format shall conform to utility industry best-practice standards. Grantee shall be required to obtain and pay all required fees and charges for construction permits and inspections of all non-electrical transmission or distribution assets constructed within City, including but not limited to, office buildings, storage buildings, or repair shops. Permits for electrical transmission or distribution assets will be issued at no cost under this Franchise.

- A. If City requires Grantee to relocate Grantee's assets which are located in private easements obtained by Grantee prior to City's acquisition of said property from which the

assets must be relocated, the cost of relocating Grantee's assets (including the cost of purchasing a new private easement if necessary) shall be borne by City. City shall also bear the entire cost of all subsequent relocations of the relocated assets required by City, until such time as City condemns or purchases Grantee's private easement.

B. Except as covered in Paragraph A above, Grantee shall bear the entire cost of relocating its assets located on public rights-of-way, the relocation of which is necessary for City's or a contractor of City carrying out of City's governmental functions. Notwithstanding the foregoing, if Grantee is requested to perform work of a temporary nature on a governmental project to relieve construction problems which could be relieved by other means, the cost of said temporary work will be borne by City or City's contractor working on the governmental project. Governmental functions are those duties imposed on City, where the duties involve a general public benefit, not in the nature of a corporate or business undertaking for the corporate benefit and interest of City. Governmental functions include, but are not limited to, the following:

1. Any and all improvements to City's public rights-of-way;
2. Establishing and maintaining domestic water systems, sanitary sewers, storm drains, and related assets;
3. Establishing and maintaining municipal parks, parking spaces, parkways, pedestrian malls, or grass, shrubs, trees and other vegetation for the purpose of landscaping any street or public property;
4. Providing fire protection and other public safety functions;
5. Collection and disposal of garbage and recyclables; and

6. The relocation of Grantee's assets necessary to carry out the exercise of the City's police power for urban renewal.
- C. City will bear the entire cost of relocating any of Grantee's assets, the relocation of which is necessitated by the construction of improvements by or on behalf of City in furtherance of a proprietary function. All functions of City which are not governmental are proprietary.
 - D. If City participates in the cost of relocating Grantee's assets for any reason, the cost of relocation to City shall not include any upgrade or improvement of Grantee's assets as they existed prior to relocation. Prior to commencement of project and payment by the City, Grantee shall provide an itemization of the estimated costs and expenditures subject to the City's review and approval. Final costs of relocation shall be submitted to the City upon completion of the removal, relocation or alteration.
 - E. City will not exercise its right to require Grantee's assets to be relocated in an unreasonable or arbitrary manner, or to avoid its obligation under the Franchise. City agrees to notify Grantee during the planning and design of City's projects in rights-of-way that may require relocation of Grantee's assets and to coordinate its construction plans and schedules with Grantee to determine the most cost-effective design to mitigate Grantee's cost to relocate its assets.
 - F. City agrees it will not require Grantee to relocate its assets located within the public rights-of-way without providing Grantee adequate space within the rights-of-way to relocate the assets that must be moved.
 - G. Grantee will provide City an approved list of tree species for planting in the public rights-of-way where there are existing overhead power lines. City will consider the list in

establishing landscaping in the public rights-of-way. City will not plant any tree that can normally grow to a height of more than 25 feet under or adjacent to Grantee's overhead power lines in the public rights-of-way. Grantee shall have the authority to prune or remove any trees or shrubs located within or hanging over the limits of the public rights-of-way of City that in the judgment of Grantee may interfere with the construction, or endanger the operation, of the lines and/or assets of Grantee. Grantee may remove trees that interfere with construction or endanger operation if approved by City or the private owner of the tree or shrub in question. City's approval will not be unreasonably withheld. All said vegetation management work is to be done at Grantee's expense and pursuant to A.N.S.I. Standard A300.

Section 4. – Indemnification:

City, its departments, officers, employees, agents, successors and assigns, shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by Grantee of its appurtenances hereunder, except to the extent such accident or damage may be proximately caused by the negligence or willful and wanton acts or omissions of City, its departments, officers, employees, agents, successors and assigns. The acceptance of this Franchise shall be deemed an agreement on the part of Grantee that Grantee shall, to the fullest extent permitted by law, defend, indemnify, and hold City harmless from and against any and all claims, costs, suits, damages, judgments, expenses and losses including, but not limited to attorney fees and court costs relating to, arising out of, or alleged to have resulted from the exercise of this Franchise by Grantee; provided, however, that such claims, expenses and losses are not the result of the willful misconduct or negligent acts or omissions of City.

Grantee, so long as it maintains, operates or owns assets, within rights-of-way of City, at its own cost and expense, shall keep, or cause to be kept, in force insurance against claims and liability for personal injury, death and property damage arising from the construction, operation or maintenance by Grantee of its assets in a reasonable amount sufficient to insure Grantee's obligations under this Section, with City named as an additional insured. Grantee shall provide City with 30 days written notice of material change, cancellation or nonrenewal by the insurer. The policy shall be primary and noncontributing with any policy of City.

Section 5. – Restoration of Rights-of-Way:

Whenever Grantee shall cause any opening or alteration whatsoever to be made for any purpose in any public right-of-way, the work shall be completed in full compliance with all applicable local, regional, state and federal laws, orders, rules, codes and construction standards in effect at time of restoration. Grantee will restore the disturbed property using comparable materials to a condition as good as it was prior to such opening or alteration.

Section 6. – Franchise Fee:

Grantee shall pay to City in consideration of the grant of this Franchise a sum equal to two percent (2%) of all revenues of Grantee, including Regulatory Assessments, but excluding transaction privilege taxes and similar governmental impositions, from the retail sales and/or delivery by it of electric energy and other charges for services attendant to the retail sale and/or delivery of electric energy delivered through Grantee's electric distribution system within the present and any future corporate limits of City, as shown by Grantee's billing records. Grantee shall not, however, pay said franchise fee on revenues charged to Grantee's retail customers by third party electric service providers. Said payments shall be in lieu of any and all fees, charges

or exactions of any kind otherwise assessed by City in any way associated with Grantee's use of the rights-of-way, including but not limited to, the construction of Grantee's assets hereunder or for inspections thereof during the term of this Franchise.

For the purpose of verifying amounts payable hereunder, the books and records of Grantee shall be subject to inspection by duly authorized officers or representatives of City at reasonable times.

Beginning May 15, 2026, payment as described in the preceding paragraphs shall be payable in quarterly amounts within 30 days after the end of each calendar quarter.

Notwithstanding the provisions of this Franchise, if during the term of this Franchise Grantee enters into any electric franchise with any other municipality in Arizona during the term of this Franchise that provides for a higher percentage of Grantee's revenues than two percent (2%) or includes more categories of revenues than set forth in this Franchise, Grantee shall notify City Council of such higher percentage or expanded revenue base. City Council, at its sole discretion, shall have the option to, as applicable: (i) increase Grantee's franchise fee to the higher percentage rate; or (ii) include other revenue categories set forth in the franchise agreement Grantee has with the other entity of this State. Following City Council's action, Grantee agrees to henceforth pay to City a new franchise fee at the higher franchise percentage or to include the additional revenue categories.

Section 7. – Additional Fees and Taxes:

Notwithstanding any provision contained herein to the contrary, Grantee shall pay, in addition to the payment provided in Section 6, the following charges, taxes and fees as established in a code or ordinance properly adopted by City:

- A. General ad valorem property taxes and special district assessments;
- B. Transaction privilege and use tax as authorized by law and collected by Grantee for its retail sales to its electric customers within the present and any future corporate limits of City;
- C. Other charges, taxes or fees generally levied upon businesses by City, provided said charge, tax or fee is a flat fee per year and that the annual amount of such fee does not exceed the amount of similar fees paid by any other businesses operated within City.

Section 8. – Term:

This Franchise shall continue and exist for a period of twenty-five (25) years from May 15, 2026; provided, however, that either party may terminate this Franchise on its tenth anniversary by giving written notice of its intention to do so not less than one (1) year before the date of termination. If such notice is given for the purpose of negotiating a new franchise and such negotiation is successful, the party giving the notice of termination shall be responsible for the costs of the resulting franchise election.

Section 9. – Revocation of Grantee's Certificate of Convenience and Necessity (CC&N):

In the event that the Arizona Corporation Commission revokes Grantee's CC&N to provide utility service within the City of Prescott, and Grantee discontinues providing utility service, either party may terminate this Franchise Agreement by providing at least 30-days' written notice of its intention to exercise that option.

Section 10. – Franchise; Non-Exclusive:

This Franchise is not exclusive, and nothing contained herein shall be construed to prevent City from granting other like or similar grants or privileges to any other person, firm or corporation.

Section 11. – Conflicting Ordinances:

Notwithstanding any other provisions hereof, all ordinances and parts of ordinances in conflict with the provisions hereof, to the extent applicable to a franchised electric public service corporation, are hereby superseded.

Section 12. – Independent Provisions:

If any section, paragraph, clause, phrase or provision of this Franchise, shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Franchise as a whole or any part of the provisions hereof other than the part so adjudged to be invalid or unconstitutional.

Section 13. – City Use of Assets:

In consideration of this Franchise and the rights granted hereby, City shall, if the following six criteria are met, have the right to place, maintain, and operate on Grantee's poles located on public rights-of-way within City's corporate limits, any and all wires and appurtenances (other than steps or climbing devices) for City's fire alarm, police telephone or other municipal communications services utilized for governmental functions:

- A. City must notify Grantee in writing of City's intended use of Grantee's poles;
- B. City shall, to the fullest extent permitted by law, defend, indemnify and hold Grantee harmless from any and all claims, costs, damages, expenses and losses, including but not limited to attorney fees and court costs relating to, arising out of, or alleged to have

resulted from City's use of Grantee's assets pursuant to this Franchise; provided however, that such claims, expenses and losses are not the result of the willful misconduct or negligent acts or omissions of Grantee;

- C. City's assets and the installation and maintenance thereof must comply with the applicable requirements of the Occupational Safety and Health Act, the National Electrical Safety Code, and all other applicable rules and regulations as amended. If City does not comply with all applicable laws, ordinances and regulations, or if City's assets create an immediate safety hazard, Grantee retains the right to remove or correct City's assets at City's expense;
- D. City's assets and the installation and maintenance thereof must not cause Grantee's assets and the installation and maintenance thereof to be out of compliance with all applicable requirements of the Occupational Safety and Health Act and the National Electrical Safety Code and all other applicable rules and regulations as amended. If City does not comply with all applicable laws, ordinances and regulations, or if City's assets create an immediate safety hazard, Grantee retains the right to remove or correct City's assets at City's expense;
- E. City's use of its assets shall not interfere with Grantee's use of Grantee's assets, and;
- F. City shall be responsible for any incremental costs incurred by Grantee as a result of City's use of Grantee's assets.

Section 14. – No Third Party Beneficiaries:

There are no third party beneficiaries to this Franchise agreement between City and Grantee.

Section 15. – Voter Approval Required:

This Franchise is subject to the approval of the electors of City. Grantee shall pay all of the costs incurred in conducting the franchise election, except that, if one or more additional propositions are presented to the electors at such election, Grantee shall pay only that portion of City's election expense determined by dividing all of City's expenses by the number of issues presented on the ballot.

Section 16. – Notices:

Any notice required or permitted to be given hereunder shall be in writing, unless otherwise expressly permitted or required, and shall be deemed effective either (i) upon hand delivery to the person then holding the office shown on the attention line of the address below, or, if such office is vacant or no longer exists, to a person holding a comparable office, or (ii) on the third business day following its deposit with the United States Postal Service, first class and certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

- A. To City: City of Prescott
Attn: City Clerk
201 N. Montezuma Street

Prescott, AZ 86301
- B. To Arizona Public Service: Arizona Public Service Company
Office of the Corporate Secretary
400 N 5th Street, Mail Station 8602
Phoenix, Arizona 85004

Section 17. – Adoption:

We, the undersigned, have adopted this document on the dates written below in accordance with the results of the City of Prescott election on November 4, 2025.

CITY OF PRESCOTT
An Arizona Corporation

ARIZONA PUBLIC SERVICE COMPANY,

By _____
Philip R. Goode, Mayor
On behalf of the City of Prescott

By _____
Tony J. Tewelis, APS Vice President
Transmission & Distribution Operations
On behalf of Arizona Public Service Co.

Date: _____

Date: _____

ATTEST:

Sarah M. Siep, City Clerk

APPROVED AS TO FORM:

Joseph D. Young, City Attorney